

"Series 2000 A Bonds" means the Issuers Sewer Revenue Bonds, Series 2000 A (West Virginia Water Development Authority), dated June 28, 2000, issued in the original aggregate principal amount of \$2,050,000.

"Series 2001 A Bonds" means the Issuer's Sewer Revenue Bonds, Series 2001 A (West Virginia SRF Program), dated June 5, 2001, issued in the original aggregate principal amount of \$543,900.

"Series 2009 A Bonds" means the Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), of the Issuer, authorized by this Ordinance.

"Series 2009 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2009 A Bonds in the then current or any succeeding year.

"Series 2009 A Bonds Sinking Fund" means the Series 2009 A Bonds Sinking Fund established by Section 5.02 hereof.

"Series 2009 B Bonds" means the Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), of the Issuer, authorized by this Ordinance.

"Series 2009 B Bonds Reserve Account" means the Series 2009 B Bonds Reserve Account established by Section 5.02 hereof.

"Series 2009 B Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2009 B Bonds in the then current or any succeeding year.

"Series 2009 B Bonds Sinking Fund" means the Series 2009 B Bonds Sinking Fund established by Section 5.02 hereof.

"Series 2009 Bonds" means, collectively, the Series 2009 A Bonds and the Series 2009 B Bonds.

"Series 2009 Bonds Construction Trust Fund" means the Series 2009 Bonds Construction Trust Fund established by Section 5.01 hereof.

"Sinking Funds" means, collectively, the respective sinking funds established for the Prior Bonds and the Series 2009 Bonds.

"SRF Administrative Fee" means any administrative fee required to be paid under the ARRA Assistance Agreement for the Series 2009 A Bonds.

"SRF Program" means the State's Water Pollution Control Revolving Fund Program, under which the Authority purchases the water pollution control revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of a capitalization grant award from the United States Environmental Protection Agency and funds of the State.

"SRF Regulations" means the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article "the," refers specifically to the supplemental resolution authorizing the sale of the Series 2009 Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2009 Bonds, and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" means the Gross Revenues not required by the Bond Legislation or the Prior Ordinance to be set aside and held for the payment of or security for the Bonds or any other obligations of the Issuer, including, without limitation, the Sinking Funds, the Reserve Accounts and the Renewal and Replacement Fund.

"System" means the complete existing public sewerage system of the Issuer, as presently existing in its entirety or any integral part thereof, and shall include the Project and any further extensions, additions, betterments and improvements thereto hereafter acquired or constructed for the System from any sources whatsoever.

"Tap Fees" means the fees, if any, paid by prospective customers of the System in order to connect thereto.

Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost not to exceed \$2,800,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2009 A Bonds and the Series 2009 B Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the DEP.

The cost of the Project is estimated not to exceed \$2,800,000, of which up to \$1,650,000 will be obtained from proceeds of the Series 2009 A Bonds, up to \$1,125,000 will be obtained from proceeds of the Series 2009 B Bonds.

ARTICLE III

make any such exchange or transfer of any Series 2009 Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 2009 Bonds or, in the case of any proposed redemption of such Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2009 Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall advance to the Issuer, for the purposes of paying a portion of the Costs of the Bonds, not as otherwise provided for and paying certain costs of issuance of the Series 2009 Bonds and related to Bond, upon all of such purposes as determined by the Supplemental Resolution, there shall be and Bonds destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying Bonds shall be issued in two series and a single bond, as designated respectively as "Sever Revenue Bonds Series 2009 A (West Virginia SRF Program)" and "Sever Revenue Bonds Series 2009 B (West Virginia SRF Program/ARRA)". In the principal amount shall not exceed \$2,250,000 and "Sever Revenue Bonds Series 2009 B (West Virginia SRF Program/ARRA)" in the principal amount, of not more than \$2,250,000, and all shall have such terms as set forth hereinafter and in the Supplemental Resolution, and if such Bonds be lost, stolen or destroyed, without surrender thereof the Reserve Accounts (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in or credited to the respective Bond Trust Accounts of the Issuer. The Series 2009 Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System. Terms Bonds. The Series 2009 Bonds shall be issued in such principal amounts; shall bear interest at such rate or rates, not exceeding the then legal maximum, payable quarterly on such dates, shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the ARRA Assistance Agreement. The Series 2009 Bonds shall be secured by a first lien on the Net Revenues derived from the System under the laws of the State of West Virginia, and the Net Revenues in favor of the Bonds shall be the first lien Bonds and senior to the Series 1986 Bonds to the Net Revenues in an amount sufficient to pay the principal of the Bonds and interest of the Bonds and other payments for the Bonds, and to make all other payments hereinafter set forth, are hereby irrevocably pledged to such payments as they become due.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 2009 Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System. Terms Bonds. The Series 2009 Bonds shall be issued in such principal amounts; shall bear interest at such rate or rates, not exceeding the then legal maximum, payable quarterly on such dates, shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the ARRA Assistance Agreement. The Series 2009 Bonds shall be secured by a first lien on the Net Revenues derived from the System under the laws of the State of West Virginia, and the Net Revenues in favor of the Bonds shall be the first lien Bonds and senior to the Series 1986 Bonds to the Net Revenues in an amount sufficient to pay the principal of the Bonds and interest of the Bonds and other payments for the Bonds, and to make all other payments hereinafter set forth, are hereby irrevocably pledged to such payments as they become due.

Unless otherwise provided by the Supplemental Resolution, the Series 2009 Bonds shall initially be issued in the form of a single bond. The Issuer shall, execute and deliver to the Series 2009 Bonds to the Bond Registrar, and the Bond Registrar shall, authenticate, register and deliver to the Series 2009 Bonds to the original purchasers upon receipt of the documents set forth in the Supplemental Resolution. The Series 2009 Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, together with such taxpayer identification and other information as the Bond Registrar may reasonably require, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2009 Bonds to the original purchasers;

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. Such Bonds shall be dated and shall bear interest as specified in a Supplemental Resolution.

D. An executed copy of the ARRA Assistance Agreement; and

Section 3.03. Execution of Bonds. The Series 2009 Bonds shall be executed in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Recorder. In case any one or more of the officers who shall have signed or sealed the Series 2009 Bonds shall cease to be such officer of the Issuer before the Series 2009 Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 2009 Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Series 2009 Bonds shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 hereof shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of authentication and Registration on any Series 2009 Bonds shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2009 Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting the Series 2009 Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 2009 Bonds remain outstanding, the Issuer, through the Bond Registrar or its agent, shall keep and maintain books for the registration and transfer of such Bonds.

The registered Series 2009 Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging or transferring the registered Series 2009 Bonds are exercised, all Series 2009 Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 2009 Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Series 2009 Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to

make any such exchange or transfer of any Series 2009 Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 2009 Bonds or, in the case of any proposed redemption of such Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2009 Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 2009 Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No holder or holders of the Series 2009 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2009 Bonds or the interest thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service on the Series 2009 Bonds shall be secured by a first lien on the Net Revenues derived from the System, on a parity with each other and with the lien on the Net Revenues in favor of the Holders of the First Lien Bonds and senior and prior to the Series 1986 B Bonds. The Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Bonds, and to make all other payments hereinafter set forth, are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2009 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2009 Bonds to the original purchasers upon receipt of the documents set forth below:

- A. If other than the Authority, a list of the names in which the Series 2009 Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;
- B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2009 Bonds to the original purchasers;
- C. An executed and certified copy of the Bond Legislation;
- D. An executed copy of the ARRA Assistance Agreement; and

E. The unqualified approving opinions of bond counsel on the Series 2009 Bonds.

Section 3.10. Form of Bonds. The text of the Series 2009 Bonds shall be in substantially the following forms, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF SERIES 2009 A BOND)

UNITED STATES OF AMERICA
 STATE OF WEST VIRGINIA
 CITY OF NITRO
 SEWER REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA SRF PROGRAM)

No. AR-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That on the 12th day of November, 2009, the CITY OF NITRO, a municipal corporation and political subdivision of the State of West Virginia in Kanawha and Putnam Counties of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of _____ DOLLARS (\$ _____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 20____, to and including _____ 1, 20____, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The SRF Administrative Fee (as defined in the hereinafter described Bond Legislation) shall be payable quarterly on March 1, June 1, September 1, and December 1 of each year, commencing _____ 1, 20____, as set forth on Exhibit B attached hereto.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement (the "ARRA Assistance Agreement") by and among the Issuer, the Authority and the DEP dated _____, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. The existing public sewerage system of the Issuer, the Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly

Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and a Bond Ordinance duly enacted by the Issuer on _____, 2009, and a Supplemental Resolution duly adopted by the Issuer on _____, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY, WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, TO THE ISSUER'S (I) SEWER REVENUE BONDS, SERIES 1995 DATED JULY 27, 1995, ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF \$373,000 (THE "SERIES 1995 BONDS") AND HELD BY THE STATE OF WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; (II) SEWER REVENUE BONDS, SERIES 1996, DATED DECEMBER 10, 1996 ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$4,575,902 (THE "SERIES A 1996 BONDS") AND HELD BY THE STATE OF WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; (III) SEWER REVENUE BONDS SERIES 2000 A, DATED JUNE 28, 2000 ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,050,000 AND HELD BY THE STATE OF WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, AND; (IV) SEWER SYSTEM REVENUE BONDS SERIES 2001 A DATED JUNE 5, 2001 ISSUED IN THE ORIGINAL PRINCIPAL AGGREGATE AMOUNT OF \$543,900 AND HELD BY THE STATE OF WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (COLLECTIVELY, THE "PRIOR BONDS") AND (V) THE SERIES 2009 B BONDS, DATED _____, 2009, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$_____, (THE "SERIES 2009 B BONDS"), ISSUED SIMULTANEOUSLY HEREWITH.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the Holders of the Prior Bonds and from monies in the Reserve Account created under the Bond Legislation for the Series 2009 A Bonds (the "Series 2009 A Bonds Reserve Account"), and unexpended proceeds of the Series 2009 A Bonds. Such Net Revenues shall be sufficient to pay all operating expenses of the System and the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies in the Series 2009 A Bonds Reserve Account and unexpended proceeds of the Series 2009 A Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest on the Bonds and all other obligations secured by a lien on or payable from such revenue on a parity with the Series 2009 A Bonds including the Prior Bonds and the Series 2009 B Bonds; provided however, that, so long as there exists in the Series 2009 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Series 2009 A Bonds in the then current or any succeeding year, and in the respective reserve accounts

established for any other obligations outstanding on a parity with or junior and subordinate to the Series 2009 A Bonds, including the Series 2009 B Bonds and the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar (as defined in the Bond Legislation) by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, the CITY OF NITRO has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated the day and year first written above.

[SEAL]

Mayor

ATTEST:

Kela Cox

Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 2009

UNITED NATIONAL BANK
As Registrar

Authorized Officer

EXHIBIT A
RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$		(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

TOTAL \$ _____

EXHIBIT B
DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, ____.

In the presence of:

(FORM OF SERIES 2009 B BOND)

UNITED STATES OF AMERICA
 STATE OF WEST VIRGINIA
 CITY OF NITRO
 SEWER REVENUE BONDS, SERIES 2009 B
 (WEST VIRGINIA SRF PROGRAM/ARRA)

No. BR-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That on the ____ day of _____, 2009, the CITY OF NITRO, a municipal corporation and political subdivision of the State of West Virginia in Kanawha and Putnam Counties of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of _____ DOLLARS (\$ _____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as Exhibit A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 20____, to and including _____ 1, 20____ as set forth on the "Debt Service Schedule" attached as Exhibit B hereto and incorporated herein by reference. This Bond shall not be subject to the SRF Administrative Fee (as defined in the hereinafter describe Bond Legislation).

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement (the "ARRA Assistance Agreement") by and among the Issuer, the Authority and the DEP, dated _____, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. The existing public sewerage system of the Issuer, the Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in

full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on _____, 2009, and a Supplemental Resolution duly adopted by the Issuer on _____, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY, WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, TO THE ISSUER'S (I) SEWER REVENUE BONDS, SERIES 1995 DATED JULY 27, 1995, ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF \$373,000 (THE "SERIES 1995 BONDS") AND HELD BY THE STATE OF WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; (II) SEWER REVENUE BONDS, SERIES 1996, DATED DECEMBER 10, 1996 ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$4,575,902 (THE "SERIES A 1996 BONDS") AND HELD BY THE STATE OF WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; (III) SEWER REVENUE BONDS SERIES 2000 A, DATED JUNE 28, 2000 ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,050,000 AND HELD BY THE STATE OF WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, AND; (IV) SEWER SYSTEM REVENUE BONDS SERIES 2001 A DATED JUNE 5, 2001 ISSUED IN THE ORIGINAL PRINCIPAL AGGREGATE AMOUNT OF \$543,900 AND HELD BY THE STATE OF WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (COLLECTIVELY, THE "PRIOR BONDS") AND (V) THE SERIES 2009 A BONDS, DATED _____, 2009, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$_____, (THE "SERIES 2009 A BONDS"), ISSUED SIMULTANEOUSLY HERewith.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the Holders of the Prior Bonds and the Series 2009 A Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Series 2009 B Bonds (the "Series 2009 B Bonds Reserve Account"), and unexpended proceeds of the Series 2009 B Bonds. Such Net Revenues shall be sufficient to pay all operating expenses of the System and the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies in the Series 2009 B Bonds Reserve Account and unexpended proceeds of the Series 2009 B Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest on the Series 2009 B Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2009 B Bonds including the Series 2009 A Bonds and the Prior Bonds; provided however, that, so long as there exists in the Series 2009 B Bonds Reserve Account an amount at least equal to the maximum amount of principal

and interest which will become due on the Series 2009 B Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with or junior and subordinate to the Bonds, including the Series 2009 A Bonds and the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar (as defined in the Bond Legislation) by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, the CITY OF NITRO has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, has caused this Bond to be dated the day and year first written above.

[SEAL]

Mayor

ATTEST:

Kira Coy
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 2009.

UNITED NATIONAL BANK
As Registrar

Authorized Officer

EXHIBIT A
RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$		(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

TOTAL \$ _____

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, ____.

In the presence of:

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of ARRA Assistance Agreement. The Series 2009 Bonds shall be sold to the Authority, pursuant to the terms and conditions of the ARRA Assistance Agreement. If not so authorized by previous ordinance or resolution, the Mayor is specifically authorized and directed to execute the ARRA Assistance Agreement in the forms attached hereto as "EXHIBIT A" and made a part hereof, and the Recorder is directed to affix the seal of the Issuer, attest the same and deliver them to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed. The ARRA Assistance Agreement, including all schedules and exhibits attached thereto, are hereby approved and incorporated in this Bond Legislation.

Section 3.12. Filing of Amended Schedule. Within 60 days following the Completion Date, the Issuer will file with the Authority and the DEP a schedule for the Series 2009 Bonds, the form of which will be provided by the DEP, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]

ARTICLE V**FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF**

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created with (or continued if previously established by the Prior Ordinance) and shall be held by the Depository Bank, separate and apart from all other funds or accounts of the Depository Bank or the Issuer and from each other:

- (1) Revenue Fund (established by Prior Ordinances);
- (2) Operation and Maintenance Fund (established by Prior Ordinances);
- (3) Reserve Account (established by Prior Ordinances);
- (4) Renewal and Replacement Fund (established by Prior Ordinances); and
- (5) Series 2009 Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with (or continued if previously established by Prior Ordinance) and shall be held by the Commission, separate and apart from all other funds or accounts of the Commission or the Issuer and from each other:

- (1) Prior Bonds Sinking Fund (established by Prior Ordinances);
- (2) Prior Bonds Reserve Account (established by Prior Ordinances);
- (3) Series 2009 A Bonds Sinking Fund;
- (4) Series 2009 A Bonds Reserve Account;
- (5) Series 2009 B Bonds Sinking Fund; and
- (6) Series 2009 B Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System and all parts thereof shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in the Prior Ordinances and in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner provided in the Prior Ordinances and in this Bond Legislation. All monies in the Revenue Fund shall be disposed of only in the following manner and order of priority:

- (1) The Issuer shall first, each month, transfer from the Revenue Fund and deposit in the Operation and Maintenance Fund and amount sufficient to pay the current Operating Expenses of the System.

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit (i) to the Commission the amount required by the Prior Ordinance for the payment of interest on the Series 1995 A Bonds, Series 1996 A Bonds, Series 2000 A Bonds and Series 2001 A Bonds.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit (i) to the Commission the amount required by the Prior Ordinances for the payment of principal on the Series 1995 A Bonds, Series 1996 A Bonds, Series 2000 A Bonds and Series 2001 A Bonds; (ii) commencing 4 months prior to the first date of payment of principal of the Series 2009 A Bonds, for deposit in the Series 2009 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and come due on the Series 2009 A Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2009 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payment shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date; and (iii) commencing 4 months prior to the first date of payment of principal of the Series 2009 B Bonds, for deposit in the Series 2009 B Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and come due on the Series 2009 B Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2009 B Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payment shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit (i) to the Commission the amounts required by the Prior Ordinances to be deposited in the respective Reserve Accounts for the Series 1995 A Bonds, Series 1996 A Bonds, Series 2000 A Bonds and Series 2001 A Bonds; (ii) commencing 4 months prior to the first date of payment of principal of the Series 2009 A Bonds, if not fully funded upon issuance of the Series 2009 A Bonds, for deposit in the Series 2009 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2009 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2009 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2009 A Bonds Reserve Requirement; and (iii) commencing 4 months prior to the first date of payment of principal of the Series 2009 B Bonds, if not fully funded upon issuance of the Series 2009 B Bonds, for deposit in the Series 2009 B Bonds Reserve Account, an amount equal to 1/120th of the Series 2009 B Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2009 B Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2009 B Bonds Reserve Requirement.

(5) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank (as required in the Prior Ordinances and not in addition thereto), for deposit in the Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross

Revenues each month, exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, repairs, improvements or extensions to the System: provided, that any deficiencies in any Reserve Account (except to the extent such deficiency exists because the required payments into such accounts have not, as of the date of determination of a deficiency, funded such accounts to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

Monies in the Series 2009 A Bonds Sinking Fund and Series 2009 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2009 Bonds, respectively, as the same shall become due. Monies in the Series 2009 A Bonds Reserve Account and the Series 2009 B Bonds Reserve Account shall be used only for the purposes of paying principal of and interest on the Series 2009 Bonds, respectively, as the same shall come due, when other monies in the Series 2009 A Bonds Sinking Fund and the Series 2009 B Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on monies in the Series 2009 A Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account, the Series 2009 B Bonds Sinking Fund and the Series 2009 B Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2009 Bonds Construction Trust Fund, and following completion thereof, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment due on the Series 2009 Bonds, if any, respectively, and then to the next ensuing principal payment due thereon, all on a pro rata basis.

Any withdrawals from the Series 2009 A Bonds Reserve Account or the Series 2009 B Bonds Reserve Account which result in a reduction in the balance of such accounts to below the respective Reserve Requirements thereof, shall be restored from the first Net Revenues available after all required payments have been made in full in the order set forth above, all on a pro rata basis.

As and when additional Bonds ranking on a parity with the Series 2009 Bonds are issued, provision shall be made for additional payments into the respective sinking fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve account in an amount equal to the requirement thereof.

The Issuer shall not be required to make any further payments into the Series 2009 A Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account, the Series 2009 B Bonds Sinking Fund or the Series 2009 B Bonds Reserve Account, when the aggregate amount of funds therein are at least equal to the respective aggregate principal amount of the Series 2009 Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue, if any, until the maturity thereof.

Principal, interest or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Prior Bonds, the Series 2009 A Bonds, and the Series 2009 B Bonds in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2009 A Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account, the Series 2009 B Bonds Sinking Fund and the Series 2009 B Bonds Reserve Account, created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited. If required by the Authority at anytime, the Issuer shall make the necessary arrangements whereby required payments into said accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Monies in the Series 2009 A Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account, the Series 2009 B Bonds Sinking Fund and the Series 2009 B Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2009 A Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account, the Series 2009 B Bonds Sinking Fund and the Series 2009 B Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2009 Bonds, respectively, under the conditions and restrictions set forth herein.

B. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

C. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required principal, interest and reserve payments with respect to the Series 2009 Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation. The Issuer shall also on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the SRF Administrative Fee as set forth in the ARRA Assistance Agreement for the Series 2009 Bonds.

D. The Issuer shall complete the "Monthly Payment Form," a form of which is attached to the respective ARRA Assistance Agreement and submit a copy of said form along with a copy of its payment check to the Authority by the 5th day of such calendar month.

E. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the respective parties shall require, such additional sums as shall be necessary to pay their respective charges and fees then due. In the case of payments to the Commission under this paragraph, the Issuer shall make the necessary arrangements whereby such required payments shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required.

F. The monies in excess of the maximum amounts insured by FDIC in all funds and accounts shall at all times be secured, to the full extent thereof in excess of such insured sum, by

Government Obligations or by other Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

G. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as herein above provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03, and the Net Revenues shall be applied to such deficiencies on a parity and pro rata with respect to the Series 2009 Bonds and the Prior Bonds all in accordance with the respective principal amounts outstanding before being applied to any other payments hereunder.

H. All remittances made by the Issuer to the Commission and the Depository Bank shall clearly identify the fund or account into which each amount is to be deposited.

I. The Gross Revenues of the System shall only be used for purposes of the System.

J. All Tap Fees shall be deposited in the Revenue Fund and may be used for any lawful purpose of the System.

ARTICLE VI
APPLICATION OF BOND PROCEEDS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the monies received from the sale of the Series 2009 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2009 A Bonds, there shall first be deposited with the Commission in the Series 2009 A Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest.

B. Next, from the proceeds of the Series 2009 A Bonds, there shall be deposited with the Commission in the Series 2009 A Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 2009 A Bonds Reserve Account.

C. As the Issuer receives advances of the monies derived from the sale of the Series 2009 A Bonds, such monies shall be deposited with the Depository Bank in the Series 2009 Bonds Construction Trust Fund and applied solely to payment of the costs of the Project in the manner set forth in Section 6.02 hereof and, until so expended, are hereby pledged as additional security for the Series 2009 A Bonds.

D. From the proceeds of the Series 2009 B Bonds, there shall first be deposited with the Commission in the Series 2009 B Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest.

E. Next, from the proceeds of the Series 2009 B Bonds, there shall be deposited with the Commission in the Series 2009 B Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 2009 B Bonds Reserve Account.

F. As the Issuer receives advances of the monies derived from the sale of the Series 2009 B Bonds, such monies shall be deposited with the Depository Bank in the Series 2009 Bonds Construction Trust Fund and applied solely to payment of the costs of the Project in the manner set forth in Section 6.02 hereof and, until so expended, are hereby pledged as additional security for the Series 2009 B Bonds.

G. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2009 Bonds shall be expended as approved by the DEP.

Section 6.02. Disbursements of Bond Proceeds.

A. On or before the Closing Date, the Issuer shall have delivered to the Authority and the DEP a report listing the specific purposes for which the proceeds of the Series 2009 A Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for Costs of the Project shall be made monthly. Invoices for which repayment from the Series 2009 Bonds Construction Trust Fund will be sought must be first approved by the Issuer.

Except as provided in Section 6.01 hereof, disbursements from the Series 2009 Bonds Construction Trust Fund shall be made only after submission to, and approval from, the Authority and the DEP of the following:

- (1) a completed and signed "Payment Requisition Form," a form of which is attached to the ARRA Assistance Agreement, in compliance with the construction schedule; and
- (2) a certificate, signed by an Authorized Officer, stating that:
 - (A) None of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;
 - (B) Each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;
 - (C) Each of such costs has been otherwise properly incurred; and
 - (D) Payment for each of the items proposed is then due and owing.

Pending such application, monies in the Series 2009 Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

B. On or before the Closing Date, the Issuer shall have delivered to the Authority and the DEP a report listing the specific purposes for which the proceeds of the Series 2009 B Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for Costs of the Project shall be made monthly. Invoices for which repayment from the Series 2009 Bonds Construction Trust Fund will be sought must be first approved by the Issuer.

Except as provided in Section 6.01 hereof, disbursements from the Series 2009 Bonds Construction Trust Fund shall be made only after submission to, and approval from, the Authority and the DEP of the following:

- (1) a completed and signed "Payment Requisition Form," a form of which is attached to the ARRA Assistance Agreement, in compliance with the construction schedule; and
- (2) a certificate, signed by an Authorized Officer, stating that:
 - (A) None of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;

Series 2009 Bonds
Approval from, the Authority and the

Payment Requisition Form," a form of which is attached to the
in compliance with the construction schedule; and
signed by an Authorized Officer, stating that:

of the items for which the payment is proposed to be made has formed the
disbursement theretofore made;
item for which the payment is proposed to be made is or was necessary in
the Project and constitutes a Cost of the Project;
such costs has been otherwise properly incurred; and
for each of the items proposed is then due and owing.

monies in the Series 2009 Bonds Construction Trust Fund shall be
Investments at the written direction of the Issuer.
Date, the Issuer shall have delivered to the Authority and the DEP a
for which the proceeds of the Series 2009 B Bonds will be expended
for such proceeds, including an estimated monthly draw schedule.
all be made monthly. Invoices for which repayment from the Series
will be sought must be first approved by the Issuer.

of, disbursements from the Series 2009 Bonds Construction Trust
to, and approval from, the Authority and the DEP of the

Payment Requisition Form," a form of which is attached to the
compliance with the construction schedule; and
authorized Officer, stating that:

for which the payment is proposed to be made has formed the
theretofore made;

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ust Fund shall be
er.

- (B) Each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;
- (C) Each of such costs has been otherwise properly incurred; and
- (D) Payment for each of the items proposed is then due and owing.

Pending such application, monies in the Series 2009 Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2009 Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 2009 Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2009 Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2009 Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of the Series 2009 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2009 Bonds or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service on the Series 2009 Bonds issued hereunder shall be secured equally and ratably by a first lien on the Net Revenues derived from the System, on a parity with each other and with the lien on the Net Revenues in favor of the Holders of the Prior Bonds. The Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds, and to make all other payments hereinafter set forth, are hereby irrevocably pledged to such payments as they become due.

Section 7.04. Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal and the Issuer shall supply an opinion of counsel to such effect. Such rates and charges shall be sufficient to comply with the requirements of the ARRA Assistance Agreement and the Issuer shall supply a certificate of Certified Public Accountant to such effect. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the sewer rate ordinance of the Issuer enacted March 22, 2007, which rates are incorporated herein by reference as a part hereof.

So long as the Series 2009 Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Bond Legislation and in compliance with the ARRA Assistance Agreement. In the event the schedule of rates and charges initially established for the System in connection with the Series 2009 Bonds shall prove to be insufficient to produce the amounts required by this Bond Legislation and the ARRA Assistance Agreement, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates and charges and take all such actions necessary to provide funds sufficient to produce the amounts required by this Bond Legislation and the ARRA Assistance Agreement.

Section 7.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, lease, mortgage or in any manner dispose of or encumber the System, or any part thereof, except as provided in the Prior Ordinance and with the written consent of the Authority.

So long as the Series 2009 Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority and the DEP, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding, in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall immediately be remitted to the Commission for deposit in the Series 2009A Bonds Sinking Fund and the Series 2009 B Bonds Sinking Fund, respectively, pro rata with respect to the principal amount of each of the Bonds then Outstanding, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest, if any, on the Series 2009 A Bonds and the Series 2009 B Bonds in accordance with Article X hereof. Any balance remaining after the payment of the Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, by resolution, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, determine, upon consultation with a professional engineer, that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property in accordance with the laws of the State. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund for repayment of the Bonds. The payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amounts required to be paid into such account by other provisions of this Bond Legislation.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$50,000 and insufficient to pay all Bonds then Outstanding, without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in this Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2009 Bonds. All obligations issued by the Issuer after the issuance of the Series 2009 Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Series 2009 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2009 Bonds, and the interest, if any, thereon, upon any of the income and revenues of the System pledged for payment of the Series 2009 Bonds and the interest, if any, thereon in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the Authority and the DEP prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System or from any grants for the Project, or any other obligations related to the Project or the System.

Section 7.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Ordinance shall be applicable. In addition, no additional Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2009 Bonds pursuant to this Ordinance, without the prior written consent of the Authority and the DEP and without complying with the conditions and requirements herein provided (unless less restrictive than the provisions of the Prior Ordinance).

No such additional Parity Bonds shall be issued except for the purposes of financing the costs of the design, acquisition and construction of extensions, additions, betterments or improvements to the System, refunding all or a portion of one or more series of Bonds issued pursuant hereto, or to pay claims which may exist against the revenues or facilities of the System or all of such purposes.

- (1) The Bonds Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Resolution then Outstanding; and
- (3) The Parity Bonds then proposed to be issued.

The foregoing limitation may be waived or modified by the written consent of the *Holders of the Prior Bonds*, representing 75% of the then-outstanding principal indebtedness.

So long as the Series 1995 Bonds, Series 1996 A Bonds, Series 2000 A Bonds, Series 2001 A Bonds and the Series 2009 Bonds are outstanding, no Parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the Recorder a written statement by Independent

Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustment hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such additional Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall be not less than 115%, of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

- (1) The Bonds then Outstanding;
- (2) Any additional Parity Bonds theretofore issued pursuant to the provisions contained in the Prior Ordinance and this Bond Legislation then Outstanding; and
- (3) The additional Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from the improvements to be financed by such Parity Bonds and any increase in rates enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to the date of issuance of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the Recorder prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12 consecutive month period herein above referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountants, as stated in a certificate, on account of increased rates, rentals, fees and charges for the System enacted by the Issuer, the time for appeal of which has expired (without successful appeal) prior to the issuance of such Parity Bonds.

All covenants and other provisions of this Ordinance (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds and the Holders of any Parity Bonds theretofore or subsequently issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of the same series. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Ordinance required for and on account of such Parity Bonds, in addition to the payments required for the Bonds theretofore issued pursuant to this Ordinance.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to the lien on and source of and security for payment from such revenues, with the Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the respective funds and accounts provided for in this Ordinance and the Prior Ordinance with respect to the Bonds then Outstanding, and any other payments provided for in this Ordinance and the Prior Ordinance, shall have been made in full as required to the date of issuance of such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Ordinance and the Prior Ordinance.

Section 7.08. Books; Records and Audit. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of designing, acquiring, constructing and installing the Project. The Issuer shall permit the Authority and the DEP, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Authority and the DEP such documents and information as they may reasonably require in connection with the design, acquisition, construction and installation of the Project; the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

The Issuer shall permit the Authority and the DEP, or their agents and representatives, to inspect all records pertaining to the operation and maintenance of the System at all reasonable times following completion of construction of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds issued pursuant to this Bond Legislation shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the Public Service Commission of West Virginia and the Act. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Issuer. The Issuer shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Issuer shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Authority and the DEP, or any other original purchaser of the Series 2009 Bonds and shall mail in each year to any Holder or Holders of the Series 2009 Bonds, requesting the same, an annual report containing the following:

- (A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.
- (B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation and the status of all said funds and accounts.
- (C) The amount of any Bonds, notes or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants (and to the extent legally required in compliance with the applicable OMB Circular, or any successor thereof, and the Single Audit Act, or any successor thereof), and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 2009 Bonds and shall submit the report to the Authority and the DEP or any other original purchaser of the Series 2009 Bonds. Such audit report submitted to the Authority and the DEP shall include a statement that the Issuer is in compliance with the terms and provisions of the Act and ARRA Assistance Agreement and this Bond Legislation and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the ARRA Assistance Agreement and the Act, the Issuer has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared by the Consulting Engineers. All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Issuer.

The Issuer shall provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in the ARRA Assistance Agreement for the Series 2009 Bonds or any Exhibit thereto or as promulgated from time to time.

The Issuer shall permit the Authority or the DEP, or their agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Issuer shall also provide the Authority and the DEP, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and the DEP with respect to the System pursuant to the Act.

Section 7.09. Rates. Prior to the issuance of the Series 2009 Bonds, rates or charges for the use of the services and facilities of the System will be fixed and established, all in the manner and form required by law, and a copy of such rates and charges so fixed and established shall at all times be kept on file in the office of the Recorder of the Issuer, which copy will be open to inspection by all interested parties. The schedule or schedules of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds and accounts created hereunder. Such schedule or schedules of rates and charges shall be revised from time to time, whenever necessary, so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule or schedules of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System, to meet the coverage requirements set forth in the Prior Ordinance so long as the Prior Bonds are outstanding and thereafter, (i) to provide for all Operating Expenses of the System; and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2009 Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with, or

subordinate to, the Series 2009 Bonds including the Prior Bonds; provided that, in the event that, an amount equal to or in excess of the Reserve Requirement is on deposit in the Reserve Accounts and any reserve accounts for obligations on a parity with the Series 2009 Bonds are funded at least at the requirement therefor, such sum need only equal 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2009 Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with, or subordinate to, the Series 2009 Bonds.

The Issuer hereby covenants to commence enactment of such ordinance or ordinances as shall be required to increase the rates and charges for the services and facilities of the System within 30 days following a determination of the Independent Certified Public Accountant that less than the above-required coverage exists or in the event that the annual audit report shows less than the above-required coverage, such increase to provide rates and charges sufficient to produce such required coverage.

Section 7.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority and the DEP within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a registered professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of a registered professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and the DEP and to any Holder of any Bonds who shall file his or her address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him or her, within 30 days of adoption thereof and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Authority, the DEP and any Holder of any Bonds or anyone acting for and on behalf of such Holder.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for 2 years following the completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the ARRA Assistance Agreement, and forward a copy of such report to the Authority and the DEP by the 10th day of each month.

Section 7.11. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Consulting Engineers in the form attached to the ARRA Assistance Agreement, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Authority and the DEP, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the DEP is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the Authority and the DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Authority, the DEP and the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the DEP in writing of such receipt. The Issuer shall submit a "Performance Certificate," a form of which is attached to the ARRA Assistance Agreement for the Series 2009 Bonds as Exhibit A, to the DEP within 60 days of the end of the first year after the Project is completed.

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when the Project is 90% completed. The Issuer shall at all times provide operation and maintenance of the System in compliance with all state and federal standards.

The Issuer shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator to operate the System during the entire term of the ARRA Assistance Agreement. The Issuer shall notify the DEP in writing of the certified operator employed at the 50% completion stage.

Section 7.12. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, rates, rentals and other charges, if not paid when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services of the System, and any services and facilities of the water system, to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services of either system until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the

restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law. If the water facilities are not owned by the Issuer, the Issuer shall enter into a termination agreement with the water provider of such water, subject to any required approval of such agreement by the Public Service Commission of West Virginia and all rules, regulations and orders of the Public Service Commission of West Virginia.

Section 7.14. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of either shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 2009 Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. In the event of any damage to or destruction of any portion of the System, the proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the ARRA Assistance Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than \$1,000,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than \$500,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the amount of any construction contract and to be

required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

(4) FLOOD INSURANCE, if the facilities of the System are or will be located in designated special flood or mudslide-prone areas and to the extent available at reasonable cost to the Issuer.

(5) BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

(6) FIDELITY BONDS will be provided as to every officer, member and employee of the Issuer or the Governing Body having custody of the revenues or of any other funds of the System, in an amount at least equal to the total funds in the custody of any such person at any one time.

B. The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The Issuer shall verify such bonds prior to commencement of construction.

The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project; provided that the amounts and terms of such coverage are satisfactory to the Authority and the DEP and the Issuer shall verify such insurance prior to commencement of construction. In the event the ARRA Assistance Agreement so require, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear.

Section 7.16. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30-day notice of the availability of the System, pay the rates and charges established therefor.

Any such house, dwelling or building from which emanates sewage or water-borne waste matter and which is not so connected with the System is hereby declared and found to be a hazard to the health,

safety, comfort and welfare of the inhabitants of the Issuer and a public nuisance which shall be abated to the extent permitted by law and as promptly as possible by proceedings in a court of competent jurisdiction.

Section 7.17. Completion and Operation of Project; Permit and Orders. The Issuer will complete the acquisition and construction of the Project as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all federal and state requirements and standards.

The Issuer will obtain all permits required by state and federal laws for the acquisition and construction of the Project, all orders and approvals from the Public Service Commission of West Virginia and the West Virginia Infrastructure and Jobs Development Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals of issuance of the Series 2009 Bonds required by State law, with all requisite appeal periods having expired without successful appeal, except as otherwise provided in Section 1.02(I).

Section 7.18. Compliance with the ARRA Assistance Agreement and the Law. The Issuer shall perform, satisfy and comply with all the terms and conditions of the ARRA Assistance Agreement and the Act. Notwithstanding anything herein to the contrary, the Issuer will provide the DEP with copies of all documents submitted to the Authority. The Issuer also agrees to comply with all applicable laws, rules and regulations issued by the Authority, the DEP or other state, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

Section 7.19. [RESERVED].

Section 7.20. Securities Law Compliance. The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

Section 7.21. Contracts; Change Orders; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2009 Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the DEP for written approval. The Issuer shall obtain the written approval of the DEP before expending any proceeds of the Series 2009 Bonds held in "contingency" as set forth in the Schedule attached to the certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the DEP before expending any proceeds of the Series 2009 Bonds made available due to bid or construction or project underruns.

C. The Issuer shall list the funding provided by the DEP and the Authority in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any ground breaking or dedication of the Project.

Section 7.22. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2009 Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory

mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series 2009 Bonds and shall be on a parity with the statutory mortgage lien in favor of the Holders of the Prior Bonds.

ARTICLE VIII**INVESTMENT OF FUNDS**

Section 8.01. Investments. Any monies held as a part of the funds and accounts created by this Bond Legislation, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Bond Legislation, the need for such monies for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

Any investment shall be held in and at all times deemed a part of the fund or account in which such monies were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission or Depository Bank, or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank may make any and all investments permitted by this section through its own investment or trust department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, or more often as reasonably requested by the Issuer, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2009 Bonds are Outstanding and as long thereafter as necessary to comply with the Code and to assure the exclusion of interest, if any, on the Series 2009 Bonds from gross income for federal income tax purposes.

Section 8.02. Certificate as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the Series 2009 Bonds as a condition to issuance of the Series 2009 Bonds. In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the Series 2009 Bonds as may be necessary in order to maintain the status of the Series 2009 Bonds as governmental bonds; (ii) that it shall not take, or permit or suffer to be taken, any action with respect to the Issuer's use of the proceeds of the Series 2009 Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority or the DEP, as the case may be, from which the proceeds of the Series 2009 Bonds are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as shall be deemed necessary by the Issuer, or requested by the Authority or the DEP,

to ensure compliance with the covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Bond Legislation.

The Issuer shall annually furnish to the Authority information with respect to the Issuer's use of the proceeds of the Series 2009 Bonds and any additional information requested by the Authority.

ARTICLE IX**DEFAULT AND REMEDIES**

Section 9.01. Events Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2009 Bonds:

- (1) If default occurs in the due and punctual payment of the principal of or interest on any Series 2009 Bonds; or
- (2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions relating to the Series 2009 Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2009 Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, the Registrar, the Paying Agent or any other Paying Agent or a Holder of a Bond; or
- (3) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America; or
- (4) If default occurs with respect to the Prior Bonds or the Prior Ordinance.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner or Holder of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners or Bondholders including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds; (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners or Bondholders of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Holders of the Series 2009 Bonds shall be on a parity with those of the Holders of the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds, any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby

established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might do.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Bond Legislation for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Bond Legislation shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers herein above conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the completion of the Project and the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE X**PAYMENT OF BONDS**

Section 10.01. Payment of Series 2009 A Bonds. If the Issuer shall pay, or there shall otherwise be paid, to the Registered Owners of the Series 2009 A Bonds, the principal of and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2009 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2009 A Bonds from gross income for federal income tax purposes.

Section 10.02. Payment of Series 2009 B Bonds. If the Issuer shall pay, or there shall otherwise be paid, to the Registered Owners of all of the Series 2009 B Bonds, the principal of and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2009 B Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2009 B Bonds from gross income for federal income tax purposes.

ARTICLE XI**MISCELLANEOUS**

Section 11.01. American Recovery and Reinvestment Act. If the Issuer is notified by DEP that one or more of its Bonds will be purchased by the Authority on behalf of DEP using funding from the ARRA, then the terms and conditions contained in the ARRA Assistance Agreement required by the ARRA will be incorporated herein and made a part of this Bond Legislation as if specifically set forth herein. The Issuer will follow the requirements set forth by DEP and will provide ongoing reporting and information as is required by DEP and the ARRA.

Section 11.02. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2009 Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2009 Bonds, no material modification or amendment of this Ordinance, or of any ordinance, resolution or order amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2009 Bonds shall be made without the consent in writing of the Registered Owners of the Series 2009 Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of the Series 2009 Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 2009 Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the excludability of interest, if any, on the Series 2009 Bonds from gross income of the holders thereof.

Section 11.03. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.04. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution or the Series 2009 Bonds.

Section 11.05. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

Section 11.06. Conflicting Provisions Repealed; Prior Ordinance. All ordinances, orders or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed, provided that, in the event of any conflict between this Ordinance and the Prior

Ordinance, the Prior Ordinance shall control (unless less restrictive), so long as the Prior Bonds are outstanding.

Section 11.07. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the Recorder and members of the Governing Body were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 11.08. Effective Date. This Ordinance shall take effect immediately following public hearing hereon.

Section 11.09. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Ordinance determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6 full days intervening between each publication, in the Charleston Gazette, a newspaper of general circulation in the City of Nitro, no newspaper being published therein, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Series 2009 Bonds, and that any person interested may appear before the Governing Body upon a date certain, not less than ten days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

Passed on First Reading:	October 6, 2009
Passed on Second Reading:	October 20, 2009
Passed on Final Reading	
Following Public Hearing:	November 3, 2009

Mayor

CITY OF NITRO
SEWER REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA SRF PROGRAM); AND
SEWER REVENUE BONDS, SERIES 2009 B
(WEST VIRGINIA SRF PROGRAM/ARRA)

Certified a true copy of an Ordinance duly enacted by the Governing Body of the CITY OF NITRO on the 20th day of October, 2009.

BOND ORDINANCE

Dated: _____, 2009.

Table of Contents

[SEAL]

ARTICLE I
STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01	Authority for this Ordinance
Section 1.02	Findings
Section 1.03	Bond Legislation Constitutes Contract
Section 1.04	Definitions

ARTICLE II
AUTHORIZATION OF ACQUISITION AND CONSTRUCTION
OF THE PROJECT

Section 2.01	Authorization of Acquisition and Construction of the Project
--------------	--

ARTICLE III
AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND
SALE OF BONDS; AUTHORIZATION AND EXECUTION
OF ARRA ASSISTANCE AGREEMENT

Section 3.01	Authorization of Bonds
Section 3.02	Terms of Bonds
Section 3.03	Execution of Bonds
Section 3.04	Authentication and Registration
Section 3.05	Negotiability, Transfer and Registration
Section 3.06	Bonds Mutilated, Destroyed, Stolen or Lost
Section 3.07	Bonds not to be Indebtedness of the Issuer
Section 3.08	Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds
Section 3.09	Delivery of Bonds

EXHIBIT A

ARRA Assistance Agreement included in bond transcript as Document 3

CITY OF NITRO
SEWER REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA SRF PROGRAM); AND
SEWER REVENUE BONDS, SERIES 2009 B
(WEST VIRGINIA SRF PROGRAM/ARRA)

BOND ORDINANCE

Table of Contents

ARTICLE I
STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01	Authority for this Ordinance
Section 1.02	Findings
Section 1.03	Bond Legislation Constitutes Contract
Section 1.04	Definitions

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Section 3.03	Execution of Bonds
Section 3.04	Authentication and Registration
Section 3.05	Negotiability, Transfer and Registration
Section 3.06	Bonds Mutilated, Destroyed, Stolen or Lost
Section 3.07	Bonds not to be Indebtedness of the Issuer
Section 3.08	Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds
Section 3.09	Delivery of Bonds

- Section 3.10 Form of Bonds
 FORM OF SERIES 2009 A BOND
 FORM OF SERIES 2009 B BOND
 Section 3.11 Sale of Bonds; Approval and Ratification of Execution of ARRA Assistance Agreement
 Section 3.12 Filing of Amended Schedule

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

- Section 5.01 Establishment of Funds and Accounts with Depository Bank
 Section 5.02 Establishment of Funds and Accounts with Commission
 Section 5.03 System Revenues; Flow of Funds

ARTICLE VI

APPLICATION OF BOND PROCEEDS

- Section 6.01 Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds
 Section 6.02 Disbursements of Bond Proceeds

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

- Section 7.01 General Covenants of the Issuer
 Section 7.02 Bonds not to be Indebtedness of the Issuer
 Section 7.03 Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds
 Section 7.04 Rates and Charges
 Section 7.05 Sale of the System
 Section 7.06 Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances
 Section 7.07 Parity Bonds
 Section 7.08 Books; Records and Audit
 Section 7.09 Rates
 Section 7.10 Operating Budget and Monthly Financial Report
 Section 7.11 Engineering Services and Operating Personnel
 Section 7.12 No Competing Franchise

Section 7.13	Enforcement of Collections
Section 7.14	No Free Services
Section 7.15	Insurance and Construction Bonds
Section 7.16	Mandatory Connections
Section 7.17	Completion of Project; Permits and Orders
Section 7.18	Compliance with the ARRA Assistance Agreement and the Law
Section 7.19	Reserved
Section 7.20	Securities Law Compliance
Section 7.21	Contracts; Public Releases
Section 7.22	Statutory Mortgage Lien

ARTICLE VIII INVESTMENT OF FUNDS

Section 8.01	Investments
Section 8.02	Certificate as to Use of Proceeds

ARTICLE IX DEFAULT AND REMEDIES

Section 9.01	Events of Default
Section 9.02	Remedies
Section 9.03	Appointment of Receiver

ARTICLE X PAYMENT OF BONDS

Section 10.01	Payment of Series 2009 A Bonds
Section 10.02	Payment of Series 2009 B Bonds

ARTICLE XI MISCELLANEOUS

Section 11.01	American Recovery and Reinvestment Act
Section 11.02	Amendment or Modification of Bond Legislation
Section 11.03	Bond Legislation Constitutes Contract
Section 11.04	Severability of Invalid Provisions
Section 11.05	Headings, Etc.

Section 11.06 Conflicting Provisions Repealed; Prior Ordinance
Section 11.07 Covenant of Due Procedure, Etc.
Section 11.08 Effective Date
Section 11.09 Statutory Notice and Public Hearing

CERTIFICATION
EXHIBIT A

NITRO CITY COUNCIL MEETING
MINUTES
TUESDAY, NOVEMBER 3, 2009

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm in Council Chambers. Attending along with Mayor Casto were Ward 1 Councilman A. A. "Joe" Savilla, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Councilman at Large Jim McKay, Councilman at Large Dave Casebolt, Recorder Rita Cox, City Treasurer John Young, and City Attorney Richie Robb. Councilman at Large Bob Fields was not in attendance.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Councilman Savilla and the Pledge of Allegiance was led by Councilman Racer.

FUTURE DATES OF COUNCIL: Mayor Casto announced the future dates of Council for 2009 are November 17, December 1, and December 15.

APPROVAL OF COUNCIL MINUTES: COUNCILMAN BILL JAVINS MOVED THE MINUTES OF THE OCTOBER 20, 2009 MEETING OF COUNCIL BE APPROVED WITH A SECOND BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

PUBLIC HEARING: ORDINANCE AUTHORIZING SEWER REVENUE BONDS FOR THE CITY OF NITRO SERIES 2009 A AND B BONDS FOR ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENT TO THE EXISTING PUBLIC SEWERAGE SYSTEM AND FINANCING: Mayor Rusty Casto opened the Public Hearing to comment. Dennis Vaughn said that the Nitro Regional Wastewater Utility and the City of Nitro should be pleased with the accomplishment in receiving this money for improvements to the sewer system of Nitro and the area. Bob Schamber asked the interest rate and Mr. Vaughn said it was 0% on the Series B bonds and what amounted to 1% on the Series A bonds. Councilman McKay said that if there is to be more stimulus money offered by the United States government the city should consider trying to acquire some for a new city hall, making plans to have a "green" plan. Mayor Casto asked if there were any more public comments. COUNCILMAN SAVILLA MOVED THE PUBLIC HEARING BE CLOSED WITH A SECOND BY RECORDER COX. VOTE WAS UNANIMOUS TO CLOSE THE HEARING.

OLD BUSINESS:

SWEEP RESOLUTION AND SUPPLEMENTAL RESOLUTIONS RE: SEWER REVENUE BOND ORDINANCE SERIES A AND B BONDS FINANCING EXISTING PUBLIC SEWERAGE SYSTEM IMPROVEMENTS: City Attorney Richie Robb read the Sweep Resolution to Council listing the City of Nitro as the "Issuer" as a governmental body and political subdivision of West Virginia; the Issuer has issued Bonds; the Issuer will make through the Nitro Regional Wastewater Utility monthly debt service payments on and transfers of reserve funds for the Bonds by check to the WV Municipal Bond Commission which in turn pays the owners of the Bonds and deposits funds in the reserve accounts; the MBC may accept month payments by electronic funds transfer; the fund payment will be made by way of the WV State Treasurer sweeping the Issuer's account held by the Nitro Regional Wastewater Utility. RECORDER COX MOVED COUNCIL ADOPT THE SWEEP RESOLUTION ALLOWING MONTHLY DEBT SERVICE PAYMENTS ON AND RESERVE FUNDS BE MADE TO THE MUNICIPAL BOND COMMISSION BY AN ELECTRONIC TRANSFER BY THE STATE TREASURER FROM THE ACCOUNTS SET FOR THAT PURPOSE AT THE DIRECTION OF THE MUNICIPAL BOND CORPORATION, AUTHORIZING THE MAYOR AND CLERK TO SIGN AND EXECUTE ALL SUCH DOCUMENTS NECESSARY TO FACILITATE THE ELECTRONIC TRANSFER OF THE BOND DEBT SERVICE AND RESERVE FUND PAYMENTS. THE MOTION WAS SECONDED BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION. VOTING FOR THE MOTION WERE COUNCILMEN SAVILLA, RACER, MATTHEWS, JAVINS, MCKAY, AND CASEBOLT AND RECORDER COX.

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITY DATES, REDEMPTION PROVISIONS, INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICES AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA SRF PROGRAM) AND SEWER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA SRF PROGRAM/ARRA) OF THE CITY OF NITRO; APPROVING AND RATIFYING THE ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITRY BANK; AND MAKING OTHER PROVISIONS AS TO THE BOND: MOTION TO ADOPT SUPPLEMENTAL RESOLUTION PROVIDED FOR RITA COX MOVED COUNCIL APPROVE THE EXECUTION OF THE SUPPLEMENTAL RESOLUTION. THE MOTION WAS SECONDED BY COUNCILMAN A. A. "JOE" SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

SECOND READING AN ORDINANCE TO AMEND ARTICLE 147 TO TRANSFER REAL PROPERTY TO THE NITRO SANITARY BOARD/VALLEY AVENUE/FIFTH STREET/ RT. 25: Richie Robb presented the ordinance to Council by reading the title only. COUNCILMAN SAVILLA MOVED THE ORDINANCE TO AMEND ARTICLE 147 TO TRANSFER REAL PROPERTY TO THE NITRO SANITARY BOARD/VALLEY AVENUE/FIFTH STREET/RT. 25 BE PASSED ON SECOND READING WITH A SECOND BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS OR THE MOTION TO PASS.

CONVENTION AND VISITORS BUREAU: Mayor Rusty Casto said he would like to have a decision in place by January 1, 2010 concerning the Convention and Visitors Bureau as to whether the City would have its own bureau or join with the Central Regional WV Convention and Visitors Bureau. Councilman Javins said he would report to Council at the next meeting. He said the Convention and Visitors Bureau Committee would meet at noon on November 4 in Council Chambers.

40TH STREET BRIDGE DEDICATION/NOVEMBER 16: Mayor Casto reported that the dedication for the 40th Street Bridge would be held at noon on November 16. There will be food served and the church on 39th Street will be shelter in case of rain.

REPORT TO COUNCIL ON GAMING ESTABLISHMENTS: Richie Robb reported that he had researched the complaints brought by the owner of Castaways regarding what was perceived as illegalities in limited video license issued in Nitro. He said that there were approximately nine limited video lottery licenses in Nitro which does not include Tri-State Racetrack. Out of these, there are three that had questions. Hot Spot was licensed after the 2004 Ordinance was adopted but a letter was on file from the Mayor that their application process had started prior to the new ordinance and there were allowed to proceed. Kelly's Hot Spot had a correspondence from the WV Lottery Commission explaining that they could not be denied a city permit due to the prior license that had been in place. There are questions concerning the existence of Briannas and that location as a limited video lottery establishment that are not answered and that is still being investigated. He said the City of Nitro needs to adopt a plan that would make the application for license simpler and more uniform. Melody McCormick said that she believed Nitro Billiards was not in compliance. Richie Robb said that it was according to his research..

NEW BUSINESS:

FIRST READING AN ORDINANCE RELATING TO THE FILING OF LIENS: COUNCILMAN JIM MCKAY MOVED THAT COUNCIL PASS ON FIRST READING AND ORDINANCE TO AMEND CHAPTER FIVE OF THE CODIFIED ORDINANCES OF THE CITY OF NITRO, WV BY ENACTING A NEW ARTICLE DESIGNATED 160, ALL RELATING TO THE LIENS FILED BY THE CITY; FINDINGS; APPLICATION OF ARTICLE; DEFINITIONS; FILING A LIEN FOR DELINQUENT

MUNICIPAL SERVICE FEES; FILING A LIEN FOR DELINQUENT DECONTAMINATION AND DEMOLITION OF CONTAMINATED STRUCTURE FEES; FILING A LIEN FOR UNPAID PROPERTY MAINTENANCE FEE; FILING A LIEN FOR UNPAID EMERGENCY SERVICES USER FEE; FILING OF OTHER LIENS, RELEASE OF LIENS; DELINQUENT FEES AND TAXES COLLECTED WHEN PROPERTY TRANSFERRED; SEVERABILITY; AND EFFECTIVE DATE. THE MOTION WAS SECONDED BY COUNCILMAN BILL RACER. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

CODIFIED ORDINANCES: Richie Robb told Council that the Ordinances for the City of Nitro have not been codified since 2001 and the city needs to find the money to take care of that since it is important. Recorder Rita Cox said that Municipal Court Clerk Robin Smith is researching different companies to see what the charges would be for that service.

OPERATION WARM NITRO/BOY SCOUTS OF AMERICA: Recorder Rita Cox announced that Boy Scout Pack 188 is running a coat and blanket drive. They will accept new and gently used coats and blankets and/or cash donations. The drop off date is Friday, November 20, 6:00 to 8:00 pm St. Paul's Methodist Church.

TREASURER REPORT: John Young reported to Council that the financial status of the city was stable. He still is anticipating a shortfall due to the closure of businesses and the decline of business at Tri-State Racing and Gaming Center.

ATTORNEY REPORT: Rich Robb said he had covered everything earlier that he needed to discuss but he said he was prepared to answer questions.

COUNCIL COMMENTS:

Councilman Craig Matthews said the Halloween Hoedown was successful and came in under the amount budgeted, \$4000.00. He said the amount spent was \$1300.00.

Councilman A. A. "Joe" Savilla said the Hoedown was very successful.

Recorder Rita Cox commented on the Halloween celebration and said it was a pleasure to work in it. She asked Council to remember the family of Alex and A. J. Hill due to Charlotte Hill's recent passing.

Councilman Dave Casebolt said he thought the city should have a swine flu policy. Recorder Cox said she and Fire Chief E. W. Hedrick had been working on that and would report next meeting.

Councilman Jim McKay said trick or treat was successful and thanked the police presence in his neighborhood. He said he thought there should be a swine flu policy. The CVB Committee will meet Nov. 4 at noon in Council Chambers.

PUBLIC COMMENT:


Bob Schamber said the Hoedown was very successful and he praised the quick cleanup that was done afterwards. He presented Council members with a new 2010 calendar planning book.

Debra Jordan thanked Councilman Matthews and all the people who helped with the Hoedown. Councilman Savilla said he thought the cleanup was very good. Brian Oxley of the Nitro Police Department said that the police had it much better Halloween night due to the Hoedown.

John Montgomery said the Ordinance Committee would meet Thurs. at 7:00 in Council Chambers.

ADJOURNMENT:

COUNCILMAN MCKAY MOVED THE MEETING BE ADJOURNED WITH A SECOND BY
COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION.



RUSTY CASTO, MAYOR



RITA COX, RECORDER

SWEEP RESOLUTION**City of Nitro**

WHEREAS, the City of Nitro (the "Issuer") is a governmental body and political subdivision of West Virginia;

WHEREAS, the Issuer has issued bonds, as more specifically set forth on Exhibit A, attached hereto and incorporated herein by reference (the "Bonds");

WHEREAS, the Issuer makes or will make acting through the City of Nitro's Regional Wastewater Utility monthly debt service payments on and transfers of reserve funds for the Bonds by check to the West Virginia Municipal Bond Commission (the "MBC") which in turn pays the owners of the Bonds and deposits funds in the reserve accounts;

WHEREAS, the MBC may accept such monthly payments by electronic funds transfer, thereby eliminating delay in payments and lost checks;

WHEREAS, the Issuer finds and determines that it is in the best interest of the Issuer, the Nitro Regional Wastewater Utility its citizens and the owners of the Bonds that the monthly debt service and reserve fund payments be made by electronic funds transfer with the State Treasurer sweeping the Issuer's account held by the City of Nitro's Regional Wastewater Utility.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

- 1) The monthly debt service payments on and reserve funds for the Bonds, as set forth in Exhibit A, shall be made to the MBC by an electronic transfer by the State Treasurer from the accounts set forth in Exhibit A in such form and at such directions as are provided by the MBC.
- 2) The Mayor and Clerk are hereby authorized to sign and execute all such documents as are necessary to facilitate the electronic transfer of the Bond debt service and reserve fund payments.
- 3) This resolution shall be effective immediately upon adoption.

Adopted this 3rd day of November, 2009.

Mayor

EXHIBIT A

List each bond issue account and the Bank account number from which the electronic transfer will be made.

Bond Issue	Bank Account Information	Amount
Sewer Revenue Bonds, Series 1995	<u>01221002051</u>	<u>\$2200</u>
Sewer Revenue Bonds, Series 1996 A	<u>01221002051</u>	<u>\$25,234.74</u>
Sewer Revenue Bonds, Series 2000 A	<u>01221101350</u>	<u>\$6694.73</u>
Sewer Revenue Bonds, Series 2001 A	<u>01221101350</u>	<u>\$1775.97</u>
Sewer Revenue Bonds, Series 2009 A Revenue Fund	<u>4524</u>	TBD
Sewer Revenue Bonds, Series 2009 A Reserve Account	<u>4524</u>	TBD
Sewer Revenue Bonds, Series 2009 B Revenue Fund	<u>na</u>	100% forgivable
Sewer Revenue Bonds, Series 2009 B Reserve Account	<u>na</u>	100% forgivable

Required:

Email for main contact: nitromayor@aol.com

CITY OF NITRO

Sewer Revenue Bonds, Series 2009 A
(West Virginia SRF Program); and
Sewer Revenue Bonds, Series 2009 B
(West Virginia SRF Program/ARRA)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITY DATES, REDEMPTION PROVISIONS, INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICES AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA SRF PROGRAM) AND SEWER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA SRF PROGRAM/ARRA) OF THE CITY OF NITRO; APPROVING AND RATIFYING THE ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the City council (the "Governing Body") of the City of Nitro (the "Issuer" or "Governmental Agency") has duly and officially adopted and enacted a bond ordinance, effective October 20, 2009 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF NITRO AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NITRO OF NOT MORE THAN \$2,250,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA SRF PROGRAM), AND NOT MORE THAN \$2,250,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA SRF PROGRAM/ARRA); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE

OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING
BOND PURCHASE AGREEMENT RELATING TO SUCH BONDS;
AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS
AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER
PROVISIONS RELATING THERETO.

WHEREAS, capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Ordinance when used herein;

WHEREAS , the Bond Ordinance provides for the issuance of the Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program) in an aggregate principal amount not to exceed \$2,250,000 and Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA) in an aggregate principal amount not to exceed \$2,250,000;

WHEREAS, the Bond Ordinance has authorized the execution and delivery of an ARRA assistance agreement relating to the Series 2009 Bonds, including all schedules and exhibits attached thereto, by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Department of Environmental Protection (the "DEP"), (the "ARRA Assistance Agreement"), all in accordance with Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"); and in the Bond Ordinance it is provided that the form of the ARRA Assistance Agreement and the exact principal amounts, dates, maturity dates, redemption provisions, interest rates, interest and principal payment dates, sale prices and other terms of the Series 2009 Bonds should be established by a supplemental resolution pertaining to the Series 2009 Bonds; and that other matters relating to the Series 2009 Bonds be herein provided for;

WHEREAS, the ARRA Assistance Agreement has been presented to the Issuer at this meeting;

WHEREAS, the Series 2009 A Bonds and the Series 2009 B Bonds are proposed to be purchased by the Authority pursuant to the ARRA Assistance Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the ARRA Assistance Agreement be approved and ratified by the Issuer, that the exact principal amounts, the dates, the maturity dates, the redemption provisions, the interest rates, the interest and principal payment dates and the sale prices of the Series 2009 Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Series 2009 Bonds be herein provided for;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF NITRO:

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the following bonds of the Issuer:

A. Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), of the Issuer, originally represented by a single Bond, numbered AR-1, in the original aggregate principal amount of \$1,910,778. The Series 2009 A Bonds shall be dated the date of delivery thereof, shall finally mature June 1, 2031, and shall bear no interest. The principal of the Series 2009 A Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2011, to and including June 1, 2031, and in the amounts as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement for the Series 2009 A Bonds and incorporated in and made a part of the Series 2009 A Bonds. The Series 2009 A Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2009 A Bonds. The Issuer does hereby approve and shall pay the SRF Administrative Fee equal to 1% of the principal amount of the Series 2009 A Bonds set forth in "Schedule Y" attached to the ARRA Assistance Agreement.

B. Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), of the Issuer, originally represented by a single Bond, numbered BR-1, in the original aggregate principal amount of \$1,125,000. The Series 2009 B Bonds shall be dated the date of delivery thereof, shall finally mature June 1, 2021, and shall bear no interest. The principal of the Series 2009 B Bonds shall be 100% forgiven as set forth in ARRA Assistance Agreement. The Series 2009 B Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the redemption premium, if any, and otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2009 B Bonds. The Series 2009 B Bonds are not subject to the SRF Administrative Fee.

Section 2. All other provisions relating to the Series 2009 Bonds and the text of each series of the Series 2009 Bonds shall be in substantially the forms provided in the Bond Ordinance.

Section 3. The Issuer does hereby authorize, approve, ratify and accept the ARRA Assistance Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the ARRA Assistance Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the ARRA Assistance Agreement and in the applications to the DEP and the Authority. The price of the Series 2009 Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Series 2009 Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 4. The Issuer does hereby appoint and designate United Bank, Inc., Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Series 2009 Bonds under the

Bond Ordinance and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Series 2009 Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 5. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Series 2009 Bonds under the Bond Ordinance.

Section 6. The Issuer does hereby appoint and designate The Huntington National Bank, Charleston, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 8. Series 2009 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2009 A Bonds Reserve Account.

Section 10. Series 2009 B Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2009 B Bonds Reserve Account.

Section 11. The balance of the proceeds of the Series 2009 A Bonds and the Series 2009 B Bonds shall be deposited in or credited to the Series 2009 Bonds Construction Trust Funds for payment of the costs of the Project, including, without limitation, costs of issuance of the Series 2009 Bonds and related costs, and such amount as is necessary to repay in full the Design Loan hereinbefore made from the West Virginia Water Development Authority to the City on May 29, 2008.

Section 12. The Mayor and the Recorder are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Series 2009 Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Series 2009 Bonds may be delivered on or about November 12, 2009, to the Authority pursuant to the ARRA Assistance Agreement.

Section 13. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Series 2009 Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 14. The Issuer does hereby ratify, approve and accept all contracts relating to the financing, acquisition and construction of the Project.

Section 15. The Issuer hereby determines to invest all monies in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such monies to be invested in such repurchase agreements or time accounts until further directed in writing by the Issuer. Monies in the Sinking Funds and the Reserve Accounts for the Series 2009 Bonds, shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 16. The Special Conditions of the ARRA Assistance Agreement are attached as Exhibit A and hereby incorporated herein and hereby accepted and agreed to by the Issuer.

Section 17. This Supplemental Resolution shall be effective immediately following adoption hereof.

[Remainder of Page Intentionally Blank]

Adopted this 3rd day of November, 2009.

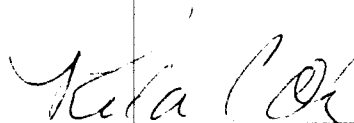
Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the City of Nitro on the 3rd day of November, 2009.

Dated: November 12, 2009.

[SEAL]



Recorder

EXHIBIT ASPECIAL CONDITIONS

A. PUBLIC RELEASE REQUIREMENT – The Local Government agrees to include, when issuing statements, press releases, requests for proposals, bid solicitations, groundbreaking or project dedication program documents and other documents describing projects or programs funded in whole or in part with Federal money, (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. AUDIT REQUIREMENT (Supplement to Article IV 4.1 (b) (xi)) – Effective October 1, 2003, the Local Government that receives \$500,000 or more (in federal funds) in a fiscal year must obtain audits in accordance with the Single Audit Act and the applicable OMB Circular or any successor thereto. Financial statement audits are required once all funds have been received by the Local Government.

C. BUY AMERICAN CERTIFICATION – The Local Government shall cause the contractor(s) to comply with, and provide certification of, the Buy American provisions of the ARRA in accordance with final guidance from the EPA.

D. ASSET MANAGEMENT – The Local Government shall develop and implement an asset management plan in accordance with guidelines issued by DEP and is approved by DEP.

E. CONTRACTS – The Local Government shall enter into contracts or commence construction by February 17, 2010.

F. LOGO – The Local Government must display the ARRA logo in a manner that informs the public that the project is an ARRA investment.

G. LOBBYING - The Local Government shall comply with Title 40 CFR Part 34, New Restrictions on Lobbying and shall submit certification and disclosure forms as required by DEP.

H. PURCHASING REQUIREMENTS – The Local Government shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

I. **SUSPENSION AND DEBARMENT** – The Local Government shall comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled “Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons). To the extent required by DEP, the Local Government shall provide certifications as to compliance.

J. **REPORTING** – The Local Government shall comply with all requests for data related to the use of the funds provided under this agreement, including the information required in section 1512 of ARRA when requested by DEP.

K. **INSPECTOR GENERAL REVIEWS** – The Local Government shall allow any appropriate representative of the Office of US Inspector General to (1) examine its records relating to the Project and this ARRA Assistance Agreement and (2) interview any officer or employee of the Local Government.

L. **FALSE CLAIMS** – The Local Government must promptly refer to EPA’s Inspector General any credible evidence that a principal, employee, agent, sub-grantee contractor, subcontractor, loan recipient, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds provided under this ARRA Assistance Agreement.

M. **LIMIT ON FUNDS** – The Local Government shall not use funds for particular activities for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

N. **WAGE RATES** – The Local Government shall require that all laborers and mechanics employed by its contractors and subcontractors be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor (DOL) in accordance with subchapter IV of chapter 32 of title 40, United States Code. The Local Government must require that contractors and subcontractors obtain wage determinations from DOL and comply with DOL guidance and regulations implementing wage rate requirements applicable to ARRA funds.

O. **OFFICE OF MANAGEMENT AND BUDGET (OMB) GUIDANCE** – The Local Government acknowledges and agrees that this ARRA Assistance is subject to all applicable provisions of implementing guidance for the American Recovery and Reinvestment Act of 2009 issued by the United States Office of Management and Budget, including the Initial Implementing Guidance for the American Recovery and Reinvestment Act (M-09-10) issued on February 18, 2009 and available on www.recovery.gov, and any subsequent guidance documents issued by OMB.

P. **DISADVANTAGED BUSINESS ENTERPRISE** – Pursuant to 40 CFR, Section 33.301, the Local Government agrees to make good faith efforts whenever procuring construction, equipment, services and supplies, and to require that prime contractors also comply. The Local Government shall provide DEP with MBE/WBE participation reports semi-annually.

Q. **CIVIL RIGHTS** – The Local Government shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and a variety of program-specific statutes with

nondiscrimination requirements. The Local Government shall also comply with Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin, religion, and sex discrimination in employment), the Americans with Disabilities Act (prohibiting disability discrimination in employment and in services provided by State and local governments, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting race, color, national origin, age, family status, and disability discrimination in housing), as well as any other applicable civil rights laws.

R. BOND DESIGNATION – Each Local Bond funded by ARRA funds shall be designated “Series [2009] B” and shall contain “(WVCWSRF Program/ARRA)” in the bond name.

S. USER RATES – The Local Government shall covenant that it will not reduce its approved or enacted customer rates for at least eighteen months after completion of the Project or until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses.

ORDINANCE

09-12

An Ordinance to authorize amend Article 147 of the Codified Ordinances of the City of Nitro, West Virginia by adding thereto a new section, designated 147.50, all relating to the transfer the real property to the Nitro Sanitary Board; and authorizing the City to make such transfer.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, That Article 147 of the Codified Ordinances of the City of Nitro, West Virginia, be amended by adding thereto a new section designated 147.50, all to read as follows:

**ARTICLE 147
Sanitary Board**

147.50. Transfer of real property to the Nitro Sanitary Board.

(a) The City Council hereby authorizes the City to abandon and transfer to the Nitro Sanitary Board the following described real property for a new pump station No. 7:

Being a parcel or tract of land situate on Valley Avenue along the waters of the Kanawha River, Nitro Corporation District, Kanawha County, West Virginia, to which a more particular description is made, to-wit:

Beginning at a point along the western right of way line of Fifth Street marking the intersection with the southern right of way line of Valley Avenue; thence, with southern right of way line of said Valley Avenue,

N 77°50'36" W 132.00 ft. to a point; thence crossing said Valley Avenue,

N 11°53'10" E 25.00 ft. to a point in the common right of way line of Valley Avenue and West Virginia State Route 25; thence along said right of way line,

S 77°50'36" E 132.00 ft. to a point in the western right of way line of the aforesaid Fifth Street; thence with the said right of way line of Fifth Street,

S 11°53'10" W 25.00 ft. to the Point of Beginning, containing 3,300 sq. ft. or .075 acres.

(b) This Ordinance shall become effective upon final passage by the City Council.

Passed on First Reading

Oct. 20, 2009

Passed on Second Reading Nov 3, 2009

Rusty Casto, Mayor

A handwritten signature in cursive script, appearing to read "Rita Cox", is written over a horizontal line.

Rita Cox, Recorder

ORDINANCE 09-13

An Ordinance to amend Chapter Five of the Codified Ordinances of the City of Nitro, West Virginia, by enacting a new Article designated 160, all relating to the liens filed by the City; findings; application of Article; definitions; filing a lien for delinquent Municipal Service Fees; filing a lien for delinquent Decontamination of Methamphetamine Laboratory Sites Fees; filing a lien for unpaid Property Maintenance Fee; filing a lien for unpaid Emergency Services User Fee; filing of other liens; release of liens; delinquent fees and taxes collected when property transferred; severability; and effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA that Chapter Five of the Codified Ordinances of the City of Nitro, West Virginia, be amended by adding thereto a new Article designated 160, all to read as follows:

**CHAPTER FIVE - Administrative
Article 160
Liens**

160.01. Findings.

(a) The City Council finds:

- (1) That the City must provide services to the residents of the City;
- (2) That the City must impose taxes, fees and other charges to pay for the services provided by the City;
- (3) That the collection of taxes, fees, and other charges imposed by the City does not always occur on a timely basis and become delinquent;
- (4) That taxes, fees and other appropriate charges are the price that is paid to live in a civilized City such as the City of Nitro;
- (5) That Chapter 8, Article 13, Section 13 of the Code of West Virginia of 1931, as amended, authorizes municipalities to file liens to collect debts; and
- (6) That because some service recipients do not pay the taxes, fees and other charges on a timely basis, alternative methods must be utilized for the collection of those delinquent taxes, fees and other charges.

160.02. Application of Article.

(a) This Article shall apply to all liens filed by the City.

160.03. Definitions.

The following terms have the meanings ascribed herein, unless the context in which used requires a different meaning.

"Building Inspector" means the Building Inspector for the City.

"Charge" means any amount other than a fee or a tax that is imposed by the City, including, but not limited to court costs, attorney costs, filing fees, recordation fees, legal notice costs, any other legally authorized charge, and interest which shall be

8% per year until the total amount due is paid to the City.

"City" means the City of Nitro, West Virginia.

"Code" means the Codified Ordinances of the City of Nitro, West Virginia.

"Debt" means any fee, tax or charge, or any combination thereof, imposed by and due to the City.

"Fee" means the Municipal Service Fee imposed by Article 741 of this Code, the Decontamination of Methamphetamine Laboratory Sites Fee imposed by Article 1809 of this Code, the Property Maintenance Fee imposed by Article 1801 of this Code, the Emergency Services User Fee imposed by Article 742 of this Code, or any other fee enacted by the City Council of the City.

"Fire protection" means fire extinguishment services, and the provision of emergency medical services, property inspection services for the purpose of preventing fires, and any other public safety services or public health services provided by the City Fire Department for the purpose of protecting human life and property.

"Police protection" means those services provided by the City Police Department for the purpose of protecting human life or property, or public health or safety, whether the activity undertaken is taken only by City Police Department personnel, or the activity undertaken is taken with the assistance or under the direction of other departments of the City, Kanawha County, Putnam County, the State of West Virginia or any agency of the federal government: Provided, That police protection shall also include any activity for the protection of human life or property, or public health or safety, undertaken by any other agency of City government without involvement of the City Police Department.

"Street" means every highway, byway, waterway, street, alley, or other public thoroughfare within the boundaries of the City, whether owned or regulated by the City, Kanawha County, Putnam County, the State of West Virginia, or any agency of the federal government.

"Tax" means either the Municipal B&O Tax imposed by Article 711 of this Code or the License Tax imposed by Article 733 of this Code.

"Treasurer" means the Treasurer of the City.

160.04. Filing a lien for delinquent Municipal Service Fees.

(a) When the Treasurer, as provided in section 741.01, Article 741 of this Code, has determined that a property owner is delinquent in the payment of the Municipal Service Fee for municipal services provided to real property located in the City, the Treasurer shall send to the property owner by certified mail, return receipt requested, a letter stating:

(1) That the Municipal Service Fee is delinquent;
 (2) That the Municipal Service Fee is required to be paid by a date specified in the letter; and

(3) That if the required payment is not made by that specified date, a lien will be filed against the real property that is the recipient of the municipal services for the amount of the delinquent Municipal Service Fee plus any legally authorized and applicable charges: Provided, That the date specified for payment shall be no less than 90 days from the date the notice is mailed.

(b) If the property owner disagrees with the Treasurer's determination, the property owner may appeal that determination to the circuit court of the county in which the property is located: Provided, That the appeal shall be filed no later than 30 days after the date the Treasurer's decision is rendered.

(c) Unless specifically stayed by the Court, the lien herein authorized shall be filed on the date specified in the notice mailed to the property owner.

(d) All liens filed under the authority of this Section shall run with the land, and if the property is transferred to another, the lien shall continue until the lien and all charges are paid in full.

160.05. Filing a lien for delinquent Decontamination or Demolition of Contaminated Structure Fees.

(a) When under the authority of Article 1809 of this Code the Building Inspector designates a structure as being contaminated, the procedures in said Article 1809 shall be effective in order to protect public health and safety.

(1) If the whereabouts of a person or persons having a full or partial ownership of the property is unknown or may not be ascertained, or if the identity of those persons or person is unknown or may not be ascertained, the Building Inspector shall:

(A) Instruct the Treasurer file a Class II legal notice stating:

(i) That the property, as identified in the legal notice, has been determined to be contaminated;

(ii) That if the property owner's whereabouts or identity remains unknown, the City will demolish the property on the date specified in the legal notice; and

(iii) That a lien for all expenses and charges incurred by the City in the demolition activity will be filed 90 days after the completion of the demolition activity;

(B) If the property owner or owners do not respond to the legal notice, demolish the property on the date stated;

(C) Prepare a complete itemized statement that clearly demonstrates the costs and charges incurred to accomplish the demolition activity; and

(D) Provide the complete itemized statement, including a statement stating when the demolition activity was completed, to the Treasurer who will file a lien on the remaining real property for the total amount indicated in the complete itemized statement plus any other applicable charges: Provided, That prior to filing the lien, the Treasurer shall file a Class II legal notice stating:

(i) That the property, as identified in the legal notice, was determined to be contaminated;

(ii) That the property was demolished on the date specified;

(iii) That a lien for all expenses incurred and charges paid by the City in the demolition activity will be filed on the specified date;

(iv) That payment of the expenses incurred and charges paid by the City in the demolition activity will prevent the lien from being filed; and

(v) That if the required payment is not made on or before that specified date, a lien in the amount indicated in (iii) above plus any other applicable

charges will be filed: Provided, That the date specified for payment shall be no less than 90 days from the date the demolition activity is completed.

(2) If the property owner refuses to employ a decontamination contractor to start the decontaminating the structure or structures within 30 days from the date that the property is designated as contaminated, the Building Inspector shall:

(A) Instruct the Treasurer to send to the property owner by certified mail, return receipt requested, a letter stating:

(i) That the property identified in the letter has been determined to be contaminated;

(ii) That unless the property owner employs a decontamination contractor who starts decontaminating the property by the date specified within the letter, such date to be 14 days subsequent to the date the letter is mailed, the property will be demolished;

(iii) That the property owner will be responsible for the costs and charges incurred to demolish the structure or structures on the property;

(iv) That if the property owner does not pay the demolition costs and applicable charges within 90 days after completion of the demolition activity, a lien for all expenses and charges will be filed 90 days after the completion of the demolition activity: Provided, That the date specified for payment shall be no less than 90 days from the date the letter is mailed; and

(B) Proceed with the demolition of the structure on the date stated.

(3) If the property owner refuses to employ a demolition contractor for demolition of the contaminated structure or structures within 30 days from the date that the property is designated as contaminated, the Building Inspector shall:

(A) Instruct the Treasurer to send to the property owner by certified mail, return receipt requested, a letter stating:

(i) That the property identified in the letter has been determined to be contaminated;

(ii) That unless the property owner employs a demolition contractor who starts demolishing the structure or structures by a date specified within the letter, such date to be 14 days subsequent to the date the notice is mailed, the property will be demolished;

(iii) That the property owner will be responsible for the costs and charges incurred to demolish the structure or structures on the property;

(iv) That if the property owner does not pay the demolition costs and charges within 90 days after completion of the demolition activity, a lien for all expenses and charges incurred in the demolition activity will be filed 90 days after the completion of the demolition activity: Provided, That the date specified for payment shall be no less than 90 days from the date the notice is mailed; and

(B) Proceed with the demolition of the structure on the date stated.

(b) If the property owner disagrees with the proposed action proposed by the City, the property owner may appeal the Treasurer's decision to the Circuit Court of the county in which the property is located: Provided, That the appeal shall be filed no later than 30 days after the date the Treasurer's decision is rendered.

(b) Unless specifically stayed by the Court, the lien herein authorized shall be filed on

the date specified in the notice mailed to the property owner.

(c) All liens filed under the authority of this Section shall run with the land, and if the property is transferred to another, the lien shall continue until the lien and all charges are paid in full.

160.06. Filing a lien for unpaid Property Maintenance Fee.

(a) When the Treasurer, acting on behalf of the City to protect public health, safety and welfare, and under the authority of Article 1801 of this Code, has determined that a property owner is in default in payment of a Property Maintenance Fee imposed because the City carried out the responsibilities of a property owner under said Article 1801, or a property owner is in default of an inspection fee imposed because the City carried out necessary inspections so as to provide a minimum level of health and safety, the Treasurer shall send to the property owner by certified mail, return receipt requested, a letter stating:

(1) That the Property Maintenance Fee or inspection fee is in default;
 (2) That the Property Maintenance Fee or inspection fee is required to be paid by a date specified in the letter; and

(3) That if the required payment is not made by that specified date, and if the City deems it to be the best course of action, a lien will be filed against the real property that is the recipient of the property maintenance services or inspection services for the amount of the delinquent Property Maintenance Fee or inspection fee plus any legally authorized and applicable charges: Provided, That the date specified for payment shall be no more than 90 days from the date the notice is mailed.

(b) If the property owner disagrees with the Treasurer's determination, the property owner may appeal that determination to the circuit court of the county in which the property is located: Provided, That the appeal shall be filed no later than 30 days after the date the Treasurer's decision is rendered.

(c) Unless specifically stayed by the Court, the lien herein authorized shall be filed on the date specified in the notice mailed to the property owner.

(d) All liens filed under the authority of this Section shall run with the land, and if the property is transferred to another, the lien shall continue until the lien and all charges are paid in full.

160.07. Filing a lien for unpaid Emergency Services User Fee.

(a). When the Treasurer, acting on behalf of the City and as provided in section 742.06, Article 742 of this Code, has determined that a property owner is in default in the payment of the Emergency Services User Fee charged for the provision of emergency services, the Treasurer shall send to the recipient of those emergency services by certified mail, return receipt requested, a letter stating:

(1) That the Emergency Services User Fee is in default;
 (2) That the Emergency Services User Fee is required to be paid by a date specified in the letter; and

(3) That if the required payment is not made by that specified date, and if the City deems it to be the best course of action, a lien will be filed against the real property that is the recipient of the emergency services for the amount of the delinquent

Emergency Services User Fee plus any legally authorized and applicable charges: Provided, That if the fee is charged for the delivery of personal emergency services, the lien plus appropriate charges shall be filed against property owned by the delinquent or defaulting fee payer wherever located: Provided however, That the date specified for payment shall be no less than 90 days from the date the notice is mailed.

(b) If the user of emergency response services disagrees with the Treasurer's determination, that user may appeal that determination to the circuit court of the county in which the property is located: Provided, That the appeal shall be filed no later than 30 days after the date the Treasurer's decision is rendered.

(c) Unless specifically stayed by the Court, the lien herein authorized shall be filed on the date specified in the notice mailed to the property owner.

(d) All liens filed under the authority of this Section shall run with the land, and if the property is transferred to another, the lien shall continue until the lien and all charges are paid in full.

160.08. Filing of other liens.

(a) For any other debts due the City and not otherwise referenced in this Article, the Treasurer shall use all available records to determine the amount due and develop an assessment to be transmitted to the delinquent taxpayer or feepayer.

(b) If the whereabouts of a person or persons owing the debt to the City is known or may be ascertained, the Treasurer, acting on behalf of the City, shall send to the taxpayer or feepayer by certified mail, return receipt requested, a letter and assessment stating:

(1) The amount of tax, fee and charge that is delinquent or otherwise due;

(2) That the delinquent tax, fee and charge is required to be paid by a date specified in the letter; and

(3) That if the required payment is not made by that specified date, a lien will be filed against the real property owned by the delinquent taxpayer or feepayer, wherever the property is found, for the amount of the delinquent tax or fee and charge: Provided, That the date specified for payment shall be no more than 90 days immediately succeeding the date the notice is mailed.

(c) If the whereabouts of a person or persons owing a debt to the City is unknown or may not be ascertained, the Treasurer shall take the following action.

(1) The Treasurer shall file a Class II legal notice stating:

(A) That the person or persons, as identified in the legal notice, owe the City the amount specified for provision of the specified service;

(B) That the whereabouts of the person or persons is unknown;

(C) That the City will pursue appropriate legal action to secure a judgment for the total amount of the debt against the person or persons owing the debt;

(D) That upon securing the judgment, the City will seek out all property owned by the person or persons and file a lien for all expenses and charges incurred by the City against that property; and

(E) That the person or persons named in the legal notice may avoid the foregoing actions by paying in total the debt due the City on or before a date stated in the legal notice.

(d) If the person or persons identified in the legal notice do not respond to the legal notice, the City shall proceed with the action stated: Provided, That prior to filing the lien, the Treasurer shall file a Class II legal notice stating:

(1) That the City has secured a judgment in the amount stated against the person or persons identified in the legal notice;

(2) That unless the judgment is paid in full by a specific date, a lien for the total debt, all expenses incurred and charges paid by the City will be filed on the property owned by the identified person or persons wherever the property is located;

(3) That payment by the date stated in the legal notice of the total debt, all expenses incurred and charges paid by the City will prevent the lien from being filed; and

(4) That if the required payment is not made on or before that specified date, a lien in the amount indicated will be filed: Provided, That the date specified for payment shall be no less than 90 days from the date the legal notice is filed.

(e) If the delinquent taxpayer or feepayer disagrees with the Treasurer's determination, the delinquent taxpayer or feepayer may appeal that determination to the circuit court of Kanawha County or Putnam County, whichever is appropriate: Provided, That the appeal shall be filed no later than 30 days after the date the Treasurer's decision is rendered.

(f) If the City prevails, the City, after providing notice to the defendant by certified mail, return receipt requested, shall file a lien against the defendant's property or take any other legally authorized actions: Provided, That the notice shall inform the defendant that if the amount of the judgment is paid to the City no later than a date specified in the notice, the lien will not be filed: Provided, however, That the final date for payment of the judgment shall be 14 days subsequent to the date the notice is mailed.

(g) Unless specifically stayed by the Court, the lien herein authorized shall be filed on the date specified in the notice mailed to the property owner.

(h) All liens filed under the authority of this Section shall run with the land, and if the property is transferred to another, the lien shall continue until the lien and all charges are paid in full.

160.09. Release of liens.

(a) Whenever the amount of any lien filed in accordance with this Article has been paid, together with costs, in full to the City Treasurer, the City Treasurer shall certify such payment to the Mayor, who shall execute and deliver to the party paying the lien a release of the lien, which may be recorded in the office of the County Clerk as other releases of liens.

(b) The Mayor is authorized to issue a release of any such lien which may be filed by mistake against the wrong property, upon evidence of such mistake being presented to the Mayor by the City Treasurer.

160.10. Delinquent fees and taxes collected when property transferred.

(a) If any tax, fee or charge imposed under this Code is delinquent and a lien is filed to facilitate payment of that delinquent tax or fee, when the property that is the subject of the lien is transferred from the record owner to another person, the amount of such fee

or tax and applicable charges shall be collected from the transferor at the time of the transfer and the amount so collected shall be paid to the City Treasurer within seven days immediately succeeding the day the property is transferred.

(b) The 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.

160.11. Severability.

If any provision of this Article is held unconstitutional or void, the remaining provisions of this Article shall remain valid, unless a court finds the valid provisions are so essentially and inseparably connected with, or so dependent on, the unconstitutional or void provision that the court cannot presume the City Council would have enacted the remaining valid provisions without the unconstitutional or void one, or unless the court finds the remaining valid provisions, standing alone, are incomplete or incapable of being executed in accordance with the City Council's intent.

160.12. Effective date.

This Article shall become effective December 1, 2009.

Passed on First Reading November 5, 2009

Passed on Second Reading November 17, 2009

Rusty Casto, Mayor

Rita Cox
Rita Cox, Recorder

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, NOVEMBER 17, 2009

CALL TO ORDER: The meeting was called to order by Mayor Rusty Casto at 7:00 pm in Council Chambers. Attending with Mayor Casto were Recorder Rita Cox, Ward 1 Councilman A. A. "Joe" Savilla, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Councilmen at Large Jim McKay, Dave Casebolt and Bob Fields, City Treasurer John Young, and City Attorney Richie Robb.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Councilman Bob Fields and the Pledge of Allegiance was led by Leonard Womble.

FUTURE DATES OF COUNCIL: The future dates of Council are December 1, December 15, 2009 and January 5, 2010.

APPROVAL OF COUNCIL MINUTES: RECORDER RITA COX MOVED THE MINUTES OF NOVEMBER 3, 2009 BE APPROVED. COUNCILMAN SAVILLA SECONDED THE MOTION. VOTING FOR THE MOTION WERE COUNCILMEN JAVINS, MATTHEWS, RACER, SAVILLA, CASEBOLT AND MCKAY. COUNCILMAN FIELDS ABSTAINED FROM VOTING. THE MOTION CARRIED.

CITIZEN OF THE MONTH: Mayor Casto announced the Citizen of the Month is Paul Mattox, former Nitro resident, who is now Director of the WV Department of Highways.

OLD BUSINESS:

SECOND READING: AN ORDINANCE TO AMEND CHAPTER FIVE OF THE CODIFIED ORDINANCES OF THE CITY OF NITRO, WV, BY ENACTING A NEW ARTICLE DESIGNATED 160, ALL RELATING TO THE LIENS FILED BY THE CITY: Attorney Richie Robb said this was an ordinance put together by the Ordinance Committee to aid in the filing of liens on money owed to the city. COUNCILMAN BILL RACER MOVED THE COUNCIL PASS ON SECOND READING AN ORDINANCE TO AMEND CHAPTER FIVE OF THE CODIFIED ORDINANCES OF THE CITY OF NITRO BY ENACTING A NEW ARTICLE DESIGNATED 160, ALL RELATING TO THE LIENS FILED BY THE CITY. THE MOTION WAS SECONDED BY COUNCILMAN A. A. SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

40TH STREET BRIDGE DEDICATION: Mayor Casto thanked everyone who turned out for the Dedication Ceremony and he thanked Councilman Savilla for all the work he did in getting the bridge done. He thanked Councilmen Fields and Casebolt and Recorder Cox and members of the Nitro Women's Club for helping with the ceremony. He said it was attended by Governor Joe Manchin and Congresswoman Shelly Moore Capito and he was proud of Nitro.

CONVENTION AND VISITORS BUREAU: Councilman Bill Javins announced the Convention and Visitors Bureau Committee will meet at 6:00 pm on Thursday, November 19 in Council Chambers.

SWINE FLU POLICY: Recorder Rita Cox said she met with Mayor Casto, Chief Jordan, Chief Hedrick and Treasurer John Young concerning the Swine Flu Policy. The policy for any case of flu is recommended seven allowable days that will not be counted against the employee's annual sick leave. The illness must be verified by a medical professional. The policy will be in effect from November 17, 2009 to May 1, 2010. RECORDER COX MOVED THE FLU SICK LEAVE POLICY BE ACCEPTED AS PRESENTED WITH A SECOND BY COUNCILMAN A. A. "JOE" SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

NEW BUSINESS:

PLANNING COMMISSION REPORT RELATING TO ZONING ORDINANCES: John Montgomery reported to Council that in 2008 when the Planning Commission presented Council with the first new Zoning Ordinance since the 1970's there had been some omissions. The new ordinance did not repeal the previous ordinance and that needs to be addressed. The new ordinance did not include the 2004 amendment restricting the distance between limited video lottery to 3000 feet from other lottery machines, schools, churches, community centers, and a section on subdivisions had been left out completely. He also said that an area of concern would be financing of homes in B1 areas that are nonconforming use so that it can remain residential. He said he needed guidance from Council on whether to change the distance on limited video lottery from 3000 feet to 1000 feet. Councilman Savilla said he would like more study before recommending a change in the number of feet. Councilman McKay said he is against lessening the distance and will oppose a change. Councilman Racer said he is not opposed to shortening the distance. Councilman Matthews requested the Building Department compose a map showing what a 1000 feet distance would represent. Ron King said the reason for the 3000 feet distance was to keep them about 1/2 mile apart.

ATTORNEY REPORT: Richie Robb said he had covered legal matters earlier in the meeting but was prepared to answer questions from Council.

TREASURER REPORT: John Young said there are seventeen police vehicles that the city is prepared to sell. **COUNCILMAN SAVILLA MOVED THE CITY OF NITRO SELL THE 17 VEHICLES WITH A SECOND BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION.** Mr. Young said the budget is holding but anticipates problems in the future.

COUNCIL COMMENTS:

Mayor Casto said the most recent word on the Boat Launch is the possibility that the state of WV will waive the requirement for the AEP to sign off on it.

Councilman Javins asked if the city still piggy backs on WV contract. Treasurer Young said we do, state bid is looked at first. Councilman Javins said he thought gravel was to be put down on the boat launch area. He also asked when the potholes will be filled. Mayor Casto said when blacktop became available.

COUNCILMAN MATTHEWS MOVED TWO GRANTS BE PURSUED: TO APPLY FOR MONEY TO REPAIR THE HANDICAP FISHING RAMP AND A GRANT TO PURCHASE GARBAGE CANS FOR RIDENOUR LAKE. COUNCILMAN MCKAY SECONDED THE MOTION. VOTE WAS UNANIMOUS FOR THE MOTION. He reported that the City of Charleston had given a fireboat to the Nitro Fire Department.

Councilman Racer thanked the Ordinance Committee for their work.

Councilman Savilla said the Annexation Committee would meet following tonight's meeting.

Councilman Casebolt said a Letter of Intent had been sent for the Safe Routes to School program. He said helpers were needed on Dec. 15 to distribute food.

PUBLIC COMMENT:

John Montgomery said the CVB Committee will meet at 6 on Thurs. and the Ord. Comm. Will meet at 7. Councilman Javins said Nitro Policemen Oxley and Clark gave good information at the last meeting.

ADJOURNMENT: COUNCILMAN JAVINS MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

ORDINANCE09-13

An Ordinance to amend Chapter Five of the Codified Ordinances of the City of Nitro, West Virginia, by enacting a new Article designated 160, all relating to the liens filed by the City; findings; application of Article; definitions; filing a lien for delinquent Municipal Service Fees; filing a lien for delinquent Decontamination and Demolition of Contaminated Structure Fees; filing a lien for unpaid Property Maintenance Fee; filing a lien for unpaid Emergency Services User Fee; filing of other liens; release of liens; delinquent fees and taxes collected when property transferred; severability; and effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA that Chapter Five of the Codified Ordinances of the City of Nitro, West Virginia, be amended by adding thereto a new Article designated 160, all to read as follows:

CHAPTER FIVE - Administrative
Article 160
Liens

160.01. Findings.

(a) The City Council finds:

- (1) That the City must provide services to the residents of the City;
- (2) That the City must impose taxes, fees and other charges to pay for the services provided by the City;
- (3) That the collection of taxes, fees, and other charges imposed by the City does not always occur on a timely basis and become delinquent;
- (4) That taxes, fees and other appropriate charges are the price that is paid to live in a civilized City such as the City of Nitro;
- (5) That Chapter 8, Article 13, Section 13 of the Code of West Virginia of 1931, as amended, authorizes municipalities to file liens to collect debts; and
- (6) That because some service recipients do not pay the taxes, fees and other charges on a timely basis, alternative methods must be utilized for the collection of those delinquent taxes, fees and other charges.

160.02. Application of Article.

(a) This Article shall apply to all liens filed by the City and shall supersede all other procedures for filing liens contained within this Code.

160.03. Definitions.

The following terms have the meanings ascribed herein, unless the context in which used requires a different meaning.

"Building Inspector" means the Building Inspector for the City.

"Charge" means any amount other than a fee or a tax that is imposed by the City, including, but not limited to court costs, attorney costs, filing fees, recordation

fees, legal notice costs, any other legally authorized charge, and interest which shall be 8% per year until the total amount due is paid to the City.

"City" means the City of Nitro, West Virginia.

"Code" means the Codified Ordinances of the City of Nitro, West Virginia.

"Debt" means any fee, tax or charge, or any combination thereof, imposed by and due to the City.

"Fee" means the Municipal Service Fee imposed by Article 741 of this Code, the Decontamination of Methamphetamine Laboratory Sites Fee imposed by Article 1809 of this Code, the Property Maintenance Fee imposed by Article 1801 of this Code, the Emergency Services User Fee imposed by Article 742 of this Code, or any other fee enacted by the City Council of the City.

"Fire protection" means fire extinguishment services, and the provision of emergency medical services, property inspection services for the purpose of preventing fires, and any other public safety services or public health services provided by the City Fire Department for the purpose of protecting human life and property.

"Police protection" means those services provided by the City Police Department for the purpose of protecting human life or property, or public health or safety, whether the activity undertaken is taken only by City Police Department personnel, or the activity undertaken is taken with the assistance or under the direction of other departments of the City, Kanawha County, Putnam County, the State of West Virginia or any agency of the federal government: Provided, That police protection shall also include any activity for the protection of human life or property, or public health or safety, undertaken by any other agency of City government without involvement of the City Police Department.

"Street" means every highway, byway, waterway, street, alley, or other public thoroughfare within the boundaries of the City, whether owned or regulated by the City, Kanawha County, Putnam County, the State of West Virginia, or any agency of the federal government.

"Tax" means either the Municipal B&O Tax imposed by Article 711 of this Code or the License Tax imposed by Article 733 of this Code.

"Treasurer" means the Treasurer of the City.

160.04. Filing a lien for delinquent Municipal Service Fees.

(a) When the Treasurer, as provided in section 741.01, Article 741 of this Code, has determined that a property owner is delinquent in the payment of the Municipal Service Fee for municipal services provided to real property located in the City, the Treasurer shall send to the property owner by certified mail, return receipt requested, a letter stating:

- (1) That the Municipal Service Fee is delinquent;
- (2) That the Municipal Service Fee is required to be paid by a date specified in the letter; and
- (3) That if the required payment is not made by that specified date, a lien will be filed against the real property that is the recipient of the municipal services for the amount of the delinquent Municipal Service Fee plus any legally authorized and applicable charges: Provided, That the date specified for payment shall be no less than

90 days from the date the notice is mailed.

(b) If the property owner disagrees with the Treasurer's determination, the property owner may appeal that determination to the circuit court of the county in which the property is located: Provided, That the appeal shall be filed no later than 30 days after the date the Treasurer's decision is rendered.

(c) Unless specifically stayed by the Court, the lien herein authorized shall be filed on the date specified in the notice mailed to the property owner.

(d) All liens filed under the authority of this Section shall run with the land, and if the property is transferred to another, the lien shall continue until the lien and all charges are paid in full.

160.05. Filing a lien for delinquent Decontamination or Demolition of Contaminated Structures Fees.

(a) When under the authority of Article 1809 of this Code the Building Inspector designates a structure as being contaminated, the procedures in said Article 1809 shall be effective in order to protect public health and safety.

(1) If the whereabouts of a person or persons having a full or partial ownership of the property is unknown or may not be ascertained, or if the identity of those persons or person is unknown or may not be ascertained, the Building Inspector shall:

(A) Instruct the Treasurer file a Class II legal notice stating:

(i) That the property, as identified in the legal notice, has been determined to be contaminated;

(ii) That if the property owner's whereabouts or identity remains unknown, the City will demolish the property on the date specified in the legal notice; and

(iii) That a lien for all expenses and charges incurred by the City in the demolition activity will be filed 90 days after the completion of the demolition activity;

(B) If the property owner or owners do not respond to the legal notice, demolish the property on the date stated;

(C) Prepare a complete itemized statement that clearly demonstrates the costs and charges incurred to accomplish the demolition activity; and

(D) Provide the complete itemized statement, including a statement stating when the demolition activity was completed, to the Treasurer who will file a lien on the remaining real property for the total amount indicated in the complete itemized statement plus any other applicable charges: Provided, That prior to filing the lien, the Treasurer shall file a Class II legal notice stating:

(i) That the property, as identified in the legal notice, was determined to be contaminated;

(ii) That the property was demolished on the date specified;

(iii) That a lien for all expenses incurred and charges paid by the City in the demolition activity will be filed on the specified date;

(iv) That payment of the expenses incurred and charges paid by the City in the demolition activity will prevent the lien from being filed; and

(v) That if the required payment is not made on or before that

specified date, a lien in the amount indicated in (iii) above plus any other applicable charges will be filed: Provided, That the date specified for payment shall be no less than 90 days from the date the demolition activity is completed.

(2) If the property owner refuses to employ a decontamination contractor to start the decontaminating the structure or structures within 30 days from the date that the property is designated as contaminated, the Building Inspector shall:

(A) Instruct the Treasurer to send to the property owner by certified mail, return receipt requested, a letter stating:

(i) That the property identified in the letter has been determined to be contaminated;

(ii) That unless the property owner employs a decontamination contractor who starts decontaminating the property by the date specified within the letter, such date to be 14 days subsequent to the date the letter is mailed, the property will be demolished;

(iii) That the property owner will be responsible for the costs and charges incurred to demolish the structure or structures on the property;

(iv) That if the property owner does not pay the demolition costs and applicable charges within 90 days after completion of the demolition activity, a lien for all expenses and charges will be filed 90 days after the completion of the demolition activity: Provided, That the date specified for payment shall be no less than 90 days from the date the letter is mailed; and

(B) Proceed with the demolition of the structure on the date stated.

(3) If the property owner refuses to employ a demolition contractor for demolition of the contaminated structure or structures within 30 days from the date that the property is designated as contaminated, the Building Inspector shall:

(A) Instruct the Treasurer to send to the property owner by certified mail, return receipt requested, a letter stating:

(i) That the property identified in the letter has been determined to be contaminated;

(ii) That unless the property owner employs a demolition contractor who starts demolishing the structure or structures by a date specified within the letter, such date to be 14 days subsequent to the date the notice is mailed, the property will be demolished;

(iii) That the property owner will be responsible for the costs and charges incurred to demolish the structure or structures on the property;

(iv) That if the property owner does not pay the demolition costs and charges within 90 days after completion of the demolition activity, a lien for all expenses and charges incurred in the demolition activity will be filed 90 days after the completion of the demolition activity: Provided, That the date specified for payment shall be no less than 90 days from the date the notice is mailed; and

(B) Proceed with the demolition of the structure on the date stated.

(b) If the property owner disagrees with the proposed action proposed by the City, the property owner may appeal the Treasurer's decision to the Circuit Court of the county in which the property is located: Provided, That the appeal shall be filed no later than 30 days after the date the Treasurer's decision is rendered.

(b) Unless specifically stayed by the Court, the lien herein authorized shall be filed on the date specified in the notice mailed to the property owner.

(c) All liens filed under the authority of this Section shall run with the land, and if the property is transferred to another, the lien shall continue until the lien and all charges are paid in full.

160.06. Filing a lien for unpaid Property Maintenance Fee.

(a) When the Treasurer, acting on behalf of the City to protect public health, safety and welfare, and under the authority of Article 1801 of this Code, has determined that a property owner is in default in payment of a Property Maintenance Fee imposed because the City carried out the responsibilities of a property owner under said Article 1801, or a property owner is in default of an inspection fee imposed because the City carried out necessary inspections so as to provide a minimum level of health and safety, the Treasurer shall send to the property owner by certified mail, return receipt requested, a letter stating:

(1) That the Property Maintenance Fee or inspection fee is in default;

(2) That the Property Maintenance Fee or inspection fee is required to be paid by a date specified in the letter; and

(3) That if the required payment is not made by that specified date, and if the City deems it to be the best course of action, a lien will be filed against the real property that is the recipient of the property maintenance services or inspection services for the amount of the delinquent Property Maintenance Fee or inspection fee plus any legally authorized and applicable charges: Provided, That the date specified for payment shall be no more than 90 days from the date the notice is mailed.

(b) If the property owner disagrees with the Treasurer's determination, the property owner may appeal that determination to the circuit court of the county in which the property is located: Provided, That the appeal shall be filed no later than 30 days after the date the Treasurer's decision is rendered.

(c) Unless specifically stayed by the Court, the lien herein authorized shall be filed on the date specified in the notice mailed to the property owner.

(d) All liens filed under the authority of this Section shall run with the land, and if the property is transferred to another, the lien shall continue until the lien and all charges are paid in full.

160.07. Filing a lien for unpaid Emergency Services User Fee.

(a). When the Treasurer, acting on behalf of the City and as provided in section 742.06, Article 742 of this Code, has determined that a property owner is in default in the payment of the Emergency Services User Fee charged for the provision of emergency services, the Treasurer shall send to the recipient of those emergency services by certified mail, return receipt requested, a letter stating:

(1) That the Emergency Services User Fee is in default;

(2) That the Emergency Services User Fee is required to be paid by a date specified in the letter; and

(3) That if the required payment is not made by that specified date, and if the City deems it to be the best course of action, a lien will be filed against the real

property that is the recipient of the emergency services for the amount of the delinquent Emergency Services User Fee plus any legally authorized and applicable charges: Provided, That if the fee is charged for the delivery of personal emergency services, the lien plus appropriate charges shall be filed against property owned by the delinquent or defaulting fee payer wherever located: Provided however, That the date specified for payment shall be no less than 90 days from the date the notice is mailed.

(b) If the user of emergency response services disagrees with the Treasurer's determination, that user may appeal that determination to the circuit court of the county in which the property is located: Provided, That the appeal shall be filed no later than 30 days after the date the Treasurer's decision is rendered.

(c) Unless specifically stayed by the Court, the lien herein authorized shall be filed on the date specified in the notice mailed to the property owner.

(d) All liens filed under the authority of this Section shall run with the land, and if the property is transferred to another, the lien shall continue until the lien and all charges are paid in full.

160.08. Filing of other liens.

(a) For any other debts due the City and not otherwise referenced in this Article, the Treasurer shall use all available records to determine the amount due and develop an assessment to be transmitted to the delinquent taxpayer or feepayer.

(b) If the whereabouts of a person or persons owing the debt to the City is known or may be ascertained, the Treasurer, acting on behalf of the City, shall send to the taxpayer or feepayer by certified mail, return receipt requested, a letter and assessment stating:

(1) The amount of tax, fee and charge that is delinquent or otherwise due;

(2) That the delinquent tax, fee and charge is required to be paid by a date specified in the letter; and

(3) That if the required payment is not made by that specified date, a lien will be filed against the real property owned by the delinquent taxpayer or feepayer, wherever the property is found, for the amount of the delinquent tax or fee and charge: Provided, That the date specified for payment shall be no more than 90 days immediately succeeding the date the notice is mailed.

(c) If the whereabouts of a person or persons owing a debt to the City is unknown or may not be ascertained, the Treasurer shall take the following action.

(1) The Treasurer shall file a Class II legal notice stating:

(A) That the person or persons, as identified in the legal notice, owe the City the amount specified for provision of the specified service;

(B) That the whereabouts of the person or persons is unknown;

(C) That the City will pursue appropriate legal action to secure a judgment for the total amount of the debt against the person or persons owing the debt;

(D) That upon securing the judgment, the City will seek out all property owned by the person or persons and file a lien for all expenses and charges incurred by the City against that property; and

(E) That the person or persons named in the legal notice may avoid the foregoing actions by paying in total the debt due the City on or before a date stated in

the legal notice.

(d) If the person or persons identified in the legal notice do not respond to the legal notice, the City shall proceed with the action stated: Provided, That prior to filing the lien, the Treasurer shall file a Class II legal notice stating:

(1) That the City has secured a judgment in the amount stated against the person or persons identified in the legal notice;

(2) That unless the judgment is paid in full by a specific date, a lien for the total debt, all expenses incurred and charges paid by the City will be filed on the property owned by the identified person or persons wherever the property is located;

(3) That payment by the date stated in the legal notice of the total debt, all expenses incurred and charges paid by the City will prevent the lien from being filed; and

(4) That if the required payment is not made on or before that specified date, a lien in the amount indicated will be filed: Provided, That the date specified for payment shall be no less than 90 days from the date the legal notice is filed.

(e) If the delinquent taxpayer or feepayer disagrees with the Treasurer's determination, the delinquent taxpayer or feepayer may appeal that determination to the circuit court of Kanawha County or Putnam County, whichever is appropriate: Provided, That the appeal shall be filed no later than 30 days after the date the Treasurer's decision is rendered.

(f) If the City prevails, the City, after providing notice to the defendant by certified mail, return receipt requested, shall file a lien against the defendant's property or take any other legally authorized actions: Provided, That the notice shall inform the defendant that if the amount of the judgment is paid to the City no later than a date specified in the notice, the lien will not be filed: Provided, however, That the final date for payment of the judgment shall be 14 days subsequent to the date the notice is mailed.

(g) Unless specifically stayed by the Court, the lien herein authorized shall be filed on the date specified in the notice mailed to the property owner.

(h) All liens filed under the authority of this Section shall run with the land, and if the property is transferred to another, the lien shall continue until the lien and all charges are paid in full.

160.09. Release of liens.

(a) Whenever the amount of any lien filed in accordance with this Article has been paid, together with costs, in full to the City Treasurer, the City Treasurer shall certify such payment to the Mayor, who shall execute and deliver to the party paying the lien a release of the lien, which may be recorded in the office of the County Clerk as other releases of liens.

(b) The Mayor is authorized to issue a release of any such lien which may be filed by mistake against the wrong property, upon evidence of such mistake being presented to the Mayor by the City Treasurer.

160.10. Delinquent fees and taxes collected when property transferred.

(a) If any tax, fee or charge imposed under this Code is delinquent and a lien is filed to facilitate payment of that delinquent tax or fee, when the property that is the subject of

the lien is transferred from the record owner to another person, the amount of such fee or tax and applicable charges shall be collected from the transferor at the time of the transfer and the amount so collected shall be paid to the City Treasurer within seven days immediately succeeding the day the property is transferred.

(b) The 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.

160.11. Severability.

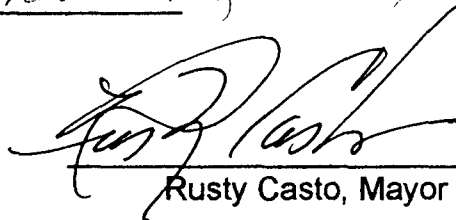
If any provision of this Article is held unconstitutional or void, the remaining provisions of this Article shall remain valid, unless a court finds the valid provisions are so essentially and inseparably connected with, or so dependent on, the unconstitutional or void provision that the court cannot presume the City Council would have enacted the remaining valid provisions without the unconstitutional or void one, or unless the court finds the remaining valid provisions, standing alone, are incomplete or incapable of being executed in accordance with the City Council's intent.

160.12. Effective date.

This Article shall become effective December 1, 2009.

Passed on First Reading November 3, 2009

Passed on Second Reading November 17, 2009


Rusty Casto, Mayor


Rita Cox, Recorder



2009-2010
Flu Sick Leave Policy

In a meeting with Fire Chief Ernie Hedrick and Police Chief Jack Jordan along with Mayor Casto, Recorder Rita Cox and City Treasurer John Young it has been determined that the Flu Sick Leave Policy beginning November 17, 2009 and ending May 1, 2010 will be as follows:

Any case of flu as determined by a medical professional will result in seven allowable days of sick leave which will not be counted against the employee's annual sick leave. This will require a medical professional diagnosis and written statement. We are not calling it a Swine Flu policy because many doctors are not doing the necessary steps to actually diagnose that it is Swine Flu. Any diagnosis of flu will be accepted as long as it is accompanied by a statement of diagnosis from a medical professional.

The Nitro Fire Department and the Nitro Police Department have mutual aid agreements with other departments in the Kanawha Valley so that they will be able to maintain services in spite of a severe outbreak of flu.



Rusty Casto, Mayor

11-17-2009
Date



Rita Cox, Recorder

Nov. 17, 2009
Date

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, DECEMBER 1, 2009

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm in Council Chambers. Attending the meeting were Recorder Rita Cox, Councilmen at Large Jim McKay, Bob Fields, and Dave Casebolt, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, City Treasurer John Young and City Attorney Richie Robb. Absent from the meeting was Ward 1 Councilman A. A. "Joe" Savilla.

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

FUTURE DATES OF COUNCIL: Mayor Casto said the future dates of Council are December 15, 2009, January 5, 2010 and January 19, 2010.

APPROVAL OF COUNCIL MINUTES/NOVEMBER 17, 2009: RECORDER COX MOVED THE MINUTES OF NOVEMBER 17, 2009 BE APPROVED AS WRITTEN WITH A SECOND BY COUNCILMAN FIELDS. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

CENSUS REPORT: Taran Parsons of the US Department of Commerce addressed Council requesting cooperation during the 2010 Census. She said there are now three census offices in WV, Beckley, Charleston and Morgantown. April 1, 2010 will be media day. If the public initially responds to the US Census by mail, they should not get a visit from a census worker. The information is confidential and affects benefits such as grants. The goal is a 75% return. She said that utility bills can be used to publicize awareness as well as employee notification. Councilman McKay suggested it be put on the municipal service bill. Ms. Parsons also said there would be jobs available for working in the census.

OLD BUSINESS:

GRANTS/FIRE DEPARTMENT AND POLICE DEPARTMENT: Recorder Rita Cox told Council that the Nitro Fire and Police Departments received grants recently that will be used to buy equipment for the departments. The grants came from the Kanawha County Safety Committee. The Nitro Fire Department will apply the grant of \$25,000.00 to a new Jaws of Life to be purchased. The Nitro Police Department will use \$23,000.00 to purchase new bullet proof vests for policemen and two in car cameras.

PARKS AND RECREATION: Councilman Craig Matthews said that the city parade will be held December 5 at 6:00 pm. There will be a tree lighting ceremony following the parade on 21st St. and 2nd Avenue.

NEW BUSINESS:

FIRST READING: ORDINANCE RELATING TO CONTAMINATED STRUCTURES: Richie Robb said the Ordinance Committee had worked on the ordinance along with the building inspector. This would give guidelines when a structure is contaminated with such things as a meth lab. **COUNCILMAN JIM MCKAY MOVED COUNCIL PASS ON FIRST READING AN ORDINANCE TO AMEND PART EIGHTEEN OF THE CODIFIED ORDINANCES OF THE CITY OF NITRO, WV, BY ADDING THERETO A NEW ARTICLE, DESIGNATED 1809, ALL RELATING TO DECONTAMINATION OR DEMOLITION OF CONTAMINATED STRUCTURES. THE MOTION WAS SECONDED BY COUNCILMAN BILL RACER. VOTE WAS UNANIMOUS FOR PASSAGE OF THE MOTION.**

ATTORNEY REPORT: Richie Robb said that the Property Maintenance Ordinance passed recently called for a Board to meet regularly and he recommended it be in place by January 1, 2010. Mr. Robb said that he would like to arrange a visit to Alfreton, England, the Sister City of Nitro, by May or June of 2010. He thought the city should send a delegation. Passports will be needed.

TREASURER REPORT: John Young said the city was maintaining financially but he anticipates

problems. He noted that the month of December has three pay periods. He said it may be February before we receive lottery money. He said he is making progress with the pensions.

COUNCIL COMMENTS:

Mayor Rusty Casto said there will be an open house in City Hall from 11:00 am to 1:00 pm on December 15.

Councilman Bill Javins said he talked with David Hight recently and was told that AEP has not signed off on the land use contract on the Smith Street Landfill Boat Launch.

Councilman Dave Casebolt said he had attended a RIC Transportation meeting and said the plan for purchasing a new senior van was an 80/20 grant. He said the grant money could also be used for contractor services such as paying for taxi rides for seniors.

Councilman Jim McKay said that the CVB Committee will meet at 6:00 and the Ordinance Committee will meet at 7:00 on Thursday, December 3 in Council Chambers.

PUBLIC COMMENTS:

Bob Schamber said he was pleased he had given money to help pay for Christmas Lights service because they look good. He said the railroad crossing at Lock Street was in bad shape and he would like it to be repaired.


John Montgomery said the Ordinance Committee would be discussing a planning and zoning ordinance and the distance between video lottery establishments.

Richie Robb said after doing some research he has gathered information that shows the City of Nitro enforcement of limited video lottery laws has not been as bad as originally alleged.

Councilman Craig Matthews asked the Building Inspector what an ordinance with a distance of 1000 feet would open up in the city.

ADJOURNMENT: COUNCILMAN JIM MCKAY MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN BILL JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

ORDINANCE

09-14

An Ordinance to amend Part Eighteen of the Codified Ordinances of the City of Nitro, West Virginia, by adding thereto a new article, designated 1809, all relating to decontamination or demolition of contaminated structures; purpose and authority; definitions; decontamination contractor certification and training; basic decontamination contractor training; refresher training course; worker and supervisor certification; denial, suspension, revocation of certification, and civil penalties; certified decontamination contractor list; decontamination, sampling and testing requirements and responsibilities; sampling procedures; designating contamination; notification of contaminated property; property owner decontamination responsibilities; verifying decontamination; recording decontamination; repayment for decontamination and demolition services; creation of a lien for payment for decontamination and demolition services; release of lien filed for failure to pay for decontamination and demolition services; amount of lien collected when property transferred; and report to the city council.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, that Part Eighteen of the Codified Ordinances of the City of Nitro, West Virginia, be amended by adding thereto a new article designated 1809, all to read as follows:

ARTICLE 1809

Decontamination and Demolition of Contaminated Structures

1809.01. PURPOSE AND AUTHORITY

(a) The purpose of this Article is to protect the public's health, safety and welfare by establishing standards, procedures and responsibilities for:

(1) The certification of contractors and their employees authorized to perform decontamination or demolition of methamphetamine or other illegal drug lab sites; and

(2) Prohibiting the occupancy and use of property where hazardous chemicals or chemical residues commonly associated with the manufacture of methamphetamine or other illegal drugs are or may be present.

1809.02. DEFINITIONS

(a) In addition to the definitions provided in Article 1802 of this Part Eighteen, the following terms shall have the meanings ascribed herein, unless the context in which used clearly requires a different meaning.

"Authorized contractor" or "decontamination contractor" means any person certified by the Planning Office or the Building Inspector to decontaminate, conduct sampling or dispose of contained property as required by this Article.

"Building Inspector" means the City Building Inspector.

"Certificate" means an accepted approval on file in the Planning Office or the Office of the Building Inspector as authorized in accordance with this Article.

"Certified" means a person who is authorized by the Planning Office or the Building Inspector to perform the inspection and decontamination activities required by this Article.

"City" means the City of Nitro, West Virginia.

"'CONDEMNED' placard" means a sign posted by the Building Inspector conspicuously on a methamphetamine or other illegal drug lab site informing the public that hazardous chemicals may exist on, or have been removed from, the premises and that entry is prohibited.

"Contaminated" or "contamination" means polluted by hazardous chemicals associated with methamphetamine or other illegal drug labs so that the property is unfit for human habitation or use due to immediate or long-term hazards. Property that at one time was contaminated, but has been satisfactorily decontaminated according to procedures listed in this Article is considered not contaminated.

"'DANGER - UNSAFE FOR HUMAN OCCUPANCY' placard" means a sign posted by the Building Inspector to warn the public that property is unfit for human habitation or use due to immediate or long-term hazards, and that entry is prohibited.

"Decontamination" means the process of reducing levels of methamphetamine or other illegal drugs to the target level of 0.1 micrograms per 100 sq. cm. or less using currently available methods and processes.

"Disposal of contaminated property" means the disposition of contaminated property.

"Hazardous chemicals" means substances used in the manufacture of methamphetamine or other illegal drugs.

"Methamphetamine or other illegal drug lab site" means any property where a person illegally manufactured methamphetamine or other illegal drugs, attempted to illegally manufacture methamphetamine or other illegal drugs, or stored one or more methamphetamine or other illegal drug ingredient(s), as noted by a law enforcement agency.

"Initial site assessment" means the first evaluation of a property to determine the nature and extent of observable damage and contamination.

"List of contaminated properties" means a list of properties contaminated by

methamphetamine or other illegal drug manufacturing, attempted manufacturing, or the storage of hazardous chemicals used in manufacturing methamphetamine or other illegal drugs.

"NO TRESPASSING" placard" means a sign posted by the Building Inspector to prohibit movement by persons over or through a structure.

"Person" means an individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or other legal entity.

"Planning Office" means the Kanawha County Planning Office or the Putnam County Planning Office, depending upon the county in which the contaminated structure is located.

"Posting" means attaching printed "DANGER - UNSAFE FOR HUMAN OCCUPANCY", "CONDEMNED" or "NO TRESPASSING" placards conspicuously on property which may be, or is determined to be, contaminated by methamphetamine or other illegal drug manufacturing, attempted methamphetamine or other illegal drug manufacturing, or the storage of a hazardous material used in manufacturing methamphetamine or other illegal drugs.

"Property" means any site, lot, parcel of land, structure, or part of a structure, or personal property involved in the illegal manufacture of methamphetamine or other illegal drugs including, but not limited to:

- (1) Single-family residences;
- (2) Units or multiplexes
- (3) Condominiums;
- (4) Apartment buildings;
- (5) Motels and hotels;
- (6) Accessory Structures;
- (7) Storage Units;
- (8) Campers or Trailers;
- (9) Manufactured housing or mobile homes; or
- (10) Any structure, or part of a structure that may be contaminated by previous use.

"Property owner" means a person with a lawful right of possession of the property by reason of obtaining it by purchase, exchange, gift, lease, inheritance, or legal action.

"Refresher course" means an approved annual training course for decontamination workers and supervisors. An approved refresher course:

- (1) Reviews the subjects taught in the initial training course; and
- (2) Includes updated information on decontamination technology.

"Supervisor" means a person certified and employed by an authorized decontamination contractor who is on site during the decontamination of a methamphetamine or other illegal drug lab site and who is responsible for the activities performed.

"Worker" means a person certified and employed by an authorized decontamination contractor who performs decontamination of a methamphetamine or other illegal drug lab site.

1809.03. DECONTAMINATION CONTRACTOR CERTIFICATION AND RESPONSIBILITIES

(a) Decontamination Contractor certification.

(1) A contractor may advertise, offer to undertake, or perform decontamination, sampling, or disposal work at a methamphetamine or other illegal drug lab site only after securing certification from the Planning Office or the Building Inspector.

(2) Applicants for a Building Inspector certification as an authorized contractor shall submit to the Building Inspector:

(A) Evidence of certification for each employee who will perform decontamination work on a methamphetamine or other illegal drug lab site; and

(B) Documentation that the contractor has at least:

(i) One certified indoor environmental consultant or one forensic chemist or one industrial hygienist;

(ii) Documentation demonstrating the decontamination workers and supervisors have completed a minimum of 40-hour HAZWOPER training; and

(iii) Documentation demonstrating the decontamination workers and supervisors have successfully completed an approved methamphetamine or other illegal drug decontamination training course or equivalent.

1809.04. BASIC DECONTAMINATION CONTRACTOR TRAINING AND CERTIFICATION.

(a) Contractors who wish to be approved by the Building Inspector for decontamination and testing must provide proof of certification by the Planning Office or proof of training at basic worker and supervisor methamphetamine or other illegal drug lab clean-up training courses that provided at a minimum:

(1) Information on state and federal laws, rules and regulations applicable to methamphetamine or other illegal drug lab site.

(2) Chemical terminology, classifications, and properties related to methamphetamine or other illegal drug manufacturing.

(3) Methamphetamine or other illegal drug characteristics.

(4) First aid.

(5) Adverse health effects of exposure related to chemicals used in methamphetamine or other illegal drug manufacturing including, but not limited to:

(A) Toxicology, and

(B) Symptomology.

(6) Decontamination criteria.

(7) Sampling techniques and equipment used for decontamination of property.

- (8) Handling unknown substances.
- (9) State and federal requirements for dealing with hazardous materials including, but not limited to, the following subject matter:
 - (A) Disposal
 - (B) Transportation;
 - (C) Storage; and
 - (D) Reporting.
- (10) In addition to the foregoing, training for supervisors must also include, but not be limited to:
 - (A) Obtaining necessary information for making site assessment;
 - (B) Initial site assessment;
 - (C) Initial site sampling;
 - (D) Decontamination techniques;
 - (E) Final site sampling; and
 - (F) Report completion.

1809.05. REFRESHER TRAINING COURSE

- (a) An 8-hour methamphetamine or other illegal drug lab clean-up training course is required every year for decontamination contractor workers and supervisors.
- (b) Approved refresher worker and supervisor training courses shall provided at a minimum:
 - (1) A thorough review of the subjects listed in the basic training course, including proper sampling techniques, proper decontamination techniques and proper handling of hazardous chemicals;
 - (2) An update of information on state-of-the-art procedures and equipment;
 - (3) A review of regulatory changes and interpretations; and
 - (4) Other subjects if required by the Building Inspector to update Information on new technology and procedures.

1809.06. WORKER AND SUPERVISOR CERTIFICATION

- (a) Applicants seeking certification as a methamphetamine or other illegal drug decontamination worker shall ensure the Building Inspector receives evidence of successful completion of an approved basic methamphetamine or other illegal drug decontamination training worker course within sixty days of completing the basic worker course.
- (b) Applicants seeking certification as a decontamination supervisor shall ensure the Building Inspector receives the following within sixty days of completing the basic supervisor course:
 - (1) list of on-site experience in methamphetamine or other illegal drug lab site decontamination projects; and
 - (2) Evidence of successful completion of an approved basic methamphetamine or other illegal drug decontamination training course.
- (c) Worker and supervisor certificates are valid for one year from the date of issuance.
- (d) Workers and supervisors shall:
 - (1) Make certificates available for inspection at all times during a

methamphetamine or other illegal drug lab site decontamination project;

(2) Comply with applicable requirements of the West Virginia Department of Environmental Protection and the United States Environmental Protection Agency regulations;

(3) Comply with applicable contractor regulations;

(4) Notify the Building Inspector of all work performed within ten business days after completion of the decontamination and final testing, including final test results,

(5) Comply with the City Public Nuisance Ordinance, and the Kanawha County or Putnam County Public Nuisance Ordinance, as appropriate ; and

(6) Comply with all applicable laws and regulations.

1809.07. DENIAL, SUSPENSION, OR REVOCATION OF CERTIFICATION, AND CIVIL PENALTIES

(a) Disciplinary action against a decontamination worker, supervisor, or contractor may be taken for failing to comply with the requirements of this Article. Disciplinary action may be taken on any of the following grounds:

(1) Failing to perform decontamination, testing, or disposal work under the supervision of trained personnel;

(2) Failing to perform work that meets the requirements of the Building Inspector;
or

(3) Obtaining a decontamination and testing certificate by error, fraud, or misrepresentation.

(b) Disciplinary action against a decontamination worker, supervisor, or contractor may include, but not be limited to, denial, suspension, or revocation of certification.

(c) A contractor violating any provision of this Article shall be deemed guilty of a misdemeanor of the City of Nitro Public Nuisance Ordinance and may be assessed a fine not to exceed one thousand dollars for each violation. In addition, a contractor violating any provision of this Article is also subject to certification denial, suspension or revocation.

1809.08. CERTIFIED DECONTAMINATION CONTRACTOR LIST.

(a) The Building Inspector shall maintain a list of authorized methamphetamine or other illegal drug lab site decontamination contractors.

(b) The Building Inspector's authorized contractor list shall be made available to local health officials and other appropriate agencies, and to the public upon request.

1809.09. DECONTAMINATION, SAMPLING, AND TESTING REQUIREMENTS AND RESPONSIBILITIES.

(a) Overall Responsibilities

(1) The Building Inspector's responsibilities shall include, but not be limited to:

(A) Posting methamphetamine or other illegal drug labs and property with "DANGER - UNSAFE FOR HUMAN OCCUPANCY", "CONDEMNED" and "NO TRESPASSING" signs and placards, as required by section 1809.11 of this Article, and placing boards over windows and doors to prevent access;

(B) Reviewing contractor test methods and results;

(C) Monitoring contractor decontamination, sampling, clean-up, and testing; and

(D) Approving final decontamination.

(2) The Decontamination Contractor shall be responsible for:

(A) Inspecting the property and structures containing methamphetamine or other illegal drug labs;

(B) Determining levels of contamination;

(C) Performing all sampling and testing in a responsible manner;

(D) Developing a decontamination work plan which includes a floor plan of the structure;

(E) Performing decontamination;

(F) Verifying decontamination;

(G) Proper disposal of all contaminated materials;

(H) Recording pre-cleanup contamination levels and post-cleanup decontamination levels.

(I) Details of final report including photographs of sampling sites, floor plans, description of decontamination procedure.

(b) Inspecting property. After a law enforcement agency notifies the Building Inspector of potential property contamination, the Building Inspector shall notify the property owner to have a decontamination contractor inspect and test the property. Any decontamination contractor who has been hired to clean and test structures shall notify the Building Inspector before testing or cleanup begins.

(1) To determine contamination, the property inspection shall include, but be limited to, an acquisition of data such as evidence of:

(A) Hazardous chemical use or attempted use or storage of hazardous chemicals on site (when available);

(B) Chemical stains; or

(C) Glassware or other paraphernalia associated with the manufacture of methamphetamine on site.

(2) As part of the property's inspection, the Building Inspector may request copies of any law enforcement reports, forensic chemist reports, and any other information needed to evaluate:

(A) The total square footage of the structure used in the manufacture or attempted manufacture or storage of methamphetamine or other illegal drugs;

(B) What chemical process was involved in the manufacture of methamphetamine or other illegal drugs;

(C) What chemicals were removed from the scene; and

(D) The location of the methamphetamine or other illegal drug lab site in relation to the habitable areas of the property.

(E) The Building Inspector shall provide law enforcement reports, if available, to the decontamination contractor upon request.

(3) The Building Inspector may coordinate the property's inspection with other appropriate agencies. At the request of the Building Inspector, the appropriate county health department may conduct an environmental assessment and may sample the property's ground water, surface water, septic tank water, soil, and other media

necessary to enable the county health department to evaluate the long-term public health threats.

(4) Once a structure has been designated contaminated, all porous materials such as mattresses, upholstered furniture, draperies, clothing, toys, and carpets shall be deemed beyond decontamination and shall be disposed of in a safe manner. Record of the disposal shall be part of the final decontamination report.

1809.10. SAMPLING PROCEDURES

(a) Alcohol or methanol-moistened filter papers or sterile gauze pads or laboratory-approved media shall be used to collect wipe samples from hard, non-porous surfaces from areas 100 sq. cm. (10 cm X 10 cm) in size for single, discrete samples and 100 sq. cm. to 400 sq. cm. in size for composite samples. A separate filter paper is to be used for each sample location. Upon completion of each composite sampling group, all of the filter papers used to collect the composite sample are placed into a single sample collection container.

(b) Proper sample techniques and procedures are to be used by the testing and decontamination contractor. These techniques and procedures include proper equipment and supplies, off-site preparation, on-site procedures, field quality control, chain of custody record, transportation of samples, decontamination of equipment and supplies (to prevent cross-contamination), site clean-up, sample log form, and handling of methanol and alcohol. Photographic documentation should also be included.

(c) The analytical results obtained through sampling shall be used to determine the levels of contamination. Required locations for sample collections shall include, but are not limited to:

- (1) HVAC duct system and all exhaust fans;
- (2) Bathroom wall, floor, and ceiling surfaces;
- (3) Lab site wall, floor and ceiling surfaces;
- (4) Kitchen wall, floor and ceiling surfaces, including range hoods and exhausts;
- (5) All other room wall, floor and ceiling surfaces.

(d) Collection of samples shall be performed by certified decontamination contractors using:

- (1) Standards and protocols to ensure accuracy and the ability to produce similar results with repeated sampling;
- (2) Proper swabbing techniques to collect a representative sample of the area being sampled;
- (3) Proper care and prudent action to avoid contamination during sampling, including the use of clean gloves for each sample; and
- (4) Use of a blank for assurance that calibration is accurate, and use a blank to test the cleanliness of the gloved hands of the inspector.

(e) All samples collected, transported, stored by the decontamination contractor and sent by the decontamination contractor to the certified laboratory for analysis under the provisions of this section must be secure to assure an unbroken chain-of-custody.

1809.11. DESIGNATING CONTAMINATION

(a) The Building Inspector shall designate a structure as contaminated when a law

enforcement agency discovers a methamphetamine or other illegal drug lab inside the structure, or discovers methamphetamine or other illegal drug-making chemicals or chemical containers are found inside or near the structure, or when inspection reveals the property is contaminated: Provided, That if the contaminated structure is a room in a hotel motel, apartment house, condominium or townhouse, the area initially designated as contaminated shall include the room on each side of the room that is contaminated: Provided, however, That the contaminated designation applicable to the adjacent rooms shall continue until the decontamination contractor determines those rooms are not contaminated.

(b) If the structure is designated contaminated, the Building Inspector shall immediately post "DANGER-UNSAFE FOR HUMAN OCCUPANCY" and "NO TRESPASSING" placards on the structure, shall board up windows and doors to prevent access, and shall prohibit use of all portions of the property: Provided, That if the property owner has not within 14 days immediately succeeding the day the property was designated as being contaminated, commenced action to have the property decontaminated, the Building Inspector shall remove the "DANGER-UNSAFE FOR HUMAN OCCUPANCY" placard and post "CONDEMNED" placards on the structure.

(c) If the Building Inspector designates the property contaminated, the Building Inspector shall document the findings: Provided, That such documentation shall include:

- (1) Description from law enforcement;
- (2) Photographs of the property;
- (3) Name of the property owner;
- (4) Mailing and street address of the property owner;
- (5) Tax map and parcel number of the property; and
- (6) Clear directions for locating the property.

(d) The testing and decontamination standard is that methamphetamine or other illegal drug levels shall be less than or equal to 0.1 micrograms per 100 square centimeters: Provided, That the Building Inspector may require testing and decontamination for additional hazardous chemicals if other hazardous chemicals are present at the property where the methamphetamine lab was discovered. The decontamination standards for any additional chemicals will be determined by using currently established federal toxicity levels.

1809.12. NOTIFICATION OF CONTAMNATED PROPERTY

(a) After the Building Inspector has determined that a property is contaminated, the Building Inspector shall send out in writing, by certified mail, return receipt requested, a letter prohibiting use to all known:

- (1) Occupants; and
- (2) Persons having a full or partial ownership of the property as shown upon the records of the county assessor's office of the county in which the property is located.

(b) If the whereabouts of a person or persons having a full or partial ownership of the property is unknown or may not be ascertained, or if the identity of those persons or person is unknown or may not be ascertained, the Building Inspector shall:

(1) Instruct the Treasurer file a Class II legal notice stating:

(A) That the property, as identified in the legal notice, has been determined to be contaminated;

(B) That if the property owner's whereabouts or identity remains unknown, the City will demolish the property on the date specified in the legal notice; and

(C) That a lien for all expenses and charges incurred by the City in the demolition activity will be filed 90 days after the completion of the demolition activity;

(2) If the property owner or owners do not respond to the legal notice, demolish the property on the date stated;

(3) Prepare a complete itemized statement that clearly demonstrates the costs and charges incurred to accomplish the demolition activity; and

(4) Provide the complete itemized statement, including a statement stating when the demolition activity was completed, to the Treasurer who will file a lien on the remaining real property for the total amount indicated in the complete itemized statement plus any other applicable charges: Provided, That prior to filing the lien, the Treasurer shall file a Class II legal notice stating:

(A) That the property, as identified in the legal notice, was determined to be contaminated;

(B) That the property was demolished on the date specified;

(C) That a lien for all expenses incurred and charges paid by the City in the demolition activity will be filed on the specified date;

(D) That payment of the expenses incurred and charges paid by the City in the demolition activity will prevent the lien from being filed; and

(E) That if the required payment is not made on or before that specified date, a lien in the amount indicated in (iii) above plus any other applicable charges will be filed: Provided, That the date specified for payment shall be no less than 90 days from the date the demolition activity is completed.

(c) If the property is to be decontaminated and the property owner refuses to employ a decontamination contractor to start the decontaminating the structure or structures within 30 days from the date that the property is designated as contaminated, the Building Inspector shall:

(1) Instruct the Treasurer to send to the property owner by certified mail, return receipt requested, a letter stating:

(A) That the property identified in the letter has been determined to be contaminated;

(B) That unless the property owner employs a decontamination contractor who starts decontaminating the property by the date specified within the letter, such date to be 14 days subsequent to the date the letter is mailed, the property will be demolished;

(C) That the property owner will be responsible for the costs and charges incurred to demolish the structure or structures on the property;

(D) That if the property owner does not pay the demolition costs and applicable charges within 90 days after completion of the demolition activity, a lien for all expenses and charges will be filed 90 days after the completion of the demolition activity: Provided, That the date specified for payment shall be no less than 90 days

from the date the letter is mailed; and

(2) Proceed with the demolition of the structure on the date stated.

(d) If the property is to be demolished and the property owner refuses to employ a demolition contractor for demolition of the contaminated structure or structures within 30 days from the date that the property is designated as contaminated, the Building Inspector shall:

(1) Instruct the Treasurer to send to the property owner by certified mail, return receipt requested, a letter stating:

(A) That the property identified in the letter has been determined to be contaminated;

(B) That unless the property owner employs a demolition contractor who starts demolishing the structure or structures by a date specified within the letter, such date to be 14 days subsequent to the date the notice is mailed, the property will be demolished;

(C) That the property owner will be responsible for the costs and charges incurred to demolish the structure or structures on the property;

(D) That if the property owner does not pay the demolition costs and charges within 90 days after completion of the demolition activity, a lien for all expenses and charges incurred in the demolition activity will be filed 90 days after the completion of the demolition activity: Provided, That the date specified for payment shall be no less than 90 days from the date the notice is mailed

(e) The Building Inspector's letter to the persons identified in subsection (a) of this section shall:

(1) Describe the Building Inspector's intended course of action;

(2) Describe the penalties for noncompliance with the decontamination order;

(3) Prohibit use of all or specified portions of the property as long as the property is contaminated;

(4) Describe what measures a property owner must take to have the property decontaminated; and

(5) Indicate the potential health risks involved.

(f) The Building Inspector shall advise that:

(1) A hearing before the City Planning Commission shall be held upon the request of a person required to be notified of the condemnation;

(2) The person's request for a hearing shall be made within ten days of the Building Inspector serving notice of the condemnation;

(3) The hearing shall be held in a timely manner; and

(4) In any hearing concerning whether property is contaminated, the property owner has the burden of proof in showing that the property is decontaminated and meets the decontamination standards set forth by the Building Inspector.

1809.13. PROPERTY OWNER DECONTAMINATION RESPONSIBILITIES

(a) An owner of contaminated property shall obtain the services of an authorized decontamination contractor to clean and decontaminate the property. Only authorized decontamination contractors are allowed to decontaminate property.

(b) The Building Inspector shall provide the property owner with a list of authorized

testing and decontamination contractors upon request.

(c) Only a decontamination contractor approved by the Planning Office or the Building Inspector shall decontaminate the property and meet the decontamination standards as stated in this ordinance.

(d) The property owner and the occupants shall not be allowed to salvage or remove any items from inside the contaminated structure. Only certified decontamination contractors are allowed inside.

(e) The property owner shall be responsible for:

(1) The costs of any property testing which may be required to demonstrate the presence or absence of methamphetamine;

(2) The costs of the property's decontamination and disposal expenses;

1809.14. VERIFYING DECONTAMINATION

(a) After decontamination is completed, final testing of the structure shall be undertaken. Composite samples of the floor, wall and ceiling of each room shall be taken. Testing results must show levels of methamphetamine or other illegal drugs to be no greater than 0.1 micrograms per 100 sq. cm. If any room tests above this level, further decontamination will be required before the structure can be designated as decontaminated.

(b) Within 10 working days of a request for review of decontamination records, the Building Inspector:

(1) Shall review the documentation from the approved decontamination contractor to verify decontamination standards are met;

(2) May visit the property site to access the thoroughness of the decontamination, and to assure that all contaminated porous materials have been disposed of properly. Landfill receipts should be kept for review by the Planning Office.

1809.15. RECORDING DECONTAMINATION

(a) If, after review of the information from the decontamination contractor, the Building Inspector determines the property has been successfully decontaminated, the Building Inspector shall within 10 working days:

(1) Send a letter notifying the property owner that the property is decontaminated according to the decontamination standards established in this article;

(2) Remove the "CONDEMNED" placards and boards from the structure; and

(3) Note in the deed that the property was previously a methamphetamine or other illegal drug lab and has been successfully decontaminated.

1809.16. REPAYMENT FOR DECONTAMINATION AND DEMOLITION SERVICES

If the property owner refuses to employ a decontamination contractor to start the decontamination process within 30 days from the date that the property is designated as contaminated or refuses to employ a demolition contractor for demolition within 30 days from the date that the property is designated as contaminated, the Building Inspector shall follow the procedure provided in Section 1809.12 of this Article.

1809.17. CREATION OF A LIEN TO PAY FOR DECONTAMINATION OR

DEMOLISHING CONTAMINATED PROPERTY.

The City shall follow the procedure provided in Article 160 of this Code to file a lien against contaminated property that was either decontaminated or demolished.

1809.18. EFFECTIVE DATE.

This Article shall become effective upon passage.

NOTE: The purpose of this ordinance is to provide the procedures for decontaminating or demolishing real property contaminated by methamphetamine.

Passed on First Reading December 1, 2009

Passed on Second Reading Dec. 15, 2009

Rusty Casto, Mayor

Rita Cox
Rita Cox, Recorder

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, DECEMBER 15, 2009

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm in Council Chambers. Attending the meeting with Mayor Casto were Recorder Rita Cox, Council at Large Jim McKay, Council at Large Dave Casebolt, Council at Large Bob Fields, Ward 1 Councilman A. A. "Joe" Savilla, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, City Attorney Rich Robb and City Treasurer John Young.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Councilman Jim McKay and the Pledge of Allegiance was led by Leonard Womble.

FUTURE DATES OF COUNCIL: Mayor Rusty Casto said the future dates of Council are January 5, January 19, February 2, and February 16, 2010.

APPROVAL OF COUNCIL MINUTES: COUNCILMAN BILL JAVINS MOVED THE MINUTES OF DECEMBER 1, 2009 BE APPROVED AS WRITTEN WITH A SECOND BY COUNCILMAN JIM MCKAY. VOTING FOR THE MOTION WERE RECORDER COX, COUNCILMEN MCKAY, CASEBOLT, FIELDS, MATTHEWS, RACER AND JAVINS. COUNCILMAN SAVILLA ABSTAINED FROM VOTING. THE MOTION CARRIED.

CITIZEN OF THE MONTH: Lucas Whittington of Poca was named Citizen of the Month for December, 2010 by Mayor Casto. He is a Poca High School student who is credited with gathering a large number of coats for the winter for those in need.

OLD BUSINESS:

RESOLUTION STREETScape: COUNCILMAN DAVE CASEBOLT MOVED THAT COUNCIL PASS THE RESOLUTION ALLOWING THE CITY TO JOIN WITH THE DEPARTMENT OF HIGHWAYS TO IMPLEMENT THE STREETScape PROGRAM IN THE BANK STREET AREA OF NITRO. THE MOTION WAS SECONDED BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

RESOLUTION ADOPTING THE UPDATED KANAWHA COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN: RECORDER RITA COX MOVED THAT THE CITY OF NITRO PASS A JOINT RESOLUTION WITH THE KANAWHA COUNTY COMMISSION AND THE COMMUNITIES OF BELLE, CEDAR GROVE, CHARLESTON, CHESAPEAKE, CLENDENIN, DUNBAR, EAST BANK, GLASGOW, HANDLEY, MARMET, SOUTH CHARLESTON, PRATT AND ST. ALBANS IN THE MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN. THE MOTION WAS SECONDED BY COUNCILMAN A. A. "JOE" SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

FIRST READING: PLANNING AND ZONING ORDINANCE: Attorney Richie Robb told Council that the ordinance that had been passed previously for planning and zoning that had been rewritten by the Planning Commission contained a few errors. The ordinance had failed to repeal the previous ordinance and there was a section omitted on subdivisions. Also the new ordinance has a section that attempts to address problems within the financial industry that pertain to foreclosures and destroyed homes that are in areas zoned for business that had previously been residential. The change in the planning and zoning ordinance will give property owners more time to rebuild extending it up to 12 months. This changes will give clearer guidance to the work of the building inspector. The new ordinance changes the distance for limited video lottery to 1000 feet from churches, community centers, playgrounds, parks and other video lottery establishments. Mayor Rusty Casto asked if the changes in distance on the video lottery machines would make Nitro more like the surrounding communities. Richie Robb said surrounding communities have a distance of 2000 feet from churches. Councilman Bill Javins said that the city supports bingo and Tri-State Racing and Gaming Center and he thought the city should support smaller businesses such as the

limited video lottery establishments. Councilman Bill Racer said that by passing this ordinance it would support the smaller establishments. Councilman Craig Matthews asked if this distance was measured door to door or by radius. Rich Robb said that it was measured exterior wall to exterior wall. Councilman A. A. "Joe" Savilla said that the ordinance was 90 pages long and he felt it should be tabled. Councilman Savilla moved the ordinance be tabled with a second by Councilman Fields. Voting for the motion were Councilmen Fields and Savilla, and Recorder Cox. Voting against the motion were Councilmen Javins, Matthews, Racer, Casebolt and McKay. The motion did not carry. COUNCILMAN RACER MOVED THE PLANNING AND ZONING ORDINANCE BE PASSED ON FIRST READING WITH A SECOND BY COUNCILMAN JAVINS. VOTING FOR THE ORDINANCE WERE COUNCILMEN JAVINS, MATTHEWS, RACER, SAVILLA, AND CASEBOLT. VOTING AGAINST THE ORDINANCE WERE COUNCILMEN FIELDS AND MCKAY AND RECORDER COX. THE MOTION CARRIED.

SECOND READING: ORDINANCE RELATING TO CONTAMINATED STRUCTURES: Rich Robb said that by passing the ordinance relating to contaminated structures it will give the building inspector a more streamlined process to address houses that contained meth labs and other contaminants. COUNCILMAN RACER MOVED THAT COUNCIL PASS ON SECOND READING AN ORDINANCE RELATING TO CONTAMINATED STRUCTURES. Councilman Savilla asked how this will compare to other cities in the region and John Montgomery said the Kanawha County Ordinance was used as a basis for this ordinance so it should be comparable to the rest of the county. Councilman Javins said that money should be set aside in the future to tear down some of these structures. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

NEW BUSINESS:

THF/POLICE VEHICLE PAYMENT: Recorder Rita Cox reported that THF Corporation has agreed to pay \$12,500.00 toward the purchase of the new police vehicle at the request of City Treasurer John Young.

MUNICIPAL SERVICE FEE: Councilman Bill Javins suggested city employee Sandy Saunders be requested to return to the job of going after the unpaid municipal service fees. Councilman Javins asked if she is covered under the City of Nitro Civil Service Ordinance. Mayor Casto responded that she was. Councilman Bill Racer said that a lot of the unpaid fees were in apartment complexes. John Young said there is the option of turning them over to a collection agency but then only a portion goes to the city.

TREASURER REPORT: City Treasurer John Young said that the city was very tight financially. There are three payrolls in December and the money from Tri-State Racing and Gaming Center was not good. Two police cars had been sold to the town of Quinwood at \$5000.00 each. Councilman Savilla said that the Greenbrier Bill passed by the WV Legislature allows promotion of the establishment to take lottery money off the top for promotional events. RECORDER RITA COX MOVED A RESOLUTION CERTIFYING THE ANNUAL REPORT OF THE NITRO POLICE PENSION AND PROTECTION FUND BE PASSED AS PRESENTED. THE MOTION WAS SECONDED BY COUNCILMAN JIM MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

John Young said that Jefferson County had voted to pass the table games and that would mean more income for Nitro.

Councilman Bob Fields said that as chair of the MS4 Committee there will be meetings soon because the program should be running by July 1. Three months of funding is necessary to get it started and it will eventually be a separate utility.

ATTORNEY REPORT: Attorney Rich Robb said that a trip to the Sister City of Nitro, Alfreton, England, has been arranged for the second week of June, 2010. The trip will cost \$2000.00 and will be 8 days in London. The money covers the hotel, daily breakfast, and the flight. The Sister City is near Sherwood Forest.

COUNCIL COMMENTS: Mayor Rusty Casto wished everyone a Merry Christmas.

Councilman Bill Javins said it has been a good year and he thanked Richie Robb and John Young for their work. He wished everyone a Merry Christmas.

Councilman Craig Matthews said the Christmas parade was very successful with 47 units participating. He

wished everyone a Merry Christmas.

Councilman Bill Racer wished everyone a Merry Christmas.

COUNCILMAN A. A. "JOE" SAVILLA MOVED THE LETTER RECEIVED FROM GOVERNOR JOE MANCHIN BE MADE A PART OF THE MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN JIM MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION.

Recorder Rita Cox wished everyone a Merry Christmas.

Councilman Dave Casebolt said he thought that Council had accomplished a lot in 2009.

Councilman Jim McKay said he had presented Council with a copy of the NDA budget for fiscal year 2009-2010.

PUBLIC COMMENTS:

John Montgomery said that there would not be an Ordinance Committee meeting this Thursday and the next meeting will be January 7, 2010.

ADJOURNMENT:

COUNCILMAN BILL JAVINS MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN JIM MCKAY. VOTE WAS UNANIMOUS FR THE MOTION.

RUSTY CASTO, MAYOR



RITA COX, RECORDER



CERTIFICATE

I, the undersigned, the duly qualified and appointed Recorder of the City of Nitro, West Virginia, and the keeper of the records, do hereby certify:

Than on December 15, 2009, at Council's Regular Meeting that Council did approve, by unanimous consent, that the Mayor sign the grant Agreement to the West Virginia Department of Transportation for \$300,000.00. Also the grant monies will be used to enhance the business district of First Avenue and Bank Street.

The seal affixed hereto is the official seal of the City of Nitro, West Virginia and this certificate is hereby executed under such official seal.

IN WITNESS WHEREOF, I have hereunto set my hand, affixed the Corporate Seal of the City of Nitro, West Virginia, the 16th day of December, 2009.

SEAL:


Recorder

RESOLUTION

WHEREAS, natural, technological, and man-made hazards can affect the City of Nitro: and

WHEREAS, significant structural, historical, and economic losses could result from an occurrence of a natural, technological, or man-made hazard events: and

WHEREAS, undertaking mitigation projects during pre-disaster periods could decrease the total losses the City of Nitro incurs as a result of said hazard occurrences.

WHEREAS, THE City Council of the City of Nitro has partnered with the Kanawha County Commission to update the existing Kanawha County Multi-Jurisdictional Hazard Mitigation Plan, adopted in April 1st, 2004 in an effort to further identify, define, and characterize the hazards affecting the City of Nitro as well as to continue identifying and prioritizing projects that could lessen hazard vulnerability.

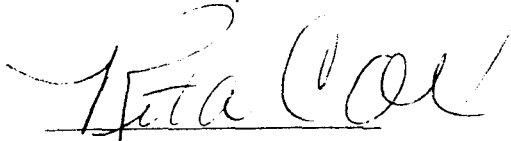
WHEREAS, the City Council of the City of Nitro has a strong interest in reducing losses from future hazard occurrences: and

WHEREAS, the hazard mitigation plan is a federal and state requirement to maintain eligibility for hazard mitigation funding, and by that requirement, must be updated a minimum of every five (5) years: and

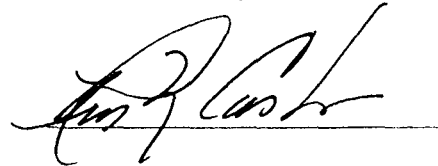
WHEREAS, a cooperative effort is an efficient way to plan for and reduce hazard susceptibility in all government jurisdictions in Kanawha County, West Virginia.

WHEREAS, the City of Nitro joined Kanawha County Commission and the communities of Belle, Cedar Grove, Charleston, Chesapeake, Clendenin, Dunbar, East Bank, Glasgow, Handley, Marmet, South Charleston, Pratt and St. Albans in the completion of this plan update.

NOW, THEREFORE BE IT RESOLVED THAT, the City of Nitro does hereby adopt the updated Kanawha County Multi-Jurisdictional Hazard Mitigation Plan on this 15th day of December 2009.



City of Nitro, City Clerk



City of Nitro Mayor

RESOLUTION

WHEREAS, the City of Nitro has applied to the West Virginia Department of Transportation, Division of Highways for a \$ 300,000.00 grant so as to enhance the business district of First Avenue and Bank Street.


WHEREAS, the total cost of the aforementioned project will be \$60,000.00 coming from the City of Nitro.

WHEREAS, the West Virginia Department of Transportation has tentatively approved the \$ 300,000.00 grant contingent up the City of Nitro executing the Agreement hereto attached and made a part of the Resolution; and

WHEREAS, Nitro City Council is of the opinion that it is in the best interest of the citizens of the community for the project to be undertaken and the Agreement to be executed.

NOW, THEREFORE, BE IT RESOLVED by the City of Nitro the 15th day of December, 2009, that its Mayor is authorized to execute the Agreement hereto attached.

Mayor



Recorder

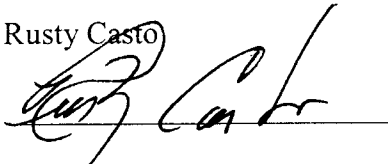


To: John D. Perdue
State Treasurer

Under penalty for false swearing (West Virginia Code 61-5-3), I hereby certify the following information in this annual report of the Nitro Police Pension and Protection Fund for fiscal year 2008 to be true and accurate in all respects and has been presented to the Nitro city council on Dec. 15, 2009.

Date: December 15, 2009

Name: Rusty Casto

Signed: 

Title: Chairperson of the Board of Trustees of the Policemen's Pension and Relief Fund.

Municipality: Nitro, WV

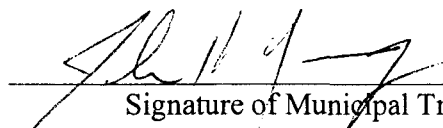
The above named municipal treasurer further certifies that a report of the actuarial soundness of the pension fund for the 2008 fiscal year, prepared in accordance with Chapter 8-22-26a (f) of the West Virginia Code, has previously been transferred to the State Treasurer's Office; and

The above named municipal treasurer further certifies that the following amounts are true and correct:

- A. Actual amount contributed by the municipality's covered employees during the fiscal year ending June 30, 2008. \$ 49,086.09
- B. State Share \$ 120,943.47
- C. Municipal Obligation \$ 96,725.86
- D. **TOTAL** \$ 266,755.42

The previously named municipal treasurer further certified that of the supplemental amount indicated in Item C: \$ _____ has been irrevocably contributed to the previously named pension and relief fund. It is understood that if this amount is less than the supplemental amount indicated in Item C, then only a portion of the municipality's allocable amount (from the Municipal Pensions and Protection Fund) will be distributed. The portion shall be determined by dividing the amount contributed above by the total city obligation as shown in item C. Remaining proportional shares will be distributed only upon additional certification that the municipality has contributed additional monies due the pension and relief fund by the previously named treasurer.

The total year to date amount of irrevocable contribution is: \$ 96,725.86 which includes the above additional contribution.

Certified by: 
Signature of Municipal Treasurer

Certified on: 12/16/09
Date

Phone: 361 755-2217

ORDINANCE

09-14

An Ordinance to amend Part Eighteen of the Codified Ordinances of the City of Nitro, West Virginia, by adding thereto a new article, designated 1809, all relating to decontamination or demolition of contaminated structures; purpose and authority; definitions; decontamination contractor certification and training; basic decontamination contractor training; refresher training course; worker and supervisor certification; denial, suspension, revocation of certification, and civil penalties; certified decontamination contractor list; decontamination, sampling and testing requirements and responsibilities; sampling procedures; designating contamination; notification of contaminated property; property owner decontamination responsibilities; verifying decontamination; recording decontamination; repayment for decontamination and demolition services; creation of a lien for payment for decontamination and demolition services; release of lien filed for failure to pay for decontamination and demolition services; amount of lien collected when property transferred; and report to the city council.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, that Part Eighteen of the Codified Ordinances of the City of Nitro, West Virginia, be amended by adding thereto a new article designated 1809, all to read as follows:

ARTICLE 1809

Decontamination and Demolition of Contaminated Structures

1809.01. PURPOSE AND AUTHORITY

(a) The purpose of this Article is to protect the public's health, safety and welfare by establishing standards, procedures and responsibilities for:

- (1) The certification of contractors and their employees authorized to perform decontamination or demolition of methamphetamine or other illegal drug lab sites; and
- (2) Prohibiting the occupancy and use of property where hazardous chemicals or chemical residues commonly associated with the manufacture of methamphetamine or other illegal drugs are or may be present.

1809.02. DEFINITIONS

(a) In addition to the definitions provided in Article 1802 of this Part Eighteen, the following terms shall have the meanings ascribed herein, unless the context in which used clearly requires a different meaning.

"Authorized contractor" or "decontamination contractor" means any person certified by the Planning Office or the Building Inspector to decontaminate, conduct sampling or dispose of contained property as required by this Article.

"Building Inspector" means the City Building Inspector.

"Certificate" means an accepted approval on file in the Planning Office or the Office of the Building Inspector as authorized in accordance with this Article.

"Certified" means a person who is authorized by the Planning Office or the Building Inspector to perform the inspection and decontamination activities required by this Article.

"City" means the City of Nitro, West Virginia.

"'CONDEMNED' placard" means a sign posted by the Building Inspector conspicuously on a methamphetamine or other illegal drug lab site informing the public that hazardous chemicals may exist on, or have been removed from, the premises and that entry is prohibited.

"Contaminated" or "contamination" means polluted by hazardous chemicals associated with methamphetamine or other illegal drug labs so that the property is unfit for human habitation or use due to immediate or long-term hazards. Property that at one time was contaminated, but has been satisfactorily decontaminated according to procedures listed in this Article is considered not contaminated.

"'DANGER - UNSAFE FOR HUMAN OCCUPANCY' placard" means a sign posted by the Building Inspector to warn the public that property is unfit for human habitation or use due to immediate or long-term hazards, and that entry is prohibited.

"Decontamination" means the process of reducing levels of methamphetamine or other illegal drugs to the target level of 0.1 micrograms per 100 sq. cm. or less using currently available methods and processes.

"Disposal of contaminated property" means the disposition of contaminated property.

"Hazardous chemicals" means substances used in the manufacture of methamphetamine or other illegal drugs.

"Methamphetamine or other illegal drug lab site" means any property where a person illegally manufactured methamphetamine or other illegal drugs, attempted to illegally manufacture methamphetamine or other illegal drugs, or stored one or more methamphetamine or other illegal drug ingredient(s), as noted by a law enforcement agency.

"Initial site assessment" means the first evaluation of a property to determine the nature and extent of observable damage and contamination.

"List of contaminated properties" means a list of properties contaminated by

methamphetamine or other illegal drug manufacturing, attempted manufacturing, or the storage of hazardous chemicals used in manufacturing methamphetamine or other illegal drugs.

"NO TRESPASSING" placard" means a sign posted by the Building Inspector to prohibit movement by persons over or through a structure.

"Person" means an individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or other legal entity.

"Planning Office" means the Kanawha County Planning Office or the Putnam County Planning Office, depending upon the county in which the contaminated structure is located.

"Posting" means attaching printed "DANGER - UNSAFE FOR HUMAN OCCUPANCY", "CONDEMNED" or "NO TRESPASSING" placards conspicuously on property which may be, or is determined to be, contaminated by methamphetamine or other illegal drug manufacturing, attempted methamphetamine or other illegal drug manufacturing, or the storage of a hazardous material used in manufacturing methamphetamine or other illegal drugs.

"Property" means any site, lot, parcel of land, structure, or part of a structure, or personal property involved in the illegal manufacture of methamphetamine or other illegal drugs including, but not limited to:

- (1) Single-family residences;
- (2) Units or multiplexes
- (3) Condominiums;
- (4) Apartment buildings;
- (5) Motels and hotels;
- (6) Accessory Structures;
- (7) Storage Units;
- (8) Campers or Trailers;
- (9) Manufactured housing or mobile homes; or
- (10) Any structure, or part of a structure that may be contaminated by previous

use.

"Property owner" means a person with a lawful right of possession of the property by reason of obtaining it by purchase, exchange, gift, lease, inheritance, or legal action.

"Refresher course" means an approved annual training course for decontamination workers and supervisors. An approved refresher course:

- (1) Reviews the subjects taught in the initial training course; and
- (2) Includes updated information on decontamination technology.

"Supervisor" means a person certified and employed by an authorized decontamination contractor who is on site during the decontamination of a methamphetamine or other illegal drug lab site and who is responsible for the activities performed.

"Worker" means a person certified and employed by an authorized decontamination contractor who performs decontamination of a methamphetamine or other illegal drug lab site.

1809.03. DECONTAMINATION CONTRACTOR CERTIFICATION AND RESPONSIBILITIES

(a) Decontamination Contractor certification.

(1) A contractor may advertise, offer to undertake, or perform decontamination, sampling, or disposal work at a methamphetamine or other illegal drug lab site only after securing certification from the Planning Office or the Building Inspector.

(2) Applicants for a Building Inspector certification as an authorized contractor shall submit to the Building Inspector:

(A) Evidence of certification for each employee who will perform decontamination work on a methamphetamine or other illegal drug lab site; and

(B) Documentation that the contractor has at least:

(i) One certified indoor environmental consultant or one forensic chemist or one industrial hygienist;

(ii) Documentation demonstrating the decontamination workers and supervisors have completed a minimum of 40-hour HAZWOPER training; and

(iii) Documentation demonstrating the decontamination workers and supervisors have successfully completed an approved methamphetamine or other illegal drug decontamination training course or equivalent.

1809.04. BASIC DECONTAMINATION CONTRACTOR TRAINING AND CERTIFICATION.

(a) Contractors who wish to be approved by the Building Inspector for decontamination and testing must provide proof of certification by the Planning Office or proof of training at basic worker and supervisor methamphetamine or other illegal drug lab clean-up training courses that provided at a minimum:

(1) Information on state and federal laws, rules and regulations applicable to methamphetamine or other illegal drug lab site.

(2) Chemical terminology, classifications, and properties related to methamphetamine or other illegal drug manufacturing.

(3) Methamphetamine or other illegal drug characteristics.

(4) First aid.

(5) Adverse health effects of exposure related to chemicals used in methamphetamine or other illegal drug manufacturing including, but not limited to:

(A) Toxicology, and

(B) Symptomology.

(6) Decontamination criteria.

(7) Sampling techniques and equipment used for decontamination of property.

- (8) Handling unknown substances.
- (9) State and federal requirements for dealing with hazardous materials including, but not limited to, the following subject matter:
 - (A) Disposal
 - (B) Transportation;
 - (C) Storage; and
 - (D) Reporting.
- (10) In addition to the foregoing, training for supervisors must also include, but not be limited to:
 - (A) Obtaining necessary information for making site assessment;
 - (B) Initial site assessment;
 - (C) Initial site sampling;
 - (D) Decontamination techniques;
 - (E) Final site sampling; and
 - (F) Report completion.

1809.05. REFRESHER TRAINING COURSE

- (a) An 8-hour methamphetamine or other illegal drug lab clean-up training course is required every year for decontamination contractor workers and supervisors.
- (b) Approved refresher worker and supervisor training courses shall provided at a minimum.
 - (1) A thorough review of the subjects listed in the basic training course, including proper sampling techniques, proper decontamination techniques and proper handling of hazardous chemicals;
 - (2) An update of information on state-of-the-art procedures and equipment;
 - (3) A review of regulatory changes and interpretations; and
 - (4) Other subjects if required by the Building Inspector to update Information on new technology and procedures.

1809.06. WORKER AND SUPERVISOR CERTIFICATION

- (a) Applicants seeking certification as a methamphetamine or other illegal drug decontamination worker shall ensure the Building Inspector receives evidence of successful completion of an approved basic methamphetamine or other illegal drug decontamination training worker course within sixty days of completing the basic worker course.
- (b) Applicants seeking certification as a decontamination supervisor shall ensure the Building Inspector receives the following within sixty days of completing the basic supervisor course:
 - (1) list of on-site experience in methamphetamine or other illegal drug lab site decontamination projects; and
 - (2) Evidence of successful completion of an approved basic methamphetamine or other illegal drug decontamination training course.
- (c) Worker and supervisor certificates are valid for one year from the date of issuance.
- (d) Workers and supervisors shall:
 - (1) Make certificates available for inspection at all times during a

methamphetamine or other illegal drug lab site decontamination project;

(2) Comply with applicable requirements of the West Virginia Department of Environmental Protection and the United States Environmental Protection Agency regulations;

(3) Comply with applicable contractor regulations;

(4) Notify the Building Inspector of all work performed within ten business days after completion of the decontamination and final testing, including final test results,

(5) Comply with the City Public Nuisance Ordinance, and the Kanawha County or Putnam County Public Nuisance Ordinance, as appropriate ; and

(6) Comply with all applicable laws and regulations.

1809.07. DENIAL, SUSPENSION, OR REVOCATION OF CERTIFICATION, AND CIVIL PENALTIES

(a) Disciplinary action against a decontamination worker, supervisor, or contractor may be taken for failing to comply with the requirements of this Article. Disciplinary action may be taken on any of the following grounds:

(1) Failing to perform decontamination, testing, or disposal work under the supervision of trained personnel;

(2) Failing to perform work that meets the requirements of the Building Inspector;
or

(3) Obtaining a decontamination and testing certificate by error, fraud, or misrepresentation.

(b) Disciplinary action against a decontamination worker, supervisor, or contractor may include, but not be limited to, denial, suspension, or revocation of certification.

(c) A contractor violating any provision of this Article shall be deemed guilty of a misdemeanor of the City of Nitro Public Nuisance Ordinance and may be assessed a fine not to exceed one thousand dollars for each violation. In addition, a contractor violating any provision of this Article is also subject to certification denial, suspension or revocation.

1809.08. CERTIFIED DECONTAMINATION CONTRACTOR LIST.

(a) The Building Inspector shall maintain a list of authorized methamphetamine or other illegal drug lab site decontamination contractors.

(b) The Building Inspector's authorized contractor list shall be made available to local health officials and other appropriate agencies, and to the public upon request.

1809.09. DECONTAMINATION, SAMPLING, AND TESTING REQUIREMENTS AND RESPONSIBILITIES.

(a) Overall Responsibilities

(1) The Building Inspector's responsibilities shall include, but not be limited to:

(A) Posting methamphetamine or other illegal drug labs and property with "DANGER - UNSAFE FOR HUMAN OCCUPANCY", "CONDEMNED" and "NO TRESPASSING" signs and placards, as required by section 1809.11 of this Article, and placing boards over windows and doors to prevent access;

(B) Reviewing contractor test methods and results;

(C) Monitoring contractor decontamination, sampling, clean-up, and testing; and

(D) Approving final decontamination.

(2) The Decontamination Contractor shall be responsible for:

(A) Inspecting the property and structures containing methamphetamine or other illegal drug labs;

(B) Determining levels of contamination;

(C) Performing all sampling and testing in a responsible manner;

(D) Developing a decontamination work plan which includes a floor plan of the structure;

(E) Performing decontamination;

(F) Verifying decontamination;

(G) Proper disposal of all contaminated materials;

(H) Recording pre-cleanup contamination levels and post-cleanup decontamination levels.

(I) Details of final report including photographs of sampling sites, floor plans, description of decontamination procedure.

(b) Inspecting property. After a law enforcement agency notifies the Building Inspector of potential property contamination, the Building Inspector shall notify the property owner to have a decontamination contractor inspect and test the property. Any decontamination contractor who has been hired to clean and test structures shall notify the Building Inspector before testing or cleanup begins.

(1) To determine contamination, the property inspection shall include, but be limited to, an acquisition of data such as evidence of:

(A) Hazardous chemical use or attempted use or storage of hazardous chemicals on site (when available);

(B) Chemical stains; or

(C) Glassware or other paraphernalia associated with the manufacture of methamphetamine on site.

(2) As part of the property's inspection, the Building Inspector may request copies of any law enforcement reports, forensic chemist reports, and any other information needed to evaluate:

(A) The total square footage of the structure used in the manufacture or attempted manufacture or storage of methamphetamine or other illegal drugs;

(B) What chemical process was involved in the manufacture of methamphetamine or other illegal drugs;

(C) What chemicals were removed from the scene; and

(D) The location of the methamphetamine or other illegal drug lab site in relation to the habitable areas of the property.

(E) The Building Inspector shall provide law enforcement reports, if available, to the decontamination contractor upon request.

(3) The Building Inspector may coordinate the property's inspection with other appropriate agencies. At the request of the Building Inspector, the appropriate county health department may conduct an environmental assessment and may sample the property's ground water, surface water, septic tank water, soil, and other media

necessary to enable the county health department to evaluate the long-term public health threats.

(4) Once a structure has been designated contaminated, all porous materials such as mattresses, upholstered furniture, draperies, clothing, toys, and carpets shall be deemed beyond decontamination and shall be disposed of in a safe manner. Record of the disposal shall be part of the final decontamination report.

1809.10. SAMPLING PROCEDURES

(a) Alcohol or methanol-moistened filter papers or sterile gauze pads or laboratory-approved media shall be used to collect wipe samples from hard, non-porous surfaces from areas 100 sq. cm. (10 cm X 10 cm) in size for single, discrete samples and 100 sq. cm. to 400 sq. cm. in size for composite samples. A separate filter paper is to be used for each sample location. Upon completion of each composite sampling group, all of the filter papers used to collect the composite sample are placed into a single sample collection container.

(b) Proper sample techniques and procedures are to be used by the testing and decontamination contractor. These techniques and procedures include proper equipment and supplies, off-site preparation, on-site procedures, field quality control, chain of custody record, transportation of samples, decontamination of equipment and supplies (to prevent cross-contamination), site clean-up, sample log form, and handling of methanol and alcohol. Photographic documentation should also be included.

(c) The analytical results obtained through sampling shall be used to determine the levels of contamination. Required locations for sample collections shall include, but are not limited to:

- (1) HVAC duct system and all exhaust fans;
- (2) Bathroom wall, floor, and ceiling surfaces;
- (3) Lab site wall, floor and ceiling surfaces;
- (4) Kitchen wall, floor and ceiling surfaces, including range hoods and exhausts;
- (5) All other room wall, floor and ceiling surfaces.

(d) Collection of samples shall be performed by certified decontamination contractors using:

- (1) Standards and protocols to ensure accuracy and the ability to produce similar results with repeated sampling;
- (2) Proper swabbing techniques to collect a representative sample of the area being sampled;
- (3) Proper care and prudent action to avoid contamination during sampling, including the use of clean gloves for each sample; and
- (4) Use of a blank for assurance that calibration is accurate, and use a blank to test the cleanliness of the gloved hands of the inspector.

(e) All samples collected, transported, stored by the decontamination contractor and sent by the decontamination contractor to the certified laboratory for analysis under the provisions of this section must be secure to assure an unbroken chain-of-custody.

1809.11. DESIGNATING CONTAMINATION

(a) The Building Inspector shall designate a structure as contaminated when a law

enforcement agency discovers a methamphetamine or other illegal drug lab inside the structure, or discovers methamphetamine or other illegal drug-making chemicals or chemical containers are found inside or near the structure, or when inspection reveals the property is contaminated: Provided, That if the contaminated structure is a room in a hotel motel, apartment house, condominium or townhouse, the area initially designated as contaminated shall include the room on each side of the room that is contaminated: Provided, however, That the contaminated designation applicable to the adjacent rooms shall continue until the decontamination contractor determines those rooms are not contaminated.

(b) If the structure is designated contaminated, the Building Inspector shall immediately post "DANGER-UNSAFE FOR HUMAN OCCUPANCY" and "NO TRESPASSING" placards on the structure, shall board up windows and doors to prevent access, and shall prohibit use of all portions of the property: Provided, That if the property owner has not within 14 days immediately succeeding the day the property was designated as being contaminated, commenced action to have the property decontaminated, the Building Inspector shall remove the "DANGER-UNSAFE FOR HUMAN OCCUPANCY" placard and post "CONDEMNED" placards on the structure.

(c) If the Building Inspector designates the property contaminated, the Building Inspector shall document the findings: Provided, That such documentation shall include:

- (1) Description from law enforcement;
- (2) Photographs of the property;
- (3) Name of the property owner;
- (4) Mailing and street address of the property owner;
- (5) Tax map and parcel number of the property; and
- (6) Clear directions for locating the property.

(d) The testing and decontamination standard is that methamphetamine or other illegal drug levels shall be less than or equal to 0.1 micrograms per 100 square centimeters: Provided, That the Building Inspector may require testing and decontamination for additional hazardous chemicals if other hazardous chemicals are present at the property where the methamphetamine lab was discovered. The decontamination standards for any additional chemicals will be determined by using currently established federal toxicity levels.

1809.12. NOTIFICATION OF CONTAMNATED PROPERTY

(a) After the Building Inspector has determined that a property is contaminated, the Building Inspector shall send out in writing, by certified mail, return receipt requested, a letter prohibiting use to all known:

- (1) Occupants; and
- (2) Persons having a full or partial ownership of the property as shown upon the records of the county assessor's office of the county in which the property is located.

(b) If the whereabouts of a person or persons having a full or partial ownership of the property is unknown or may not be ascertained, or if the identity of those persons or person is unknown or may not be ascertained, the Building Inspector shall:

(1) Instruct the Treasurer file a Class II legal notice stating:

(A) That the property, as identified in the legal notice, has been determined to be contaminated;

(B) That if the property owner's whereabouts or identity remains unknown, the City will demolish the property on the date specified in the legal notice; and

(C) That a lien for all expenses and charges incurred by the City in the demolition activity will be filed 90 days after the completion of the demolition activity;

(2) If the property owner or owners do not respond to the legal notice, demolish the property on the date stated;

(3) Prepare a complete itemized statement that clearly demonstrates the costs and charges incurred to accomplish the demolition activity; and

(4) Provide the complete itemized statement, including a statement stating when the demolition activity was completed, to the Treasurer who will file a lien on the remaining real property for the total amount indicated in the complete itemized statement plus any other applicable charges: Provided, That prior to filing the lien, the Treasurer shall file a Class II legal notice stating:

(A) That the property, as identified in the legal notice, was determined to be contaminated;

(B) That the property was demolished on the date specified;

(C) That a lien for all expenses incurred and charges paid by the City in the demolition activity will be filed on the specified date;

(D) That payment of the expenses incurred and charges paid by the City in the demolition activity will prevent the lien from being filed; and

(E) That if the required payment is not made on or before that specified date, a lien in the amount indicated in (iii) above plus any other applicable charges will be filed: Provided, That the date specified for payment shall be no less than 90 days from the date the demolition activity is completed.

(c) If the property is to be decontaminated and the property owner refuses to employ a decontamination contractor to start the decontaminating the structure or structures within 30 days from the date that the property is designated as contaminated, the Building Inspector shall:

(1) Instruct the Treasurer to send to the property owner by certified mail, return receipt requested, a letter stating:

(A) That the property identified in the letter has been determined to be contaminated;

(B) That unless the property owner employs a decontamination contractor who starts decontaminating the property by the date specified within the letter, such date to be 14 days subsequent to the date the letter is mailed, the property will be demolished;

(C) That the property owner will be responsible for the costs and charges incurred to demolish the structure or structures on the property;

(D) That if the property owner does not pay the demolition costs and applicable charges within 90 days after completion of the demolition activity, a lien for all expenses and charges will be filed 90 days after the completion of the demolition activity: Provided, That the date specified for payment shall be no less than 90 days

from the date the letter is mailed; and

(2) Proceed with the demolition of the structure on the date stated.

(d) If the property is to be demolished and the property owner refuses to employ a demolition contractor for demolition of the contaminated structure or structures within 30 days from the date that the property is designated as contaminated, the Building Inspector shall:

(1) Instruct the Treasurer to send to the property owner by certified mail, return receipt requested, a letter stating:

(A) That the property identified in the letter has been determined to be contaminated;

(B) That unless the property owner employs a demolition contractor who starts demolishing the structure or structures by a date specified within the letter, such date to be 14 days subsequent to the date the notice is mailed, the property will be demolished;

(C) That the property owner will be responsible for the costs and charges incurred to demolish the structure or structures on the property;

(D) That if the property owner does not pay the demolition costs and charges within 90 days after completion of the demolition activity, a lien for all expenses and charges incurred in the demolition activity will be filed 90 days after the completion of the demolition activity: Provided, That the date specified for payment shall be no less than 90 days from the date the notice is mailed

(e) The Building Inspector's letter to the persons identified in subsection (a) of this section shall:

(1) Describe the Building Inspector's intended course of action;

(2) Describe the penalties for noncompliance with the decontamination order;

(3) Prohibit use of all or specified portions of the property as long as the property is contaminated;

(4) Describe what measures a property owner must take to have the property decontaminated; and

(5) Indicate the potential health risks involved.

(f) The Building Inspector shall advise that:

(1) A hearing before the City Planning Commission shall be held upon the request of a person required to be notified of the condemnation;

(2) The person's request for a hearing shall be made within ten days of the Building Inspector serving notice of the condemnation;

(3) The hearing shall be held in a timely manner; and

(4) In any hearing concerning whether property is contaminated, the property owner has the burden of proof in showing that the property is decontaminated and meets the decontamination standards set forth by the Building Inspector.

1809.13. PROPERTY OWNER DECONTAMINATION RESPONSIBILITIES

(a) An owner of contaminated property shall obtain the services of an authorized decontamination contractor to clean and decontaminate the property. Only authorized decontamination contractors are allowed to decontaminate property.

(b) The Building Inspector shall provide the property owner with a list of authorized

testing and decontamination contractors upon request.

(c) Only a decontamination contractor approved by the Planning Office or the Building Inspector shall decontaminate the property and meet the decontamination standards as stated in this ordinance.

(d) The property owner and the occupants shall not be allowed to salvage or remove any items from inside the contaminated structure. Only certified decontamination contractors are allowed inside.

(e) The property owner shall be responsible for:

(1) The costs of any property testing which may be required to demonstrate the presence or absence of methamphetamine;

(2) The costs of the property's decontamination and disposal expenses;

1809.14. VERIFYING DECONTAMINATION

(a) After decontamination is completed, final testing of the structure shall be undertaken. Composite samples of the floor, wall and ceiling of each room shall be taken. Testing results must show levels of methamphetamine or other illegal drugs to be no greater than 0.1 micrograms per 100 sq. cm. If any room tests above this level, further decontamination will be required before the structure can be designated as decontaminated.

(b) Within 10 working days of a request for review of decontamination records, the Building Inspector:

(1) Shall review the documentation from the approved decontamination contractor to verify decontamination standards are met;

(2) May visit the property site to access the thoroughness of the decontamination, and to assure that all contaminated porous materials have been disposed of properly. Landfill receipts should be kept for review by the Planning Office.

1809.15. RECORDING DECONTAMINATION

(a) If, after review of the information from the decontamination contractor, the Building Inspector determines the property has been successfully decontaminated, the Building Inspector shall within 10 working days:

(1) Send a letter notifying the property owner that the property is decontaminated according to the decontamination standards established in this article;

(2) Remove the "CONDEMNED" placards and boards from the structure; and

(3) Note in the deed that the property was previously a methamphetamine or other illegal drug lab and has been successfully decontaminated.

1809.16. REPAYMENT FOR DECONTAMINATION AND DEMOLITION SERVICES

If the property owner refuses to employ a decontamination contractor to start the decontamination process within 30 days from the date that the property is designated as contaminated or refuses to employ a demolition contractor for demolition within 30 days from the date that the property is designated as contaminated, the Building Inspector shall follow the procedure provided in Section 1809.12 of this Article.

1809.17. CREATION OF A LIEN TO PAY FOR DECONTAMINATION OR

DEMOLISHING CONTAMINATED PROPERTY.

The City shall follow the procedure provided in Article 160 of this Code to file a lien against contaminated property that was either decontaminated or demolished.

1809.18. EFFECTIVE DATE.

This Article shall become effective upon passage.

NOTE: The purpose of this ordinance is to provide the procedures for decontaminating or demolishing real property contaminated by methamphetamine.

Passed on First Reading December 1, 2009

Passed on Second Reading Dec. 15, 2009

Rusty Casto, Mayor

Rita Cox

Rita Cox, Recorder

NITRO DEVELOPMENT AUTHORITY**BUDGET**
Fiscal Year 2009-2010

	2009-10 Budget	
Income		
Rental Income		
Office Rental	\$	152,900
Auditorium Rental	\$	9,000
Gym Rental	\$	9,000
NDA Industrial Park	\$	24,000
Total Rental Income		\$ 194,900
Fee Income (THF)		\$ 6,000
Donations		\$ 500
Miscellaneous		\$ 500
Total Income		\$ 201,900
Expenses		
Salaries		
General Manager	\$	28,000
Security	\$	7,540
Janitor/Security	\$	15,600
Payroll taxes & Workers Comp	\$	4,860
Total Salaries		\$ 56,000
Contract Labor		
Consultant	\$	-
Lawn care	\$	2,000
Accountant	\$	1,500
Total Contract Labor		\$ 3,500
Insurance		\$ 4,500
Office expense		\$ 1,000
Miscellaneous		\$ 500
Utilities		\$ 110,500
Janitorial supplies		\$ 3,000
Repairs		\$ 15,000
Capital expenses		\$ -
Debt Service		\$ 7,900
Total Expenses		\$ 201,900
Net Surplus/(Deficit)		\$ -

ORDINANCE 10-01

An Ordinance to amend and reenact Sections 1306.1(d) and 1306.2(c), Chapter 1306, Part 13 of the Codified Ordinances of the City of Nitro, West Virginia, all relating to the licensing of gambling establishments; establishing a two week time period during which the minimum distances between gambling establishments is reduced to 1,000 feet; establishing after the completion of the two week period a new distance requirement of 6,000 feet between gambling establishments; establishing municipal requirements necessary for the licensing of a new gambling establishment; and authorizing gambling establishments on newly annexed property to continue as a non-conforming use.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, that Sections 1306.1(d) and 1306.2(c), Chapter 1306, Part thirteen of the Codified Ordinances of the City of Nitro, West Virginia, as amended, be amended and reenacted, all to read as follows:

**CHAPTER 1306
BUSINESS ZONES**

Section 1306.1. "B-1" Local or Neighborhood Business Zones.

1306.1(a). Permitted Uses. In any Local or Neighborhood Business Zone, the use of land and buildings shall be limited to any neighborhood retail business or service establishment, supplying commodities or performing services intended primarily for residents of the surrounding neighborhood, such as:

- 1306.1(a)(1). Barber or beauty shop,
- 1306.1(a)(2). Business or professional office,
- 1306.1(a)(3). Clothes cleaning or laundry pick up station,
- 1306.1(a)(4). Self-service laundry,
- 1306.1(a)(5). Delicatessen,
- 1306.1(a)(6). Drug store,
- 1306.1(a)(7). Grocery store,
- 1306.1(a)(8). Meat market,
- 1306.1(a)(9). Convenience and neighborhood commercial centers (excluding wholesale sales),
- 1306.1(a)(10). Family and group day-care,
- 1306.1(a)(11). Libraries,
- 1306.1(a)(12). Places of worship,
- 1306.1(a)(13). Police and fire stations, and other government services,
- 1306.1(a)(14). Bed and breakfast facility, and
- 1306.1(a)(15). Similar activities.

1306.1(b). Along State and Federal Highways.

1306.1(b)(1). Along State or Federal highways, the above permissive uses may be permitted but shall not be limited to supplying commodities or performing services for residents of the neighborhood.

1306.1(b)(2). Other permitted uses along State and federal highways, such as:

- 1306.1(b)(2)(A). Antique or gift shop,
- 1306.1(b)(2)(B). Gasoline service stations,
- 1306.1(b)(2)(C). Automobile sales,
- 1306.1(b)(2)(D). Automobile service garages, see Table 1310.1(b)(1) of this Part Thirteen for required vehicle parking,
- 1306.1(b)(2)(E). Automobile or trailer sales lot,

- 1306.1(b)(2)(F). Commercial parking lot,
- 1306.1(b)(2)(G). Drive-in eating or drinking establishment,
- 1306.1(b)(2)(H). Motel and hotel,
- 1306.1(b)(2)(I). Tourist home, and
- 1306.1(b)(2)(J). Similar businesses.

1306.1(b)(3). Automobile body repair shops, but see Table 1310.1(b)(1) of this Part Thirteen for required vehicle parking,

- 1306.1(b)(4). Mortuary and funeral homes,
- 1306.1(b)(5). Public utility stations, and
- 1306.1(b)(6). Restaurants.
- 1306.1(b)(7). Business or financial services,
- 1306.1(b)(8). Light commercial (excluding wholesale sales),
- 1306.1(b)(9). Group care facilities,
- 1306.1(b)(10). Physical fitness centers,
- 1306.1(b)(11). Cultural and fraternal activities,
- 1306.1(b)(12). Rehabilitation centers,
- 1306.1(b)(13). Schools and colleges operated for profit (including commercial), and
- 1306.1(b)(14). Vocational and trade schools,
- 1306.1(b)(15). Self-storage warehouses,
- 1306.1(b)(16). Commercial printing and publishing, and
- 1306.1(b)(16). Similar businesses.

1306.1(c). Permitted Accessory Uses. In Local or Neighborhood Business Zones, including those along State and Federal Highways, the following accessory buildings and uses shall be permitted .

1306.1(c)(1). Accessory parking areas.

1306.1(c)(2). Other accessory uses customarily incidental to a principal permitted use, including signs attached flat against a building, and elevated signs not exceeding fifty (50) square feet in area per face, provided that these are at least fifteen (15) feet from any street right-of-way.

1306.1(d). Prohibited Uses.

1306.1(d)(1). Any residential or industrial use except that which is clearly necessary for and incidental to the conduct of a permitted retail business or service of the premises.

1306.1(d)(2). Gambling establishments.

1306.1(d)(2)(A). On and after the effective date of this paragraph ~~in January~~ on February 2, 2010, gambling establishments shall not be located within 3,000 feet of each other: Provided, That on and after March 3, 2010, gambling establishments shall not be located within 1,000 feet of each other: Provided, however, That on and after March 17, 2010, gambling establishments shall not be located within 6,000 feet of each other.

1306.1(d)(2)(B). On and after the effective date of this paragraph ~~in January~~ on February 2, 2010, no gambling establishment shall be located within 3,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City: Provided, That on and after March 3, 2010, no gambling establishment shall be located within 1,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City: Provided, however, That on and after March 17, 2010, no gambling establishment shall be located within 6,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City.

1306.1(d)(2)(C). On and after March 3, 2010, any new gambling establishment not

already licensed and in existence in the City shall satisfy the following requirements: it shall be an existing bar or restaurant; it shall have a current business license issued under the authority of section 733.14 of this Code; and it shall be current and not delinquent in the payment of any municipal fees or taxes.

1306.1(d)(2)(D). Upon the annexation into the City of any real property upon which is situated a legally licensed and operating gambling establishment, the use of the property as a gambling establishment, even if a nonconforming use, shall continue until such time as the West Virginia Lottery Commission repeals, withdraws or takes such other action that invalidates the license or licenses required to allow legal gambling to occur at the gambling establishment.

1306.1(e). Lot Areas. In any Local or Neighborhood Business Zone, no lot shall be less than 7,200 square feet.

1306.1(f). Lot Widths. In any Local or Neighborhood Business Zone, no lot shall be less than fifty (50) feet in width.

1306.1(g). Front Yards. In any Local or Neighborhood Business Zone, no lot shall have a front yard of less than twenty (20) feet.

1306.1(h). Side Yards. In any Local or Neighborhood Business Zone, common walls shall be permitted and no side yards shall be required; Provided, That where a non-residential use abuts a residential district, residential requirements must be observed where the property abuts.

1306.1(i). Rear Yards. In Local or Neighborhood Business Zone, rear yards shall not be less than twenty (20) feet in width.

1306.1(j). Building Height. In any Local or Neighborhood Business Zone, no building or structure shall exceed three (3) stories.

1306.1(k). Off-Street Parking and Loading Requirements. In any Local or Neighborhood Business Zone, off-street parking and loading requirements shall be scheduled according to the provisions of Table 1310.1.

Section 1306.2. "B-2" Central Business Zone.

1306.2(a). Permitted Uses. In any Central Business Zone, the following buildings and uses only are permitted:

1306.2(a)(1). All uses permitted in "B-1" Local or Neighborhood Business Zones.

1306.2(a)(2). Stores and shops for the conducting of any retail business.

1306.2(a)(3). Personal service shops.

1306.2(a)(4). Banks, offices, and studios.

1306.2(a)(5). Shops for custom work, and shops for making articles or products to be sold at retail on the premises.

1306.2(a)(6). Restaurants, cafes, and similar establishments.

1306.2(a)(7). Theaters, assembly halls, bowling alleys, amusement centers, golf driving ranges, miniature golf courses, ice rinks, pool and billiard halls (and similar recreational uses), and other public recreation uses.

1306.2(a)(8). Retail building materials supply sales (wholesale and retail),

1306.2(a)(9). Cultural institutions (such as museums and art galleries),

1306.2(a)(10). Community commercial centers (including wholesale and retail sales),

1306.2(a)(11). Health and medical institutions (such as hospitals),
 1306.2(a)(12) Hotels and motels (excluding other residential occupancies),
 1306.2(a)(13). Commercial printing and publishing,
 1306.2(a)(14). Taverns and cocktail lounges,
 1306.2(a)(15). Regional commercial centers (including wholesale and retail sales), and
 1306.2(a)(15). Other service establishments or retail or wholesale businesses similar in nature to those listed above.

1306.2(b). Permitted Accessory Uses. In any Central Business Zone, the following accessory uses shall be permitted:

1306.2(b)(1). All uses permitted in "B-1" Local or Neighborhood Business Zone.

1306.2(b)(2). Other accessory uses customarily incidental to a permitted principal use.

1306.2(b)(2)(A). All signs overhanging public ways shall conform to general ordinances of the City and Chapter 1312 of this Part Thirteen, now or hereinafter adopted.

1306.2(b)(2)(B). Signs, parking areas, and buildings may be illuminated providing the use of such illumination does not confuse, blind, or distract vehicle operators on the highways or streets.

1306.2(c). Prohibited Uses. In any Central Business Zone, the following uses and buildings are prohibited.

1306.2(c)(1). Except for uses permitted in Section 1306.2(a) of this Part Thirteen, all uses prohibited in "B-1" Local or Neighborhood Business Zones.

1306.2(c)(2). Any residential commercial or industrial use, which in the opinion of the Board of Appeals may become noxious or offensive in a "B-2" Central Business Zones.

1306.2(c)(3). Gambling establishments.

1306.2(c)(3)(A). On and after the effective dates of this paragraph in ~~January~~ on February 2, 2010, gambling establishments shall not be located within 3,000 feet of each other: Provided, That on and after March 3, 2010, gambling establishments shall not be located within 1,000 feet of each other: Provided, however, That on and after March 17, 2010, gambling establishments shall not be located within 6,000 feet of each other.

1306.2(c)(3)(B). On and after the effective date of this paragraph in ~~January~~ on February 2, 2010, no gambling establishment shall be located within 3,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City: Provided, That on and after March 3, 2010, no gambling establishment shall be located within 1,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City: Provided, however, That on and after March 17, 2010, no gambling establishment shall be located within 6,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City.

1306.2(c)(3)(C). On and after March 3, 2010, any new gambling establishment not already licensed and in existence in the City shall satisfy the following requirements: it shall be an existing bar or restaurant; it shall have a current business license issued under the authority of section 733.14 of this Code; and it shall be current and not delinquent in the payment of any municipal fees or taxes.

1306.2(c)(3)(D). Upon the annexation into the City of any real property upon which is situated a legally licensed and operating gambling establishment, the use of the property as a gambling establishment, even if a nonconforming use, shall continue until such time as the West Virginia Lottery Commission repeals, withdraws or takes such other action that invalidates the license or licenses required to allow legal gambling to occur at the gambling establishment.

1306.2(d). Front Yards. In any Central Business Zone, no front yard shall be required.

1306.2(e). Side Yards. Common wall shall be permitted and no side yards are required.

Passed on First Reading Dec. 15, 2009

Passed on Second Reading Jan. 19, 2010

Rusty Casto, Mayor

Rita Cox
Rita Cox, Recorder

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, JANUARY 19, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm in Council Chambers. Attending along with Mayor Casto were Recorder Rita Cox, Councilmen at Large Dave Casebolt, Bob Fields, and Jim McKay, Ward 1 Councilman A. A. "Joe" Savilla, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, and City Attorney Richie Robb. City Treasurer John Young did not attend.

INVOCATION/PLEDGE OF ALLEGIANCE: Councilman Jim McKay gave the Invocation and Councilman Bill Javins led the Pledge of Allegiance.

FUTURE DATES OF COUNCIL: Mayor Casto said the future dates of Council are February 2 and 16, 2010 and March 2 and 16, 2010.

APPROVAL OF COUNCIL MINUTES: RECORDER RITA COX MOVED THE MINUTES OF DECEMBER 15, 2009 BE APPROVED AS WRITTEN WITH A SECOND BY COUNCILMAN BILL JAVINS. THE MOTION PASSED WITH UNANIMOUS APPROVAL.

CITIZEN OF THE MONTH: Mayor Rusty Casto announced the January Citizen of the Month is Father Manny Gelido of Holy Trinity Catholic Church who has just celebrated his 30 year anniversary in the Catholic ministry.

OLD BUSINESS:

FIRE DEPARTMENT REPORT ON EQUIPMENT PURCHASE: Captain Jeff Elkins of the Nitro Fire Department reported to the Council on the recent purchase of the Jaws of Life equipment. The purchase was made possible partially by a grant from the Kanawha County Public Safety Committee. He said the new equipment has already been used several times. The equipment has the capability of cutting into a tractor trailer. Councilman Craig Matthews said the Fire Department deserves to have the best equipment possible so that they can continue doing such a good job. Councilman Jim McKay said he has heard very good reports about the Nitro Fire Department and that it makes him proud.

SECOND READING: PLANNING AND ZONING ORDINANCE: City Attorney Richie Robb said the first reading of the Planning and Zoning Ordinance was on December 15, 2009. He said the purpose of the ordinance was to clean up some issues such as repealing the ordinance that came before this one, modify the distance for video lottery, address provisions in commercial zoning to give extended time to rebuild homes that have been destroyed, or the subject of foreclosures. Richie Robb read the Ordinance by Title.

COUNCILMAN BILL RACER MOVED THE ORDINANCE TO AMEND PART THIRTEEN OF THE CODIFIED ORDINANCES OF THE CITY OF NITRO, WEST VIRGINIA BY REPEALING ARTICLES 1301, 1303, 1305, 1307, 1309, 1311, 1313, 1315, 1317, 1319, 1321, 1323, 1325, 1327, 1329, 1331, 1333, 1335, 1341, 1342, 1343, 1344, 1343, AND ALL APPENDICES AND TABLES IN EFFECT ON THE FIRST DAY OF JANUARY, TWO THOUSAND EIGHT; BY REPEALING CHAPTERS 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310, 1311, 1312, 1313, 1314, AND 1315, PART THIRTEEN AS ENACTED IN JANUARY AND FEBRUARY, TWO THOUSAND EIGHT; AND BY ENACTING IN LIEU THEREOF CHAPTERS 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310, 1311, 1312, 1313, 1314 AND 1315, 1316, 1317, 1318 AND 1319 AND THE SECTIONS INCLUDED THEREIN, ALL RELATING TO THE PLANNING AND ZONING ORDINANCE BE MOVED TO THE FLOOR. THE MOTION WAS SECONDED BY COUNCILMAN BILL JAVINS. COUNCILMAN A. A. "JOE" SAVILLA MADE A MOTION THAT THE ORDINANCE RETURN TO THE ORDINANCE 04-04 STATING THAT NO GAMBLING ESTABLISHMENTS SHALL BE LOCATED WITHIN 3000 FEET OF EACH OTHER AND NO GAMBLING ESTABLISHMENT SHALL BE PERMITTED WITHIN 3000 FEET OF ANY CHURCH, PLACE OF WORSHIP, LIBRARY, SCHOOL, OR COMMUNITY CENTER. THE MOTION WAS SECONDED BY COUNCILMAN JIM MCKAY. Councilman Savilla distributed a paper giving bullet points as to why he did not want the change to 1000

feet between establishments and churches, schools, library, or community center. He said he thought it would lower property values among other things. He said members of the Council are elected to protect the city and the people who live there. By lowering the distance between establishments he thought we were not doing that. Councilman Javins said he thought small businesses should be supported and by lowering the distance we would be doing that. He said that Council had supported Tri-State Racing and Gaming Center and the attempt to get smoking allowed therefore he thought we should support small business. Councilman Savilla said there were rules that should be followed and we should not change the laws for just one person. Mayor Rusty Casto asked if there were a compromise that could be reached which would allow new business that has video lottery and not more. Recorder Rita Cox said that she thought the video lottery business took money from the community more than was being acknowledged. VOTING FOR THE MOTION WITH THE DISTANCE REMAINING AS THE 04-04 ORDINANCE WERE RECORDER RITA COX, COUNCILMAN A. A. "JOE" SAVILLA, COUNCILMAN BOB FIELDS, AND COUNCILMAN JIM MCKAY. VOTING AGAINST THE MOTION CONTAINING THE AMENDMENT MAKING THE DISTANCE 3000 FEET BETWEEN OTHER VIDEO LOTTERY ESTABLISHMENTS AND 3000 FEET BETWEEN VIDEO LOTTERY ESTABLISHMENTS AND ANY CHURCH, PLACE OF WORSHIP, LIBRARY, SCHOOL OR COMMUNITY CENTER WERE COUNCILMAN DAVE CASEBOLT, COUNCILMAN, CRAIG MATTHEWS, COUNCILMAN BILL RACER, AND COUNCILMAN BILL JAVINS. MAYOR RUSTY CASTO VOTED FOR THE DISTANCE TO REMAIN AS THE 04-04 ORDINANCE, 3000 FEET BETWEEN OTHER VIDEO LOTTERY ESTABLISHMENTS AND 3000 FEET FROM ANY CHURCH, PLACE OF WORSHIP, LIBRARY, SCHOOL, AND COMMUNITY CENTER. THE MOTION CARRIED TO PASS THE PLANNING AND ZONING ORDINANCE ON SECOND READING WITH THE AMENDMENT RETURNING THE DISTANCE BETWEEN ESTABLISHMENTS TO THE 04-04 ORDINANCE. City Attorney Richie Robb suggested that Council hold another second reading on the Planning and Zoning Ordinance at the February 2, 2010 meeting of Council with the Ordinance rewritten to contain the language as voted on at this meeting.

NEW BUSINESS:

RESOLUTION ENDORSING 2010 CENSUS: Mayor Rusty Casto presented Council with Resolution 10-1 making the City of Nitro a Partner for the 2010 Census. COUNCILMAN JIM MCKAY MOVED COUNCIL PASS RESOLUTION 10-1 2010 CENSUS PARTNER RESOLUTION WITH A SECOND BY COUNCILMAN BILL JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

CONTRACT APPROVAL COMPUTER GRANT FROM GOVERNOR'S FUND: RECORDER RITA COX MOVED COUNCIL PASS THE RESOLUTION 10-2 CAUSING MAYOR RUSTY CASTO TO ENTER INTO THE GOVERNOR'S COMMUNITY PARTNERSHIP GRANT PROGRAM CONTRACT BETWEEN THE WV DEVELOPMENT OFFICE AND THE CITY OF NITRO TO PURCHASE COMPUTERS, SOFTWARE, RELATED EQUIPMENT AND A SNOW PLOW. THE MOTION WAS SECONDED BY COUNCILMAN JIMKAY. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

ATTORNEY REPORT: Richie Robb said he did not have a report but was prepared to answer any questions from Council.

TREASURER REPORT: John Young was not in attendance.

COUNCIL COMMENT:

Councilman Bill Javins said the Convention and Visitors Bureau Committee would meet Thursday, January 21 at 6:00 pm in Council Chambers.

Councilman Craig Matthews said to remember our National Guard who are in Haiti serving.

Councilman A. A. "Joe" Savilla said he is pleased that Council works well together. He said he would like to hold an Annexation Committee meeting from the next meeting of Council, February 2, 2010.

Councilman Bob Fields said he would like for everyone to keep the people of Haiti in their prayers and said that Chief E. W. Hedrick's daughter has a good college friend who had lost five members of her family.

Councilman Dave Casebolt said due to the good work of Robin Smith the Safe Routes to School Grant has been applied for. He commended Robin Smith for all her good work.

Councilman Jim McKay thanked Public Works for all the road clearing that they accomplished. He said the new officers for the NDA are Mary Trout, President; Hershel Facemyer, Vice President; Carmen Kostlansky, Secretary; and Susan Graves, Treasurer.

Hershel Facemyer said the NDA had plans for the future such as a handbook/brochure, a web site, and to work developing businesses in the city. He said they also would like to get the Business Association going again.

Councilman Dave Casebolt said that Council should look at making one half of 39th Street zoned for business. Nitro has good interstate access and the city could offer incentives to builders.

PUBLIC COMMENTS:

Bob Schamber said he was appreciative that Blakes Creek Road was cleared of snow. He also said he thought the 2010 calendar was very good.

Hershel Facemyer said that the primary goal of the NDA was to promote business and he has hopes that the website being developed would do that.

ADJOURNMENT:

COUNCILMAN JIM MCKAY MOVED COUNCIL BE ADJOURNED WITH A SECOND BY COUNCILMAN CRAIG MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

2010 CENSUS PARTNER RESOLUTION

Resolution Designating April 1, 2010 as Census Day in Nitro

WHEREAS, the kick off day for the 2010 Census is April 1, 2010 and

WHEREAS, an accurate census count is vital to our community and residents' wellbeing by helping planners determine where to locate schools, day care centers, roads and public transportation, hospitals and other facilities, and is used to make decisions concerning business growth and housing needs; and

WHEREAS, more that \$300 billion per year in federal and state funding is allocated to states and communities based on census data; and

WHEREAS, census data ensures fair Congressional representation by determining how many seats each state will have in the U. S. House of Representatives as well as the redistricting of state legislatures, county and city councils, and voting districts; and

WHEREAS, the 2010 Census creates jobs that stimulate economic growth and increase employment opportunities in our community; and

WHEREAS, the information collected by the census is protected by law and remains confidential for 72 years; and

WHEREAS, as a 2010 Census partner, Nitro will support the goals and ideals for the 2010 Census and disseminate 2010 Census information to encourage community participation: encourage people in Nitro to place an emphasis on the 2010 Census and to participate in events that will raise overall awareness of the 2010 Census to ensure a full and accurate count; support census takers as they help our community complete an accurate count; and participate as a Census Partner to seek opportunities to collaborate with other like-minded groups in our community, to utilize high-profile, trusted people to advocate on behalf of the 2010 Census

THEREFORE BE IT RESOLVED that the City of Nitro hereby designates April 1, 2010 as Census Day in Nitro and joins and joins the rest of the nation as a 2010 Census Partner.

BE IT FURTHER RESOLVED, that the City of Nitro hereby agrees to sign a Partnership Agreement with the U. S. Census Bureau designating those activities that Nitro will conduct in building awareness of and participation in the 2010 Census.

Resolution 10-1

RUSTY CASTO, MAYOR



RESOLUTION 10 - 2

A RESOLUTION TO SIGN GOVERNOR'S COMMUNITY
PARTNERSHIP GRANT PROGRAM CONTRACT

WHEREAS, The Governor of the State of West Virginia, through the West Virginia Development Office, awarded to the City of Nitro a Community Participation Grant to purchase computers, software, and related equipment and a snow plow for the City of Nitro.

WHEREAS, the City Council of the City of Nitro finds that the Governor's Community Participation Grant Programs will benefit the City of Nitro.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Nitro that the Mayor is hereby authorized to enter into the Governor's Community Partnership Grant Program Contract between the West Virginia Development Office and the City of Nitro, a copy off which is attached hereto and made a part hereof.

Motion _____

Second _____

Adopted _____

RUSTY CASTO, MAYOR



RITA COX, RECORDER

August 21, 2009

The Honorable Rusty Casto
Mayor
City of Nitro
Post Office Box 308
Nitro, West Virginia 25143

Dear Mayor Casto:

Congratulations on Governor Manchin's recent fiscal year 2009 Community Participation Grant award, in the amount of \$9,000 to the City of Nitro to purchase computers, software, and related equipment for the City of Nitro. The project will also include the purchase of a snow plow. Enclosed with this correspondence is a state/local contract between the West Virginia Development Office and the City of Nitro.

Please review this document carefully. As the grantee, the City of Nitro is responsible for compliance with this contract, including all applicable laws referenced in the contract, such as those pertaining to prevailing wage rates and competitive bid procedures. These requirements apply to any and all grants, including those dedicated to sub-grantees, such as nonprofit organizations.

The contract period outlined in this contract will expire June 30, 2010, without written authorization from the West Virginia Development Office and the reappropriation of funds by the West Virginia Legislature.

Once the City of Nitro and legal counsel have reviewed the contract, the City of Nitro must pass a formal resolution accepting the conditions of the contract and authorizing your signature on the last page. We will be unable to process a grant agreement until a signed contract and resolution are returned to this office.

I am looking forward to working with you on this worthwhile project. If you have any questions, please contact me at (304) 558-4010.

Sincerely,

Brandi Blankenship
Community Development Division

BB:kd

Enclosure

Project Number: 09LEDA0301

**GOVERNOR'S COMMUNITY PARTICIPATION
GRANT PROGRAM CONTRACT**

between the

WEST VIRGINIA DEVELOPMENT OFFICE

and the

CITY OF NITRO

THIS AGREEMENT, entered into this 1st day of July, 2008, by the West Virginia Department of Finance and Administration on behalf of the West Virginia Development Office hereinafter called the "WVDEVO" and the City of Nitro and its authorized officers, agents, and representatives, hereinafter called the "Grantee."

WITNESS THAT:

WHEREAS, the WVDEVO has promised and agreed to assist the Grantee to perform such tasks hereafter described in the scope of services, which is to be partially financed by funds made available through the Governor's Community Participation Grant program.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. **Assistance of the Grantee**. The WVDEVO hereby agrees to assist the Grantee including all authorized officers, agents, and representatives, to perform such tasks and functions as set forth below in the scope of services.
2. **Scope of Services**. The Grantee, or its designated agent, shall do, perform and carry out, in a satisfactory and proper manner as determined by the WVDEVO, and appropriate regulatory agencies, if required, all duties, tasks, and functions necessary to purchase computers, software, and related equipment for the City of Nitro. The project will also include the purchase of a snow plow.
3. **Personnel**. The Grantee represents that it has, or will secure at its own expense, personnel with the necessary qualifications and experience required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with WVDEVO.
4. **Time Performance**. The Grantee will commence its duties under this Contract on July 1, 2008, and such duties shall be undertaken and completed in such sequences as to assure their expeditious completion in the light of the purpose of the Contract; but, in any event, all of the services required hereunder shall be completed by June 30, 2010. The completion date of this contract may only be extended by mutual written agreement of both parties dependent on the reappropriation of funds under the Governor's Community Participation Grant program. If no such agreement exists, the Grantee shall not receive payment for services rendered or work performed relative to this grant after June 30, 2010.
5. **Compensation**. In consideration of the services rendered by the Grantee, the WVDEVO agrees to pay the Grantee the sum of \$9,000. This amount constitutes complete compensation for all services rendered. In

no instance shall the agreed upon compensation exceed \$9,000 without the written consent of the Governor of the State of West Virginia.

6. **Method of Payment.** In order to receive payments under the terms of this Agreement, the Grantee shall submit the following: (a) a Letter of Transmittal containing a progress report, and (b) a Request for Payment Financial Report. The final ten percent shall be made available upon submission of certification of completion and acceptance of the project by the Grantee. Upon receipt of said documents, the WVDEVO shall review the same for reasonableness and appropriateness.

7. **Changes.** The WVDEVO and the Grantee may, from time to time, require changes in the scope of the services of the work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Grantee's compensation and work to be performed, which are mutually agreed upon by and between the WVDEVO and the Grantee, shall be incorporated in written amendments to this Contract.

8. **Sub-Grantees and Reversion of Property.** The Grantee may administer funds on behalf of sub-grantees, provided that such a sub-grantee is certified as a nonprofit organization by the United States Internal Revenue Service and the West Virginia Secretary of State's Office. Should such a sub-grantee cease to exist, all commodities or supplies purchased with funds provided under the auspices of this Contract by or for the sub-grantee shall become the property of the Grantee.

9. **Competitive Bid Procedures.** Competitive bidding shall be pursued in all instances. The Grantee must follow the more stringent of either state or local purchasing regulations. The West Virginia Purchasing Division requirements, at a minimum, are as follows: Commodities and services expected to cost \$2,500 or less require no bids, however, competition is encouraged. Purchases between \$2,500.01 and \$5,000 require three verbal bids to be documented on a verbal bid quotation summary. Purchases \$5,000.01 to \$25,000 require three written bids.

The Grantee shall solicit competitive, sealed bids for commodities and supplies related to this project which have an estimated value of over \$25,000. Any attempts by the Grantee to segregate the project into sections having an estimated value of less than \$25,000 shall be cause for termination of this agreement under the provisions of Paragraph 28. These bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provisions West Virginia Code §59-3. This notice shall be published by the Grantee in the newspaper with the largest circulation serving the general area once a week for two successive weeks preceding the final bid date.

The Grantee shall also, where feasible, solicit sealed bids by listing the project in the F. W. Dodge Reports, sending requests by mail to prospective suppliers or contractors, and by posting notice on a bulletin board in a public place. The Grantee shall have available upon request for review by the WVDEVO or its designated representative, bid documents and other evidence of compliance with these procedures.

10. **Project Wage Rates.** Every contract involving construction, reconstruction, demolition, improvement, enlargement, painting, decoration, alteration, and/or repair work which involves the employment of any contractor and/or subcontractor necessary for the undertaking and completion of this project, regardless of the source of funds utilized to pay such contract, must comply with the West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A. **This law applies to all construction contracts, regardless of cost.**

The receipt and utilization of funds procured under this agreement mandate that all construction contracts necessary for the undertaking and completion of this project, regardless of the source of funds

0146 utilized to pay such construction contracts, must comply with the provisions of West Virginia Code § 21-5A.

Such provisions shall include the payment of the Fair Minimum Wage Rates as determined by the West Virginia Commissioner of Labor for each craft or classification of all workmen needed to perform the contract in the locality in which the public work is performed. For projects involving federal funds which are covered by the provisions of the Davis Bacon Act (40 U.S.C. 276-a 276a-5), the Grantee shall cause the contractor and/or subcontractors to pay the higher wage rate, federal or state.

Further, the Grantee shall note this requirement in the advertisement for bids and print these wage rates on all bid documents. The Grantee shall also have available upon request for review by the WVDEVO or its designated representative, bid documents and other evidence of compliance including copies of contractor's payrolls.

11. **Construction.** The Grantee shall procure construction contracts in accordance with West Virginia Code §5-22-1. **The state and its subdivisions shall, except as provided in this section, solicit competitive bids for every construction project exceeding \$25,000 in total cost.**

Further, the receipt and utilization of funds procured under this agreement mandate that **ALL CONSTRUCTION CONTRACTS NECESSARY FOR THE UNDERTAKING AND COMPLETION OF THIS PROJECT**, regardless of the source of funds utilized to pay such construction contracts, must comply with the provisions of West Virginia Code § 21-5A.

The term construction shall mean any construction, reconstruction, improvement, enlargement, painting, decorating, or repair of any public improvement let to contract. These bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provisions West Virginia Code §59-3. This notice shall be published by the Grantee in the newspaper with the largest circulation serving the general area once a week for two successive weeks preceding the final bid date.

Any contracts under this agreement must comply with the West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A. This law applies to all construction contracts, regardless of cost. The Grantee shall note this requirement in the advertisement for bids and print these wage rates on all bidding blanks.

The Grantee shall designate the time and place for opening such construction bids in accordance with West Virginia Code §5-22-2.

12. **Bonding.** The Grantee shall secure bonding in accordance with West Virginia Code §5-22-1. All bids submitted pursuant to this chapter shall include a valid bid bond or other surety as approved by the state of West Virginia or its subdivisions. Following the solicitation of such bids, the construction contract shall be awarded to the lowest qualified responsible bidder, who shall furnish a sufficient performance and payment bond: provided, that the state and its subdivisions may reject all bids and solicit new bids.

In the procurement of contracts or subcontracts for construction of less than \$100,000, the Grantee shall follow local or State requirements relating to bid guarantees, performance bonds, and payment bonds, provided that the Grantee's and State's interests are adequately protected and that such contracts can be executed in a timely manner.

In the procurement of contracts or subcontracts for construction that exceed \$100,000, the Grantee shall obtain the following:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. This bid guarantee shall consist of a firm commitment such as bid bond, certified check, or other negotiable instrument accompanying a bid that the bidder will, upon acceptance of the bid, execute the contractual documents as may be required with the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. This performance bond shall be executed by the successful contractor in connection with the contract to secure fulfillment of the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. This payment bond shall be executed in connection with a contract to assure payment is required by law of all persons supplying labor and materials in the execution of the work provided for in the contract.

13. **Architecture and Engineering**. The Grantee shall procure architectural or engineering services in accordance with of the West Virginia Code §5G. In the procurement of architectural and engineering services for projects estimated to cost \$250,000 or more, the Grantee shall publish a Class II legal ad in compliance with West Virginia Code §59-3. In the procurement of services for projects estimated to cost less than \$250,000, the Grantee shall conduct discussions with three or more professional firms.

14. **Design-Build**. The Grantee shall procure design-build projects in accordance with West Virginia Code §5-22A-1. This applies solely to building projects. Highways, water, sewer, and all other public works projects are specifically prohibited from using the design-build method.

15. **Environmental and Historical Assessment**. The Grantee shall comply with all applicable federal, state and local environmental and historical preservation laws and regulations. The Grantee acknowledges this requirement and certifies that the project will be in compliance with such laws and regulations.

16. **Equal Employment Opportunity**. With respect to employment in carrying out the program objectives, the Grantee agrees that it will not discriminate against any employee or applicant for employment because of race, color, age, religion, sex, national origin, or physical handicap.

17. **Facilities Accessible to the Handicapped**. The Grantee shall require any facilities constructed under the auspices of this Contract to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A111.1-1961, as modified (41CFR101-17.1703 and (13CFR309.14)). The Grantee shall be responsible for conducting inspections to ensure compliance with these specifications.

18. **Facilities Operation**. The Grantee shall operate and maintain all facilities constructed under the auspices of this Contract in accordance with minimum standards as may be required or prescribed by the applicable federal, state and local statute, law, ordinance or regulation as to actual construction procedures, as well as maintenance and operation of such facilities upon completion.

19. **Interest of Members of WVDEVO and Others**. No officer, member or employee of the WVDEVO or officer, member or employee of the Grantee who exercises any function or responsibilities in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this Contract which affects his personal interest or the interest of any corporation, partnership, or association in which he is directly or indirectly interested or has any personal or pecuniary interest, nor shall any officer, member of, or employee of, the Grantee or any member of its governing body, or officer, member, or employee of the contractor have any interest, direct or indirect, in this Contract or the proceeds thereof.

20. **Officials Not To Benefit.** No member of the Legislature of the State of West Virginia, or individual performing a service for the Grantee in connection with this project, shall be admitted to any share thereof or to any benefit to arise from this Agreement.

21. **Inspections of Project Records.** At any time during normal business hours and as often as the WVDEVO or its designated representative may deem necessary, there shall be made available to the WVDEVO or its designated representative for examination, all of its records with respect to all matters covered by this Contract and permit the WVDEVO or its designated representative to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records and personnel, conditions of employment and other data relating to all matters covered by this Contract during the entire time period beginning with project approval and ending three years after the final disbursement of grant funds.

22. **Project Audits.** (a) The Grantee shall cause an audit of this program to be included in the audit of the Grantee performed by the West Virginia State Auditor's Office, Chief Inspection Division, or its designated representative in accordance with West Virginia Code

§6-9-7. The audit shall be performed in conformance with generally acceptable accounting procedures.

(b) In accordance West Virginia Code §12-4-14, if the grantee is not audited by the West Virginia State Auditor's Office and the grantee received state funds or grants in the amount of fifteen thousand dollars or more, the grantee shall file an audit of the disbursement of funds with the legislative auditor's office. The audit shall be filed within two years of the disbursement of funds or grants by the grantee and shall be made by an independent certified public accountant at the cost of the corporation, association or other organization, and must show that the funds or grants were spent for the purposes intended when the grant was made. State funds or audits of state funds or grants under fifteen thousand dollars (\$15,000) may be authorized by the joint committee on government and finance to be conducted by the legislative auditor's office at no cost to the grantee.

23. **Reporting.** The Grantee shall submit any reports requested by the WVDEVO concerning financial status and program progress. Failure to provide such reports as required by WVDEVO in a timely manner shall be cause for termination of this Contract under the terms of Paragraph 7.

24. **Fiscal Management.** The Grantee shall be responsible for establishing and maintaining adequate procedures and internal financial controls governing the management and utilization of funds provided under this Contract, as well as funds provided as the Grantee's matching share.

25. **Political Activity.** No officer or employee of the Grantee whose principal employment is in connection with any activity which is financed in whole or in part pursuant to this agreement shall take part in any of the activities expressly prohibited by the Hatch Act.

26. **Repayment.** The Grantee shall refund to the State any expenditures determined to be made for an ineligible purpose for which State funds were received.

27. **Resolution of Disputes.** Resolution of disputes between the State and the Grantee concerning administrative and programmatic matters during the terms of this Agreement *shall be initiated* through consultation and discussion at the State's Administrative Offices with final decision on questions of policy or fact being determined by the Director of the Community Development Division or his/her designated representative. Nothing in this Agreement shall be construed as making the final decision on a question of law, or to limit in any manner any remedies or recourses available under applicable laws. Citizen's complaints or disputes regarding Grantee performance or actions relative to the approved project are the responsibility of the Grantee.

28. **Termination of Contract for Cause.** If, through any cause, the Grantee shall fail to fulfill in a necessary and proper manner his obligations under this Contract, or if the Grantee shall violate any of the covenants, agreements, or stipulations of this Contract, the WVDEVO shall thereupon have the right to terminate this Contract by giving written notice to the Grantee of such termination and specifying the effective date thereof, at least fifteen days before the effective date of such termination. The Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on the described project.

Notwithstanding the above, the Grantee shall not be relieved of liability to the WVDEVO for damages sustained by the WVDEVO by virtue of any breach of the Contract by the Grantee, and the WVDEVO may withhold any payments to the Grantee for the purpose of set-off until such time as the exact amount of damages due the WVDEVO from the Grantee is determined.

29. **Termination for Convenience of WVDEVO.** The WVDEVO may terminate this Contract at any time by giving written notice to the Grantee of such termination and specifying the effective date of termination. If the Contract is terminated by the WVDEVO as provided herein, the Grantee will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Grantee covered by this Contract, less payments of compensation previously made.

30. **Termination by the Grantee.** The Grantee may unilaterally rescind this agreement at any time prior to the commencement of the project. After project commencement, this agreement may be rescinded, modified, or amended only by mutual agreement. A project shall be deemed commenced when the Grantee makes any expenditure or incurs any obligation with respect to the project.

31. **Signing.** This Contract shall be signed by the Executive Director of the West Virginia Development Office and by the Mayor of the City of Nitro upon authorization of the City of Nitro by adoption and passage of a resolution, motion or similar official action.

IN WITNESS WHEREOF, the WVDEVO and the Grantee have executed this Agreement as of the date first above written.

STATE OF WEST VIRGINIA
WEST VIRGINIA DEVELOPMENT OFFICE

Kelley M. Goes, Executive Director

CITY OF NITRO

By: _____
Rusty Casto, Mayor

Federal Employee Identification Number

F.E.I.N.

ORDINANCE 10-1

An Ordinance to amend and reenact Sections 1306.1(d) and 1306.2(c), Chapter 1306 of the Codified Ordinances of the City of Nitro, West Virginia, as amended; and to amend and reenact Section 1311.2(b), Chapter 1311 of said Codified Ordinances, all relating to the licensing of gambling establishments; establishing a two week time period during which the minimum distances between gambling establishments is reduced to 1,000 feet; establishing after the completion of the two week period a new distance requirement of 6,000 feet between gambling establishments; establishing municipal requirements necessary for the licensing of a new gambling establishment; and authorizing gambling establishments on newly annexed property to continue as a non-conforming use; establishing a two week time period when the distance between gambling establishments is measured door-to-door; establishing after the completion of the two week period the distance between gambling establishments is measured in a straight line.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, that Sections 1306.1(d) and 1306.2(c), Chapter 1306 of the Codified Ordinances of the City of Nitro, West Virginia, as amended, be amended and reenacted; and Section 1311.2(b), Chapter 1311 of said Codified Ordinances be amended and reenacted, all to read as follows:

CHAPTER 1306 BUSINESS ZONES

Section 1306.1. "B-1" Local or Neighborhood Business Zones.

1306.1(a). Permitted Uses. In any Local or Neighborhood Business Zone, the use of land and buildings shall be limited to any neighborhood retail business or service establishment, supplying commodities or performing services intended primarily for residents of the surrounding neighborhood, such as:

- 1306.1(a)(1). Barber or beauty shop,
- 1306.1(a)(2). Business or professional office,
- 1306.1(a)(3). Clothes cleaning or laundry pick up station,
- 1306.1(a)(4). Self-service laundry,
- 1306.1(a)(5). Delicatessen,
- 1306.1(a)(6). Drug store,
- 1306.1(a)(7). Grocery store,
- 1306.1(a)(8). Meat market,
- 1306.1(a)(9). Convenience and neighborhood commercial centers (excluding wholesale sales),
- 1306.1(a)(10). Family and group day-care,
- 1306.1(a)(11). Libraries,
- 1306.1(a)(12). Places of worship,
- 1306.1(a)(13). Police and fire stations, and other government services,
- 1306.1(a)(14). Bed and breakfast facility, and
- 1306.1(a)(15). Similar activities.

1306.1(b). Along State and Federal Highways.

1306.1(b)(1). Along State or Federal highways, the above permissive uses may be permitted but shall not be limited to supplying commodities or performing services for residents of the neighborhood.

1306.1(b)(2). Other permitted uses along State and federal highways, such as:

- 1306.1(b)(2)(A). Antique or gift shop,

1306.1(b)(2)(B). Gasoline service stations,
 1306.1(b)(2)(C). Automobile sales,
 1306.1(b)(2)(D). Automobile service garages, see Table 1310.1(b)(1) of this Part Thirteen for required vehicle parking,

1306.1(b)(2)(E). Automobile or trailer sales lot,
 1306.1(b)(2)(F). Commercial parking lot,
 1306.1(b)(2)(G). Drive-in eating or drinking establishment,
 1306.1(b)(2)(H). Motel and hotel,
 1306.1(b)(2)(I). Tourist home, and
 1306.1(b)(2)(J). Similar businesses.

1306.1(b)(3). Automobile body repair shops, but see Table 1310.1(b)(1) of this Part Thirteen for required vehicle parking,

1306.1(b)(4). Mortuary and funeral homes,
 1306.1(b)(5). Public utility stations, and
 1306.1(b)(6). Restaurants.
 1306.1(b)(7). Business or financial services,
 1306.1(b)(8). Light commercial (excluding wholesale sales),
 1306.1(b)(9). Group care facilities,
 1306.1(b)(10). Physical fitness centers,
 1306.1(b)(11). Cultural and fraternal activities,
 1306.1(b)(12). Rehabilitation centers,
 1306.1(b)(13). Schools and colleges operated for profit (including commercial), and
 1306.1(b)(14). Vocational and trade schools,
 1306.1(b)(15). Self-storage warehouses,
 1306.1(b)(16). Commercial printing and publishing, and
 1306.1(b)(16). Similar businesses.

1306.1(c). Permitted Accessory Uses. In Local or Neighborhood Business Zones, including those along State and Federal Highways, the following accessory buildings and uses shall be permitted .

1306.1(c)(1). Accessory parking areas.

1306.1(c)(2). Other accessory uses customarily incidental to a principal permitted use, including signs attached flat against a building, and elevated signs not exceeding fifty (50) square feet in area per face, provided that these are at least fifteen (15) feet from any street right-of-way.

1306.1(d). Prohibited Uses.

1306.1(d)(1). Any residential or industrial use except that which is clearly necessary for and incidental to the conduct of a permitted retail business or service of the premises.

1306.1(d)(2). Gambling establishments.

1306.1(d)(2)(A). On and after the effective date of this paragraph in ~~January~~ on February 2, 2010, gambling establishments shall not be located within 3,000 feet of each other: Provided, That on and after March 3, 2010, gambling establishments shall not be located within 1,000 feet of each other: Provided, however, That on and after March 17, 2010, gambling establishments shall not be located within 6,000 feet of each other.

1306.1(d)(2)(B). On and after the effective date of this paragraph in ~~January~~ on February 2, 2010, no gambling establishment shall be located within 3,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City: Provided, That on and after March 3, 2010, no gambling establishment shall be located within 1,000 feet of any church, place of worship, library, school, community center, or publicly

owned property designated as a playground, park and under the control of the City: Provided, however, That on and after March 17, 2010, no gambling establishment shall be located within 6,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City.

1306.1(d)(2)(C). On and after March 3, 2010, any new gambling establishment not already licensed and in existence in the City shall satisfy the following requirements: it shall be an existing bar or restaurant; it shall have a current business license issued under the authority of section 733.14 of this Code; and it shall be current and not delinquent in the payment of any municipal fees or taxes.

1306.1(d)(2)(D). Upon the annexation into the City of any real property upon which is situated a legally licensed and operating gambling establishment, the use of the property as a gambling establishment, even if a nonconforming use, shall continue until such time as the West Virginia Lottery Commission repeals, withdraws or takes such other action that invalidates the license or licenses required to allow legal gambling to occur at the gambling establishment.

1306.1(e). Lot Areas. In any Local or Neighborhood Business Zone, no lot shall be less than 7,200 square feet.

1306.1(f). Lot Widths. In any Local or Neighborhood Business Zone, no lot shall be less than fifty (50) feet in width.

1306.1(g). Front Yards. In any Local or Neighborhood Business Zone, no lot shall have a front yard of less than twenty (20) feet.

1306.1(h). Side Yards. In any Local or Neighborhood Business Zone, common walls shall be permitted and no side yards shall be required; Provided, That where a non-residential use abuts a residential district, residential requirements must be observed where the property abuts.

1306.1(i). Rear Yards. In Local or Neighborhood Business Zone, rear yards shall not be less than twenty (20) feet in width.

1306.1(j). Building Height. In any Local or Neighborhood Business Zone, no building or structure shall exceed three (3) stories.

1306.1(k). Off-Street Parking and Loading Requirements. In any Local or Neighborhood Business Zone, off-street parking and loading requirements shall be scheduled according to the provisions of Table 1310.1.

Section 1306.2. "B-2" Central Business Zone.

1306.2(a). Permitted Uses. In any Central Business Zone, the following buildings and uses only are permitted:

1306.2(a)(1). All uses permitted in "B-1" Local or Neighborhood Business Zones.

1306.2(a)(2). Stores and shops for the conducting of any retail business.

1306.2(a)(3). Personal service shops.

1306.2(a)(4). Banks, offices, and studios.

1306.2(a)(5). Shops for custom work, and shops for making articles or products to be sold at retail on the premises.

1306.2(a)(6). Restaurants, cafes, and similar establishments.

1306.2(a)(7). Theaters, assembly halls, bowling alleys, amusement centers, golf driving ranges,

miniature golf courses, ice rinks, pool and billiard halls (and similar recreational uses), and other public recreation uses.

- 1306.2(a)(8). Retail building materials supply sales (wholesale and retail),
- 1306.2(a)(9). Cultural institutions (such as museums and art galleries),
- 1306.2(a)(10). Community commercial centers (including wholesale and retail sales),
- 1306.2(a)(11). Health and medical institutions (such as hospitals),
- 1306.2(a)(12). Hotels and motels (excluding other residential occupancies),
- 1306.2(a)(13). Commercial printing and publishing,
- 1306.2(a)(14). Taverns and cocktail lounges,
- 1306.2(a)(15). Regional commercial centers (including wholesale and retail sales), and
- 1306.2(a)(15). Other service establishments or retail or wholesale businesses similar in nature to those listed above.

1306.2(b). Permitted Accessory Uses. In any Central Business Zone, the following accessory uses shall be permitted:

- 1306.2(b)(1). All uses permitted in "B-1" Local or Neighborhood Business Zone.
- 1306.2(b)(2). Other accessory uses customarily incidental to a permitted principal use.
 - 1306.2(b)(2)(A). All signs overhanging public ways shall conform to general ordinances of the City and Chapter 1312 of this Part Thirteen, now or hereinafter adopted.
 - 1306.2(b)(2)(B). Signs, parking areas, and buildings may be illuminated providing the use of such illumination does not confuse, blind, or distract vehicle operators on the highways or streets.

1306.2(c). Prohibited Uses. In any Central Business Zone, the following uses and buildings are prohibited.

1306.2(c)(1). Except for uses permitted in Section 1306.2(a) of this Part Thirteen, all uses prohibited in "B-1" Local or Neighborhood Business Zones.

1306.2(c)(2). Any residential commercial or industrial use, which in the opinion of the Board of Appeals may become noxious or offensive in a "B-2" Central Business Zones.

1306.2(c)(3). Gambling establishments.

1306.2(c)(3)(A). On and after the effective dates of this paragraph in January on February 2, 2010, gambling establishments shall not be located within 3,000 feet of each other: Provided, That on and after March 3, 2010, gambling establishments shall not be located within 1,000 feet of each other: Provided, however, That on and after March 17, 2010, gambling establishments shall not be located within 6,000 feet of each other.

1306.2(c)(3)(B). On and after the effective date of this paragraph in January on February 2, 2010, no gambling establishment shall be located within 3,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City: Provided, That on and after March 3, 2010, no gambling establishment shall be located within 1,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City: Provided, however, That on and after March 17, 2010, no gambling establishment shall be located within 6,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City.

1306.2(c)(3)(C). On and after March 3, 2010, any new gambling establishment not already licensed and in existence in the City shall satisfy the following requirements: it shall be an existing bar or restaurant; it shall have a current business license issued under the authority of section 733.14 of this Code; and it shall be current and not delinquent in the payment of any municipal fees or taxes.

1306.2(c)(3)(D). Upon the annexation into the City of any real property upon which is situated a legally licensed and operating gambling establishment, the use of the property as a gambling

establishment, even if a nonconforming use, shall continue until such time as the West Virginia Lottery Commission repeals, withdraws or takes such other action that invalidates the license or licenses required to allow legal gambling to occur at the gambling establishment.

1306.2(d). Front Yards. In any Central Business Zone, no front yard shall be required.

1306.2(e). Side Yards. Common wall shall be permitted and no side yards are required.

CHAPTER 1311 SPECIAL REGULATIONS

SECTION 1311.2 Private Clubs

1311.2(a) General. A conditional use permit shall be obtained for all private clubs.

1311.2(b) Provisions.

1311.2(b)(1) No private clubs shall be located within 1,000 feet of a park, school, day-care center, library or religious or cultural activity.

1311.2(b)(2) No private clubs shall be located within 500 feet of any other private clubs or any agricultural or residential zone boundary.

1311.2(b)(3) Such distances shall be measured in a straight line without regard to intervening structures, topography and zoning: Provided, That on and after March 3, 2010, such distances shall be measured door-to-door with regard to intervening structures, topography and zoning: Provided however, That on and after March 17, 2010, such distances shall be measured in a straight line without regard to intervening structures, topography and zoning.

1311.2(b)(4) Private clubs shall not be located in R-1 or R-2 zones and shall not be permitted as a home occupation.

Passed on First Reading

Dec. 15, 2009

Passed on Second Reading

Jan. 19, 2010

Rusty Casto, Mayor

Rita Cox

Rita Cox, Recorder

NITRO CITY COUNCIL MEETING
TUESDAY, FEBRUARY 2, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm. Attending the meeting along with Mayor Casto were Councilmen at Large Dave Casebolt, Bob Fields, and Jim McKay, Ward 1 Councilman A. A. "Joe" Savilla, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Recorder Rita Cox, City Treasurer John Young, and City Attorney Richie Robb.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Councilman A. A. "Joe" Savilla and the Pledge of Allegiance was led by Recorder Rita Cox.

APPROVAL OF COUNCIL MINUTES: COUNCILMAN JIM MCKAY MOVED THE MINUTES OF THE JANUARY 19, 2010 MEETING BE APPROVED AS WRITTEN WITH A SECOND BY COUNCILMAN BILL JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

FUTURE DATES OF COUNCIL: Mayor Rusty Casto said the future dates for Council are February 16, March 2, and March 16, 2010.

CITIZEN OF THE MONTH: Mayor Rusty Casto yielded the floor to Recorder Rita Cox who announced the February Citizen of the Month was Paul Ronk, pastor of Kingsway Church. Reverend Ronk and his daughters have gone to Haiti to aid in the recovery from the recent earthquake. He and his family have lived there in the past and can speak the language. His daughter's are staying for several weeks and his trip is open ended, as long as he can help and is financially able. The Nitro Mission Team donated \$1000.00 to the trip. Mayor Casto said he would have Reverend Ronk attend a meeting of Council when he returns.

OLD BUSINESS:

SECOND READING PLANNING AND ZONING ORDINANCE: Richie Robb presented the Second Reading of the Planning and Zoning Ordinance by title only. He indicated to Council that the current reading of the ordinance contains the 3000 feet distance between existing video lottery establishments and 3000 feet from schools, churches, library and community centers as passed by Council in 2004.

COUNCILMAN A. A. "JOE" SAVILLA MOVED THE PLANNING AND ZONING ORDINANCE BE PASSED ON SECOND READING. THE MOTION WAS SECONDED BY COUNCILMAN BOB FIELDS. VOTING FOR THE MOTION WERE COUNCILMEN MCKAY, CASEBOLT, SAVILLA, AND FIELDS, AND RECORDER COX. VOTING IN OPPOSITION TO THE MOTION WERE COUNCILMEN JAVINS, RACER, AND MATTHEWS. THE MOTION CARRIED.

BUSINESS ENHANCEMENT COMMITTEE/STREETSCAPE: Mayor Rusty Casto yielded the floor to Councilman Dave Casebolt. COUNCILMAN CASEBOLT MOVED THAT MAYOR CASTO APPOINT A BUSINESS ENHANCEMENT COMMITTEE CONSISTING OF THE THREE AT LARGE COUNCILMEN, ONE WARD COUNCILMAN, AND THE CITY TREASURER. THE MOTION WAS SECONDED BY COUNCILMAN SAVILLA. Councilman Casebolt explained the responsibility of the committee will be to recommend incentives that will encourage developers and current business owners to invest in or upgrade commercial structures within the city. The goal of the committee would be to have a plan in place before the initial construction phase of streetscape. The forming of the committee could also assist the NDA in the effort to reestablish the Nitro Business Association. THE MOTION PASSED WITH UNANIMOUS APPROVAL.

NEW BUSINESS:

FIRST READING CONVENTION AND VISITORS BUREAU ORDINANCE: Councilman Javins gave each Councilman a copy of the proposed bylaws for the Convention and Visitors Bureau. COUNCILMAN CASEBOLT MOVED THE ISSUE BE TABLED UNTIL THE NEXT MEETING WITH A SECOND BY COUNCILMAN MCKAY. He said that Council could have an opportunity to read over the bylaws for the next meeting. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

ATTORNEY REPORT: Richie Robb said that he had no report but would answer any questions from the Mayor or Council.

TREASURER REPORT: John Young said that he had prepared the 2009 Police Pension contribution and the 2008 Fire Pension contribution. RECORDER RITA COX MOVED COUNCIL PASS THE RESOLUTION FUNDING THE NITRO POLICE DEPARTMENT PENSION FOR FISCAL YEAR 2009 WITH THE WV STATE AMOUNT BEING \$111,431.64. THE MOTION WAS SECONDED BY COUNCILMAN A. A. "JOE" SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

RECORDER RITA COX MOVED COUNCIL PASS THE RESOLUTION FUNDING THE NITRO FIRE DEPARTMENT PENSION FOR FISCAL YEAR 2008 WITH THE WV STATE AMOUNT BEING \$91,534.46. THE MOTION WAS SECONDED BY COUNCILMAN JIM MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

City Treasurer John Young said that the Building Department salary has not been funded through the methods projected and that will make the city out of compliance when audited. He said that he has talked with Richie Robb about the legality of funding the Building Department salary by paying off two vehicle payments (fire truck and Dodge) by using some of the money from the tire fire lawsuit. This would free up money in the Fire Department budget that could be used for the Building Department salary. Councilman Craig Matthews said that the city is actually short on money to be used for a new fire fighter. He said he had spoken with two attorneys, Slicer and McLaughlin, and was told that this was not how the money was to be used. Councilman A. A. "Joe" Savilla said it was his understanding that the money was initially to have gone to the Nitro Firemen's Association but was given to the city instead. He said he was not sure that this was a proper use of the money. He asked if there was an alternative. Recorder Rita Cox asked about the possibility of budget cuts. COUNCILMAN DAVE CASEBOLT MOVED THAT THE MONEY BE USED TO PAY THE OUTSTANDING DEBT ON THE FIRETRUCK AND THE DODGE DAKOTA WITH A SECOND BY COUNCILMAN BILL JAVINS. Councilman Craig Matthews said he was concerned that the lawyers from the tire fire could request a refund of the money if it is not used as spelled out in the agreement. Richie Robb said he would like to see the court order that was made at the time of the settlement. Councilman Bob Fields reminded Council of the \$100,000.00 that had been set aside. John Young said that \$60,000.00 has been committed for Streetscape which left \$40,000.00 that could be used. Mayor Rusty Casto requested that Richie Robb be given time to look over the court order and report back at the next meeting. John Young said he could wait until next meeting to have a decision from Council. COUNCILMAN DAVE CASEBOLT MOVED THAT THE MOTION BE TABLED WITH A SECOND FROM COUNCILMAN A. A. "JOE" SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

COUNCIL COMMENTS:

MAYOR CASTO MOVED THAT HARRY MILLER BE REAPPOINTED TO THE KANAWHA COUNTY EMERGENCY AMBULANCE AUTHORITY WITH A SECOND BY COUNCILMAN JIM MCKAY. COUNCIL VOTED UNANIMOUSLY FOR THE MOTION TO CARRY.

Mayor Rusty Casto said that the city would host Chris Fletcher of the Morgantown Planning Commission on February 23 from 5:00 pm to 8:00 pm. Ronnie King said the event would be held in the Senior Center Room at the Nitro Community Center and other Planning Commissions from the County area were invited to attend. Mark Felton of the Regional Intergovernmental Council will be the area coordinator for the event.

Mayor Rusty Casto announced that he would be cutting the ribbon for the opening of the new Buffalo Wild Wings Restaurant at Nitro Marketplace on Saturday, February 6 at 4:00 pm,

Councilman Bill Javins thanked Councilman Jim McKay and John Montgomery for the work they did on the Convention and Visitor Bureau By-Laws.

Councilman Craig Matthews said that St. Francis Hospital has requested to come back to the Nitro Park

area for the employee picnic again this year.

Councilman Dave Casebolt suggested that a Proclamation be done for Mary Trout acknowledging all the work she has done for the city as Councilwoman, NDA member and president, library board and all the other work she has done. He suggested she be made Citizen of the Month.

PUBLIC COMMENTS:

John Montgomery said the Ordinance Committee would meet at 7:00 pm on Thursday, February 4 in Council Chambers.

Councilman Bill Javins said the Convention and Visitors Bureau Committee would meet at 6:00 pm on Thursday, February 4 in Council Chambers.

Melody McCormick announced that there would be Special Olympics Bowling at Town and Country Bowling alley on March 13 at 11:45 am. This is the fifth year that it has been held there and she said Tim Allen of Town and Country has always been very cooperative and supportive.

ADJOURNMENT:

COUNCILMAN JIM MCKAY MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN CRAIG MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

POLICE - FISCAL 2009

The above named municipal treasurer further certifies that a report of the actuarial soundness of the pension fund for the 2009 fiscal year, prepared in accordance with Chapter 8-22-26a (f) of the West Virginia Code, has previously been transferred to the State Treasurer's Office; and

The above named municipal treasurer further certifies that the following amounts are true and correct:

- A. Actual amount contributed by the municipality's covered employees during the fiscal year ending June 30, 2009. \$ 46,637.79
- B. State Share \$ 111,431.64
- C. Municipal Obligation \$ 103,496.67
- D. **TOTAL** \$ 261,566.10

The previously named municipal treasurer further certified that of the supplemental amount indicated in Item C: \$ 103,496.67 has been irrevocably contributed to the previously named pension and relief fund. It is understood that if this amount is less than the supplemental amount indicated in Item C, then only a portion of the municipality's allocable amount (from the Municipal Pensions and Protection Fund) will be distributed. The portion shall be determined by dividing the amount contributed above by the total city obligation as shown in item C. Remaining proportional shares will be distributed only upon additional certification that the municipality has contributed additional monies due the pension and relief fund by the previously named treasurer.

The total year to date amount of irrevocable contribution is: \$ 103,496.67 which includes the above additional contribution.

Certified by: _____
Signature of Municipal Treasurer

Certified on: _____
Date

Phone: _____

The above named municipal treasurer further certifies that a report of the actuarial soundness of the pension fund for the 2008 fiscal year, prepared in accordance with Chapter 8-22-26a (f) of the West Virginia Code, has previously been transferred to the State Treasurer's Office; and

The above named municipal treasurer further certifies that the following amounts are true and correct:

- | | | |
|----|--|----------------------|
| A. | Actual amount contributed by the municipality's covered employees during the fiscal year ending June 30, 2008. | \$ <u>31,092.55</u> |
| B. | State Share | \$ <u>91,534.46</u> |
| C. | Municipal Obligation | \$ <u>90,123.47</u> |
| D. | TOTAL | \$ <u>212,750.48</u> |

The previously named municipal treasurer further certified that of the supplemental amount indicated in Item C: \$ 90,123.47 has been irrevocably contributed to the previously named pension and relief fund. It is understood that if this amount is less than the supplemental amount indicated in Item C, then only a portion of the municipality's allocable amount (from the Municipal Pensions and Protection Fund) will be distributed. The portion shall be determined by dividing the amount contributed above by the total city obligation as shown in item C. Remaining proportional shares will be distributed only upon additional certification that the municipality has contributed additional monies due the pension and relief fund by the previously named treasurer.

The total year to date amount of irrevocable contribution is: \$ 90,123.47 which includes the above additional contribution.

Certified by: _____

Signature of Municipal Treasurer

Certified on: _____

Date

Phone: (304) 755-1083



Kanawha County Emergency Ambulance Authority

POST OFFICE BOX 292
CHARLESTON, WEST VIRGINIA 25321
304-345-2312

601 BROOKS STREET
CHARLESTON, WV 25301

February 1, 2010

City of Nitro
Mayor's Office
Nitro, WV 25143

Re: Re-Appointment Letter – Mr. Harry Miller

Dear City of Dunbar-Mayor's Office

Our records indicate that the letter of appointment for Harry Miller to the Kanawha County Emergency Ambulance Authority Board of Directors has expired. A current letter of re-appointment indicative of the term end date is required for our yearly audits. To that regard, please forward a copy of this information to letterhead address listed. A prompt response would be appreciated.

Should you have any questions to this regard, do not hesitate to contact me at 304.345.2312, Extension 130.

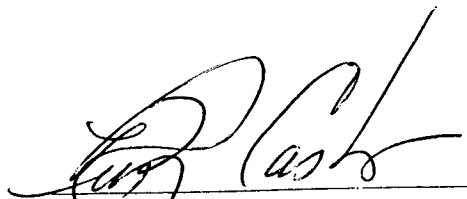
Sincerely,

Tammy Hatton
Administrative Assistant

Cc: Mr. Harry Miller

RESOLUTION

This resolution is to authorize the Nitro Police Department to apply for Funding through the Division of Criminal Service to hire, train a Preventive Resource Officer. One of the officers from Nitro Police Department will be Assigned to serve in this capacity at Nitro High School. The primary Purpose of this help educate teachers and students on how to keep themselves safe. This officer will help to ensure that the students know And understand the rules and regulations that govern them while they are On school property.



Mayor Rusty Casto

Rita Cox, City Recorder

Passed by Council on February 2, 2010.

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, FEBRUARY 16, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm. In attendance along with Mayor Casto were Ward 1 Councilman A. A. "Joe" Savilla, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Councilmen at Large Dave Casebolt, Bob Fields, Jim McKay, Recorder Rita Cox, City Treasurer John Young, and City Attorney Richie Robb

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Councilman Jim McKay. The Pledge of Allegiance was led by visiting Boy Scouts who are working on Scout badges.

FUTURE DATES OF COUNCIL: Mayor Casto announced the future dates of Council are March 2 and March 16, 2010 and April 6 and April 20, 2010.

APPROVAL OF COUNCIL MINUTES: COUNCILMAN A. A. "JOE" SAVILLA MOVED THE MINUTES OF THE FEBRUARY 2, 2010 MEETING OF COUNCIL BE APPROVED. COUNCILMAN BILL JAVINS SECONDED THE MOTION. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

OLD BUSINESS:

REPORT ON TIRE FIRE SETTLEMENT MONEY GIVEN TO NITRO FIRE DEPARTMENT: City Attorney Richie Robb said that he was asked to express his opinion on the use of this money to pay equipment already purchased and that in his opinion, the use that City Treasurer John Young had proposed had met the spirit of the lawsuit. Mayor Casto said that due to a pending lawsuit he felt it was better not to spend the money as Mr. Young proposed. Councilman Matthews said he would like to see a meeting with the Fire Association to propose a way to use the money but with a planned purchase for the Nitro Fire Department in the future.

CONVENTION AND VISITORS BUREAU BYLAWS: Councilman Bill Javins thanked the people who had been working on the by laws and asked the members of Council for input on the bylaws as presented. Councilman Craig Matthews requested the "immediate past chairman" be left off of the executive committee. COUNCILMAN DAVE CASEBOLT MOVED THE BYLAWS BE PASSED AS AMENDED WITH A SECOND BY COUNCILMAN JIM MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

CONVENTION AND VISITORS BUREAU BOARD OF DIRECTORS: COUNCILMAN BILL JAVINS MOVED THE BOARD OF DIRECTORS FOR THE CONVENTION AND VISITORS BUREAU BE APPROVED AS PRESENTED: JACK LEGG, HERCHEL FACEMYRE, LEONARD WOMBLE, NORA HELM AND LEANN BRIGHT. Councilman A. A. "Joe" Savilla said he thinks the Mayor and members of Council should appoint the Board of Directors for the Convention and Visitors Bureau since this is a strong mayor/weak council form of city government. COUNCILMAN SAVILLA MOVED THE MOTION BE TABLED TO APPOINT THE MEMBERS OF THE CONVENTION AND VISITORS BUREAU AS PRESENTED WITH A SECOND BY COUNCILMAN BOB FIELDS. VOTING FOR THE MOTION WERE COUNCILMEN SAVILLA, MATTHEWS, FIELDS, AND RECORDER COX. VOTING AGAINST THE MOTION WERE COUNCILMEN MCKAY, CASEBOLT, RACER, AND JAVINS. MAYOR CASTO VOTED FOR THE MOTION TO TABLE. THE MOTION CARRIED.

FIRST READING AMENDED PLANNING AND ZONING ORDINANCE: City Attorney Richie Robb read the amendment An Ordinance to amend and reenact Sections 1306.1(d) and 1306.2(c), Chapter 1306, Part 13 of the Codified Ordinances of the City of Nitro, WV, all relating to the licensing of gambling establishments. Councilman Savilla asked why this was coming up again since Council recently passed a Planning and Zoning Ordinance. Richie Robb said that the Ordinance Committee had voted to give a two week time frame where establishments that are already in existence as a bar or restaurant with a WV license, cannot have any outstanding fees to the city and for two weeks it will be 1000 feet. John Montgomery said

that after two weeks it will go to 6000 feet. He said that the Council needed to pass the Planning and Zoning Ordinance last time because there was a family who needed changes made no later than the first part of February. This amended ordinance probably could not be passed in time. Councilman Savilla said that the two week window was to allow one business to slip through the cracks. Councilman Casebolt that was exactly right. John Montgomery said he was asked to draft it, he drafted it and the Ordinance Committee voted for it. He said he thought when the committee votes to bring something to Council, then it should be brought to Council. Mayor Casto said that this meant the distance between churches, schools, playgrounds, libraries, parks, and publicly owned property, and other video lottery establishments will be made from 3000 feet to 1000 feet for a two week time period and then it would go to 6000 feet. Councilman Casebolt said that it would be a win/win/win situation for the city. By doing this it will allow one more establishment into the city instead of three more. This is a win for people who want to see fewer gambling establishments. This opens three spots for now but will reduce to five, four other spots: Ginns, McDonalds, Checkers and Wendys. Councilman Savilla said this was to let one business slip through the cracks. Councilman Casebolt said that making it be an established bar or restaurant is what should have been done before the first one was allowed. He said that Recorder Cox says we get little revenue from these establishments and by having them to be already established as a bar or restaurant means we are already getting revenue from them. Councilman Matthews said he thought they were required to sell food and drink. Councilman Casebolt said that this was to help an existing business. He said that we are losing businesses, we have lost three car lots and other businesses. Councilman Casebolt said he thought this showed a very strong willingness on Council's part to help existing business, that we will bend over backwards to help these businesses. He said the Business Enhancement Committee and Streetscape are two things we are doing to help existing business. He said that he had voted for the Ordinance as it was presented recently was to help one person and he did want to help that person. Councilman Savilla asked if this business fell within the 1000 feet requirement that would be in effect for two weeks. Ron King said that the measurement was done in the original application and the measurement in a straight line would be 800 feet. Mayor Casto said that the way it was walked door to door it would be 1000 feet. Ron King pointed out that in the recently passed Planning and Zoning Ordinance it was to be measured in a straight line. He said the definition in the Planning and Zoning Ordinance passed on February 2, 2010 said it was to be measured in a straight line. Councilman Savilla said does that mean that Council will have to come back in two weeks and make it 800 feet. Councilman Casebolt said that would be done tonight. Recorder Cox said that she was concerned that the business might change hands and the city could not control who owned the location. Recorder Cox said that once a location has been granted video lottery it cannot be denied at that location even if it changes ownership. Why do we have to have "one for none, why not none for none". Councilman Savilla said that car dealers did not choose to go out of business and that home sales were ok. Councilman Casebolt said that home sales were down. Councilman Racer said that this would send a message that we are business friendly. Councilman Savilla said that businesses that were denied license in the past could sue because an exception was made for one business. Councilman Matthews said he thought that under 1000 feet was too close. Ron King said that 1311.2 b 3 said the distance was to be measured in a straight line. Councilman Casebolt said he thought it should be changed to door to door. Richie Robb said the possibility of a lawsuit was there. COUNCILMAN CASEBOLT MOVED THAT THE AMENDED PLANNING AND ZONING ORDINANCE RELATING TO DISTANCES BETWEEN GAMBLING ESTABLISHMENTS, PLAYGROUND, PARKS, CHURCH, PLACE OF WORSHIP, LIBRARY, SCHOOL, COMMUNITY CENTER OR PUBLICLY OWNED PROPERTY BE 1000 FEET EFFECTIVE MARCH 3, 2010 TO MARCH 16, 2010 WITH THE DISTANCE BEING MEASURED DOOR TO DOOR AND BEGINNING MARCH 17, 2010 NO GAMBLING ESTABLISHMENT SHALL BE LOCATED WITHIN 6000 FEET OF ANY CHURCH, PLACE OF WORSHIP, LIBRARY, SCHOOL, COMMUNITY CENTER, OR PUBLICLY OWNED PROPERTY DESIGNATED AS A PLAYGROUND, PARK AND UNDER THE CONTROL OF THE CITY WITH THE MEASUREMENT REVERTING TO STRAIGHT LINE. THE MOTION WAS SECONDED BY COUNCILMAN JAVINS. VOTING FOR THE MOTION WERE COUNCILMEN CASEBOLT, MATTHEWS, RACER, JAVINS, AND MCKAY. VOTING IN OPPOSITION TO THE MOTION WERE RECORDER COX, AND COUNCILMEN FIELDS AND SAVILLA. THE MOTION CARRIED.

NEW BUSINESS:

RIVERS TO RIDGES HERITAGE TRAIL: Recorder Rita Cox said she had spoken to Lowell Wilkes who said a trail was being planned beginning at the Nitro-St. Albans Bridge going to Pt. Pleasant, crossing the Kanawha River coming to Route 35 and ending at Route 60 at the Nitro-St. Albans Bridge connecting with the Midland Trail that is Route 60. There will be a corridor management plan developed and the program has already been approved the WV Department of Highways.

NITRO DEVELOPMENT AUTHORITY APPOINTMENTS: Councilman Jim McKay said the president of the NDA is Herschel Facemyre, vice president is Jim McKay, Secretary is Carmen Kostelansky, and treasurer is Susan Graves. He said the financial report should be ready within two council meetings.

PROCLAMATION HONORING MARY TROUT: Mayor Casto announced that outgoing president of the NDA is to be honored with a Proclamation commemorating the work she has done and continues to do for the city. RECORDER COX MOVED THE PROCLAMATION BY COUNCIL BE MADE A PART OF THE MINUTES WITH A SECOND BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

ATTORNEY REPORT: Richie Robb said he had no report beyond what was already covered in Council but was prepared to answer any questions.

TREASURER REPORT: John Young said that revenues are below what was budgeted and that expenses needed to be cut back. He said he estimates revenues will be down \$70,000.00 to \$80,000.00 on the year. He said we are not the only ones facing this challenge and we need to get through this year. Recorder Cox asked if this means that departments will have to do budget cuts. John Young recommended that each department cut the budget by 2 to 2 ½ %. Councilman Matthews suggested that these cuts be brought to the Monday, February 22, 9:00 am department head meeting.

COUNCIL COMMENTS:

Councilman Matthews said the City of Dunbar was looking at the possibility of annexing Institute.

Recorder Cox said she had attended the WV Auditor Budget Process training earlier in the day along with John Young.

Councilman Casebolt said he had attended a recent LSIC meeting at Nitro Elementary and said that there was a problem with children exiting cars and would like to see a police presence between 7:15 to 8:00 am at the school. He said there was a Business Enhancement meeting at 10:00 am tomorrow in John Young's office.

Councilman McKay said there would be a CVB meeting at 6:00 on February 18 followed by an Ordinance Committee at 7:00 both in Council Chambers.

Ron King said there was a Comprehensive Plan meeting in the Senior Center on February 23 from 5 to 8 pm. Visiting speaker will be Chris Fletcher, city planner of Morgantown.

PUBLIC COMMENT:

Bob Schamber said his wife is improving.

Herschel Facemyre said the Census Bureau will have an office in the Community Center.

ADJOURNMENT:

COUNCILMAN MCKAY MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION.


RUSTY CASTO, MAYOR


RITA COX, RECORDER



February 16, 2010

Proclamation in Honor of Mary Trout


In honor of Mary Trout and her many
Years of volunteer work on the
Nitro Development Authority;

Her service on the Nitro Library Board;

As an elected member of Nitro City
Council,

And her many generous acts of good
citizenship as a resident of Nitro,
Always working to make Nitro a better
place to live and work,

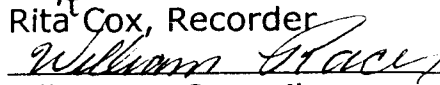
Mayor Rusty Casto and the Members of
Nitro City Council say Thank You.



Rusty Casto, Mayor



Rita Cox, Recorder



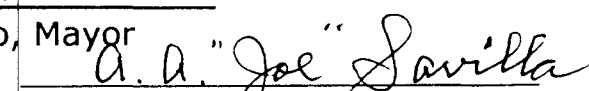
Bill Racer, Councilman



Bill Javins, Councilman



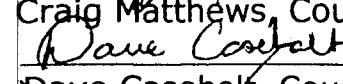
Bob Fields, Councilman



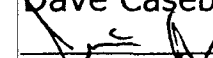
A. A. "Joe" Savilla, Councilman



Craig Matthews, Councilman



Dave Casebolt, Councilman



Jim McKay, Councilman

DRAFT

**NITRO CONVENTION AND
VISITORS BUREAU, INC
BYLAWS**

February 16, 2010

ARTICLE I

NAME AND LOCATION

Section 1. NAME

This corporation shall be known as the Nitro Convention and Visitors Bureau, Inc.

Section 2. LOCATION

The principal office of this corporation shall be located within the city limits of the City of Nitro, West Virginia, at such address as the Board of Directors may determine or the affairs of the corporation may require. The business of the corporation may, however, be transacted at such other place or places within the State of West Virginia, or elsewhere as the Board of Directors may from time to time determine.

ARTICLE II

NATURE AND LIMITATIONS

Section 1. NATURE

This corporation shall be operated on a not-for-profit basis within the meaning of Section 501(c)(6) of the Internal Revenue Code of 1986, as amended, and shall exercise such powers as are permitted to not-for-profit corporations under the provisions of Chapter 31E, Article 3 of the Code of West Virginia.

Section 2. LIMITATIONS

- A. This corporation shall not be used for the promotion of any political party, or the candidacy of any person seeking public office.
- B. No Officer or Director of the corporation shall receive directly or indirectly any compensation for services rendered in his/her capacity as an Officer or Director, or in any other capacity within the corporation, unless authorized by the by-laws of the corporation or the Board of Directors. However, members of the Board of Directors may be reimbursed for all reasonable expenses incurred in the performance of their duties as an Officer or Director upon approval of the Board of Directors and submitted to the Nitro City Council.

ARTICLE III

PURPOSE AND OBJECTIVES

Section 1. PURPOSE

The purpose of the corporation shall be to operate a Convention and Visitors Bureau for the City of Nitro West Virginia, so as to represent the common interests of Tourism to the City of Nitro and to encourage increased economic activity and development in order to further the general welfare and prosperity of the City of Nitro, West Virginia.

Section 2. OBJECTIVES

The objectives of the corporation include, but are not limited to the following;

- A. To enhance and develop the economic prosperity of the area through the promotion of the City of Nitro, West Virginia as a viable visitor group tour and meeting destination.
- B. To bring cohesion to the tourism industry and to increase its recognition by seeking and presenting unified positions on matters of common concern.
- C. To promote a wider understanding of tourism as a major industry that contributes significantly to the economic and social well being of the area.
- D. To provide services within the scope of such an organization through publications, meetings, seminars and other means of information and education; opportunities for it's business community, government leaders, and the general public.
- E. To serve as the leader of local tourism development efforts and to encourage as a supporter and participant, all activities designed to increase tourism within the City of Nitro, West Virginia.
- F. To maintain a close cooperative relationship with allied organizations and others who share the common goals and interests.
- G. To develop partnerships with allied organizations and others as deemed appropriate by the Board of Directors to further the growth and business development of the City of Nitro, West Virginia.
- H. To engage in any legal act, thing, or enterprise which, in the opinion of the Board of Directors, shall appear to be for the benefit of the corporation generally and to employ all the necessary means and resources to carry out the foregoing objectives.

ARTICLE IV

BOARD OF DIRECTORS

Section 1. AUTHORITY

The prosperity, business and affairs of the corporation shall be managed under the

direction of the Board of Directors and subject to its supervision and approval unless assigned to such other body or individual as set forth elsewhere in these by-laws, by resolution of the Board of Directors or as required by law. However, the Board of Directors shall assign and shall have sole authority to elect the officers of the Corporation and establish their responsibilities, approve the corporation's fiscal policy and annual budget. Further, the annual budget will be presented to the City Council of Nitro, West Virginia for review and an annual financial report will be presented to the City Council of the City of Nitro, West Virginia for review and public announcement.

Section 2. COMPOSITION, SELECTION AND TERMS OF OFFICE OF THE BOARD OF DIRECTORS

The Board of Directors will consist nine (9) members who during their respective term in office shall be active members of the Corporation in good standing. The Board of Directors shall be selected in the following manner:

- A. The incorporators shall be the initial Directors of the Corporation as described in Article Four of the Articles of Incorporation. The initial Directors of the Corporation shall at the first meeting subsequent to the meeting in which these By-Laws are voted upon and approved determine through voting the new members of the Board of Directors.
- B. The Board of Directors shall be composed of the Mayor and two (2) members from the City Council of the City of Nitro, and six (6) persons who demonstrate an interest of promoting tourism in the City of Nitro, West Virginia.
- C. The terms of office of the Mayor and the members of the City Council of the City of Nitro, West Virginia shall run concurrent with their respective term of office in City government. The terms of office of the remaining members of the Board of Directors shall be staggered with the members being appointed for one (1) year, two (2) year, or three (3) year terms, and thereafter, all terms of office shall be for three (3) years.
- D. The City Council of the City of Nitro, West Virginia may provide appropriate advice on the appointment of members to the Board of Directors, however, consent of the City Council is required for a person or persons to be appointed to the Board of Directors.
- E. The Board of Directors shall recommend to the City Council of the City of Nitro, West Virginia for consideration, candidates, to replace those members who have fulfilled their term of office.

Section 3. VACANCY

When any vacancy occurs on the Board of Directors by death, resignation, refusal to serve, or otherwise, the unexpired term shall be filled by the Board of Directors with the consent of the City Council of the City of Nitro, West Virginia.

Section 4. RESIGNATION

Any Director may resign at any time by given written notice to the Board of Directors. Such resignation shall take effect at that specific time therein or, of no time specified, at a time of acceptance thereof as determined by the Board of Directors.

Section 5. MEETINGS OF THE BOARD

- A. Regular meetings of the Board of Directors shall be held at least nine (9) times a year at such times as it may select. However, such meetings shall be held at the City of Nitro, West Virginia Council Chambers unless otherwise posted. Notice of regular meetings of the Board of Directors shall be sent to each Director by the Chairman of the Board or as the Board may otherwise direct, but failure in delivery of such notices shall not invalidate the meeting or any procedures taken thereat.
- B. Special meetings of the Board of Directors may be called by the Chairman of the Board. Notice of special meetings of the Board of Directors shall be sent by mail, e-mail, fax or telephone to each Director by the Chairman of the Board at least five (5) days prior to the meeting date, but failure in delivery of such notices shall not invalidate the meeting.
- C. At all regular or special meetings of the Board of Directors, the elected Chairman of the Board shall preside over the meeting. In his/her absence the Vice-Chairman of the Board shall preside over the meeting. In the absence of both the Chairman and Vice-Chairman of the Board, the Secretary shall preside over the meeting. In the absence of the Chairman, Vice-Chairman, and Secretary of the Board, the Treasurer shall preside over the meeting. In the absence of all the above, the meeting or special meeting shall be rescheduled and notice provided as prescribed above.
- D. At any regular or special meeting of the Board of Directors, a quorum shall consist of a majority of the Board of Directors. With a Board of Directors consisting of nine (9) members, a quorum shall consist of no less than five (5) Directors present. A majority of the votes cast by the Directors present at any meeting at which a quorum is present shall be necessary and sufficient for the transaction of any business unless otherwise provided in these By-Laws.
- E. Meetings shall be conducted in accordance with Roberts Rules of Order.

Section 6. REMOVAL

Any Officer or Director may be removed for cause by the Board of Directors by a quorum vote in a regular or special meeting as long as notice of the action to remove the Officer or Director is included as part of the call to the meeting and is sent to all Directors not less than ten (10) days prior to the meeting. Removal of such Officer or Director shall also require consent from the City Council of the City of Nitro, West Virginia by majority vote. A Director's absence for three (3) consecutive meeting of the Board or five (5) meetings within a calendar year without a good and compelling reason for such absences, shall constitute just and proper cause for his/her removal from the Board. Upon such removal of an Officer or Director, his/her office shall be filled for the unexpired term thereof as set forth elsewhere in these By-Laws.

Section 7. AUTHORITY TO BIND THE CORPORATION

The Board of Directors, or the Executive Committee, except as otherwise limited in these By-Laws, may authorize any Officer or Officers, agent or agents, in the name of and on behalf of the corporation to enter into any contract or to execute or deliver any instruments, and such authority may be general or confined to specific instances, and unless so authorized, no Officer or agent or employee shall have the power or authority to bind the corporation.

Section 8. INDEMNIFICATION OF DIRECTORS AND OFFICERS

Each Director and Officer of the corporation now and hereafter serving as such, shall be indemnified by the corporation against any and all claims and liabilities to which he or she has or shall become subject by reason of serving or having served as such Director or Officer, or by reason of any action alleged to have been taken, omitted or neglected by him or her as such Director or Officer. The corporation shall reimburse each such person for all legal expenses reasonably incurred by him or her in connection with any such claim or liability provided however, that no such person shall be indemnified against, or be reimbursed for any expense incurred in connection with, any claim or liability arising out of his or her own willful misconduct or gross negligence.

ARTICLE V

EXECUTIVE COMMITTEE

Section 1. COMPOSITION OF THE COMMITTEE

The Executive Committee shall consist of the following voting members: Chairman of the Board, Immediate Past Chairman of the Board, Vice-Chairman of the Board, Secretary of the Board, and Treasurer of the Board. If the Immediate Past Chairman of the Board is no longer active or available, the Board of Directors by a majority vote, may designate another Director to serve as a member of the Executive Committee. In addition to those Executive Committee members named above, the Board of Directors by majority vote may select a Director representing a tourism business to serve as a voting member of the Executive Committee.

Section 2. DUTIES AND AUTHORITY

The Executive Committee shall possess and may exercise all the powers of the Board of Directors between the meetings of the Board except as prohibited by these by-laws or other action taken by the Board of Directors. The Executive Committee will also perform such specific duties and functions as may be assigned by the Board of Directors. At each meeting of the Board of Directors, the Executive Committee shall report its actions taken since the previous Board meeting.

Section 3. MEETINGS OF THE COMMITTEE

- A. The Executive Committee shall meet as often as deemed necessary by the Chairman of the Board, who shall give the members of the Committee at least five (5) days advance notice of such meetings unless such advance notice is expressly waived by Committee members who do not attend the meeting.
- B. At any or special meeting of the Executive Committee a quorum shall consist of a majority of the members of the Executive Committee entitled to vote, and a majority of the votes cast by the Executive Committee members who are present at any meeting at which a quorum is present shall be necessary and sufficient for the transaction of any business.

ARTICLE VI

OFFICERS

Section 1. ELECTION OF OFFICERS

Officers of the corporation shall be the Chairman of the Board, Vice-Chairman of the Board, Secretary of the Board, Treasurer of the Board, and Executive Director of the Bureau. The Chairman, Vice-Chairman, Secretary, and Treasurer shall be elected by a majority of the Board of Directors at its first meeting of the fiscal year. The term of office for all officers shall be for one (1) year, or until their successor is elected and qualified and shall commence at the close of the meeting at which they were elected. All Officers shall be members of the Board of Directors.

Section 2. CHAIRMAN OF THE BOARD

- A. The Chairman of the Board shall preside at all the meetings of the corporation, the Board of Directors and the Executive Committee, with the power to vote in each such meeting., and shall have authority to call special meetings of the Board and meetings of the Executive Committee between regular meetings of the Board. He/she shall make, on the behalf of the Board, an annual report of the corporation.
- B. The Chairman of the Board shall appoint the chairman of each Standing or Special Committee of the Board of Directors or membership from among those eligible to serve on such committees. The Chairman of the Board shall be an ex-officio member of all Standing and Special Committees with the power to vote thereon.
- C. Any matter may be referred by mail, e-mail, fax or telephone by the Chairman of the Board to the member of the Board of Directors, in which case the Board of Directors may act by referendum, provided that a majority of the whole Board shall participate in such referendum in order to constitute a quorum.
- D. Notice of meetings of the Board of Directors, the Executive Committee and the membership shall be the responsibility of the Chairman of the Board as provided in these by-laws.

Section 3. VICE-CHAIRMAN OF THE BOARD

- A. The Vice-Chairman of the Board shall assume the office of Chairman of the Board whenever such vacancy occurs and shall serve until the next meeting of the Board of Directors or until his/her successor is elected.
- B. The Vice-Chairman of the Board shall also perform such other duties as are determined by these by-laws, the Board of Directors, or the Chairman of the Board.

Section 4. SECRETARY

- A. The Secretary of the Corporation shall see to the proper recording of proceedings of the meetings of the corporation membership, Board of Directors, Executive Committee, and all other committee; and carry into execution all orders, votes, resolutions not otherwise referred for handling. He/she shall keep the seal of the corporation.
- B. In absence of the Chairman of the Board and Vice-Chairman of the Board from a meeting of the membership, Board of Directors, or Executive Committee, the Secretary shall preside.
- C. The Secretary shall forward a copy of all approved minutes from all the meetings of the Convention and Visitors Bureau of the City of Nitro West Virginia to the Office of the Recorder of the City of Nitro, West Virginia, so they can be included in the official records of the City Council of the City of Nitro West Virginia.

Section 5. TREASURER

- A. The Treasurer shall have general supervision of the financial affairs of the corporation, including all receipts and disbursements of the corporation and any subordinate group or committee of the corporation. He/she shall see that adequate and accurate records are maintained and reviewed covering all such receipts and disbursements, as well as all reserve and special funds of the corporation, and shall have responsibility, in consultation with the Finance Committee, of recommending for final approval by the Board of Directors standards for such record-keeping and reports. He/she shall furnish such financial information and accounting to the Board and/or Executive Committee as they may direct.
- B. The Treasurer shall, within ninety (90) after the close of the fiscal year, shall be required to obtain a review of the corporation's financial records by a Certified Public Accountant. Upon receipt such review, copies shall be submitted to the Board of Directors of the Corporation and to the City Council of the City of Nitro, West Virginia.
- C. The treasurer or other signer or signers specifically designated by the Board of Directors, shall co-sign with the Executive Director of the Bureau any check, draft, or other order of the corporation for the payment of money for any item not

pre-approved by the Board and/or included in the operating budget of the Corporation.

- D. The Treasurer shall provide for the custody and safe keeping of all securities of the corporation, subject to the directions of the Board of Directors. The Treasurer and such other Directors designated by the Board of Directors, acting jointly, shall have the right of access to such securities. All transactions affecting such securities shall be recorded and submitted to the Board of Directors for review.
- E. The Treasurer shall provide the annual budget and an a quarterly financial report to the City Council of the City of Nitro, West Virginia for review and public announcement.
- F. Such duties of the Treasurer as may be specified by the Board of Directors may be delegated to the Executive Director of the Bureau or a designated member of his/her staff.
- G. The Treasurer shall provide an annual financial statement and budget to the City Council of the City of Nitro, West Virginia for review and public announcement.
- H. In the absence of the Chairman of the Board, Vice-chairman of the Board, Secretary of the Board from a meeting of the membership, Board of Directors, or Executive Committee, the Treasurer shall preside.
- I. In the case of a vacancy in the offices of Chairman, Vice-Chairman, and Secretary of the Board, the Treasurer shall assume the office of Chairman of the Board and shall serve until the next meeting of the Board of Directors or until his/her successor is elected.

Section 5. EXECUTIVE DIRECTOR

- A. The Executive Director, subject to the control of the Board of Directors, shall be principal administrative officer of the corporation and shall serve as the corporation's official spokesperson. As such, he/she shall issue all written and oral statements of the corporation.
- B. He/she shall be employed under such terms and conditions and for such compensation as the Board of Directors and City Council approve, and shall serve at the will and pleasure of the Board. The Executive Director can be terminated with a simple majority vote of the Board.
- C. In the event of a vacancy, the Board of Directors shall appoint a Selection Committee to nominate suitable candidates for the position of Executive Director.
- D. The Executive Director shall adhere to the job description established by the Board of Directors including general charge of the operating activities of the corporation and shall be responsible for:
 - (1) Hiring and supervising the paid staff of the corporation in accordance with the Personnel Policies and Procedures established by the Board of Directors.
 - (2) Supervising the keeping of all records of the corporation as described under the authority of these by-laws.
 - (3) Receiving all monies due and payable to the corporation from any source whatsoever, depositing said monies with such bank. Trust company or other

depository as the Board of Directors may designate and maintaining proper record and account of all monies received and/or disbursed on behalf of the corporation.

(4) Serving as an ex-officio member of all Standing and Special Committee meetings with no power to vote thereon.

(5) Maintaining liaison and communication with the other Officers, Directors, and Committee Chairman.

(6) Providing leadership and coordination of effort for the attainment of the corporation's purposes and objectives and the successful completion of its projects and programs as adopted and approved of the Board of Directors and/or the Executive Committee and keeping the other Officers and Board of Directors informed as to the needs and problems of the corporation.

(7) Operating the corporation within the budget and guidelines as approved by the Board of Directors.

- E. In the event of the temporary disability of the Executive Director, the Executive Committee may designate an acting Executive Director until appropriate action can be taken by the Board of Directors.

ARTICLE VII

COMMITTEES

Section 1. STANDING COMMITTEES

- A. There shall be such Standing Committees of the Board of Directors, or membership as from time to time the Board of Directors may establish.
- B. The primary duties of any Standing Committees are to carry on a continuing review of the corporation's activities and functions which fall within their respective area of jurisdiction, to make recommendations to the Executive Director and/or Board of Directors for improvements in such activities or functions and to actively support and assist the Officers and Board of Directors in planning and forming such activities and functions.

Section 2. SPECIAL COMMITTEES

The Chairman of the Board, in consultation with the Executive Director, may from time to time establish ad hoc committees for special purposes or projects, and shall name the chairman and members to serve on such ad hoc committee along with the committees responsibilities and limitations.

ARTICLE VIII

FUNDS

Section 1. RESERVE FUND

- A. A reserve fund may be established and maintained by the corporation for the purpose of providing revenue which may be utilized to insure continuous extension and development of activities in general furtherance of the purposes of the corporation. The principal of this reserve fund shall be from any source of income or funds as specifically voted by the Board of Directors.
- B. No appropriation shall be made from the principal of the reserve fund except upon majority vote of these Directors present when notification of such action is included on the agenda mailed to all Directors in advance of the meeting. If less than a majority of the entire Board is present at such meeting, the Chairman of the Board shall within ten (10) days thereafter transmit by mail, e-mail, or fax of such a proposal to each member of the Board of Directors for a vote. If the Chairman of the Board shall have received within ten (10) days thereafter votes in writing in favor of the proposal signed by a majority of the entire Board of Directors, such proposal shall be deemed to be adopted with the same force and effect as if it has been adopted at a duly constituted meeting.

Section 2. OTHER FUNDS

The Board of Directors shall have the power to establish and maintain funds other than the reserve fund for specific purposes consistent with the objectives of the corporation, such purposes to be stated by the Board of Directors when and if such funds are established. The Board of Directors shall also have the power to make provision for any necessary and appropriate standards and procedures relating to the investment and utilization of such other funds.

Section 3. DISSOLUTION

In the case of dissolution of the corporation and liquidation of its affairs, none of the property of the corporation, nor any proceeds thereof nor any other assets of the corporation, shall be distributed or inure to the benefit of any member, Officer, or Director or any other individual. Any monies or other assets remaining after the payment of all obligations shall be distributed only to organizations which meet the requirements for exemption under the provisions of Section 501(c)(6) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of law as the City Council of the City of Nitro, West Virginia may determine or direct, and in every case the decision and determination of the City Council of the City of Nitro, West Virginia shall be final and conclusive upon all persons in any way interested.

ARTICLE IX

MISCELLANEOUS PROVISIONS

Section 1. AUDITORS

The Board of Directors shall each year designate a firm of Certified Public Accountants to review the corporation's financial records for the fiscal year.

Section 2. FIDELITY BOND

Any Officer, Director, member or employee of the corporation handling, or responsible for the custody of, any funds or securities of the corporation shall be bonded for the protection of the corporation in a surety company approved by the Board of Directors in such amounts as the Board of Directors shall determine with the cost of such bond to be paid by the corporation.

Section 3. FISCAL YEAR

The dates for the fiscal year of the corporation shall be determined by the Board of Directors and amended as such.

Section 4. NOTICES

Any notice to the members or to any Officer or Director shall be deemed sufficiently given if sent to the last address, e-mail or fax furnished by him/her to the corporation.

ARTICLE X

ADMENDMENT OF BY-LAWS

Section 1. PROVISIONS FOR ADMENDMENTS TO BY-LAWS

These By-Laws may be changed by a two thirds (2/3) vote of the Board of Directors. These changes shall be reported to the City Council of the City of Nitro, West Virginia for consent by majority vote and public announcement.

ORDINANCE 10-2

An Ordinance to amend and reenact Sections 1306.1(d) and 1306.2(c), Chapter 1306 of the Codified Ordinances of the City of Nitro, West Virginia, as amended; and to amend and reenact Section 1311.2(b), Chapter 1311 of said Codified Ordinances, all relating to the licensing of gambling establishments; establishing a two week time period during which the minimum distances between gambling establishments is reduced to 1,000 feet; establishing after the completion of the two week period a new distance requirement of 6,000 feet between gambling establishments; establishing municipal requirements necessary for the licensing of a new gambling establishment; and authorizing gambling establishments on newly annexed property to continue as a non-conforming use; establishing a two week time period when the distance between gambling establishments is measured door-to-door; establishing after the completion of the two week period the distance between gambling establishments is measured in a straight line.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, that Sections 1306.1(d) and 1306.2(c), Chapter 1306 of the Codified Ordinances of the City of Nitro, West Virginia, as amended, be amended and reenacted; and Section 1311.2(b), Chapter 1311 of said Codified Ordinances be amended and reenacted, all to read as follows:

CHAPTER 1306 BUSINESS ZONES

Section 1306.1. "B-1" Local or Neighborhood Business Zones.

1306.1(a). Permitted Uses. In any Local or Neighborhood Business Zone, the use of land and buildings shall be limited to any neighborhood retail business or service establishment, supplying commodities or performing services intended primarily for residents of the surrounding neighborhood, such as:

- 1306.1(a)(1). Barber or beauty shop,
- 1306.1(a)(2). Business or professional office,
- 1306.1(a)(3). Clothes cleaning or laundry pick up station,
- 1306.1(a)(4). Self-service laundry,
- 1306.1(a)(5). Delicatessen,
- 1306.1(a)(6). Drug store,
- 1306.1(a)(7). Grocery store,
- 1306.1(a)(8). Meat market,
- 1306.1(a)(9). Convenience and neighborhood commercial centers (excluding wholesale sales),
- 1306.1(a)(10). Family and group day-care,
- 1306.1(a)(11). Libraries,
- 1306.1(a)(12). Places of worship,
- 1306.1(a)(13). Police and fire stations, and other government services,
- 1306.1(a)(14). Bed and breakfast facility, and
- 1306.1(a)(15). Similar activities.

1306.1(b). Along State and Federal Highways.

1306.1(b)(1). Along State or Federal highways, the above permissive uses may be permitted but shall not be limited to supplying commodities or performing services for residents of the neighborhood.

1306.1(b)(2). Other permitted uses along State and federal highways, such as:

- 1306.1(b)(2)(A). Antique or gift shop,

- 1306.1(b)(2)(B). Gasoline service stations,
- 1306.1(b)(2)(C). Automobile sales,
- 1306.1(b)(2)(D). Automobile service garages, see Table 1310.1(b)(1) of this Part Thirteen for required vehicle parking,
- 1306.1(b)(2)(E). Automobile or trailer sales lot,
- 1306.1(b)(2)(F). Commercial parking lot,
- 1306.1(b)(2)(G). Drive-in eating or drinking establishment,
- 1306.1(b)(2)(H). Motel and hotel,
- 1306.1(b)(2)(I). Tourist home, and
- 1306.1(b)(2)(J). Similar businesses.
- 1306.1(b)(3). Automobile body repair shops, but see Table 1310.1(b)(1) of this Part Thirteen for required vehicle parking,
- 1306.1(b)(4). Mortuary and funeral homes,
- 1306.1(b)(5). Public utility stations, and
- 1306.1(b)(6). Restaurants.
- 1306.1(b)(7). Business or financial services,
- 1306.1(b)(8). Light commercial (excluding wholesale sales),
- 1306.1(b)(9). Group care facilities,
- 1306.1(b)(10). Physical fitness centers,
- 1306.1(b)(11). Cultural and fraternal activities,
- 1306.1(b)(12). Rehabilitation centers,
- 1306.1(b)(13). Schools and colleges operated for profit (including commercial), and
- 1306.1(b)(14). Vocational and trade schools,
- 1306.1(b)(15). Self-storage warehouses,
- 1306.1(b)(16). Commercial printing and publishing, and
- 1306.1(b)(16). Similar businesses.

1306.1(c). Permitted Accessory Uses. In Local or Neighborhood Business Zones, including those along State and Federal Highways, the following accessory buildings and uses shall be permitted .

1306.1(c)(1). Accessory parking areas.

1306.1(c)(2). Other accessory uses customarily incidental to a principal permitted use, including signs attached flat against a building, and elevated signs not exceeding fifty (50) square feet in area per face, provided that these are at least fifteen (15) feet from any street right-of-way.

1306.1(d). Prohibited Uses.

1306.1(d)(1). Any residential or industrial use except that which is clearly necessary for and incidental to the conduct of a permitted retail business or service of the premises.

1306.1(d)(2). Gambling establishments.

1306.1(d)(2)(A). On and after the effective date of this paragraph in ~~January~~ on February 2, 2010, gambling establishments shall not be located within 3,000 feet of each other; Provided, That on and after March 3, 2010, gambling establishments shall not be located within 1,000 feet of each other: Provided, however, That on and after March 17, 2010, gambling establishments shall not be located within 6,000 feet of each other.

1306.1(d)(2)(B). On and after the effective date of this paragraph in ~~January~~ on February 2, 2010, no gambling establishment shall be located within 3,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City: Provided, That on and after March 3, 2010, no gambling establishment shall be located within 1,000 feet of any church, place of worship, library, school, community center, or publicly

owned property designated as a playground, park and under the control of the City: Provided, however, That on and after March 17, 2010, no gambling establishment shall be located within 6,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City.

1306.1(d)(2)(C). On and after March 3, 2010, any new gambling establishment not already licensed and in existence in the City shall satisfy the following requirements: it shall be an existing bar or restaurant; it shall have a current business license issued under the authority of section 733.14 of this Code; and it shall be current and not delinquent in the payment of any municipal fees or taxes.

1306.1(d)(2)(D). Upon the annexation into the City of any real property upon which is situated a legally licensed and operating gambling establishment, the use of the property as a gambling establishment, even if a nonconforming use, shall continue until such time as the West Virginia Lottery Commission repeals, withdraws or takes such other action that invalidates the license or licenses required to allow legal gambling to occur at the gambling establishment.

1306.1(e). Lot Areas. In any Local or Neighborhood Business Zone, no lot shall be less than 7,200 square feet.

1306.1(f). Lot Widths. In any Local or Neighborhood Business Zone, no lot shall be less than fifty (50) feet in width.

1306.1(g). Front Yards. In any Local or Neighborhood Business Zone, no lot shall have a front yard of less than twenty (20) feet.

1306.1(h). Side Yards. In any Local or Neighborhood Business Zone, common walls shall be permitted and no side yards shall be required; Provided, That where a non-residential use abuts a residential district, residential requirements must be observed where the property abuts.

1306.1(i). Rear Yards. In Local or Neighborhood Business Zone, rear yards shall not be less than twenty (20) feet in width.

1306.1(j). Building Height. In any Local or Neighborhood Business Zone, no building or structure shall exceed three (3) stories.

1306.1(k). Off-Street Parking and Loading Requirements. In any Local or Neighborhood Business Zone, off-street parking and loading requirements shall be scheduled according to the provisions of Table 1310.1.

Section 1306.2. "B-2" Central Business Zone.

1306.2(a). Permitted Uses. In any Central Business Zone, the following buildings and uses only are permitted:

1306.2(a)(1). All uses permitted in "B-1" Local or Neighborhood Business Zones.

1306.2(a)(2). Stores and shops for the conducting of any retail business.

1306.2(a)(3). Personal service shops.

1306.2(a)(4). Banks, offices, and studios.

1306.2(a)(5). Shops for custom work, and shops for making articles or products to be sold at retail on the premises.

1306.2(a)(6). Restaurants, cafes, and similar establishments.

1306.2(a)(7). Theaters, assembly halls, bowling alleys, amusement centers, golf driving ranges,

miniature golf courses, ice rinks, pool and billiard halls (and similar recreational uses), and other public recreation uses.

- 1306.2(a)(8). Retail building materials supply sales (wholesale and retail),
- 1306.2(a)(9). Cultural institutions (such as museums and art galleries),
- 1306.2(a)(10). Community commercial centers (including wholesale and retail sales),
- 1306.2(a)(11). Health and medical institutions (such as hospitals),
- 1306.2(a)(12). Hotels and motels (excluding other residential occupancies),
- 1306.2(a)(13). Commercial printing and publishing,
- 1306.2(a)(14). Taverns and cocktail lounges,
- 1306.2(a)(15). Regional commercial centers (including wholesale and retail sales), and
- 1306.2(a)(15). Other service establishments or retail or wholesale businesses similar in nature to those listed above.

1306.2(b). Permitted Accessory Uses. In any Central Business Zone, the following accessory uses shall be permitted:

- 1306.2(b)(1). All uses permitted in "B-1" Local or Neighborhood Business Zone.
- 1306.2(b)(2). Other accessory uses customarily incidental to a permitted principal use.
- 1306.2(b)(2)(A). All signs overhanging public ways shall conform to general ordinances of the City and Chapter 1312 of this Part Thirteen, now or hereinafter adopted.
- 1306.2(b)(2)(B). Signs, parking areas, and buildings may be illuminated providing the use of such illumination does not confuse, blind, or distract vehicle operators on the highways or streets.

1306.2(c). Prohibited Uses. In any Central Business Zone, the following uses and buildings are prohibited.

1306.2(c)(1). Except for uses permitted in Section 1306.2(a) of this Part Thirteen, all uses prohibited in "B-1" Local or Neighborhood Business Zones.

1306.2(c)(2). Any residential commercial or industrial use, which in the opinion of the Board of Appeals may become noxious or offensive in a "B-2" Central Business Zones.

1306.2(c)(3). Gambling establishments.

1306.2(c)(3)(A). On and after the effective dates of this paragraph in January on February 2, 2010, gambling establishments shall not be located within 3,000 feet of each other: Provided, That on and after March 3, 2010, gambling establishments shall not be located within 1,000 feet of each other: Provided, however, That on and after March 17, 2010, gambling establishments shall not be located within 6,000 feet of each other.

1306.2(c)(3)(B). On and after the effective date of this paragraph in January on February 2, 2010, no gambling establishment shall be located within 3,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City: Provided, That on and after March 3, 2010, no gambling establishment shall be located within 1,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City: Provided, however, That on and after March 17, 2010, no gambling establishment shall be located within 6,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City.

1306.2(c)(3)(C). On and after March 3, 2010, any new gambling establishment not already licensed and in existence in the City shall satisfy the following requirements: it shall be an existing bar or restaurant; it shall have a current business license issued under the authority of section 733.14 of this Code; and it shall be current and not delinquent in the payment of any municipal fees or taxes.

1306.2(c)(3)(D). Upon the annexation into the City of any real property upon which is situated a legally licensed and operating gambling establishment, the use of the property as a gambling

establishment, even if a nonconforming use, shall continue until such time as the West Virginia Lottery Commission repeals, withdraws or takes such other action that invalidates the license or licenses required to allow legal gambling to occur at the gambling establishment.

1306.2(d). **Front Yards.** In any Central Business Zone, no front yard shall be required.

1306.2(e). **Side Yards.** Common wall shall be permitted and no side yards are required.

CHAPTER 1311 SPECIAL REGULATIONS

SECTION 1311.2 Private Clubs

1311.2(a) **General.** A conditional use permit shall be obtained for all private clubs.

1311.2(b) **Provisions.**

1311.2(b)(1) No private clubs shall be located within 1,000 feet of a park, school, day-care center, library or religious or cultural activity.

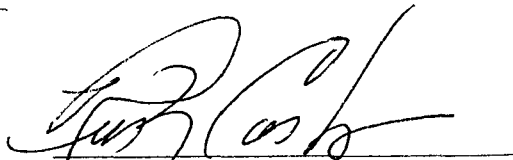
1311.2(b)(2) No private clubs shall be located within 500 feet of any other private clubs or any agricultural or residential zone boundary.

1311.2(b)(3) Such distances shall be measured in a straight line without regard to intervening structures, topography and zoning: Provided, That on and after March 3, 2010, such distances shall be measured door-to-door with regard to intervening structures, topography and zoning: Provided however, That on and after March 17, 2010, such distances shall be measured in a straight line without regard to intervening structures, topography and zoning.

1311.2(b)(4) Private clubs shall not be located in R-1 or R-2 zones and shall not be permitted as a home occupation.

Passed on First Reading February 16, 2010

Passed on Second Reading March 2, 2010


Rusty Casto, Mayor


Rita Cox, Recorder

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, MARCH 2, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm. Attending along with Mayor Casto were Recorder Rita Cox, Ward 1 Councilman A. A. "Joe" Savilla, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Councilmen at Large Jim McKay, Dave Casebolt, and Bob Fields.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given By Councilman Savilla and the Pledge of Allegiance was led by Councilman Fields.

FUTURE DATES OF COUNCIL: Mayor Casto reported that the future dates of Council are March 16, 2010, April 6, 2010, April 20, 2010, May 4, 2010, and May 18, 2010.

APPROVAL OF COUNCIL MINUTES: COUNCILMAN FIELDS MOVED THE MINUTES OF FEBRUARY 16, 2010 BE APPROVED AS WRITTEN. COUNCILMAN SAVILLA SECONDED THE MOTION AND COUNCIL VOTED UNANIMOUSLY FOR THE MOTION TO PASS.

OLD BUSINESS:

PUBLIC HEARING AMENDED PLANNING AND ZONING ORDINANCE: Richie Robb read the title of the Amended Planning and Zoning Ordinance: An ordinance to amend and reenact Sections 1306.1(d) and 1306.2(c), Chapter 1306 of the Codified Ordinances of the City of Nitro, West Virginia, as amended; and to amend and reenact Section 1311.2(b), Chapter 1311 of said Codified Ordinances, all relating to the licensing of gambling establishments. He said the pertinent changes to the ordinance would make a two week period to allow existing businesses to become video lottery businesses and following the two week time frame the distance between video lottery businesses and schools, playground, churches, places of worship, libraries, community centers, and other video lottery businesses will be 6000 feet. Mayor Casto asked if this two week window would be door to door and John Montgomery said that referred to 1306.1(D)(1) and 1311.2(B)(3). COUNCILMAN RACER MOVED THE AMENDED PLANNING AND ZONING ORDINANCE BE MOVED TO THE FLOOR FOR DISCUSSION WITH A SECOND BY COUNCILMAN JAVINS. Councilman Savilla said he had no problem with making the distance 6000 feet but he did not understand why the two week window was needed. Councilman Casebolt said that it affected Wendy's, McDonalds, Checkers, Ginos and Castaways. Councilman Racer said businesses such as FasChek were going out of business and this was a way to help a business. Councilman Savilla said it was a loophole to help a business. Councilman Matthews had a question about Castaways and whether it was defined as a bar or restaurant. Recorder Cox said she could not answer that without seeing the license application. Recorder Cox said her concern is that once video lottery is added to that location, the city can not prevent it from changing owners and remaining there. She said she had been approached by a business person who was interested in having the laws adjusted for them so they could add video lottery. Councilman Javins said that since Council supported Tri-state they should support a smaller business. Councilman Savilla said that the City of Nitro did not support the table games, that was supported outside the city by Kanawha County. Councilman McKay asked if someone can come back and sue the city over this ordinance. Richie Robb said an elected official can not customarily be sued for public decisions. Councilman McKay asked Recorder Cox about the application she had received. Recorder Cox said she did not receive an application, but she had been approached by someone who wanted to see about adding video lottery within the current distance and if there could be special laws written for them. COUNCILMAN BILL RACER MOVED THE AMENDED PLANNING AND ZONING ORDINANCE BE PASSED AS WRITTEN WITH A SECOND BY COUNCILMAN BILL JAVINS. VOTING FOR THE MOTION WERE COUNCILMEN RACER, CASEBOLT, MCKAY, MATTHEWS AND JAVINS. VOTING AGAINST THE MOTION WERE COUNCILMEN SAVILLA AND FIELDS AND RECORDER COX. THE MOTION CARRIED.

SECOND READING CONVENTION AND VISITORS BUREAU BYLAWS: COUNCILMAN BILL

JAVINS MOVED THE BYLAWS FOR THE CONVENTION AND VISITORS BUREAU BE PASSED AS PRESENTED WITH A SECOND BY COUNCILMAN JIM MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

CONVENTION AND VISITORS BUREAU BOARD OF DIRECTORS: Mayor Rusty Casto said that he is appointing members of Council to serve currently as the CVB Board of Directors. COUNCILMAN SAVILLA MOVED THE MEMBERS OF COUNCIL SERVE AS BOARD OF DIRECTORS FOR THE CONVENTION AND VISITORS BUREAU WITH A SECOND BY COUNCILMAN MATTHEWS. Councilman Matthews said he and Councilman Savilla have a meeting with Putnam County Sheriff to discuss the current arrangement with the current tax money for the motel located in Nitro in Putnam County. Councilman Javins said the CVB Committee met and agreed to come back with the same recommendations for the Board of Directors. Councilman Casebolt asked what qualifications should be considered to be on the board. He said that he thought this was one of the most important things that this Council will do. He said a years worth of work has gone into the planning and he thinks professional business people should be on the board. Councilman Savilla said that our system is a strong mayor/weak council and this should be the Mayor's choice. Mayor Casto asked members of Council to send recommendations to him for the Convention and Visitors Bureau. VOTE WAS UNANIMOUS FOR THE MOTION.

BUDGET REVISIONS: John Young presented Council with the budget revisions with revenue revisions being a \$20,000.00 grant from Kanawha County making an increase from \$38,000.00 to \$58,000.00 and the other adjustment in the receipts the sale of fixed assets being the police cars at \$6,672.00 which makes the revised amount \$44,672.00. The expenditure revisions are salaries in building department approved at \$27,541.00 and increased to \$40,092.00 making the revised amount \$67,633.00; salaries in city hall approved at \$64,505.00 and increased to \$40,092.00 making the revised amount \$75,355.00; department supplies for police approved at \$42,000.00 and increase by \$38,000.00 making the approved amount \$80,000.00; capital outlay police approved at \$123,200.00 with a decrease of \$47,089 making the revised amount \$76,111.00; and department supplies mayor approved at \$1000.00 with a increase of \$2819.00 with the revised amount being \$3819.00. COUNCILMAN SAVILLA MOVED COUNCIL APPROVE THE REVISIONS IN THE FORM OF A RESOLUTION. THE MOTION WAS SECONDED BY COUNCILMAN FIELDS. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

ATTORNEY REPORT: Richie Robb said he had no report prepared but he would answer any questions from Council.

TREASURER REPORT: John Young said that b & o revenues are moving back up. He told Council they are required to have two budget meetings. COUNCILMAN SAVILLA MOVED COUNCIL MEET MONDAY, MARCH 8, 2010 AT 7:00 PM IN COUNCIL CHAMBERS FOR BUDGET MEETING WITH A SECOND BY COUNCILMAN CASEBOLT. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

COUNCIL COMMENTS:

Mayor Rusty Casto told Council that on Tuesday, March 10, 10% of the gross from 5:00 to 8:00 pm at Wendy's restaurant will be donated to Shelly Hodges' trip to Haiti. He said he would attend a KRT meeting on Wednesday morning.

Councilman Bill Javins said the boat dock was on track.

Councilman Craig Matthews said that the revenue still seemed to be holding on the fiscal year 2009-2010 but we do not want to spend more than we make.

Councilman A. A. "Joe" Savilla said the Police and Fire Committee had met and Dennis Boggs and John Cox have been appointed to the committee. He said that he has some questions of the Treasurer about the budgets for these departments.

Councilman Dave Casebolt said streetscape was being held up on the Federal level. He said there was a Business Enhancement meeting tomorrow at 9:00 am at Mt. State Café. On March 10 Mike Gioulis, a consultant on historic preservation, will meet in Council Chambers at 9:00 am. COUNCILMAN CASEBOLT MOVED THAT COUNCIL VOTE TO SHOW SUPPORT FOR TREASURER JOHN YOUNG BECAUSE OF THE FIDUCIARY RESPONSIBILITY COUNCIL AND TREASURER HAVE TO THE CITIZENS OF NITRO. COUNCILMAN MCKAY SECONDED THE MOTION. VOTE WAS UNANIMOUS FOR THE MOTION.

Councilman Jim McKay said he should have a financial report on the Nitro Development Authority by the next Council meeting .

PUBLIC COMMENT:

Wayne Fleishman said the Antique Car Show will be held the second weekend in June. He said this event brings in a lot of people to Nitro, and this will be the 6th Annual Antique Show and Antique Car Show.

John Montgomery announced the Ordinance Committee would not be meeting this week.

Larry Angel asked what the criteria was for the Convention and Visitor Bureau Board of Directors.

COUNCILMAN A. A. "JOE" SAVILLA MOVED COUNCIL GO TO EXECUTIVE SESSION WITH A SECOND BY COUNCILMAN CRAIG MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

Council reconvened following Executive Session.

COUNCILMAN CRAIG MATTHEWS MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN BILL JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

DRAFT

**NITRO CONVENTION AND
VISITORS BUREAU, INC
BYLAWS**

February 16, 2010

ARTICLE I

NAME AND LOCATION

Section 1. NAME

This corporation shall be known as the Nitro Convention and Visitors Bureau, Inc.

Section 2. LOCATION

The principal office of this corporation shall be located within the city limits of the City of Nitro, West Virginia, at such address as the Board of Directors may determine or the affairs of the corporation may require. The business of the corporation may, however, be transacted at such other place or places within the State of West Virginia, or elsewhere as the Board of Directors may from time to time determine.

ARTICLE II

NATURE AND LIMITATIONS

Section 1. NATURE

This corporation shall be operated on a not-for-profit basis within the meaning of Section 501(c)(6) of the Internal Revenue Code of 1986, as amended, and shall exercise such powers as are permitted to not-for-profit corporations under the provisions of Chapter 31E, Article 3 of the Code of West Virginia.

Section 2. LIMITATIONS

- A. This corporation shall not be used for the promotion of any political party, or the candidacy of any person seeking public office.
- B. No Officer or Director of the corporation shall receive directly or indirectly any compensation for services rendered in his/her capacity as an Officer or Director, or in any other capacity within the corporation, unless authorized by the by-laws of the corporation or the Board of Directors. However, members of the Board of Directors may be reimbursed for all reasonable expenses incurred in the performance of their duties as an Officer or Director upon approval of the Board of Directors and submitted to the Nitro City Council.

ARTICLE III

PURPOSE AND OBJECTIVES

Section 1. PURPOSE

The purpose of the corporation shall be to operate a Convention and Visitors Bureau for the City of Nitro West Virginia, so as to represent the common interests of Tourism to the City of Nitro and to encourage increased economic activity and development in order to further the general welfare and prosperity of the City of Nitro, West Virginia.

Section 2. OBJECTIVES

The objectives of the corporation include, but are not limited to the following;

- A. To enhance and develop the economic prosperity of the area through the promotion of the City of Nitro, West Virginia as a viable visitor group tour and meeting destination.
- B. To bring cohesion to the tourism industry and to increase its recognition by seeking and presenting unified positions on matters of common concern.
- C. To promote a wider understanding of tourism as a major industry that contributes significantly to the economic and social well being of the area.
- D. To provide services within the scope of such an organization through publications, meetings, seminars and other means of information and education; opportunities for it's business community, government leaders, and the general public.
- E. To serve as the leader of local tourism development efforts and to encourage as a supporter and participant, all activities designed to increase tourism within the City of Nitro, West Virginia.
- F. To maintain a close cooperative relationship with allied organizations and others who share the common goals and interests.
- G. To develop partnerships with allied organizations and others as deemed appropriate by the Board of Directors to further the growth and business development of the City of Nitro, West Virginia.
- H. To engage in any legal act, thing, or enterprise which, in the opinion of the Board of Directors, shall appear to be for the benefit of the corporation generally and to employ all the necessary means and resources to carry out the foregoing objectives.

ARTICLE IV

BOARD OF DIRECTORS

Section 1. AUTHORITY

The prosperity, business and affairs of the corporation shall be managed under the

direction of the Board of Directors and subject to its supervision and approval unless assigned to such other body or individual as set forth elsewhere in these by-laws, by resolution of the Board of Directors or as required by law. However, the Board of Directors shall assign and shall have sole authority to elect the officers of the Corporation and establish their responsibilities, approve the corporation's fiscal policy and annual budget . Further, the annual budget will be presented to the City Council of Nitro, West Virginia for review and an annual financial report will be presented to the City Council of the City of Nitro, West Virginia for review and public announcement.

Section 2. COMPOSITION, SELECTION AND TERMS OF OFFICE OF THE BOARD OF DIRECTORS

The Board of Directors will consist nine (9) members who during their respective term in office shall be active members of the Corporation in good standing. The Board of Directors shall be selected in the following manner:

- A. The incorporators shall be the initial Directors of the Corporation as described in Article Four of the Articles of Incorporation. The initial Directors of the Corporation shall at the first meeting subsequent to the meeting in which these By-Laws are voted upon and approved determine through voting the new members of the Board of Directors.
- B. The Board of Directors shall be composed of the Mayor and two (2) members from the City Council of the City of Nitro, and six (6) persons who demonstrate an interest of promoting tourism in the City of Nitro, West Virginia.
- C. The terms of office of the Mayor and the members of the City Council of the City of Nitro, West Virginia shall run concurrent with their respective term of office in City government. The terms of office of the remaining members of the Board of Directors shall be staggered with the members being appointed for one (1) year, two (2) year, or three (3) year terms, and thereafter, all terms of office shall be for three (3) years.
- D. The City Council of the City of Nitro, West Virginia may provide appropriate advice on the appointment of members to the Board of Directors, however, consent of the City Council is required for a person or persons to be appointed to the Board of Directors.
- E. The Board of Directors shall recommend to the City Council of the City of Nitro, West Virginia for consideration, candidates, to replace those members who have fulfilled their term of office.

Section 3. VACANCY

When any vacancy occurs on the Board of Directors by death, resignation, refusal to serve, or otherwise, the unexpired term shall be filled by the Board of Directors with the consent of the City Council of the City of Nitro, West Virginia.

Section 4. RESIGNATION

Any Director may resign at any time by given written notice to the Board of Directors. Such resignation shall take effect at that specific time therein or, of no time specified, at a time of acceptance thereof as determined by the Board of Directors.

Section 5. MEETINGS OF THE BOARD

- A. Regular meetings of the Board of Directors shall be held at least nine (9) times a year at such times as it may select. However, such meetings shall be held at the City of Nitro, West Virginia Council Chambers unless otherwise posted. Notice of regular meetings of the Board of Directors shall be sent to each Director by the Chairman of the Board or as the Board may otherwise direct, but failure in delivery of such notices shall not invalidate the meeting or any procedures taken thereat.
- B. Special meetings of the Board of Directors may be called by the Chairman of the Board. Notice of special meetings of the Board of Directors shall be sent by mail, e-mail, fax or telephone to each Director by the Chairman of the Board at least five (5) days prior to the meeting date, but failure in delivery of such notices shall not invalidate the meeting.
- C. At all regular or special meetings of the Board of Directors, the elected Chairman of the Board shall preside over the meeting. In his/her absence the Vice-Chairman of the Board shall preside over the meeting. In the absence of both the Chairman and Vice-Chairman of the Board, the Secretary shall preside over the meeting. In the absence of the Chairman, Vice-Chairman, and Secretary of the Board, the Treasurer shall preside over the meeting. In the absence of all the above, the meeting or special meeting shall be rescheduled and notice provided as prescribed above.
- D. At any regular or special meeting of the Board of Directors, a quorum shall consist of a majority of the Board of Directors. With a Board of Directors consisting of nine (9) members, a quorum shall consist of no less than five (5) Directors present. A majority of the votes cast by the Directors present at any meeting at which a quorum is present shall be necessary and sufficient for the transaction of any business unless otherwise provided in these By-Laws.
- E. Meetings shall be conducted in accordance with Roberts Rules of Order.

Section 6. REMOVAL

Any Officer or Director may be removed for cause by the Board of Directors by a quorum vote in a regular or special meeting as long as notice of the action to remove the Officer or Director is included as part of the call to the meeting and is sent to all Directors not less than ten (10) days prior to the meeting. Removal of such Officer or Director shall also require consent from the City Council of the City of Nitro, West Virginia by majority vote. A Director's absence for three (3) consecutive meeting of the Board or five (5) meetings within a calendar year without a good and compelling reason for such absences, shall constitute just and proper cause for his/her removal from the Board. Upon such removal of an Officer or Director, his/her office shall be filled for the unexpired term thereof as set forth elsewhere in these By-Laws.

Section 7. AUTHORITY TO BIND THE CORPORATION

The Board of Directors, or the Executive Committee, except as otherwise limited in these By-Laws, may authorize any Officer or Officers, agent or agents, in the name of and on behalf of the corporation to enter into any contract or to execute or deliver any instruments, and such authority may be general or confined to specific instances, and unless so authorized, no Officer or agent or employee shall have the power or authority to bind the corporation.

Section 8. INDEMNIFICATION OF DIRECTORS AND OFFICERS

Each Director and Officer of the corporation now and hereafter serving as such, shall be indemnified by the corporation against any and all claims and liabilities to which he or she has or shall become subject by reason of serving or having served as such Director or Officer, or by reason of any action alleged to have been taken, omitted or neglected by him or her as such Director or Officer. The corporation shall reimburse each such person for all legal expenses reasonably incurred by him or her in connection with any such claim or liability provided however, that no such person shall be indemnified against, or be reimbursed for any expense incurred in connection with, any claim or liability arising out of his or her own willful misconduct or gross negligence.

ARTICLE V

EXECUTIVE COMMITTEE

Section 1. COMPOSITION OF THE COMMITTEE

The Executive Committee shall consist of the following voting members: Chairman of the Board, Immediate Past Chairman of the Board, Vice-Chairman of the Board, Secretary of the Board, and Treasurer of the Board. If the Immediate Past Chairman of the Board is no longer active or available, the Board of Directors by a majority vote, may designate another Director to serve as a member of the Executive Committee. In addition to those Executive Committee members named above, the Board of Directors by majority vote may select a Director representing a tourism business to serve as a voting member of the Executive Committee.

Section 2. DUTIES AND AUTHORITY

The Executive Committee shall possess and may exercise all the powers of the Board of Directors between the meetings of the Board except as prohibited by these by-laws or other action taken by the Board of Directors. The Executive Committee will also perform such specific duties and functions as may be assigned by the Board of Directors. At each meeting of the Board of Directors, the Executive Committee shall report its actions taken since the previous Board meeting.

Section 3. MEETINGS OF THE COMMITTEE

- A. The Executive Committee shall meet as often as deemed necessary by the Chairman of the Board, who shall give the members of the Committee at least five (5) days advance notice of such meetings unless such advance notice is expressively waived by Committee members who do not attend the meeting.
- B. At any or special meeting of the Executive Committee a quorum shall consist of a majority of the members of the Executive Committee entitled to vote, and a majority of the votes cast by the Executive Committee members who are present at any meeting at which a quorum is present shall be necessary and sufficient for the transaction of any business.

ARTICLE VI

OFFICERS

Section 1. ELECTION OF OFFICERS

Officers of the corporation shall be the Chairman of the Board, Vice-Chairman of the Board, Secretary of the Board, Treasurer of the Board, and Executive Director of the Bureau. The Chairman, Vice-Chairman, Secretary, and Treasurer shall be elected by a majority of the Board of Directors at its first meeting of the fiscal year. The term of office for all officers shall be for one (1) year, or until their successor is elected and qualified and shall commence at the close of the meeting at which they were elected. All Officers shall be members of the Board of Directors.

Section 2. CHAIRMAN OF THE BOARD

- A. The Chairman of the Board shall preside at all the meetings of the corporation, the Board of Directors and the Executive Committee, with the power to vote in each such meeting., and shall have authority to call special meetings of the Board and meetings of the Executive Committee between regular meetings of the Board. He/she shall make, on the behalf of the Board, an annual report of the corporation.
- B. The Chairman of the Board shall appoint the chairman of each Standing or Special Committee of the Board of Directors or membership from among those eligible to serve on such committees. The Chairman of the Board shall be an ex-officio member of all Standing and Special Committees with the power to vote thereon.
- C. Any matter may be referred by mail, e-mail, fax or telephone by the Chairman of the Board to the member of the Board of Directors, in which case the Board of Directors may act by referendum, provided that a majority of the whole Board shall participate in such referendum in order to constitute a quorum.
- D. Notice of meetings of the Board of Directors, the Executive Committee and the membership shall be the responsibility of the Chairman of the Board as provided in these by-laws.

Section 3. VICE-CHAIRMAN OF THE BOARD

- A. The Vice-Chairman of the Board shall assume the office of Chairman of the Board whenever such vacancy occurs and shall serve until the next meeting of the Board of Directors or until his/her successor is elected.
- B. The Vice-Chairman of the Board shall also perform such other duties as are determined by these by-laws, the Board of Directors, or the Chairman of the Board.

Section 4. SECRETARY

- A. The Secretary of the Corporation shall see to the proper recording of proceedings of the meetings of the corporation membership, Board of Directors, Executive Committee, and all other committee; and carry into execution all orders, votes, resolutions not otherwise referred for handling. He/she shall keep the seal of the corporation.
- B. In absence of the Chairman of the Board and Vice-Chairman of the Board from a meeting of the membership, Board of Directors, or Executive Committee, the Secretary shall preside.
- C. The Secretary shall forward a copy of all approved minutes from all the meetings of the Convention and Visitors Bureau of the City of Nitro West Virginia to the Office of the Recorder of the City of Nitro, West Virginia, so they can be included in the official records of the City Council of the City of Nitro West Virginia.

Section 5. TREASURER

- A. The Treasurer shall have general supervision of the financial affairs of the corporation, including all receipts and disbursements of the corporation and any subordinate group or committee of the corporation. He/she shall see that adequate and accurate records are maintained and reviewed covering all such receipts and disbursements, as well as all reserve and special funds of the corporation, and shall have responsibility, in consultation with the Finance Committee, of recommending for final approval by the Board of Directors standards for such record-keeping and reports. He/she shall furnish such financial information and accounting to the Board and/or Executive Committee as they may direct.
- B. The Treasurer shall, within ninety (90) after the close of the fiscal year, shall be required to obtain a review of the corporation's financial records by a Certified Public Accountant. Upon receipt such review, copies shall be submitted to the Board of Directors of the Corporation and to the City Council of the City of Nitro, West Virginia.
- C. The treasurer or other signer or signers specifically designated by the Board of Directors, shall co-sign with the Executive Director of the Bureau any check, draft, or other order of the corporation for the payment of money for any item not

- pre-approved by the Board and/or included in the operating budget of the Corporation.
- D. The Treasurer shall provide for the custody and safe keeping of all securities of the corporation, subject to the directions of the Board of Directors. The Treasurer and such other Directors designated by the Board of Directors, acting jointly, shall have the right of access to such securities. All transactions affecting such securities shall be recorded and submitted to the Board of Directors for review.
 - E. The Treasurer shall provide the annual budget and an a quarterly financial report to the City Council of the City of Nitro, West Virginia for review and public announcement.
 - F. Such duties of the Treasurer as may be specified by the Board of Directors may be delegated to the Executive Director of the Bureau or a designated member of his/her staff.
 - G. The Treasurer shall provide an annual financial statement and budget to the City Council of the City of Nitro, West Virginia for review and public announcement.
 - H. In the absence of the Chairman of the Board, Vice-chairman of the Board, Secretary of the Board from a meeting of the membership, Board of Directors, or Executive Committee, the Treasurer shall preside.
 - I. In the case of a vacancy in the offices of Chairman, Vice-Chairman, and Secretary of the Board, the Treasurer shall assume the office of Chairman of the Board and shall serve until the next meeting of the Board of Directors or until his/her successor is elected.

Section 5. EXECUTIVE DIRECTOR

- A. The Executive Director, subject to the control of the Board of Directors, shall be principal administrative officer of the corporation and shall serve as the corporation's official spokesperson. As such, he/she shall issue all written and oral statements of the corporation.
- B. He/she shall be employed under such terms and conditions and for such compensation as the Board of Directors and City Council approve, and shall serve at the will and pleasure of the Board. The Executive Director can be terminated with a simple majority vote of the Board.
- C. In the event of a vacancy, the Board of Directors shall appoint a Selection Committee to nominate suitable candidates for the position of Executive Director.
- D. The Executive Director shall adhere to the job description established by the Board of Directors including general charge of the operating activities of the corporation and shall be responsible for:
 - (1) Hiring and supervising the paid staff of the corporation in accordance with the Personnel Policies and Procedures established by the Board of Directors.
 - (2) Supervising the keeping of all records of the corporation as described under the authority of these by-laws.
 - (3) Receiving all monies due and payable to the corporation from any source whatsoever, depositing said monies with such bank. Trust company or other

depository as the Board of Directors may designate and maintaining proper record and account of all monies received and/or disbursed on behalf of the corporation.

(4) Serving as an ex-officio member of all Standing and Special Committee meetings with no power to vote thereon.

(5) Maintaining liaison and communication with the other Officers, Directors, and Committee Chairman.

(6) Providing leadership and coordination of effort for the attainment of the corporation's purposes and objectives and the successful completion of its projects and programs as adopted and approved of the Board of Directors and/or the Executive Committee and keeping the other Officers and Board of Directors informed as to the needs and problems of the corporation.

(7) Operating the corporation within the budget and guidelines as approved by the Board of Directors.

- E. In the event of the temporary disability of the Executive Director, the Executive Committee may designate an acting Executive Director until appropriate action can be taken by the Board of Directors.

ARTICLE VII

COMMITTEES

Section 1. STANDING COMMITTEES

- A. There shall be such Standing Committees of the Board of Directors, or membership as from time to time the Board of Directors may establish.
- B. The primary duties of any Standing Committees are to carry on a continuing review of the corporation's activities and functions which fall within their respective area of jurisdiction, to make recommendations to the Executive Director and/or Board of Directors for improvements in such activities or functions and to actively support and assist the Officers and Board of Directors in planning and forming such activities and functions.

Section 2. SPECIAL COMMITTEES

The Chairman of the Board, in consultation with the Executive Director, may from time to time establish ad hoc committees for special purposes or projects, and shall name the chairman and members to serve on such ad hoc committee along with the committees responsibilities and limitations.

ARTICLE VIII

FUNDS

Section 1. RESERVE FUND

- A. A reserve fund may be established and maintained by the corporation for the purpose of providing revenue which may be utilized to insure continuous extension and development of activities in general furtherance of the purposes of the corporation. The principal of this reserve fund shall be from any source of income or funds as specifically voted by the Board of Directors.
- B. No appropriation shall be made from the principal of the reserve fund except upon majority vote of these Directors present when notification of such action is included on the agenda mailed to all Directors in advance of the meeting. If less than a majority of the entire Board is present at such meeting, the Chairman of the Board shall within ten (10) days thereafter transmit by mail, e-mail, or fax of such a proposal to each member of the Board of Directors for a vote. If the Chairman of the Board shall have received within ten (10) days thereafter votes in writing in favor of the proposal signed by a majority of the entire Board of Directors, such proposal shall be deemed to be adopted with the same force and effect as if it has been adopted at a duly constituted meeting.

Section 2. OTHER FUNDS

The Board of Directors shall have the power to establish and maintain funds other than the reserve fund for specific purposes consistent with the objectives of the corporation, such purposes to be stated by the Board of Directors when and if such funds are established. The Board of Directors shall also have the power to make provision for any necessary and appropriate standards and procedures relating to the investment and utilization of such other funds.

Section 3. DISSOLUTION

In the case of dissolution of the corporation and liquidation of its affairs, none of the property of the corporation, nor any proceeds thereof nor any other assets of the corporation, shall be distributed or inure to the benefit of any member, Officer, or Director or any other individual. Any monies or other assets remaining after the payment of all obligations shall be distributed only to organizations which meet the requirements for exemption under the provisions of Section 501(c)(6) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of law as the City Council of the City of Nitro, West Virginia may determine or direct, and in every case the decision and determination of the City Council of the City of Nitro, West Virginia shall be final and conclusive upon all persons in any way interested.

ARTICLE IX

MISCELLANEOUS PROVISIONS

Section 1. AUDITORS

The Board of Directors shall each year designate a firm of Certified Public Accountants to review the corporation's financial records for the fiscal year.

Section 2. FIDELITY BOND

Any Officer, Director, member or employee of the corporation handling, or responsible for the custody of, any funds or securities of the corporation shall be bonded for the protection of the corporation in a surety company approved by the Board of Directors in such amounts as the Board of Directors shall determine with the cost of such bond to be paid by the corporation.

Section 3. FISCAL YEAR

The dates for the fiscal year of the corporation shall be determined by the Board of Directors and amended as such.

Section 4. NOTICES

Any notice to the members or to any Officer or Director shall be deemed sufficiently given if sent to the last address, e-mail or fax furnished by him/her to the corporation.

ARTICLE X

ADMENDMENT OF BY-LAWS

Section 1. PROVISIONS FOR ADMENDMENTS TO BY-LAWS

These By-Laws may be changed by a two thirds (2/3) vote of the Board of Directors. These changes shall be reported to the City Council of the City of Nitro, West Virginia for consent by majority vote and public announcement.

RESOLUTION

At a regular session of the Council of the City of Nitro, held March 2, 2010, the following order was made and entered:

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

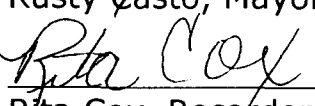
RESOLVED: That subject to approval of the State Auditor as ex officio chief inspector of public offices the City Council of the City of Nitro does direct the budget be revised prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists, as shown on budget revision number 2, a copy of which is entered as part of this record.

The adoption of the foregoing resolution having been moved by Councilman A. A. "Joe" Savilla, and duly seconded by Councilman Bob Fields the vote thereon was as follows:

Ward 1 Councilman A. A. "Joe" Savilla	yes
Ward 2 Councilman Bill Racer	yes
Ward 3 Councilman Craig Matthews	yes
Ward 4 Councilman Bill Javins	yes
Councilman at Large Dave Casebolt	yes
Councilman at Large Bob Fields	yes
Councilman at Large Jim McKay	yes
Recorder Rita Cox	yes

WHEREUPON, Mayor Rusty Casto declared said resolution duly adopted, and it is therefore ADJUDGED and ORDERED that said resolution be, and the is, hereby adopted as so stated above, and the Mayor of Nitro, Rusty Casto, is authorized to fix his signature on the attached "Request for Revision to Approved Budget" to be sent to the WV State Auditor for approval.



Rusty Casto, Mayor

Rita Cox, Recorder

REQUEST FOR REVISION TO APPROVED BUDGET

CONTROL NUMBER

Ora Ash, Director
West Virginia State Auditor's Office
200 West Main Street
Clarksburg, WV 26302

Subject to approval of the state auditor, the governing body requests that the budget be revised prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists. (§ 11-8-26a)

FY
2009

FUND
1

REV. NO.

2

PG. OF NO.

0199

Phone: 627-2415 ext. 5114
Fax: 627-2417

City of Nitro

GOVERNMENTAL ENTITY

PO Box 308

STREET OR P.O. BOX

Person To Contact Regarding
Budget Revision:

John H Young

Phone: **304 755-5066**

Nitro

25143

Fax: **304 755-7502**

CITY

ZIP CODE

RECEIPTS: (net each acct.)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	APPROVED AMOUNT	DEBIT (INCREASE)	CREDIT (DECREASE)	REVISED AMOUNT
366	Grants County	20,000	38,000		58,000
383	Sale of Fixed Assets		6,672		6,672

NET INCREASE/(DECREASE) Revenues

44,672

EXPENDITURES: (net each account category)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	APPROVED AMOUNT	DEBIT (DECREASE)	CREDIT (INCREASE)	REVISED AMOUNT
436-103	Salaries Bldg	27,541		40,092	67,633
440-103	Salaries City Hall	64,505		10,850	75,355
700-341	Dept Supplies Police	42,000		38,000	80,000
700-459	Capital Outlay Police	123,200	47,089		76,111
409-341	Dept Supplies Mayor	1,000		2,819	3,819

NET INCREASE/(DECREASE) Expenditures

44,672

APPROVED

DATE: _____ BY: _____

POSTED: _____ BY: _____

APPROVED BY THE STATE AUDITOR

BY:

Local Government Services Division

[Signature] 3/2/10
AUTHORIZED SIGNATURE ENTITY APPROVAL DATE
FOR GOVERNING BODY

COUNTIES ONLY

TRANSFERS TO THE GENERAL FUND FROM SPECIAL FUNDS CREATED PURSUANT TO WEST VIRGINIA CODE § 7-1-9, MUST BE ACCOMPANIED BY PRIOR WRITTEN APPROVAL FROM THE STATE AUDITOR

ORDINANCE

10-2

An Ordinance to amend and reenact Sections 1306.1(d) and 1306.2(c), Chapter 1306 of the Codified Ordinances of the City of Nitro, West Virginia, as amended; and to amend and reenact Section 1311.2(b), Chapter 1311 of said Codified Ordinances, all relating to the licensing of gambling establishments; establishing a two week time period during which the minimum distances between gambling establishments is reduced to 1,000 feet; establishing after the completion of the two week period a new distance requirement of 6,000 feet between gambling establishments; establishing municipal requirements necessary for the licensing of a new gambling establishment; and authorizing gambling establishments on newly annexed property to continue as a non-conforming use; establishing a two week time period when the distance between gambling establishments is measured door-to-door; establishing after the completion of the two week period the distance between gambling establishments is measured in a straight line.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, that Sections 1306.1(d) and 1306.2(c), Chapter 1306 of the Codified Ordinances of the City of Nitro, West Virginia, as amended, be amended and reenacted; and Section 1311.2(b), Chapter 1311 of said Codified Ordinances be amended and reenacted, all to read as follows:

**CHAPTER 1306
BUSINESS ZONES**

Section 1306.1. "B-1" Local or Neighborhood Business Zones.

1306.1(a). Permitted Uses. In any Local or Neighborhood Business Zone, the use of land and buildings shall be limited to any neighborhood retail business or service establishment, supplying commodities or performing services intended primarily for residents of the surrounding neighborhood, such as:

- 1306.1(a)(1). Barber or beauty shop,
- 1306.1(a)(2). Business or professional office,
- 1306.1(a)(3). Clothes cleaning or laundry pick up station,
- 1306.1(a)(4). Self-service laundry,
- 1306.1(a)(5). Delicatessen,
- 1306.1(a)(6). Drug store,
- 1306.1(a)(7). Grocery store,
- 1306.1(a)(8). Meat market,
- 1306.1(a)(9). Convenience and neighborhood commercial centers (excluding wholesale sales),
- 1306.1(a)(10). Family and group day-care,
- 1306.1(a)(11). Libraries,
- 1306.1(a)(12). Places of worship,
- 1306.1(a)(13). Police and fire stations, and other government services,
- 1306.1(a)(14). Bed and breakfast facility, and
- 1306.1(a)(15). Similar activities.

1306.1(b). Along State and Federal Highways.

1306.1(b)(1). Along State or Federal highways, the above permissive uses may be permitted but shall not be limited to supplying commodities or performing services for residents of the neighborhood.

1306.1(b)(2). Other permitted uses along State and federal highways, such as:

- 1306.1(b)(2)(A). Antique or gift shop,
- 1306.1(b)(2)(B). Gasoline service stations,
- 1306.1(b)(2)(C). Automobile sales,

1306.1(b)(2)(D). Automobile service garages, see Table 1310.1(b)(1) of this Part Thirteen for required vehicle parking,

1306.1(b)(2)(E). Automobile or trailer sales lot,

1306.1(b)(2)(F). Commercial parking lot,

1306.1(b)(2)(G). Drive-in eating or drinking establishment,

1306.1(b)(2)(H). Motel and hotel,

1306.1(b)(2)(I). Tourist home, and

1306.1(b)(2)(J). Similar businesses.

1306.1(b)(3). Automobile body repair shops, but see Table 1310.1(b)(1) of this Part Thirteen for required vehicle parking,

1306.1(b)(4). Mortuary and funeral homes,

1306.1(b)(5). Public utility stations, and

1306.1(b)(6). Restaurants.

1306.1(b)(7). Business or financial services,

1306.1(b)(8). Light commercial (excluding wholesale sales),

1306.1(b)(9). Group care facilities,

1306.1(b)(10). Physical fitness centers,

1306.1(b)(11). Cultural and fraternal activities,

1306.1(b)(12). Rehabilitation centers,

1306.1(b)(13). Schools and colleges operated for profit (including commercial), and

1306.1(b)(14). Vocational and trade schools,

1306.1(b)(15). Self-storage warehouses,

1306.1(b)(16). Commercial printing and publishing, and

1306.1(b)(16). Similar businesses.

1306.1(c). Permitted Accessory Uses. In Local or Neighborhood Business Zones, including those along State and Federal Highways, the following accessory buildings and uses shall be permitted .

1306.1(c)(1). Accessory parking areas.

1306.1(c)(2). Other accessory uses customarily incidental to a principal permitted use, including signs attached flat against a building, and elevated signs not exceeding fifty (50) square feet in area per face, provided that these are at least fifteen (15) feet from any street right-of-way.

1306.1(d). Prohibited Uses.

1306.1(d)(1). Any residential or industrial use except that which is clearly necessary for and incidental to the conduct of a permitted retail business or service of the premises.

1306.1(d)(2). Gambling establishments.

1306.1(d)(2)(A). On and after the effective date of this paragraph in ~~January~~ on February 2, 2010, gambling establishments shall not be located within 3,000 feet of each other: Provided, That on and after March 3, 2010, gambling establishments shall not be located within 1,000 feet of each other: Provided, however, That on and after March 17, 2010, gambling establishments shall not be located within 6,000 feet of each other.

1306.1(d)(2)(B). On and after the effective date of this paragraph in ~~January~~ on February 2, 2010, no gambling establishment shall be located within 3,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City: Provided, That on and after March 3, 2010, no gambling establishment shall be located within 1,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City: Provided, however, That on and after March 17, 2010, no gambling establishment shall be located within 6,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City.

1306.1(d)(2)(C). On and after March 3, 2010, any new gambling establishment not already licensed and in existence in the City shall satisfy the following requirements: it shall be an existing bar or restaurant; it shall have a current business license issued under the authority of section 733.14 of this Code; and it shall be current and not delinquent in the payment of any municipal fees or taxes.

1306.1(d)(2)(D). Upon the annexation into the City of any real property upon which is situated a legally licensed and operating gambling establishment, the use of the property as a gambling establishment, even if a nonconforming use, shall continue until such time as the West Virginia Lottery Commission repeals, withdraws or takes such other action that invalidates the license or licenses required to allow legal gambling to occur at the gambling establishment.

1306.1(e). Lot Areas. In any Local or Neighborhood Business Zone, no lot shall be less than 7,200 square feet.

1306.1(f). Lot Widths. In any Local or Neighborhood Business Zone, no lot shall be less than fifty (50) feet in width.

1306.1(g). Front Yards. In any Local or Neighborhood Business Zone, no lot shall have a front yard of less than twenty (20) feet.

1306.1(h). Side Yards. In any Local or Neighborhood Business Zone, common walls shall be permitted and no side yards shall be required; Provided, That where a non-residential use abuts a residential district, residential requirements must be observed where the property abuts.

1306.1(i). Rear Yards. In Local or Neighborhood Business Zone, rear yards shall not be less than twenty (20) feet in width.

1306.1(j). Building Height. In any Local or Neighborhood Business Zone, no building or structure shall exceed three (3) stories.

1306.1(k). Off-Street Parking and Loading Requirements. In any Local or Neighborhood Business Zone, off-street parking and loading requirements shall be scheduled according to the provisions of Table 1310.1.

Section 1306.2. "B-2" Central Business Zone.

1306.2(a). Permitted Uses. In any Central Business Zone, the following buildings and uses only are permitted:

1306.2(a)(1). All uses permitted in "B-1" Local or Neighborhood Business Zones.

1306.2(a)(2). Stores and shops for the conducting of any retail business.

1306.2(a)(3). Personal service shops.

1306.2(a)(4). Banks, offices, and studios.

1306.2(a)(5). Shops for custom work, and shops for making articles or products to be sold at retail on the premises.

1306.2(a)(6). Restaurants, cafes, and similar establishments.

1306.2(a)(7). Theaters, assembly halls, bowling alleys, amusement centers, golf driving ranges, miniature golf courses, ice rinks, pool and billiard halls (and similar recreational uses), and other public recreation uses.

1306.2(a)(8). Retail building materials supply sales (wholesale and retail),

1306.2(a)(9). Cultural institutions (such as museums and art galleries),

1306.2(a)(10). Community commercial centers (including wholesale and retail sales),

1306.2(a)(11). Health and medical institutions (such as hospitals),

1306.2(a)(12) Hotels and motels (excluding other residential occupancies),
 1306.2(a)(13). Commercial printing and publishing,
 1306.2(a)(14). Taverns and cocktail lounges,
 1306.2(a)(15). Regional commercial centers (including wholesale and retail sales), and
 1306.2(a)(15). Other service establishments or retail or wholesale businesses similar in nature to those listed above.

1306.2(b). Permitted Accessory Uses. In any Central Business Zone, the following accessory uses shall be permitted:

- 1306.2(b)(1). All uses permitted in "B-1" Local or Neighborhood Business Zone.
- 1306.2(b)(2). Other accessory uses customarily incidental to a permitted principal use.
 - 1306.2(b)(2)(A). All signs overhanging public ways shall conform to general ordinances of the City and Chapter 1312 of this Part Thirteen, now or hereinafter adopted.
 - 1306.2(b)(2)(B). Signs, parking areas, and buildings may be illuminated providing the use of such illumination does not confuse, blind, or distract vehicle operators on the highways or streets.

1306.2(c). Prohibited Uses. In any Central Business Zone, the following uses and buildings are prohibited.

- 1306.2(c)(1). Except for uses permitted in Section 1306.2(a) of this Part Thirteen, all uses prohibited in "B-1" Local or Neighborhood Business Zones.
- 1306.2(c)(2). Any residential commercial or industrial use, which in the opinion of the Board of Appeals may become noxious or offensive in a "B-2" Central Business Zones.
- 1306.2(c)(3). Gambling establishments.

1306.2(c)(3)(A). On and after the effective dates of this paragraph ~~in January~~ on February 2, 2010, gambling establishments shall not be located within 3,000 feet of each other: Provided, That on and after March 3, 2010, gambling establishments shall not be located within 1,000 feet of each other: Provided, however, That on and after March 17, 2010, gambling establishments shall not be located within 6,000 feet of each other.

1306.2(c)(3)(B). On and after the effective date of this paragraph ~~in January~~ on February 2, 2010, no gambling establishment shall be located within 3,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City: Provided, That on and after March 3, 2010, no gambling establishment shall be located within 1,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City: Provided, however, That on and after March 17, 2010, no gambling establishment shall be located within 6,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City.

1306.2(c)(3)(C). On and after March 3, 2010, any new gambling establishment not already licensed and in existence in the City shall satisfy the following requirements: it shall be an existing bar or restaurant; it shall have a current business license issued under the authority of section 733.14 of this Code; and it shall be current and not delinquent in the payment of any municipal fees or taxes.

1306.2(c)(3)(D). Upon the annexation into the City of any real property upon which is situated a legally licensed and operating gambling establishment, the use of the property as a gambling establishment, even if a nonconforming use, shall continue until such time as the West Virginia Lottery Commission repeals, withdraws or takes such other action that invalidates the license or licenses required to allow legal gambling to occur at the gambling establishment.

1306.2(d). Front Yards. In any Central Business Zone, no front yard shall be required.

1306.2(e). Side Yards. Common wall shall be permitted and no side yards are required.

**CHAPTER 1311
SPECIAL REGULATIONS**

SECTION 1311.2 Private Clubs

1311.2(a) General. A conditional use permit shall be obtained for all private clubs.

1311.2(b) Provisions.

1311.2(b)(1) No private clubs shall be located within 1,000 feet of a park, school, day-care center, library or religious or cultural activity.

1311.2(b)(2) No private clubs shall be located within 500 feet of any other private clubs or any agricultural or residential zone boundary.

1311.2(b)(3) Such distances shall be measured in a straight line without regard to intervening structures, topography and zoning: Provided, That on and after March 3, 2010, such distances shall be measured door-to-door with regard to intervening structures, topography and zoning: Provided however, That on and after March 17, 2010, such distances shall be measured in a straight line without regard to intervening structures, topography and zoning.

1311.2(b)(4) Private clubs shall not be located in R-1 or R-2 zones and shall not be permitted as a home occupation.

Passed on First Reading February 16, 2010

Passed on Second Reading March 2, 2010

Rusty Casto, Mayor



Rita Cox, Recorder

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, MARCH 16, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:30 pm in Council Chambers. Attending along with Mayor Casto were Recorder Rita Cox, Councilmen at Large Dave Casebolt, Bob Fields, and Jim McKay, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, City Attorney Richie Robb and City Treasurer John Young. Ward 1 Councilman A. A. "Joe" Savilla was not in attendance.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Councilman Jim McKay and the Pledge of Allegiance was led by Nitro resident Albert Walls.

FUTURE DATES OF COUNCIL: Mayor Casto said the future dates of Council are April 6 and 20, and May 4 and 18.

CITIZEN OF THE MONTH: Mayor Rusty Casto said the March Citizen of the Month is Shelly Hodges who recently worked in Haiti after the earthquake.

OLD BUSINESS:

STREETSCAPE COMMITTEE: Mayor Casto said he recently met with the Business Enhancement Committee to walk around downtown. Councilman Casebolt said that a group of employees and committee members met with Mike Giolis, an Historic Preservation Specialist, and they conducted a walk through in downtown. The goal is to become part of the On Track program and eventually a part of the Main Street Program. Mr. Giolis will do a preliminary report on some ideas for a theme for the downtown and an economic study on the types of business to try to attract. Councilman Casebolt said he is also contacting the community design team at WVU requesting them to consider Nitro for a future project. COUNCILMAN CASEBOLT MOVED IT BE MADE A PART OF THE MINUTES THAT THE WV DOH CONSULTANT ON THE STREETSCAPE PROGRAM IS ED MORAN AND ALL CONTACT WITH HIM IS TO BE MADE THROUGH MAYOR RUSTY CASTO AND A. J. HILL. THE MOTION WAS SECONDED BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS. Councilman Javins said he wanted to remind Council and the Streetscape Program not to forget the City of Nitro has another section in the east end of Nitro when plans are done.

CONVENTION AND VISITORS BUREAU BOARD OF DIRECTORS: COUNCILMAN JIM MCKAY MOVED THE CONVENTION AND VISITORS BUREAU BOARD OF DIRECTORS BE TABLED WITH A SECOND BY COUNCILMAN BILL JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION.

2010-2011 BUDGET: City Treasurer John Young said the revenue projection for the 2010-2011 fiscal year budget is \$ 5,196,060.00 and the projected expenses are \$5,171,443.00 making a surplus of \$24,617.00. Recorder Rita Cox said she was pleased that departments were fiscally responsible since the revenue coming from Charlestown, WV was a first time occurrence and therefore difficult to project. COUNCILMAN CRAIG MATTHEWS MOVED THE BUDGET BE PASSED AS PRESENTED WITH A SECOND BY COUNCILMAN BILL RACER. VOTE WAS UNANIMOUS FOR THE MOTION.

NEW BUSINESS:

CITY LOGO/BANNER CONTEST: COUNCILMAN DAVE CASEBOLT MOVED THE CITY SPONSOR A CONTEST TO DESIGN A NEW LOGO AND BANNER FOR THE CITY WITH THE CITY SPLITTING THE COST OF THE PRIZE WITH THE BUSINESS ENHANCEMENT MEMBERS. THE MOTION WAS SECONDED BY COUNCILMAN MCKAY. Councilman Matthews said that the Parks and Recreation Budget has money left in the budget that could be used for prize money. VOTE WAS UNANIMOUS FOR THE MOTION.

ATTORNEY REPORT: Richie Robb said he had no report but would answer questions from members of Council.

TREASURER REPORT: John Young said that he was current with the Policemen's Pensions and was up to 2008 with the Firemen's Pension. He asked for direction from Council on how to spend the money awarded from the tire fire lawsuit. Councilman Matthews suggested that the Fire Department come up with a plan to use the money. COUNCILMAN CRAIG MATTEWS MOVED THE FIRE DEPARTMENT DEVELOP A PLAN THAT WAS TO BE PRESENTED TO COUNCIL ON HOW TO SPEND THE TIRE FIRE MONEY WITH A SECOND BY COUNCILMAN RACER. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

COUNCIL COMMENT:

Councilman Javins thanked John Young , Council and Department Heads for the work on the budget.

Councilman Matthews asked if the tire fire money was in a Certificate of Deposit and John Young said that it was in an interesting bearing account.

Recorder Cox thanked the person who had put Nitro back on talk radio and in the newspaper.

Councilman Field said he believes the Fire Department should have a boat.

Councilman Casebolt said that he hoped a lot of thought went into setting up the Board of Directors for the Convention and Visitors Bureau.

Councilman McKay said he had given Council an in depth financial report Councilman Matthews said he would like the end of the fiscal year document.

PUBLIC COMMENT:

Herchel Facemyre said that since he is now President of the NDA they are putting together a financial report with what is available. Councilman Matthews thanked Mr. Facemyre for stepping in that job.

John Montgomery said there would not be an ordinance committee meeting this week.

Capt. Javins thanked John Young for getting the pensions as up to date as possible.

COUNCILMAN MATTHEWS MOVED ST. FRANCIS HOSPITAL BE CHARGED \$3500.00 USE AND SUPPORT STAFF FOR THE PICNIC/SWIM HELD SATURDAY, AUGUST 7, 2010 AT THE NITRO PARK COMPLEX. THE MOTION WAS SECONDED BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION.

Chuckie Boggs urged Council to stay on track with the CVB Board of Directors and get people who know what they are doing. Councilman Casebolt requested the list of names be given to Council on Friday prior to the meeting.

ADJOURNMENT:

COUNCILMAN BILL RACER MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN BOB FIELDS. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

MUNICIPALITY OF , WEST VIRGINIA
Recap and Certification
FISCAL YEAR JULY 1, 2010 - JUNE 30, 2011

0207

Account Number		REVENUE RECAP	General Fund Budgeted Revenues 2010 - 2011	Coal Severance Tax Budgeted Revenues 2010 - 2011
280	299	Beginning Balance, July 1st	0	0
301	319	Taxes	2,897,660	33,000
320	324	Fines and Forfeitures	53,200	
325	334	Licenses and Permits	92,000	
335	364	Charges for Services	990,000	
365	377	Intergovernmental	433,000	
378	399	Miscellaneous	697,200	0
		Grand Totals - Revenues	5,163,060	33,000

Account Number		EXPENDITURE RECAP	General Fund Budgeted Expenditures 2010 - 2011	Coal Severance Tax Budgeted Expenditures 2010 - 2011
401	699	General Government Expenditures	2,528,230	0
700	749	Public Safety Expenditures	1,896,401	0
750	799	Street & Transportation Expenditures	30,000	0
800	899	Health & Sanitation Expenditures	190,000	0
900	949	Culture & Recreation Expenditures	334,754	0
950	959	Social Services Expenditures	0	0
975	999	Capital Projects Expenditures	183,675	33,000
		Grand Totals - Expenditures	5,163,060	33,000

Please select the basis of accounting for MUNICIPALITY OF , WEST VIRGINIA Cash Basis

I, _____, RECORDING OFFICER OF SAID MUNICIPALITY, DO HEREBY CERTIFY THAT THE FOREGOING ELECTRONIC FILES ARE TRUE COPIES FROM THE RECORD OF ORDERS MADE AND ENTERED BY SAID COUNCIL ON THE ____ DAY OF MARCH 2010

(Signature)

Official Title of Recording Officer

MUNICIPALITY OF , WEST VIRGINIA
FISCAL YEAR JULY 1, 2010 - JUNE 30, 2011

Expenditures	General Fund		Coal Severance Fund	
	General Budget 2010-2011	Revised Budget	Coal Budget 2010-2011	Revised Budget
440 City Hall	1,279,909	1,279,909	0	0
441 Other buildings	0	0	0	0
442 Internal Audit		0		0
443 Charter Board		0		0
444 Contributions / Transfers to Other Funds		0		0
500 Other Buildings #2		0		0
501 Employee Wellness		0		0
565 Electrical Services		0		0
566 Public Works Department	713,580	713,580		0
567 Public Grounds		0		0
568 Complaint Department		0		0
569 Local Government Access Channel		0		0
571 Parking		0		0
590 Market House		0		0
698 Transfers/Reimb. (Audit Findings)		0		0
699 Contingencies (CAN NOT EXCEED 3% OF TOTAL BUDGET)		0		0
TOTAL GENERAL GOVERNMENT	2,521,007	2,521,007	0	0

MUNICIPALITY OF, WEST VIRGINIA
FISCAL YEAR JULY 1, 2010 - JUNE 30, 2011

0209

Expenditures	General Fund		Coal Severance Fund	
	General Budget 2010-2011	Revised Budget	Coal Budget 2010-2011	Revised Budget
PUBLIC SAFETY #700 - 749				
700 Police Department	1,145,977	1,145,977		0
701 DARE Grant		0		0
702 COPS Grants		0		0
703 Investigative Services & Control		0		0
704 Police-Special Duty		0		0
705 City Jail		0		0
706 Fire Department	757,647	757,647		0
707 Dog Warden/Humane Society	0	0	0	0
708 Watershed Project		0		0
709 Ambulance Authority		0		0
710 Dams & Dredging		0		0
711 Communication Center/Central Dispatch		0		0
712 Traffic Engineering		0		0
713 Civil Defense		0		0
714 Flood Control/ Soil Conservation		0		0
715 Fire Hydrants		0		0
716 Emergency Services	0	0	0	0
717 Juvenile Justice Diversion Program		0		0
718 Drug & Violent Crime Control Grant		0		0
719 Local Law Enforcement Block Grant		0		0
720 Local Law Enforcement Block Grant		0		0
721 Local Law Enforcement Block Grant		0		0
722 Local Law Enforcement Block Grant		0		0
723 Local Law Enforcement Block Grant		0		0
724 Fire Fee Distribution		0		0
TOTAL PUBLIC SAFETY	1,903,624	1,903,624	0	0

MUNICIPALITY OF , WEST VIRGINIA
FISCAL YEAR JULY 1, 2010 - JUNE 30, 2011

Expenditures	General Fund		Coal Severance Fund	
	General Budget 2010-2011	Revised Budget	Coal Budget 2010-2011	Revised Budget
STREET AND TRANSPORTATION #750-799				
750 Streets and Highways	0	0	0	0
751 Street Lights	30,000	30,000		0
752 Signs and Signals		0		0
753 Snow Removal		0		0
754 Central Garage		0		0
755 Street Construction		0		0
756 Street Cleaning		0		0
757 Sidewalks		0		0
758 Airports		0		0
759 Public Transit		0		0
760 Port Authority		0		0
TOTAL STREET & TRANSPORT.	30,000	30,000	0	0
HEALTH & SANITATION #800 - 899				
800 Garbage Department	0	0	0	0
801 Landfill/Incinerator	190,000	190,000		0
802 Recycling Center		0		0
803 Local Health Department		0		0
804 Other Health Program		0		0
805 Storm Sewer		0		0
806 Water & Sewer		0		0
807 Sewer - Source of Supply		0		0
808 Water -Source of Supply		0		0
TOTAL HEALTH & SANITATION	190,000	190,000	0	0

MUNICIPALITY OF , WEST VIRGINIA
FISCAL YEAR JULY 1, 2010 - JUNE 30, 2011

Expenditures	General Fund		Coal Severance Fund	
	General Budget 2010-2011	Revised Budget	Coal Budget 2010-2011	Revised Budget
CULTURE & RECREATION #900 - 949				
900 Parks & Recreation	52,850	52,850	0	0
901 Visitors Bureau	114,763	114,763		0
902 Travel Council		0		0
903 Fair Associations/Festivals		0		0
904 Swimming Pools	83,278	83,278	0	0
905 Community Center		0		0
906 Arts & Humanities		0		0
907 Youth Program		0		0
908 Playgrounds		0		0
909 Museum Commission		0		0
910 Civic Center - Municipal Auditorium		0		0
911 Historical Commission		0		0
912 Civic Promotions		0		0
913 4-H Camp		0		0
914 Rails to Trails		0		0
915 Ice Arena		0		0
916 Library	83,863	83,863		0
917 Law Library		0		0
918 Golf Course		0		0
919 Stadium		0		0
TOTAL CULTURE & RECREATION	334,754	334,754	0	0

**MUNICIPALITY OF , WEST VIRGINIA
FISCAL YEAR JULY 1, 2010 - JUNE 30, 2011**

Expenditures	General Fund		Coal Severance Fund	
	General Budget 2010-2011	Revised Budget	Coal Budget 2010-2011	Revised Budget
SOCIAL SERVICES #950 - 959				
950 Beautification Programs		0		0
951 Aging Program (Senior Citizens)		0		0
952 Cemeteries		0		0
953 Social Services		0		0
954 Human Rights / Affirmative Action		0		0
955 Human Resources		0		0
956 Community Council		0		0
957 Bingo Expenses		0		0
TOTAL SOCIAL SERVICES	0	0	0	0
CAPITAL PROJECTS #960 - 999				
975 General Government		0		0
976 Public Safety	128,862	128,862	33,000	33,000
977 Street and Transportation	54,813	54,813		0
978 Health and Sanitation		0		0
979 Culture and Recreation		0		0
980 Social Services		0		0
TOTAL CAPITAL PROJECTS	183,675	183,675	33,000	33,000
Total Expenditures	5,163,060	5,163,060	33,000	33,000

	Amount of Appropriation 2009-2010	Account Number
POLICEMEN'S PENSION FUND	<u>118,493</u>	<u>1-409</u>
FIREMEN'S PENSION FUND	<u>110,405</u>	<u>1-455</u>
AUDIT COSTS / ALL FUNDS	<u></u>	<u></u>

MUNICIPALITY OF , WEST VIRGINIA
FISCAL YEAR JULY 1, 2010 - JUNE 30, 2011

Expenditures	General Fund		Coal Severance Fund	
	General Budget 2010-2011	Revised Budget	Coal Budget 2010-2011	Revised Budget

Gas & Oil Expenditures

General Government Expenditures	7,900
Public Safety Expenditures	
Street & Transportation Expenditures	
Health & Sanitation Expenditures	
Culture & Recreation Expenditures	
Social Services Expenditures	
Capital Projects Expenditures	
Total	7,900

Gas & Oil total expenditures are tied to the total revenue budgeted, Account #303. Money will be posted to the general government line unless it is posted in the other lines, then the remaining balance will post to general government.

CHART FOR TRANSFERS TO ACCOUNT #369

Fund Name:	Amount
Total	0

Please list the type and amount of the funds included in Account Number 369, "Contributions from Other Funds".

CHART FOR TRANSFERS TO ACCOUNT #382

Fund Name:	Amount
Total	0

Please list the type and amount of the funds included in Account Number 382, "Refunds".

MUNICIPALITY OF , WEST VIRGINIA
STATEMENT OF SALARIES OF ELECTED OFFICIALS
FISCAL YEAR JULY 1, 2010 - JUNE 30, 2011

<u>Office</u>	<u>Elected Official</u>	<u>Elected (X)</u>	<u>Appointed (X)</u>	<u>Date Current Term Began</u>	<u>Prior Year Budgeted Salary</u>	<u>2010 - 2011 Budgeted Salary</u>
Mayor						
Rusty Casto		x		7/1/2008	33000	33000
City Council:						
Joe Savilla		x		7/1/2008	2400	2400
Bill Racer		x		7/1/2008	2400	2400
Bill Javins		x		7/1/2008	2400	2400
Jim McKay		x		7/1/2008	2400	2400
Dave Casebolt		x		7/1/2008	2400	2400
Craig Matthews		x		7/1/2008	2400	2400
Bob Fields		x		7/1/2008	2400.	2400
City Manager						
City Clerk						
Recorder						
Rita Cox		x		7/1/2008	17500	17500
Finance Director						
Treasurer						
John Young			x	07/01/2008/	40000	40000

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, APRIL 6, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm in Council Chambers. Attending along with Mayor Casto were Recorder Rita Cox, Ward 1 Councilman A. A. "Joe" Savilla, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Councilmen at Large Jim McKay, Dave Casebolt, and Bob Fields, City Attorney Richie Robb and City Treasurer John Young. Ward 2 Councilman Bill Racer was not present.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Councilman A. A. "Joe" Savilla and the Pledge of Allegiance was led by John Montgomery.

FUTURE DATES OF COUNCIL: Mayor Casto reported the future dates of Council are April 20., May 4 and May 18.

APPROVAL OF COUNCIL MINUTES: RECORDER RITA COX MOVED THE MINUTES OF MARCH 2, 2010 AND MARCH 16, 2010 MEETINGS OF COUNCIL BE APPROVED AS PRESENTED WITH A SECOND BY COUNCILMAN A. A. "JOE" SAVILLA. VOTE WAS UNANIMOUS FOR THE APPROVAL OF THE MOTION.

CITIZEN OF THE MONTH/PROCLAMATION: Mayor Rusty Casto announced the April Citizen of the Month is Ina Thomas. He yielded the floor to Councilman Bob Fields who said Ina Thomas will be celebrating her 90th birthday on April 22 and there would be a celebration held at the Nitro Library on that day at 1:00 pm to honor her and all her volunteer work that she does. COUNCILMAN BOB FIELDS MOVED THE CITY PASS A PROCLAMATION TO HONOR INA THOMAS WITH A SECOND BY COUNCILMAN CRAIG MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION.

LOCAL GOVERNMENT PURCHASING CARD: Mayor Casto introduced Jessica Perdue of the WV Auditor's Office. She told Council about the WV One Card, a purchasing card that municipalities and other governmental agencies can use and get a cash rebate on the amounts used. She explained that it was not a credit card but a purchasing card and the city is rebated back 1.05% of the purchases. It can be used for some utility payments and the use of the cards can be customized. Expenses can be tracked and special reports can be made to track spending. COUNCILMAN A.A. "JOE" SAVILLA MOVED THAT A COMMITTEE BE FORMED OF MAYOR RUSTY CASTO, RECORDER RITA COX, AND TREASURER JOHN YOUNG TO EVALUATE AND MAKE A RECOMMENDATION TO COUNCIL ON THE LOCAL GOVERNMENT PURCHASING CARD, WV ONE CARD. THE MOTION WAS SECONDED BY COUNCILMAN DAVE CASEBOLT. VOTE WAS UNANIMOUS FOR THE MOTION.

OLD BUSINESS:

BOAT LAUNCH: Councilman Bill Javins yielded the floor to David Hight of the WV DNR. He explained the change in the language of the land use covenant covering the restrictions on the cap of the Smith Street Landfill property saying it was a universal environmental covenant rather than a land use covenant. City Attorney Richie Robb recommended that Council approve the change in the language. COUNCILMAN BILL JAVINS MOVED COUNCIL APPROVE THE LANGUAGE IN THE COVENANT TO A UNIVERSAL ENVIRONMENTAL COVENANT INSTEAD OF A LAND USE COVENANT. THE MOTION WAS SECONDED BY COUNCILMAN A. A. "JOE" SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS. Mr. Hight said that the constructions should begin on the boat launch after July 1.

ANTIQUE FAIR WEEKEND/CITY WIDE YARD SALE: Mayor Casto yielded the floor to Recorder Rita Cox. She introduced Bruce Crowder and Larry Bailey who said they were having car shows on the weekend of June 12 in conjunction with Wayne Fleishman's Antique Show. They requested that 21st St. be shut down for a car show and street dance on June 12. It will be called the Starry, Starry Night Show and

there will be a DJ. Captain Javins reminded them that KRT will have to be notified due to the bus route on 21st Street. COUNCILMAN CASEBOLT MOVED THAT 21ST STREET BE CLOSED ON JUNE 12 FOR THE ANTIQUE CAR SHOW AND STREET DANCE AND \$1000.00 BE GIVEN FROM THE CONVENTION AND VISITORS BUREAU MONEY TOWARD THE EVENT. THE MOTION WAS SECONDED BY COUNCILMAN MCKAY. VOTING FOR THE MOTION WERE RECORDER COX, COUNCILMEN, MCKAY, CASEBOLT, FIELDS, SAVILLA AND JAVINS, WITH COUNCILMAN MATTHEWS ABSTAINING. THE MOTION CARRIED.

BOAT/ FIRE DEPARTMENT: Councilman Craig Matthews supplied Council with a list of equipment required to complete restoration and upkeep on the fire boat that the Charleston Fire Department donated to the City of Nitro. Among the items needed will be storm gear and/or cold weather gear which can be used interchangeably and a datum buoy. COUNCILMAN MATTHEWS MOVED THAT THE FIRE SETTLEMENT MONEY BE USED TO PAY FOR UPKEEP AND REPAIRS TO THE BOAT. THE MOTION WAS SECONDED BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

SPRING CLEAN UP-APRIL 17: Mayor Casto announced the spring clean up will be held April 17. Items can be brought to the city garage or taken to the county sponsored area in Cross Lanes on Cross Lanes Drive. Up to ten tires per WV Drivers License can be taken to the Cross Lanes site.

2010 POOL PRICES: COUNCILMAN MATTHEWS MOVED THE 2010 POOL PRICES BE AS FOLLOWS: ADULTS-\$4.00; SENIORS-\$3.00; CHILDREN-\$2.00; UNDER 5 FREE; SUMMER PASSES: NON-RESIDENT FAMILY 4, \$200.00, \$15.00 EACH ADDITIONAL; RESIDENT FAMILY OF 4 \$175.00, \$10.00 EACH ADDITIONAL; SINGLE RESIDENT ADULT \$100.00; SINGLE NON RESIDENT \$125.00. THE MOTION WAS SECONDED BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION. Councilman Matthews said the pool would open on Memorial Day.

CONVENTION AND VISITOR'S BUREAU BOARD OF DIRECTORS: Mayor Casto announced his selection of Board of Directors for the CVB: Mayor Casto, Leonard Womble, Councilman Fields, Nora Helm, Councilman Javins, Councilman Matthews, and John Young. COUNCILMAN CASEBOLT MOVED THE CONVENTION AND VISITOR'S BUREAU BOARD OF DIRECTORS BE APPOINTED AS FOLLOWS: MAYOR RUSTY CASTO, COUNCILMEN BOB FIELDS, BILL JAVINS, AND CRAIG MATTHEWS, AND NORA HELM, AND CITY TREASURER JOHN YOUNG. THE MOTION WAS SECONDED BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION.

BUDGET REVISIONS: John Young presented Council with revisions for the budget. COUNCILMAN MCKAY MOVED THE TREASURER BUDGET DECREASE FROM \$199,860.00 TO THE REVISED AMOUNT OF \$154,860.00, AND THE PUBLIC WORKS BUDGET INCREASE FROM \$875,571.00 TO THE REVISED AMOUNT OF \$920,571.00. THE MOTION WAS SECONDED BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

NEW BUSINESS:

EXPLORATORY COMMITTEE/FORMATION OF HEALTH DEPARTMENT: Mayor Rusty Casto recommended an exploratory committee be formed to investigate the formation of a Health Department by the City of Nitro. His recommendation was to appoint the Council as a whole with the addition of City Treasurer John Young. COUNCILMAN SAVILLA MOVED THE NITRO COUNCIL AND CITY TREASURER BE APPOINTED AS AN EXPLORATORY COMMITTEE CONCERNING A CITY HEALTH DEPARTMENT. THE MOTION WAS SECONDED BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION.

ATTORNEY COMMENTS: Richie Robb said there was going to be an Annexation Committee meeting following the Council meeting.

TREASURER COMMENTS: John Young said a grant from the state of WV had allowed the purchase of new computers. COUNCILMAN MCKAY MOVED THE LAPTOP COMPUTER BEING REPLACED

BE DONATED TO NITRO ELEMENTARY SCHOOL WITH A SECOND BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

COUNCIL COMMENTS:

Mayor Casto said he would like to sell the remaining vehicle from the police fleet on Ebay.

COUNCILMAN SAVILLA MOVED THE CANINE VEHICLE BE SOLD ON EBAY WITH A SECOND BY COUNCILMAN FIELDS. VOTE WAS UNANIMOUS FOR THE MOTION.

Councilman Javins said he was pleased to see the financial status of the city in such good shape.

Mayor Casto said he thought with a budget of \$250.00 the outdoor classroom at Nitro Elementary School could be rehabbed. COUNCILMAN FIELDS MOVED THAT \$250.00 BE ALLOTTED TO REPAIR THE OUTDOOR CLASSROOM AT NITRO ELEMENTARY SCHOOL WITH A SECOND BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

Councilman Casebolt said that the Streetscape Committee were looking at choosing a master plan. He said they were considering a World War I look.

Councilman McKay said he had registered Nitro Chamber of Commerce.

PUBLIC COMMENTS:

Bob Schamber said there was to be an indoor flea market on Saturday at the Senior Center. He said the name of the Monsanto Credit Union has been changed to Mountain Valley Credit Union. He said the Nitro Seniors are working to replace the van. Money from bingo this week is going to Little League and Nitro Elementary.

Marjory Faulknier said she was upset with recent news articles about the city.

John Montgomery said the Ordinance Committee were meeting Thursday at 7:00 pm.

Mark Roberts said he owns Rocky Fork Enterprises and said he was upset about a current article in the Gazette that said he was not licensed to do business. He said that is incorrect, he is licensed.

ADJOURNMENT:

COUNCILMAN MATTHEWS MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

PROCLAMATION

The City of Nitro, from this day forward proclaims April 22 to be Ina Thomas Day.

This proclamation is being declared in recognition of Mrs. Thomas' lifelong contributions to our community and the citizens throughout the community as she celebrates a major milestone, her 90th birthday.

Mrs. Thomas has dedicated a large portion of her life teaching children. She taught pre-school at St. Paul's United Methodist Church for 21 years. During her tenure there she touched the hearts and minds of many children, many who are in the audience today.

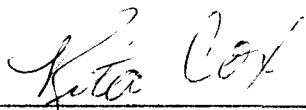
Mrs. Thomas love of reading and her desire to share this love is one of the reasons that she volunteers at the Nitro Public Library 4 hours a day.

On Wednesdays she volunteers for 4 hours at Nitro Elementary helping children improve their reading ability. These hours have had and will continue having a profound impact on some very special children. On Mondays, she visit's the shut-ins in the community.

Ina Thomas is a sterling example of the power of knowledge and life. In her readings she has discovered that giving to others is the true secret of happiness. She has given so much of herself over the years, it is time for our community to give back to her.

On behalf of the Council, the citizens of Nitro, we extend our heart felt gratitude to you.

Rusty Casto, Mayor



Rita Cox, Recorder

A. A. "Joe" Savilla, Councilman

Bill Racer, Councilman

Craig Matthews, Councilman

Bill Javins, Councilman

Dave Casebolt, Councilman

Bob Fields, Councilman

Jim McKay, Councilman

RESOLUTION

At a regular session of the Nitro City Council, held April 6, 2010, the following order was made and entered:

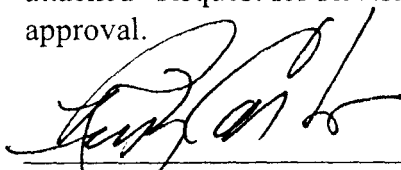
SUBJECT: The revision of the Levy Estimate (Budget) for the City of Nitro, the following resolution was offered:

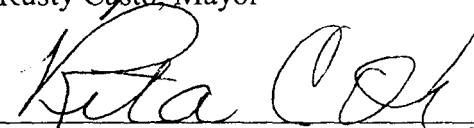
RESOLVED: That subject to approval of the State Auditor as ex officio chief inspector of public offices, the City Council of Nitro does hereby direct the budget to be revised PRIOR TO THE EXPENDITURE OR OBLIGATION OF FUNDS FOR WHICH NO APPROPRIATION OR INSUFFICIENT APPROPRIATION CURRENTLY EXISTS, as shown on budget revision number 2, a copy of which is entered as part of this record.

The adoption of the foregoing resolution having been moved by Councilman Craig Matthews, and duly seconded by Councilman Jim McKay by the following vote:

Ward 1 Councilman A. A. "Joe" Savilla	Yes
Ward 3 Councilman Craig Matthews	Yes
Ward 4 Councilman Bill Javins	Yes
Councilman at Large Jim McKay	Yes
Councilman at Large Bob Fields	Yes
Councilman at Large Dave Casebolt	Yes
Recorder Rita Cox	Yes

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



Rusty Casto, Mayor

Rita Cox, Recorder

0220

LGSD BR 1180 (Rev. 2003)

Ora Ash, Director
West Virginia State Auditor's Office
200 West Main Street
Clarksburg, WV 26302

Phone: 627-2415 ext. 5114
Fax: 627-2417

Person To Contact Regarding
Budget Revision:

John H Young

Phone: 304 755-5066

Fax: 304 755-7502

REQUEST FOR REVISION TO APPROVED BUDGET

Subject to approval of the state auditor, the governing body requests
that the budget be revised prior to the expenditure or obligation of funds
for which no appropriation or insufficient appropriation currently exists.
(§ 11-8-26a)

City of Nitro

GOVERNMENTAL ENTITY

PO Box 308

STREET OR P.O. BOX

Nitro

25143

CITY

ZIP CODE

CONTROL NUMBER

2010

FY

1

FUND

2

REV. NO.

1

PG. OF NO.

RECEIPTS: (net each acct.)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	APPROVED AMOUNT	DEBIT (INCREASE)	CREDIT (DECREASE)	REVISED AMOUNT

NET INCREASE/(DECREASE) Revenues

EXPENDITURES: (net each account category)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	APPROVED AMOUNT	DEBIT (DECREASE)	CREDIT (INCREASE)	REVISED AMOUNT
413	City Treasurer	199,860	45,000		154,860
566	Public Works	875,571		45,000	920,571

NET INCREASE/(DECREASE) Expenditures

APPROVED DATE: _____ BY: _____
POSTED: _____ BY: _____
APPROVED BY THE STATE AUDITOR
BY: _____ Local Government Services Division

AUTHORIZED SIGNATURE _____ ENTITY APPROVAL DATE _____
FOR GOVERNING BODY

COUNTIES ONLY

TRANSFERS TO THE GENERAL FUND FROM SPECIAL
FUNDS CREATED PURSUANT TO WEST VIRGINIA CODE
§ 7-1-9, MUST BE ACCOMPANIED BY PRIOR WRITTEN
APPROVAL FROM THE STATE AUDITOR.

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, APRIL 20, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm in Council Chambers. In attendance along with Mayor Casto were Recorder Rita Cox, Councilmen at Large Jim McKay, Dave Casebolt, and Bob Fields, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, City Treasurer John Young, and City Attorney Richie Robb.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Councilman Jim McKay and the Pledge of Allegiance was led by Councilman Craig Matthews.

FUTURE DATES OF COUNCIL: Mayor Casto said the future dates of Council are May 4, May 18, June 1 and June 15.

INA THOMAS DAY/APRIL 22, 2010: Councilman Bob Fields invited people to attend a party at 1:00 pm April 22 at Nitro Library in recognition of Ina Thomas' 90th Birthday and all her volunteer work she does in the City of Nitro. COUNCILMAN MCKAY MOVED THAT COUNCIL PAY \$100.00 FOR THE FRAMING OF THE PLAQUE FOR INA THOMAS WITH A SECOND BY COUNCILMAN RACER. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY. Councilman Fields indicated one dozen roses has been donated by Chad Harding and Mrs. C. Cox donated two cakes.

LAY LEVY/LEVY ORDER AND RATE SHEET: SETTING LEVY FOR FISCAL YEAR 2010-2011; RECORDER RITA COX MOVED THAT COUNCIL LAY THE LEVY FOR FISCAL YEAR 2010-2011 WITH A SECOND BY COUNCILMAN JIM MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

OLD BUSINESS:

NITRO DEVELOPMENT AUTHORITY APPOINTMENTS: Mayor Casto yielded the floor to Councilman McKay. COUNCILMAN MCKAY MOVED THE FOLLOWING PEOPLE BE APPOINTED TO THE NITRO DEVELOPMENT AUTHORITY BOARD OF DIRECTORS: CHUCK BOGGS III, LEONARD WOMBLE, AND APRIL PLANCK. THE MOTION WAS SECONDED BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY. Councilman McKay said Jim Carrier is not longer a member of the NDA Board of Directors.

RECOMMENDATION LOCAL GOVERNMENT PURCHASING CARD/WV ONE CARD: Mayor Casto said the committee met to discuss the purchasing card system through the WV Auditor's Office. He said the committee concluded there were enough safeguards to keep it from being misused and the cash back rewards were a positive. RECORDER COX MOVED THE CITY OF NITRO TAKE PART IN THE WV ONE CARD/LOCAL GOVERNMENT PURCHASING CARD THROUGH THE WV AUDITOR'S OFFICE. THE MOTION WAS SECONDED BY COUNCILMAN FIELDS. VOTE WAS UNANIMOUS. THE MOTION CARRIED.

NEW BUSINESS:

POLICE DEPARTMENT PENSION BOARD ELECTION 2010-2011: Recorder Rita Cox said the Police Department Pension Board held elections for board members. Elected to fill the 2010-2014 term was David Richardson and Brian Oxley was elected to fill the unexpired term for 2008-2010. RECORDER COX MOVED THE RESULTS OF THE PENSION BOARD ELECTION BE MADE A PART OF THE MINUTES WITH A SECOND COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

RESOLUTION IN SUPPORT OF THE KANAWHA COUNTY SAFETY LEVY/MAY 11: RECORDER COX MOVED COUNCIL PASS A RESOLUTION URGING SUPPORT OF THE KANAWHA COUNTY SAFETY LEVY ON THE BALLOT ON MAY 11. THE MOTION WAS SECONDED BY COUNCILMAN CASEBOLT. VOTE WAS UNANIMOUS FOR PASSAGE OF THE RESOLUTION.

ATTORNEY REPORT: City Attorney Richie Robb said there would be an Annexation Committee meeting following the Council meeting.

TREASURER REPORT: City Treasurer John Young said the City of Nitro was in better shape financially than previously reported. Mayor Casto asked what he thought would be the status by June 30 and Mr. Young predicted there could be a surplus but that he could not be positive about that. Councilman McKay asked how much of the \$200,000.00 advance from Tri-State Racetrack had been used and Code Enforcement Department Head Ronnie King said he did not have those figures with him but thought it was between \$70,000.00 and \$80,000.00. Councilman Matthews said that members of the Nitro Fire Department had met with International Filler concerning hydrants and sprinklers and they are out of the corporate limits of Nitro. He asked if they had paid the \$41,000.00 bill for the fire the city fought there. John Young said they had not paid it. Recorder Cox asked if that bill had been forgiven. John Young said it was still due to the city. International Filler disputes it because they had been paying to the Civic Benefits Association and thought that included fire protection. The dispute has not been resolved.

COUNCIL COMMENTS:

Councilman Bill Javins asked the Ward Councilmen to bring a list of streets that need to be paved so the Street Committee can address that issue.

Recorder Rita Cox reminded everyone to vote and that early voting was opening the next day. She thanked Mayor Rusty Casto and Councilman Craig Matthews for the Arbor Day Ceremony at Nitro Elementary School and Phil Pfister for attending. She said there would be two new policemen sworn in at 11:00 am April 30 in Council Chambers.

Councilman Dave Casebolt said the Seniors had a successful dance. He said Mike Dougherty will speak at 11:00 am on April 28 in Council Chambers.

Mayor Casto said two of our firemen helped with the diving and recovery in the Kanawha River, Mark Jarrett and Robert Ely.

PUBLIC COMMENTS:

Bob Schamber said the Monsanto Credit Union has a new name: Mountain Valley Credit Union. He said one half of the raffle from bingo this week was going to Nitro Elementary School.

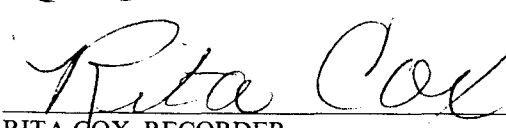
John Montgomery said the Ordinance Committee would meet on Thursday at 7:00 in Council Chambers.

Ron King said he was not sure Leonard Womble could remain on the Board of Zoning Appeals as well as CVB and NDA. Mayor Casto asked Richie Robb to research it.

ADJOURNMENT:

COUNCILMAN MCKAY MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN RACER. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.


RUSTY CASTO, MAYOR


RITA COX, RECORDER



To: Mayor Rusty Casto
Ward 1 Councilman A. A. "Joe" Savilla
Ward 2 Councilman Bill Racer
Ward 3 Councilman Craig Matthews
Ward 4 Councilman Bill Javins
Councilman at Large Dave Casebolt
Councilman at Large Bob Fields
Councilman at Large Jim McKay
From: Rita Cox, Recorder
Date: April, 20, 2010
Re: Nitro Police Pension Board Election 2010

The Nitro Police Pension Board held elections for the Board of Trustees. The election was held Friday, April 16, 2010. David Richardson was elected to fill the 2010-2014 term and Brian Oxley was elected to fill the unexpired term for 2008-2012 which was left empty with the resignation of Joseph Savilla.

Resolution _____

April 20, 2010

RESOLUTION IN SUPPORT OF THE KANAWHA COUNTY SAFETY LEVY

WHEREAS, The Mayor and Council of the City of Nitro are concerned with the safety and well being of it's citizen; and,

WHEREAS, the services that are funded by the levy are vital to the City of Nitro; and,

WHEREAS, the levy is required to obtain grants for our Police Department and Fire Department; and

WHEREAS, the failure of the levy could result in loss of bus service, a disruption in transportation for the disabled, longer response time for 911 calls, and higher ambulance fees; and,

WHEREAS, passage of the levy will not cause an increase in taxes and will continue a levy first passed in 1973 at the same rate;

NOW, THEREFORE, BE IT RESOLVED that the MAYOR AND COUNCIL OF THE CITY OF NITRO believe that passing the levy is vital to the public good and do support passage of the Kanawha County Safety Levy on May 11, 2010.



RUSTY CASTO, MAYOR



RITA COX, RECORDER

COUNCILMAN A. A. "JOE" SAVILLA



COUNCILMAN BILL RACER



COUNCILMAN CRAIG MATTHEWS



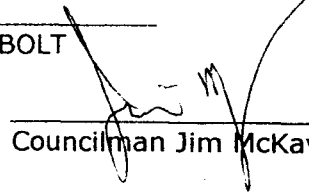
COUNCILMAN BILL JAVINS



COUNCILMAN DAVE CASEBOLT



COUNCILMAN BOB FIELDS



Councilman Jim McKay

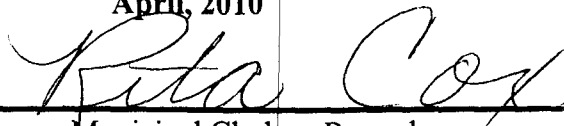
MUNICIPALITY OF Nitro, WEST VIRGINIA
LEVY PAGE
REGULAR CURRENT EXPENSE LEVY
2010 - 2011

The following is a true copy from the record of orders entered by this entity on the 20th day of

April, 2010

SIGNATURE

:



Municipal Clerk or Recorder

		Column E	
		Certificate of Valuation	Levy
Current Year	Assessed Value for Tax Purposes	Rate/\$100	Taxes Levied
Class I			
	Personal Property	\$ 0	\$ 0
	Public Utility	0	0
Total Class I	\$ 0		\$ 0
Class II			
	Real Estate	\$ 92,491,560	\$ 181,098
	Personal Property	147,852	289
Total Class II	\$ 92,639,412		\$ 181,387
Class IV			
	Real Estate	\$ 82,885,180	\$ 324,578
	Personal Property	55,660,166	217,965
	Public Utility	10,733,504	42,032
Total Class IV	\$ 149,278,850		\$ 584,575
Total Value & Projected Revenue	\$ 241,918,262		\$ 765,962
Less Delinquencies, Exonerations & Uncollectable T		5.00%	38,298
Less Tax Discounts		1.00%	7,277
Less Allowance for Tax Increment Financing - see worksheet (Subtracted from regular current expense taxes levied only)			0
Total Projected Property Tax Collection			720,387
Less Assessor Valuation Fund		2.00%	14,408
(Subtracted from regular current expense taxes levied only)			
Net Amount to be Raised by Levy of Property Taxes For Budget Purposes			\$ 705,979

**REGULAR CURRENT EXPENSE LEVY
EXCESS LEVY PAGE**

**Excess Levy Name #1
2010 - 2011**

		Column E		
		Certificate of Valuation	Levy	Taxes
		<u>Assessed Value for Tax Purposes</u>	<u>Rate/\$100</u>	<u>Levied</u>
Current Year				
Class I				
	Personal Property	\$ 0	5.02	\$ 0
	Public Utility	0		0
Total Class I		\$ 0		\$ 0
Class II				
	Real Estate	\$ 92,491,560	10.04	\$ 92,862
	Personal Property	147,852		148
Total Class II		\$ 92,639,412		\$ 93,010
Class IV				
	Real Estate	\$ 82,885,180	20.08	\$ 166,433
	Personal Property	55,660,166		111,766
	Public Utility	10,733,504		21,553
Total Class IV		\$ 149,278,850		\$ 299,752
Total Value & Projected Rev.		\$ 241,918,262		392,762
Less Delinquencies, Exonerations & Uncollec			5.00% . . .	19,638
Less Tax Discounts			1.00% . . .	3,731
Net Amount to be Raised by Levy For Budget Purposes:				369,393

Municipal Sample Publication for Newspaper
Cross out all items not used and insert any items used but not listed

2010-2011 Fiscal Year
LEVY ESTIMATE - BUDGET DOCUMENT

STATE OF WEST VIRGINIA
MUNICIPALITY OF NITRO

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 does determine and estimate the several amounts to be as follows:

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:

REVENUE SOURCE

Unencumbered Balance (July 1)	\$	
Ad Valorem Taxes		1,075,372
Prior Year Taxes		
Supplemental Taxes		
Tax Penalties and Interest		
Gas & Oil Severance Tax		7,900
Excise Tax on Utilities		290,000
Business and Occupation Tax		1,284,000
Wine and Liquor Tax		
Hotel Occupancy Tax		229,525
Fines, Fees and Court Costs		53,000
Parking Violation Fines		
Licenses		35,000
Building Permit Fees		30,000
Franchise Agreements		10,000
Inspection Fees		9,000
IRP Fees		8,000
Private Liquor Club Fee		22,000
Parks & Recreation Fees		48,000
Municipal Service Fees		880,000
Rents and Concessions		40,000
Garbage Fees		
Police Protection Fees		
Fire Protection Fees		
Street Fees		
Charges to Other Entities		
Other Grants		168,000
State Grants		20,000
Gaming Income		245,000
Contributions from Other Entities		
Transfers from Other Funds		
Charges to Other Funds		
Interest Earned on Investments		2,500

Reimbursements	<u>290,400</u>
Video Lottery	<u>401,500</u>
Miscellaneous Revenue	<u>3,000</u>
TOTAL ESTIMATED REVENUE (GENERAL FUND) \$	<u>5,152,197</u>

COAL SEVERANCE TAX FUNDREVENUE SOURCE

Unencumbered Balance (July 1)	\$ <u> </u>
Coal Severance Tax	<u>33,000</u>
TOTAL ESTIMATED REVENUE (COAL SEVERANCE FUND)	\$ <u>33,000</u>

General	Coal Severance
Fund	Fund

ESTIMATED CURRENT EXPENDITURES

Mayor's Office	\$ <u>45,827</u>	\$ <u> </u>
City Council	<u>77,848</u>	<u> </u>
Recorder's Office	<u>52,526</u>	<u> </u>
City Manager's Office	<u> </u>	<u> </u>
Treasurer's Office	<u>149,460</u>	<u> </u>
Finance Office	<u> </u>	<u> </u>
City Clerk's Office	<u> </u>	<u> </u>
Police Judge's Office	<u>7,200</u>	<u> </u>
City Attorney	<u>30,000</u>	<u> </u>
City Auditor	<u> </u>	<u> </u>
Enforcement Agency	<u>71,587</u>	<u> </u>
Regopma; Development Authority	<u>1,821</u>	<u> </u>
Building Inspection	<u>90,373</u>	<u> </u>
Planning & Zoning	<u> </u>	<u> </u>
Elections	<u> </u>	<u> </u>
City Hall	<u>1,267,909</u>	<u> </u>
Public Works Department	<u>677,580</u>	<u> </u>
Contingencies	<u> </u>	<u> </u>
Police Department	<u>1,145,977</u>	<u> </u>
Fire Department	<u>757,647</u>	<u> </u>
Street Department	<u>78,000</u>	<u> </u>
Public Transit	<u> </u>	<u> </u>
Garbage Department	<u>190,000</u>	<u> </u>
Local Health Department	<u> </u>	<u> </u>
Parks & Recreation	<u>52,850</u>	<u> </u>
Visitor's Bureau	<u>114,763</u>	<u> </u>
Swimming Pools	<u>83,278</u>	<u> </u>
4-H Camp	<u> </u>	<u> </u>
Library	<u>83,863</u>	<u> </u>
Beautification	<u> </u>	<u> </u>
Cemeteries	<u> </u>	<u> </u>
Capital Projects & General Government	<u> </u>	<u> </u>

Capital Projects-Public Safety	<u>128,862</u>	<u>33,000</u>
Capital Projects-Streets & Transportation	<u>44,826</u>	
Capital Projects-Health & Sanitation		
Capital Projects-Culture & Recreation		
Capital Projects-Social Services		
TOTAL ESTIMATED EXPENDITURES	<u>\$ 5,152,197</u>	<u>\$ 33,000</u>

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, MAY 4, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm in Council Chambers. In attendance were Mayor Casto, Recorder Rita Cox, Councilmen at Large Jim McKay, Dave Casebolt, and Bob Fields, Ward 1 Councilman A. A. "Joe" Savilla, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, City Treasurer John Young, and City Attorney Richie Robb.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Mark Smith of St. Paul's Methodist Church and the Pledge of Allegiance was led members of Girl Scout Troop 4813 of the Black Diamond Council.

FUTURE DATES OF COUNCIL: Mayor Casto said the future dates of Council are May 18, June 1, and June 15.

APPROVAL OF COUNCIL MINUTES: RECORDER RITA COX MOVED THE MINUTES OF THE APRIL 6 AND APRIL 20, 2010 MEETINGS OF COUNCIL BE APPROVED AS WRITTEN AND PRESENTED WITH A SECOND BY COUNCILMAN BILL JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

CITIZEN OF THE MONTH: Mayor Casto announced the May Citizens of the Month were members of Girl Scout Troop 4813 which meets at St. Paul's Methodist Church. They had done work on a merit badge at the home of Halley Smith who had recently died. Her mother, Nancy Harrison, was in attendance and spoke on behalf of the Girl Scouts and the work they had done. Mayor Casto said that the city would honor the girls with a pool party at a later date. Councilman McKay said his daughter had attended school with Halley Smith and he was saddened by her death.

Mayor Casto said May 6 was the National Day of Prayer and the city would hold a service in front of City Hall at noon on that day. He asked that the Nitro Police Department block the street during the service.

OLD BUSINESS:

R C & D APPOINTMENT: RECORDER RITA COX MOVED IVAN MEADOWS BE REAPPOINTED AS THE CITY OF NITRO REPRESENTATIVE TO THE R C & D. COUNCILMAN BOB FIELDS SECONDED THE MOTION WHICH CARRIED WITH A UNANIMOUS VOTE.

CONVENTION AND VISITOR'S BUREAU LOAN: Treasurer John Young said that he would recommend a loan be made to the CVB to cover beginning operating costs. Recorder Rita Cox asked Richie Robb if this was legal. Attorney Robb said that he believed it to be legal. COUNCILMAN JIM MCKAY MOVED THAT THE CITY OF NITRO MAKE A LOAN OF \$5000.00 TO THE NITRO CONVENTION AND VISITOR'S BUREAU WITH THE UNDERSTANDING THE FULL AMOUNT IS TO BE REPAYED. THE MOTION WAS SECONDED BY COUNCILMAN JOE SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

NEWS BUSINESS:

CHILDREN'S THERAPY CLINIC/MOTORCYCLE RIDE/MAY 22, 2010: RECORDER RITA COX MOVED THE CHILDREN'S THERAPY CLINIC BE GIVEN PERMISSION AND A POLICE ESCORT TO HOLD THE ANNUAL CHASE AWAY AUTISM MOTORCYCLE RUN ON MAY 22, 2010 AT 12:30 LEAVING THE MOOSE CLUB. THE MOTION WAS SECONDED BY COUNCILMAN A. A. "JOE" SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

CROSS LANES/NITRO LITTLE LEAGUE COMMUNITY DAY PARADE/MAY 15, 2010 AND HELMET DRIVE/MAY 22, 2010: COUNCILMAN CRAIG MATTHEWS MOVED THE CROSS LANES-NITRO LITTLE LEAGUE HAVE A COMMUNITY DAY PARADE ON MAY 15 AT 10:00 AND A HELMET DRIVE ON MAY 22. THE MOTION WAS SECONDED BY COUNCILMAN A. A. "JOE"

SAVILLA. VOTE WAS UNANIMOUS FOR PASSAGE OF THE MOTION. Nitro Policeman Brian Oxley noted after the motion carried that this constituted a conflict with the Chase Away Autism Motorcycle Run. COUNCILMAN SAVILLA MOVED THAT CROSS LANES-NITRO LITTLE LEAGUE MAKE ARRANGEMENTS WITH THE NITRO POLICE DEPARTMENT TO FIND A SUITABLE DATE. THE MOTION WAS SECONDED BY RECORDER COX AND VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

ATTORNEY REPORT: Richie Robb said there would be a meeting of the Annexation Committee following the Council meeting. He introduced attorney David Karr who represents Ben and Molly Summers. The Summers family are attempting to get the city to relinquish the road in front of their home at 227 East Road. They said in 1973 they paved the road and they have sold a portion of property to Kenneth Reed who borders on the property. Their attorney asked if the city has some ownership to it and could it be resolved without a lawsuit. COUNCILMAN SAVILLA MOVED THE SUMMERS QUESTION ABOUT THE STREET OFF EASTER ROAD KNOWN AS KILGORE LANE BE REFERRED TO THE STREET COMMITTEE WITH A SECOND BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS. The Summers and the attorney we told to return to Council on May 18 for further information.

TREASURER REPORT: John Young said the WV Auditors were here to audit 2008-2009. He said the pool was in need of several items, a deep fryer, nacho maker, exhaust fan, approximately \$1300.00 worth of items. COUNCILMAN MATTHEWS MOVED COUNCIL APPROVE EXPENDITURES O \$1300.00 FOR ITEMS FOR THE CONCESSION STAND AT THE NITRO POOL: DEEP FRYER, NACHO MAKER AND EXHAUST FAN. THE MOTION WAS SECONDED BY RECORDER COX. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

COUNCIL COMMENT:

Councilman Matthews said he and Councilman Fields had recently attended a meeting of the Library Board and found out the cost of the audit was going to cost \$4000.00 up from \$3500.00 which was originally stated. He asked if there were some way to reduce the cost since the library operates on a small budget.

Councilman Javins said the Street Committee would meet Monday, May 11 at 6:00 pm to look at streets. He said there were three streets in Ward 4 that have never been paved. He said there had been a resolution to the trash being left at Walker St. at the storage unit.

Recorder Cox thanked the Girl Scouts for their work.

Councilman Fields thanked everyone for Ina Thomas' birthday celebration, particularly Karen Boggess at the library.

Councilman Jim McKay said that WV Spring and Radiator wanted to have a two year lease at \$300.00 per month for parking. COUNCILMAN SAVILLA MOVED THE LEASE WITH WV SPRING AND RADIATOR BE TABLED WITH A SECOND BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

PUBLIC COMMENT:

John Montgomery said the Ordinance Committee would meet on Thursday at 7:00.

ADJOURNMENT: COUNCILMAN CRAIG MATTHEWS MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN BILL JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, MAY 18, 2010

CALL TO ORDER: The meeting was called to order at 7:00 pm in Council Chambers by Mayor Rusty Casto. In attendance were Mayor Rusty Casto, Recorder Rita Cox, Councilmen at Large Bob Fields and Jim McKay, Ward 1 Councilman A. A. "Joe" Savilla, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, City Treasurer John Young and City Attorney Richie Robb. Councilman at Large Dave Casebolt was absent.

INVOCATION/PLEDGE OF ALLEGIANCE: Councilman Savilla gave the Invocation and the Pledge of Allegiance was led by Councilman Racer.

FUTURE DATES OF COUNCIL: Mayor Casto said the next dates of Council are June 1, June 15, July 6 and July 20, 2010.

APPROVAL OF COUNCIL MINUTES: RECORDER RITA COX MOVED THE MINUTES OF MAY 4, 2010 BE APPROVED WITH A SECOND BY COUNCILMAN BOB FIELDS. THE MOTION WAS APPROVED UNANIMOUSLY.

Mayor Casto introduced Les Pullin of the Kanawha Valley Jamboree. He said that they had received a grant from the WV Department of Tourism to host a program October 23 at the Kathy Mattea Auditorium in the Community Center. He said it brings in approximately 400 to 500 people and the band is sponsored by Cracker Barrel. Mr. Pullin said he would like to have financial support from the City of Nitro.

COUNCILMAN CRAIG MATTHEWS MOVED THE REQUEST FOR FINANCIAL AID TO THE OCTOBER 23 PROGRAM BE FORWARDED TO THE NITRO CONVENTION AND VISITORS BUREAU FOR CONSIDERATION. RECORDER RITA COX SECONDED THE MOTION. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

OLD BUSINESS:

EPA HAZARDOUS BROWNFIELDS ASSESSMENT GRANT: Recorder Rita Cox announced the city had been awarded a \$200,000.00 Hazardous Waste Assessment Grant. She reported that a public notice was to be published asking for Statement of Qualifications from Licensed Remediation Specialists who would like to apply for the position of administering the assessment. She said the SOQ's are due in City Hall by 11:00 am. June 11, 2010.

APPOINTMENT SELECTION COMMITTEE FOR LICENSED REMEDIATION SPECIALIST FOR BROWNFIELDS GRANT: Mayor Casto said a committee would be formed to review the SOQ's consisting of Mayor Casto, Recorder Cox, and Treasurer Young and any members of Council that would like to serve.

SMITH STREET BOAT LAUNCH: Mayor Casto said that the Certificate of Completion is ready for the land at the Smith Street landfill which prepares the way for groundbreaking for the boat launch. He said that the groundbreaking should be scheduled for the beginning of July or soon after that.

STREET COMMITTEE REPORTS/SUMMERS' FAMILY STREET REQUEST: Councilman Bill Javins said the Street Committee had toured every street in the city to assess the needs. He said they had also met with the Summers' family and viewed the street to which they were referring. Richie Robb said that he had received a fax from Jan Ellis, daughter of Mrs. Zickafoose whose property is affected by the street in question. Mr. Karr, attorney for the Summers' family, said that the Summers' asks if the city or state owns the property. Mr. Robb said the family is asking for a quit claim deed to the street. Councilman Matthews asked if any other families are affected. He said that it has been his experience that other streets have been requested but not given to them by the City. Councilman Savilla said it is a dead end street that has to have a turnaround. Mr. Karr said he would contact Mrs. Zickafoose.

Councilman Javins said that there are streets in town that have never been paved. He said the committee is compiling a list of 17 streets that have never been paved or currently need paving.

FIRE DEPARTMENT PENSION BOARD ELECTION: RECORDER RITA COX MOVED THAT THE RESULTS FOR THE FIRE DEPARTMENT PENSION BOARD ELECTION BE MADE A PART OF THE MINUTES WITH THE FI KINS BEING ELECTED TO FILL THE 2010-2014 TERM. THE MOTION WAS SECONDED BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

WV SPRING AND RADIATOR REQUEST: Mayor Casto said he had received a request from WV Spring and Radiator to pay the city \$300.00 per month to allow their employees to park on city owned property. Councilman Savilla said that he was opposed to the arrangement. Councilman Matthews said he did not think the Council should accept it. He said that NAPA employees park on city property and he thought they should be charged or ask to move. Councilman Javins said he agrees. COUNCILMAN SAVILLA MOVED THE REQUEST FROM WV SPRING AND RADIATOR BE DENIED AND A LETTER SENT TO NAPA REQUESTING VEHICLE BE MOVED OFF CITY PROPERTY. THE MOTION WAS SECONDED BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

NEW BUSINESS:

ORDINANCE TO INCREASE AMOUNT REQUIRED FOR BIDDING PROCESS: Mayor Casto said that the amounts currently named in the city ordinance were too low and required bidding for the simplest purchase. This put department heads in a bind when making minor purchase. John Young said he had read the ordinance that St. Albans had on the subject and thought the amounts were more in keeping with modern spending practices. Richie Robb said to be careful in raising the amounts and avoid the practice of stringing bids which is a way around getting bids on a large project but having several small bids. Councilman Savilla recommended just raising the amount required but not changing the substance of the ordinance.

ATTORNEY REPORT: Richie Robb said the Annexation Committee had a long range plan to meet after every Council meeting. Recorder Cox said she was recently made aware of duties in her office to the police and fire civil service commission and she wanted advice so that she would not be derelict in her duties. Richie Robb said she was primarily a go between with the commission and the city and part of her job is to do clerical work, supply them with clerical supplies and run public notices.

TREASURER REPORT: John Young said revenues were higher than projected and the city was stable financially. COUNCILMAN SAVILLA MOVED THAT COUNCIL PASS A RESOLUTION TO OPEN A HOTEL MOTEL TAX CHECKING ACCOUNT AT HUNTINGTON BANKS WITH THE SIGNATORIES BEING MAYOR CASTO, RECORDER COX, JOHN YOUNG AND MARY BETH BURT. THE MOTION WAS SECONDED BY COUNCILMAN FIELDS. VOTE WAS UNANIMOUS FOR THE RESOLUTION.

COUNCIL COMMENTS:

COUNCILMAN MATTHEWS MOVED THE PARKS AND RECREATION PURCHASE EIGHT UMBRELLAS AND TABLES, A MICROWAVE AND A REFRIGERATOR FOR THE CONCESSION STAND AND PUT A FENCE AROUND THE POOL AREA OPENING UP MORE OF THE GRASS SECTION TO USE BY POOL USERS. THE MOTION WAS SECONDED BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

Councilman Javins said the CVB would meet at 6:00 pm on June 1 prior to the Council meeting.

Councilman Savilla said the city needs paving funds.

Councilman Fields said Brian Armstrong's mother is in the hospital.

Mayor Casto said the Thomas family was appreciative for all that was done for Ina Thomas.

COUNCILMAN FIFTHS MOVD THAT BOTH LETTERS RECEIVED FROM THE THOMAS FAMILY BE MADE A PART OF THE COUNCIL MINUTES WITH A SECOND BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

Councilman McKay said the World War 1 Commission would meet at 6:00 pm Thursday in the NDA conference room.

PUBLIC COMMENT:

Bob Schamber said that there was a light out n 40th St. Mayor Casto said he had take care of reporting it.

ADJOURNMENT: COUNCILMAN MATTHEWS MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION.



RUSTY CASTO, MAYOR



RITA COX, RECORDER



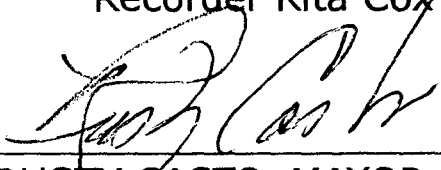
MAY 18, 2010

RESOLUTION 10-__

The Council of the City of Nitro Resolves to Establish an Account at Huntington Banks for a Hotel Motel Tax Checking Account.

The Signatories on the Hotel Motel Tax Checking Account are to be Mayor Rusty Casto, Recorder Rita Cox, Treasurer John Young and Payroll Clerk Mary Beth Burt.

Voting for the Resolution:
Councilman A. A. "Joe" Savilla
Councilman Bill Racer
Councilman Craig Matthews
Councilman Bill Javins
Councilman Bob Fields
Councilman Jim McKay
Recorder Rita Cox



RUSTY CASTO, MAYOR

RITA COX, RECORDER



To: Nitro City Council
From: Rita Cox, Recorder
Date: May 18, 2010

Nitro Fireman Jeff Elkins has been elected to the Nitro Firemen Pension Board of Trustees for the 2010-2014 position.

The pension board is made up of the following: A. J. Shinn, 2009-2013; Ronnie King, 2008-2012; Casey Mathes, 2007-2011; and Jeff Elkins, 2010-2014.

RUSTY CASTO
MAYOR
304-755-0705

P. O. BOX 308
NITRO, WEST VIRGINIA 25143

RITA COX
RECORDER
304-755-0707

April 27, 2010

Mayor Coats, Rita, Beek,
all staff and city
workers -

Thank you for
all you did to
make my birthday

so wonderful.

You are all so
thoughtful and
kind.

Blessings to you

all.
Sue Thomas

Mayer Costa and the City Council -

Thank you so much for honoring my mother, Oua Thomas, in such a special way. It meant so much to her and her children. Your care and recognition of your 'citizens' makes Nitro a very special place. Kind Regards,
Margaret Thomas Reid

**VOLUNTARY REMEDIATION AGREEMENT FOR
INVESTIGATION AND REMEDIATION ACTIVITIES**

between

**The West Virginia Department of Environmental Protection,
FMC Corporation and the City of Nitro**

**Nitro Sanitation Landfill
Nitro, West Virginia**

Modification No. 5

The undersigned parties to the Voluntary Remediation Agreement between the West Virginia Department of Environmental Protection (WVDEP), FMC Corporation (FMC), and the City of Nitro (City) hereby agree to modify said Agreement to reflect the following changes:

Section VII. WORK TO BE PERFORMED

18. The parties agree that the applicable standards and institutional controls for this Site consistent with Section 9 of the rule, as agreed upon by the Parties, are as follows:

- **Human Health**
 - Soils – the Industrial *De Minimis* Standards, including a land use covenant prohibiting subsurface excavation or intrusive activities without an appropriate Health & Safety Plan, prohibiting future residential use, prohibiting the construction of enclosed structures and basements, and prohibiting the construction of recreational structures.
 - Groundwater – the Groundwater *De Minimis* Standards, with a land use covenant prohibiting the extraction of groundwater for any use except ground water monitoring.
- **Ecological**
 - The *De Minimis* Ecological Screening Evaluation.

Agreed to by:

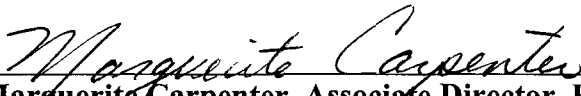
**WEST VIRGINIA DEPARTMENT
OF ENVIRONMENTAL PROTECTION**



Ken Ellison, Director, Division of Land Restoration

Date: 6/16/10

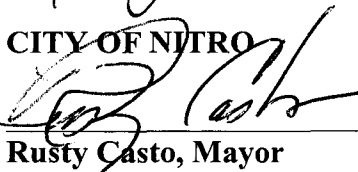
FMC CORPORATION



Marguerite Carpenter, Associate Director, Environment

Date: 06-14-10

CITY OF NITRO



Rusty Casto, Mayor

Date: 6.16.10

NITRO CITY COUNCIL MEETING
MINUTES
TUESDAY, JUNE 1, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm. Attending were Mayor Casto, Recorder Rita Cox, Ward 4 Councilman Bill Javins, Ward 3 Councilman Craig Matthews, Ward 1 Councilman A. A. "Joe" Savilla, Councilmen at Large Dave Casebolt, Bob Fields, and Jim McKay, City Treasurer John Young, and City Attorney Richie Robb. Ward 2 Councilman Bill Racer was not present.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Councilman Savilla and the Pledge of Allegiance was led by Councilman Matthews.

FUTURE DATES OF COUNCIL: Mayor Casto said the future dates of Council are June 15, July 6 and July 20. COUNCILMAN MATTHEWS MOVED THE JUNE 15 COUNCIL BE MOVED TO JUNE 22 WITH A SECOND BY COUNCILMAN SAVILLA. Councilman Matthews stated that he and Richie Robb would be in Alfreton, England to visit the sister city of Nitro. THE MOTION PASSED WITH UNANIMOUS APPROVAL.

APPROVAL OF COUNCIL MINUTES/MAY 18, 2010: Recorder Cox said this would have to be done at the next meeting because the minutes had not been completed.

CITIZEN OF THE MONTH: Mayor Casto announced the June Citizen of the Month is Dorothy Shamblin who turns 100 years old on June 15. He said he would visit her then to help celebrate and invited Council members. He said the July Citizens of the Month will be Ray and Frankie Humphrey who celebrated their 50th Anniversary recently.

WEST VIRGINIA AMERICAN WATER COMPANY: Recorder Rita Cox said that Chad Carmichael of WV American Water could not attend the meeting and would reschedule.

OLD BUSINESS:

EASTER ROAD/SUMMERS FAMILY REQUEST: Rich Robb said the Summers family wants the city to surrender the property and that Mrs. Zickafoose, their neighbor, uses the property. He said it appears to be a right of way. Janet Ellis, daughter of Mrs. Zickafoose had researched the property and deeds. She and Richie Robb agreed that the city has ownership of some type. Councilman Javins suggested a written answer be given to the Summers family. COUNCILMAN MATTHEWS MOVED THAT THE CITY ATTORNEY SEND A LETTER TO THE SUMMERS FAMILY TELLING THEM THE CITY COUNCIL HAS CONCLUDED THAT THE CITY RETAINS OWNERSHIP OF THE RIGHT OF WAY. THE MOTION WAS SECONDED BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

RESOLUTION/LITTER CONTROL GRANT: Councilman Matthews presented Council with a resolution for a litter control grant from the state of WV. He pointed out the last grant targeted Nitro High School and Park Avenue area. This grant would target 21st St. and Ridenour Lake. COUNCILMAN MATTHEWS MOVED COUNCIL ADOPT THE RESOLUTION FOR LITTER CONTROL GRANT WITH A SECOND BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

BROWNSFIELD GRANT REPORT: City Treasurer John Young said that the city is required to report on a regular basis to the EPA. He said all the financial reports are available in his office. He presented Council members with the current statement for the Brownfields account.

NEW BUSINESS:

FIRST READING AMENDING ORDINANCE INCREASING AMOUNT REQUIRED FOR BIDDING PROCESS: Rich Robb said the amount required for bidding was being increased from \$300.00 to

\$1000.00. Mayor Casto asked if this put the city in line with other cities in the area such as Dunbar and St. Albans. Mr. Robb said that it did. COUNCILMAN MCKAY MOVED THE ORINANCE RAISING THE AMOUNT REQUIRED FOR THE BIDDING PROCESS BE PASSED ON FIRST READING WITH A SECOND BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

ATTORNEY REPORT: Richie Robb said he was prepared to answer questions from Council.

TREASURER REPORT: John Young said he was prepared to estimate that the city would end up with a surplus of approximate \$200,000.00 and this did not include the tire fire money. He reminded Council that there were three payrolls in the month of June and the city needs a thumb for the excavator and a new riding mower. He said this did not include the \$100,000.00 that had been put into a CD. Mr. Young said that he wants to meet with Department heads to make sure they are under budget.

COUNCIL COMMENTS:

Mayor Casto said there would be a pool party on June 7 for Nitro Elementary at 6:30. Everyone is invited.

Councilman Matthews said the opening days at the pool have been successful. He said there were a few problems with the bathrooms and the cross walk is being finished. He said the freezer is not working and he recommended a commercial one. COUNCILMAN SAVILLA MOVED THE CITY BUY A COMMERCIAL FREEZER AND A SURGE PROTECTOR. THE MOTION WAS SECONDED BY COUNCILMAN FIELDS. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY. Councilman Matthews said that an extra part time worker was needed for the concession stand at the pool. COUNCILMAN MATTHEWS MOVED ANOTHER WORKER BE HIRED FOR THE POOL CONCESSION STAND. COUNCILMAN FIELDS SECONDED THE MOTION. John Young said due to changes in Federal law, the city will not have to pay matching taxes on workers who haven't worked in 60 days so this will help with pool employees. COUNCIL VOTED UNANIMOUSLY TO APPROVE THE MOTION.

Councilman Matthews said June 29 was Nitro-Cross Lanes Day at Power Park.

Councilman Matthews said that money donated to Boom Town Days could be used to buy an inflatable screen and projector. There is a 20 ft. screen available and could be used for family movie night. COUNCILMAN MATTHEWS MOVED AN INFLATABLE SCREEN AND MOVIE PROJECTOR BE PURCHASED WITH MONEY DONATED FOR FESTIVALS. RECORDER COX SECONDED THE MOTION. VOTE WAS UNANIMOUS FOR THE MOTION.

Councilman Javins said the CVB met May 7, 2010. COUNCILMAN JAVINS MOVED THE MINUTES OF THE MAY 7 MEETING OF THE CONVENTION AND VISITORS BUREAU BE MADE A PART OF COUNCIL MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION.

Councilman Savilla said there were 17 streets that were a priority for paving and the city needs to come up with some paving money. He thought the brochure for annexation looks good.

Councilman Casebolt thanked everyone who was concerned about his Mother. He thought her tumor was operable.

Councilman McKay said the Museum Committee would meet Thursday at 6:00 in the NDA boardroom.

PUBLIC COMMENT:

John Montgomery said the Ordinance Committee would meet at 7:00 on Thursday in the NDA boardroom.

Leonard Womble complimented Council on the conduct of the meeting.

ADJOURNMENT: COUNCILMAN MCKAY MOVED THE MEETING BE AJOURNED WITH A
SECOND BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

**RESOLUTION AUTHORIZING AN APPLICATION FOR
A MATCHING FUND GRANT FOR LITTER CONTROL**

Whereas, the Nitro City Council recognize(s) the existence of a litter
problem within the boundaries of City of Nitro, and

Whereas, the West Virginia Litter Control Program of 1985 provides matching grants of
"litter control funds" through the West Virginia Department of Environmental
Protection for the purpose of establishing local litter control programs, and

Whereas, having reviewed and considered West Virginia Administrative Regulations,
Department of Environmental Protection, Series 6 and 7.

Be it resolved that the Nitro City Council

Hereby endorse(s) and support(s) such a program for City of Nitro as
is indicated in the attached application and

Hereby authorize(s) Craig A. Matthews, City Councilman
to plan, budget, and apply for a grant that, if approved, will be used to fund said
program being in accord with the regulations governing use and expenditure of said
funds.

Adopted on:

June 1, 2010
Date

Signature of Authorized Person

Mayor

Title

C V B Meeting May 7th 10am

Board members present:

1. Bill Javins
2. Craig Matthews
3. Tom Brewer
4. Rusty Casto
5. John Young
6. Nora Helm
7. Leonard Womble
8. Robert Fields
9. LeeAnn Brightwell (absent)

Meeting was called to order by John Young

1. Election of officers
 - a. Leonard Womble President
 - b. Rusty Casto Vice President
 - c. John Young treasurer
 - d. Bill Javins Secretary

Board approved to accept a \$5,000.00 dollar loan, from the city until we start receiving funds.

Board approved to pay the Mustang Club \$1,000.00 dollars for Antique car days

Board approved to pay the IRS \$850.00 dollars for C6 designation

The city has collected \$864.00 dollars from Hotel/Motel tax

We are in the process of collecting \$6,000.00 dollars from Putnam county, that is owed to us from the Hotel/Motel tax

The board approved to open a special account for the CVB and for the following officers to sign a signature card at the Huntington Bank:

John Young

Leonard Womble

Rusty Casto

Bill Javins

The board has set the next meeting for Tuesday June 1st at 6PM in Council Chambers

ORDINANCE _____

An Ordinance to amend and reenact Section 111-02, Article 111 of the Codified Ordinances of the City of Nitro, West Virginia, all relating to increasing from \$300.00 to \$1,000.00 as the amount that may be expended to purchase supplies, materials, equipment or services without competitive bids.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, that Section 111-02 of the Codified Ordinances of the City of Nitro, West Virginia be amended and reenacted, all to read as follows:

CHAPTER ONE - General Provisions
ARTICLE 111
Purchasing Procedures

111.02 PURCHASING PROCEDURES.

(a) Purchases Less Than ~~Three Hundred Dollars (\$300.00)~~ One Thousand Dollars (\$1,000.00). All heads of departments, agencies or other designated spending units of City Government shall have the authority to purchase any and all supplies, materials, equipment or services needed for the orderly and efficient operation of their areas of responsibility provided such purchase does not exceed the sum of three hundred dollars (\$300.00), and that prior to such purchase the department head has, after first consulting with the City Treasurer, determined that there are sufficient funds on hand to the credit of such department as provided for in the City budget to pay for such purchase, and in any event the department head shall note on the requisition form or purchase order the costs of the supplies, materials, equipment or services quoted by the proposed supplier; or in the event no quotes were secured then to set forth the reasons why the same were not so obtained: Provided, That on and after July 1, 2010, and subsequent to consulting with the City Treasurer that there are sufficient funds available, all heads of departments, agencies or other designated spending units of City Government shall have the authority to purchase any and all supplies, materials, equipment or services needed for the orderly and efficient operation of their areas of responsibility provided such purchase does not exceed the sum of one thousand dollars (\$1,000.00).

(b) Purchases in Excess of ~~Three Hundred Dollars (\$300.00)~~ One Thousand Dollars (\$1,000.00) and Less Than Five Thousand Dollars (\$5,000).

(1) On and after July 1, 2010, no ~~No~~ head of any department, agency or other designated spending unit shall make a purchase in excess of ~~three hundred dollars (\$300.00)~~ one thousand dollars (\$1,000.00) and less than five thousand dollars (\$5,000) without first completing a requisition form setting forth a brief description of the proposed purchase together with not less than three competitive price quotations or bids, oral or written, received from proposed

suppliers.

(2) Such requisition form shall be filed by the department head and submitted to the City Purchasing Director, who, after first determining that there are sufficient funds on hand to the credit of such department as provided for in the City budget to pay for such purchase, shall approve the purchase and designate the supplier or shall reject the proposed purchase. The Purchasing Director shall specify the supplier from one of the bids received and set forth in the requisition form.

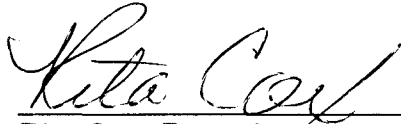
(3) In the event the City Purchasing Director shall designate a purchase from a bidding supplier, not the lowest bidder, he shall, on the rear of the requisition form, set out his reasons for so doing.

(4) It shall be the policy of the Purchasing Director at all times, unless otherwise necessary, to select the lowest responsible bid.

Passed on First Reading June 1, 2010

Passed on Second Reading June 22, 2010

Rusty Casto, Mayor


Rita Cox, Resorder

NITRO CITY COUNCIL
MEETING MINUTES
JUNE 22, 2010

CALL OR ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm in Council Chambers. Attending with Mayor Casto were Recorder Rita Cox, Ward 1 Councilman A. A. "Joe" Savilla, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Councilman at Large Jim McKay, Councilman at Large Dave Casebolt and Councilman at Large Bob Fields, City Treasurer John Young and City Attorney Richie Robb.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Tom Kuhn and the Pledge of Allegiance was led by his son, Evan Kuhn, who was attending as a Boy Scout working to become an Eagle Scout.

FUTURE DATES OF COUNCIL: Mayor Casto announced the future dates of Council are July 6 and 20 and August 3 and 17.

APPROVAL OF COUNCIL MINUTES: RECORDER COX MOVED THE MINUTES OF MAY 18 AND JUNE 1 BE APPROVED WITH A SECOND BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

CITIZEN OF THE MONTH: Mayor Casto announced the June Citizen of the Month was Dorothy Shamblyn. He asked Recorder Cox to tell about their visit. Recorder Cox said they visited her on her birthday, June 15, along with Reverend Franklin. Dorothy was happy to see everyone and Rev. Franklin said a prayer with her. Mayor Casto announced the July Citizen of the Month will be Ray and Frankie Humphrey who recently celebrated their 50th Wedding Anniversary.

OLD BUSINESS

SCHEDULING EXIT CONFERENCE FOR AUDIT: Mayor Casto announced the exit conference for the audit by the WV Auditor's Office for fiscals years 2007-2008 and 2008-2009 would be held in Council Chambers at 10:00 am on Thursday, June 24. Council and the public may attend.

SCHEDULING PRESENTATION OF STATEMENT OF QUALIFICATIONS FOR LICENSED REMEDIATION SPECIALIST/BROWNFIELDS: Mayor Casto suggested a Committee be formed consisting of Mayor Casto, Recorder Cox and Treasurer John Young to look at the Statements of Qualifications that had been submitted. Recorder Cox said her office had received six SOQ'S. Mayor Casto suggested that be reduced to three by the committee and then presentations be requested to be given to the entire Council.

CERTIFICATE OF COMPLETION SMITH STREET LANDFILL/GROUND BREAKING AUGUST 4: Mayor Casto had signed off on the Certificate of Completion on the Smith Street Landfill and that the next step was groundbreaking ceremony for the boat launch on August 4 which Governor Manchin has agreed to attend. The event will be held at 12:00 with Pastor Jim Wright giving the Invocation. Mayor Casto suggested Councilman Javins get in touch with Bret Preston to find out plans for the boat launch.

MUNICIPAL LICENSE/RENEWAL AMOUNT FOR CONTRACTORS: Recorder Rita Cox stated that the new municipal license passed recently by Council did not include a renewal amount for contractors and it licensed general contractors for \$150.00 so that every year a contractor would be required to pay this amount and business and occupation tax. She said her concern since the amount is high is that this will cause contractors to avoid licensing altogether causing the city to miss out on b & o that it is due. RECORDER COX MOVED THE ORDINANCE COMMITTEE CONSIDER CHANGING THE CONTRACTOR AMOUNT REQUIRED AND RENEWAL AMOUNT WITH A SECOND BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION.

ORDINANCE COMMITTEE REFERRAL REGARDING STATE BUILDING CODE CHANGES:

Mayor Casto asked the Ordinance Committee to consider with the direction of Building Inspector Ron King the changes in WV Building Code and bring recommendations back to Council.

NITRO WAR MUSEUM UNDER WORLD WAR I COMMISSION: Councilman McKay said that the World War I Commission is still active and the museum is not currently covered under the liability insurance of the city. He said that the Commission would like to find some way to make the museum a part of the city. Attorney Richie Robb said that would be a question for our insurance carrier. Councilman McKay said that he had done some research and Old Hickory, TN was the first city to manufacture powder like Nitro was set up to do. He also said the members of the commission are aging and new members are needed to keep it going. Mayor Casto said the insurance agent needs to be contacted to determine coverage.

SECOND READING AMENDING ORDINANCE INCREASING AMOUNT REQUIRED FOR BIDDING PROCESS: Attorney Richie Robb read the title of the ordinance. COUNCILMAN SAVILLA MOVED AN ORDINANCE TO AMEND AND REENACT SECTION 111-02, ARTICLE 111 OF THE CODIFIED ORDINANCES OF THE CITY OF NITRO, WEST VIRGINIA, ALL RELATING TO INCREASING FROM \$300.00 TO \$1000.00 AS THE AMOUNT THAT MAY BE EXPENDED TO PURCHASE SUPPLIES, MATERIALS, EQUIPMENT OR SERVICES WITHOUT COMPETITIVE BIDS. THE MOTION WAS SECONDED BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION.

NEW BUSINESS:

PROCLAMATION IN CELEBRATION OF THE 20TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT: RECORDER RITA COX MOVED THAT COUNCIL PASS THE PROCLAMATION OF RECOMMITMENT TO FULL IMPLEMENTATION OF THE ADA WITH A SECOND BY COUNCILMAN DAVE CASEBOLT. VOTE WAS UNANIMOUS FOR THE MOTION.

ATTORNEY REPORT: Richie Robb said he and Sandy Saunders have been working on annexation, most recently in the Red Oak Drive area. He said he had been asked about a time table by some council members and he said that a six month time period after the holidays would be a realistic goal.

Richie Robb commented on the Summers' family attempt to obtain a quit claim deed saying that he did not recommend that Council take that action.

City Attorney Robb told Council about his recent trip to the Sister City of Alfreton, Derbyshire, England. He said the trip was very good and Councilman Matthews did yeoman duty. Nitro resident Sharon Sneed also traveled with them.

Councilman Matthews said the people were very nice to the delegation, they were a city with similar problems, and they have a beautiful countryside. He presented the Mayor and Council with a coffee cup and a plate. Richie Robb said he invited a delegation to come to visit Nitro from Alfreton.

TREASURER REPORT: John Young reported that the Fire Department Pension was prepared for fiscal year July 1, 2008 through June 30, 2009. RECORDER COX MOVED COUNCIL PASS THE RESOLUTION FOR DISTRIBUTION AND CERTIFICATION OF THE MUNICIPAL CONTRIBUTION TO THE MUNICIPAL PENSIONS AND PROTECTION FUND FOR THE NITRO FIRE DEPARTMENT FISCAL YEAR 2008-2009. THE MOTION WAS SECONDED BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

John Young said the city may end up with a surplus of approximately \$200,000.00 but he could not say definitely until the year ended.

Councilman Savilla asked Councilman Fields approximately how much was needed to complete the flag memorial on 21st St. Councilman Fields said it was approximately \$18,000.00. Councilman Savilla said he would like for the city to be able to help fund this project.

COUNCIL COMMENTS: Mayor Casto challenged Council to come up with an amount to be given for the Memorial.

Councilman Javins said approximately \$373,000.00 could be used toward paving. There are seven streets that are a priority .

Councilman Matthews thanked Richie Robb for setting up and planning the trip to England.

Councilman Savilla thanked Richie Robb, Craig Matthews and Sharon Sneed for representing the city.

Councilman McKay said the NDA has adopted bylaws and those along with minutes will be supplied to Council. He said a the NDA will still be active during the summer months.

PUBLIC COMMENTS:

Bob Schamber said that the Senior Van will not qualify for a grant because the van does not have 100,000 miles on it. He gave Council a background story on his wife's health.

Councilman Casebolt said the Seniors will be having the dance on a monthly basis.

Bob Schamber said the Senior Center would be open on July 3 with an ice cream sale.

Councilman McKay said the War Museum would be open July 3.

Debra Jordan said on July 23 there would be a Gospel Sing at the Community Center and events on July 24 including fireworks for Boomtown Days.

ADJOURNMENT:

COUNCILMAN MATTHEWS MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN FIELDS. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

In Celebration of the 20th Anniversary of the Americans with Disabilities Act

A Proclamation of Recommitment to Full Implementation of the ADA

On July 26, 1990, President George H. Bush signed into law the Americans with Disabilities Act (ADA) to ensure the civil rights of people with disabilities. This legislation established a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.

The ADA has expanded opportunities for Americans with disabilities by reducing barriers, changing perceptions, and increasing full participation in community life. However, the full promise of the ADA will only be reached if public entities remain committed in their efforts to fully implement the ADA.

On the 20th anniversary of the Americans with Disabilities Act, we celebrate and recognize the progress that has been made under the ADA by reaffirming the principles of equality and inclusion and recommitting our efforts to reach full ADA Compliance.

NOW THEREFORE,

I, Rusty Casto,
on behalf of City of Nitro,

do hereby reaffirm our commitment to work toward full accessibility and inclusion of people with disabilities,

on this, the 22nd day of June, 2010.

City/State: Nitro, WV

ORDINANCE 10-3

An Ordinance to amend and reenact Section 111-02, Article 111 of the Codified Ordinances of the City of Nitro, West Virginia, all relating to increasing from \$300.00 to \$1,000.00 as the amount that may be expended to purchase supplies, materials, equipment or services without competitive bids.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, that Section 111-02 of the Codified Ordinances of the City of Nitro, West Virginia be amended and reenacted, all to read as follows:

CHAPTER ONE - General Provisions
ARTICLE 111
Purchasing Procedures

111.02 PURCHASING PROCEDURES.

(a) ~~Purchases Less Than Three Hundred Dollars (\$300.00)~~ One Thousand Dollars (\$1,000.00). All heads of departments, agencies or other designated spending units of City Government shall have the authority to purchase any and all supplies, materials, equipment or services needed for the orderly and efficient operation of their areas of responsibility provided such purchase does not exceed the sum of three hundred dollars (\$300.00), and that prior to such purchase the department head has, after first consulting with the City Treasurer, determined that there are sufficient funds on hand to the credit of such department as provided for in the City budget to pay for such purchase, and in any event the department head shall note on the requisition form or purchase order the costs of the supplies, materials, equipment or services quoted by the proposed supplier; or in the event no quotes were secured then to set forth the reasons why the same were not so obtained: Provided, That on and after July 1, 2010, and subsequent to consulting with the City Treasurer that there are sufficient funds available, all heads of departments, agencies or other designated spending units of City Government shall have the authority to purchase any and all supplies, materials, equipment or services needed for the orderly and efficient operation of their areas of responsibility provided such purchase does not exceed the sum of one thousand dollars (\$1,000.00).

(b) ~~Purchases in Excess of Three Hundred Dollars (\$300.00)~~ One Thousand Dollars (\$1,000.00) and Less Than Five Thousand Dollars (\$5,000).

(1) On and after July 1, 2010, no ~~No~~ head of any department, agency or other designated spending unit shall make a purchase in excess of ~~three hundred dollars (\$300.00)~~ one thousand dollars (\$1,000.00) and less than five thousand dollars (\$5,000) without first completing a requisition form setting forth a brief description of the proposed purchase together with not less than three competitive price quotations or bids, oral or written, received from proposed

suppliers.

(2) Such requisition form shall be filed by the department head and submitted to the City Purchasing Director, who, after first determining that there are sufficient funds on hand to the credit of such department as provided for in the City budget to pay for such purchase, shall approve the purchase and designate the supplier or shall reject the proposed purchase. The Purchasing Director shall specify the supplier from one of the bids received and set forth in the requisition form.

(3) In the event the City Purchasing Director shall designate a purchase from a bidding supplier, not the lowest bidder, he shall, on the rear of the requisition form, set out his reasons for so doing.

(4) It shall be the policy of the Purchasing Director at all times, unless otherwise necessary, to select the lowest responsible bid.

Passed on First Reading June 1, 2010

Passed on Second Reading June 22, 2010

Rusty Casto, Mayor

Rita Cox
Rita Cox, Resorder

Annual Report of Policemen's and Firemen's Pension and Protection Funds

Pension Fund NITRO FIRE PENSION & RELIEF FUND

Treasurer JOHN H. YOUNG

Municipality CITY OF NITRO

Fiscal Year 7/1/08 - 6/30/09
(July 1 - June 30)

Name of Actuary GABRIEL ROEDER SMITH & COMPANY

Period of Actuarial Study FY 09 FY _____ FY _____

Actuarial Funding Method
(please check appropriate box)

☐ Standard Funding Method
☒ 107% of Prior Year's Contribution
☐ % Necessary to Maintain Plan Solvency for 15 Yrs _____ %

Actuarial Assumptions

	%	Investment Rate of Return
	%	Percent Growth in State Share
	%	Percent of Plan Funded (Funded Ratio)
\$		Unfunded Actuarial Accrued Liability
	%	Projected Pay Increase Per Year

PART I		Item	Amount
Beginning Fair Value of Pension Plan		July 1 2008	\$ 54,374
I. Revenue During Fiscal Year			
1. Employee Contributions		Percent of Gross Salary 7 %	\$ 34,293
Total amounts contributed by employees or withheld from their salaries			
2. Government Contributions			
a. From Parent Local Government		Required employer contributions from your municipality	\$ 96,432
b. Additional employer contributions from your municipality			\$
c. From State Government		State aid received from the State Treasurer's Office	\$ 284,802
3. Earnings on Investments			
a. Net Appreciation/(Depreciation) of Fair Value of Investments		\$	
b. Bond Interest		\$	
c. Dividends		\$ 1,693	
d. Net Realized Gain (Loss) on Sale or Exchange of Assets		\$ (141)	
e. Other		\$	
f. Less Investment Expense		\$	
Net Investment Income			\$ 1,552
4. All other revenues		Please Specify	\$
Total Revenues		The sum of items I.1. through I.4.	\$ 417,079
II. Expenditures During Fiscal Year Does not include investment expense, see I.3 e. above.			
1. Benefits Paid		Retirement, disability, survivors, and other benefits	\$ 200,553
2. Withdrawals		Amount paid to employees or former employees or their survivors, representing return of contributions made by employees during the period of their employment, and any interest on such amounts.	\$ 15,523

Item		Amount
3. Other Payments Administrative expenses and other costs or payments not representing benefit payments or withdrawals.		
a. Administration	Municipal administration fees.	\$ 599
b. Other	Specify.	\$
Total Expenditures The sum of items II.1. through II.3.b.		\$ 216,675
Net Income/(Loss) Total Revenues less Total Expenditures		\$ 200,404
Ending Fair Value of Pension Plan June 30		\$ 254,779
III. Asset Allocation at End of Fiscal Year		
1. Cash and Short-Term Investments Percent of Total Assets		%
Institution or Money Manager	Type of Account	Fair Value
a.	Checking	\$ 179,920
b.	Non-Interest Bearing	\$
c.	Certificates of Deposit	\$
d.	RePurchase Agreements	\$
Total Cash and Short-Term Investments The sum of items 1.a through 1.d.		\$ 179,920
2. Government Securities Percent of Total Assets		%
Institution or Money Manager	Type of Account	Fair Value
a.	Treasury Notes and Bonds	\$
b.	State and Municipal Bonds	\$
Total Government Securities (at fair value) The sum of items 2.a. through 2.b.		\$
3. Corporate Bonds Percent of Total Assets		%
Institution or Money Manager	Type of Account	Fair Value
a.	Bonds	\$ 74,859
b.	Mortgage-backed Securities	\$
c.	Debentures	\$
d.	Mutual Fund Shares (Bonds)	\$
Total Corporate Bonds (at fair value) The sum of items 3.a. through 3.d.		\$ 74,859
4. Corporate Stocks Percent of Total Assets		%
Institution or Money Manager	Type of Account	Fair Value
a.	Stocks	\$
b.	Mutual Fund Shares	\$
Total Corporate Stocks (at fair value) The sum of items 4.a. through 4.b.		\$
5. Other Percent of Total Assets		%
Institution or Money Manager	Type of Account	Fair Value
a.		\$
Total Other (at fair value) The sum of item 5.a.		\$
Total Assets Sum of III.1. Through III.5.		\$ 254,779

PART II		Avg. Monthly #
Membership and Beneficiaries		
Please report the figures requested below, for the fiscal year reported on page 1. To figure the Average Monthly Number of Persons, add figures for each month and divide by 12. Please round to two decimal places. An employee must have been paid for 100 hours in any month to be included in that month.		
I. Members of your Pension Fund Exclude beneficiaries.		
1. Active Members	Current number of employees contributing to pension fund.	10
2. Inactive Members	Non-active vested members and employees on extended leave without pay	
II. Beneficiaries Receiving Periodic Benefit Payments During Fiscal Year		
1. Retirees		6
2. Disability Retirees		1
3. Survivors (of Deceased Members) Drawing Benefits		4

WORKSHEET FOR THE APPLICATION FOR INITIAL DISTRIBUTION AND CERTIFICATION OF MUNICIPAL CONTRIBUTIONS TO THE MUNICIPAL PENSIONS AND PROTECTION FUND

Pension Fund	NITRO FIRE PENSION & RELIEF FUND
Treasurer	JOHN H. YOUNG
Municipality	CITY OF NITRO

A. Contribution by Employees (FY 2008-2009 Actual Contributions)	\$ 34,293.13	1. Payroll (FY 2008-2009 Actual Payroll)	\$ 493,901.85
B. State Share	\$ 131,490.36	2. Normal Cost % **	21 %
C. Municipal Obligation *	\$ 96,432.11	3. Normal Cost (Item 1 X Item 2)	\$ 103,719.39
D. TOTAL (A+B+C)	\$ 262,215.60	4. Unfunded Liability Amortization Cost** Funding Obligation for the Year Under the	\$ 326,586.00
		5. Standard Funding Method (Item 3 + Item 4)	\$ 430,305.39
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>* Please indicate below the funding method being used in Item C.</p> <p><u> </u> Item 7 (Standard Funding Method)</p> <p>Alternative Funding Method-Largest of the Following:</p> <p><u> </u> Item 3- Item 6</p> <p><u> X </u> 107% of Prior Year's Contributions</p> <p>Prior year's contribution increased by a percentage ** such that a contribution of this percentage increase over the next fifteen years may be expected to continue to maintain fund solvency.</p> </div> <div style="width: 45%;"> <p>6. State Share</p> <p>7. ***Municipal Share Under the Standard Funding Method (Item 5- Item 6)</p> </div> </div>			
			\$ 131,490.36
			\$ 298,815.03

** From the Actuary's Report

Notes: The "State Share" comes from the Insurance taxes collected by the Insurance Commissioner during the 2008 calendar year.

Allocation of these funds by the State Treasurer's Office are made on September 1, 2009.

Actuarial information is based on your last actuarial valuations as required by Chapter 8-22-20 and Chapter 8-22-26a (f).

***§ 8-22-20(c)(3) requires cities to contribute annually to the fund an amount, which may not be less than the normal cost, as determined by the actuary

* PAYROLL INCLUDES BACK LONGEVITY PAY TO A FORMER EMPLOYEE OF \$4,000.00 WHICH WAS NOT SUBJECT TO PENSION WITHHOLDING.

**WORKSHEET FOR THE APPLICATION FOR INITIAL DISTRIBUTION AND CERTIFICATION OF
MUNICIPAL CONTRIBUTIONS TO THE MUNICIPAL PENSIONS AND PROTECTION FUND**

Pension Fund

NITRO FIRE PENSION & RELIEF FUND

Treasurer

JOHN H. YOUNG

Municipality

CITY OF NITRO

A. Contribution by Employees
(FY 2008-2009 Actual
Contributions)

\$ 34,293.13

1. Payroll

(FY 2008-2009 Actual Payroll)

\$ 493,901.85

B. State Share

\$ 131,490.36

2. Normal Cost % **

21 %

C. Municipal Obligation *

\$ 96,432.11

3. Normal Cost

(Item 1 X Item 2)

\$ 103,719.39

D. TOTAL (A+B+C)

\$ 262,215.60

4. Unfunded Liability Amortization Cost**

Funding Obligation for the Year Under the

\$ 326,586.00

* Please indicate below the funding method being used in Item C.

5. Standard Funding Method

(Item 3 + Item 4)

\$ 430,305.39

 Item 7 (Standard Funding Method)

6. State Share

\$ 131,490.36

Alternative Funding Method-Largest of the Following:

 Item 3- Item 6

7. ***Municipal Share Under the Standard Funding
Method (Item 5- Item 6)

\$ 298,815.03

 X 107% of Prior Year's Contributions

Prior year's contribution increased by a percentage ** such that a
contribution of this percentage increase over the next fifteen years may be
 expected to continue to maintain fund solvency.

** From the Actuary's Report

Notes: The "State Share" comes from the Insurance taxes collected by the Insurance Commissioner during the 2008 calendar year.
Allocation of these funds by the State Treasurer's Office are made on September 1, 2009.

Actuarial information is based on your last actuarial valuations as required by Chapter 8-22-20 and Chapter 8-22-26a (f).

***§ 8-22-20(c)(3) requires cities to contribute annually to the fund an amount, which may not be less than the normal cost, as determined by the actuary

* PAYROLL INCLUDES BACK LONGEVITY PAY TO A FORMER EMPLOYEE OF \$4,000.00 WHICH WAS NOT SUBJECT TO PENSION WITHHOLDING

07/14/03

**APPLICATION FOR ADDITIONAL DISTRIBUTION AND
CERTIFICATION OF MUNICIPAL CONTRIBUTION TO THE MUNICIPAL
PENSIONS AND PROTECTION FUND**

To: John D. Perdue, State Treasurer
Glen Gainer, III, Auditor

From: JOHN H. YOUNG (Municipal Treasurer Name)
TREASURER (Municipal Treasurer Title)
CITY OF NITRO (Municipality Name)
P.O. BOX 308 (Mailing Address)
NITRO, WV 25143 (City & Zip)

RE: Allocation and certificate to Receipt of Allocated Funds of the Municipal Pensions & Protection Fund for the

NITRO FIRE PENSION & RELIEF FUND

(Pension & Relief Fund Name)

In accordance with Chapter 8-22-19(b) (5) of the West Virginia Code, the above named municipal treasurer hereby **applies for the applicable portion of the Municipal Pensions & Protection Fund for the above named municipality for the fiscal year ending June 30, 2010; and**

The above named municipal treasurer hereby **certifies that in accordance with the requirements of Chapter 8-22-19 (b) (5) (B) of the West Virginia Code, that the board of trustees of the above referenced pension and relief fund has made a report to the governing body of the above named municipality on the condition of its fund with respect to the fiscal year ending June 30, 2009 and has transmitted a copy of said report to the State Treasurer's Office; and**

The above named municipal treasurer further **certifies that a certified actuarial report prepared in conformity with Chapter 8-22-20 of the West Virginia Code, has previously been transferred to the State Treasurer's Office; and**

CITY OF NITRO
COUNCIL MEETING MINUTES
TUESDAY, JULY 6, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order -in Council Chambers at 7:00 pm. Attending the meeting with Mayor Casto were Recorder Rita Cox, Ward 1 Councilman A. A. "Joe:" Savilla, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Councilmen at Large Jim McKay, Dave Casebolt and Bob Fields, City Treasurer John Young and City Attorney Richie Robb.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Ray Humphrey and the Pledge of Allegiance was led by Councilman Jim McKay and his son, J. C. McKay.

FUTURE DATES OF COUNCIL: Mayor Casto said the future dates of Council are July 20, August 3 and August 17.

CITIZEN OF THE MONTH: Mayor Casto asked Councilman Jim McKay to introduce the July Citizens of the Month. Councilman McKay introduced Ray and Frankie Humphrey who recently celebrated their 50th wedding anniversary.

UPDATE ON INJURED NITRO ELEMENTARY STUDENT/JOHN DAVIS: Cub Scout Pack 188 Leader Todd Fouch told Council that John Davis, son of Nitro fireman Nate Arthur, was improving following a head injury recently. He said that on Sunday, July 18, there would be a fund raiser held for him and his family from 1:00 to 3:00 pm at St. Paul's Methodist Church.

APPROVAL OF COUNCIL MINUTES: Recorder Rita Cox said that the minutes were not ready so this item was postponed to the next Council meeting.

OLD BUSINESS

INSURANCE/WORKERS COMPENSATION: City Treasurer John Young reported the City was able to save \$33,000.00 by switching Workers Compensation coverage from Brickstreet to Travelers Insurance. He also reported that Councilman Jim McKay had met with the city insurance carrier to ensure that the World War Museum had coverage for the recent all class reunion of Nitro High School.

WORLD WAR I COMMISSION/MUSEUM: Councilman McKay said the Museum was very well attended during the all class reunion. He said that 93 people had signed the visitors book which meant that more people than that had gone through the museum. He said he would like for the museum to become a part of the World War I Commission.

INTERNATIONAL BUILDING CODE: John Montgomery, chairman of the Ordinance Committee, said that the Committee wants to take time to make sure the International Building Code is enacted correctly. He said the Ordinance Committee would meet at 7:00 pm on Thursday in the NDA conference room.

NEW BUSINESS

FIRST READING ORDINANCE PERSONAL INCOME TAX REFUND OFFSET PROGRAM: City Attorney Richie Robb read the ordinance by title only: An Ordinance to amend the Codified Ordinances of the City of Nitro, West Virginia, by adding thereto a new article designated 175.01, 175.02, 175.03, 175.04 and 175.05, all relating to establishing the authority to offset unpaid municipal fines, costs, forfeitures or penalties, or restitution against the delinquent payor's West Virginia personal income tax refund.

COUNCILMAN MCKAY MOVED THE ORDINANCE ESTABLISHING THE AUTHORITY TO OFFSET UNPAID MUNICIPAL FINES, COSTS, FORFEITURES OR PENALTIES, OR RESTITUTION AGAINST THE DELINQUENT PAYOR'S WEST VIRGINIA PERSONAL INCOME TAX BE PASSED ON FIRST READING. THE MOTION WAS SECONDED BY COUNCILMAN SAVILLA. City Treasurer John Young asked if unpaid municipal service fees could be included in this.

John Montgomery said he thought that this would be possible. VOTE WAS UNANIMOUS FOR THE MOTION.

FIRST READING ORDINANCE AMENDING LICENSE TAX PERTAINING TO GENERAL CONTRACTOR / HANDYMAN: Richie Robb read the ordinance by title only: An ordinance to amend and reenact sections 733.14 and 733.98, Article 73 of the Code of Ordinances of the City of Nitro, West Virginia, all relating to municipal license taxes, and providing a reduced license tax for the renewal of a contractor's license, establishing an initial registration and annual renewal tax for the contractor handyman, and providing the effective date for the amendments; and clarifying imposition of fine. COUNCILMAN SAVILLA MOVED THE ORDINANCE AMENDING THE LICENSE TAX MAKING THE LICENSING FEE FOR GENERAL CONTRACTORS \$100.00 WITH RENEWAL BEING \$50.00 AND THE HANDYMAN FEE BEING \$25.00 AND THE RENEWAL FEE \$25.00 PASSED ON FIRST READING. THE MOTION WAS SECONDED BY COUNCILMAN CASEBOLT. COUNCILMAN SAVILLA AMENDED THE MOTION TO REMOVE THE PRIVATE INVESTIGATOR CATEGORY WITH A SECOND TO THE AMENDED MOTION BY COUNCILMAN CASEBOLT. VOTE WAS UNANIMOUS FOR THE MOTION.

ATTORNEY REPORT: Richie Robb said Sandy Saunders has been out of town so there had been no work done recently on annexation of Red Oak. He said there would be an informational meeting on July 15 for people from Red Oak Drive held in Council Chambers at 7:30 pm.

TREASURER REPORT: John Young said the WV Auditor's office had requested the city pass an ordinance stating the city can write off unpaid municipal service bills.

COUNCIL COMMENT

Mayor Casto announced the groundbreaking would be held on August 4 at 12:00 for the boat launch.

COUNCILMAN BILL JAVINS MOVED THE MINUTES OF THE MAY 7, 2010 MEETING OF THE CONVENTION AND VISITORS BUREAU BE MAKE A PART OF THE MINUTES WITH A SECOND BY COUNCILMAN JIM MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION.

COUNCILMAN JAVINS MOVED THE FOLLOWING STREETS BE ADVERTISED FOR BIDS TO PAVE: ROCKLEDGE TO 231 MAILBOX AND TO DEAD END SIGN; CEDAR STREET FROM WASHINGTON AVENUE TO KANAWHA AVENUE; IVY STREET FROM DUPONT TO MAIN AVENUE; WALKER STREET-WALKER AND LEE; LOCUST STREET-FREDRICK STREET TO FIRST AVENUE; MICHIGAN AVENUE SOUTH (500 BLOCK); HICKORY ROAD (ONE SECTION). THE MOTION WAS SECONDED BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

Councilman Matthews said the work that needed to be done on the Fire Department boat had been \$14,060.72 rather than the original estimated amount of \$17,981.00. He said Nitro fireman Bob Ely had spent a great deal of his own time getting the work done. Councilman Matthews said Lou Wendell and Perry Jones had both offered a place to keep the boat. He said the Boomtown Days are July 23 with a Gospel Sing and activities on July 24 ending with fireworks. Councilman Matthews said there is a 5k-3k Run and Walk connected with the Boomtown Days on July 24 with all proceeds going to the Flag Memorial.

He said the boat for the Fire Department is named the D. R. Rawlings, a former Nitro fireman.

Councilman Casebolt said the environmental study had been completed on the streetscape. He said the plan should be in place by the first part of October.

Councilman McKay said the Museum Commission would meet on Thursday at 6:00 pm. He would like advice on how to proceed with the Museum/World War I Commission connection.

PUBLIC COMMENT

Bob Schamber said there is a dance Saturday. He said there as very good attendance at the Community Center on the all class reunion Saturday.

Leonard Womble said the Convention and Visitors Bureau will meet August 3 at 6:00 pm.

ADJOURNMENT

COUNCILMAN MATTHEWS MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR

A handwritten signature in cursive script, appearing to read "Rita Cox", written over a horizontal line.

RITA COX, RECORDER

C V B Meeting May 7th 10am

Board members present:

1. Bill Javins
2. Craig Matthews
3. Tom Brewer
4. Rusty Casto
5. John Young
6. Nora Helm
7. Leonard Womble
8. Robert Fields
9. LeeAnn Brightwell (absent)

Meeting was called to order by John Young

1. Election of officers
 - a. Leonard Womble President
 - b. Rusty Casto Vice President
 - c. John Young treasurer
 - d. Bill Javins Secretary

Board approved to accept a \$5,000.00 dollar loan, from the city until we start receiving funds.

Board approved to pay the Mustang Club \$1,000.00 dollars for Antique car days

Board approved to pay the IRS \$850.00 dollars for C6 designation

The city has collected \$864.00 dollars from Hotel/Motel tax

We are in the process of collecting \$6,000.00 dollars from Putnam county, that is owed to us from the Hotel/Motel tax

The board approved to open a special account for the CVB and for the following officers to sign a signature card at the Huntington Bank:

John Young

Leonard Womble

Rusty Casto

Bill Javins

The board has set the next meeting for Tuesday June 1st at 6PM in Council Chambers

ORDINANCE 10-4

An Ordinance to amend the Codified Ordinances of the City of Nitro, West Virginia, by adding thereto an new article designated 175.01, 175.02, 175.03, 175.04 and 175.05, all relating to establishing the authority to offset unpaid municipal service fees, fines, costs, forfeitures or penalties, or restitution against the delinquent payor's West Virginia personal income tax refund; City Council findings; definitions; establishment of basis for program participation; establishing participation in the Refund Offset Program; and expenditure of funds received.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA that the Codified Ordinances of the City of Nitro, West Virginia, as amended, be amended by adding thereto an new article designated 175.01, 175.02, 175.03, 175.04 and 175.05, all to read as follows:

**CHAPTER SEVEN
ARTICLE 175
PERSONAL INCOME TAX REFUND OFFSET PROGRAM**

175.01. City Council findings. The City Council hereby finds the following:

175.01(a). There exists a need for additional avenues to aid the Municipal Court in the collection of unpaid fines, fees, and court costs, the total amount of which continues to increase; and

175.01(b). The West Virginia Legislature in response to the growing need for financial support, established a program, with the aid of the West Virginia State Tax Department, to assist municipal courts to collect unpaid municipal fines, forfeitures, penalties, restitution, fees and court costs;

175.01(c). Therefore, the City Council does hereby establish and confer upon the City of Nitro Municipal Court the authority to participate in the Municipal Court Income Tax Refund Offset Program established in accordance with West Virginia Code § 8-10-2b, and all rules and procedures promulgated for its administration.

175.02. Definitions. The following terms shall have the meaning ascribed herein, unless the context in which is used required a different meaning.

"City" means the City of Nitro, West Virginia.

"Criminal offense" means a violation of any of the provisions of any City or county ordinance or State statute that results in the Municipal Court levying a fine, costs, forfeiture, penalty, or restitution payable: (a) to the City in the form of payment of delinquent municipal service fees, emergency services user fees, or other legitimate

charges imposed by the City as a result of the ordinance violation, including a motor vehicle violation; or (b) to a person or the City for an economic or financial loss caused by the person against whom the fine, costs, forfeiture, penalty or restitution is imposed.

"Municipal Court" means the Municipal Court of the City.

"Municipal Court Clerk" means the clerk of the Municipal Court.

"Licensee" means the person against whom costs, fines, forfeitures and penalties have been imposed.

"Refund Offset Program" means the Municipal Court Income Tax Refund Offset Program authorized in West Virginia Code § 8-10-2b and administered by the West Virginia State Tax Department through 110 C.S.R. 40, Withholding or Denial of Personal Income Tax Refunds From Taxpayers Who Owe Municipal Costs, Fines, Forfeitures or Penalties.

175.03. Establishment of basis for program participation.

175.03(a). If a person convicted in the Municipal Court of a criminal offense, as defined in West Virginia Code § 17B-3-3c, fails to pay all costs, fines, forfeitures, restitution or penalties imposed by the municipal court within 180 days after the date the judgment was imposed, the Municipal Court Clerk or, upon a judgment rendered on appeal, the Circuit Clerk shall notify the West Virginia Division of Motor Vehicles of the failure to pay.

175.03(b). At the time the judgment is imposed, the judge shall provide the person with written notice that failure to pay all costs, fines, forfeitures, restitution or penalties:

175.03(b)(1). May, under the State Tax Department Refund Offset Program, result in the withholding of any income tax refund due the person; and

175.03(b)(2). Shall result in the suspension of the person's license or privilege to operate a motor vehicle in West Virginia and that the suspension could result in the cancellation of, the failure to renew or the failure to issue an automobile insurance policy providing coverage for the person or the person's family.

175.03(c). Payment shall be stayed during any period an appeal from the conviction which resulted in the imposition of costs, fines, forfeitures, restitution or penalties is pending.

175.03(d). The notice of the failure to pay costs, fines, forfeitures, restitution or penalties may not be given where the Municipal Court, upon application of the person against whom the costs, fines, forfeitures, restitution or penalties were imposed and that was filed prior to the expiration of the 180 day period, enters an order finding that the person is financially unable to pay all or a portion of the costs, fines, forfeitures,

restitution or penalties. However, where the Municipal Court finds that the person is financially unable to pay a portion of the costs, fines, forfeitures, restitution or penalties, the Municipal Court may require the person to pay the remaining portion, and shall notify the Division of Motor Vehicles of the person's failure to pay if not paid within the period of time ordered by the court.

175.03(e). If a person charged with a criminal offense fails to appear or otherwise respond in the Municipal Court, the municipal court clerk shall notify the Division of Motor Vehicles of that failure within 15 days after the scheduled date to appear unless the person sooner appears or otherwise responds in the Municipal Court to the satisfaction of the judge.

175.03(f). If the licensee fails to respond to the Division of Motor Vehicles order of suspension within 90 days of receipt of the certified letter, the Municipal Court clerk shall notify the Tax Commissioner that the licensee has failed to pay the costs, fines, forfeitures, restitution and penalties assessed by the court or has failed to respond to the citation.

175.04. Establishing participation in the Refund Offset Program.

175.04(a). The Municipal Court shall:

175.04(a)(1). Complete and file with the West Virginia State Tax Department the Application To Participate In Municipal Court Income Tax Refund Offset Program, Form WV/MUN-1;

175.04(a)(2). Execute a memorandum of understanding with the State Tax Department that sets forth the duties and responsibilities of both the State Tax Department and the Municipal Court under the refund offset program;

175.04(a)(3). Participate in the testing of the file exchange process and training; and

175.04(a)(4). Perform all other activities necessary to assure full participation in the refund offset program.

175.04(b). To receive refund offsets, the Municipal Court shall provide to the State Tax Commissioner, in an electronic format prescribed by the State Tax Commissioner, a listing, by social security number, of the unpaid municipal costs, fines, forfeitures, restitution or penalties eligible to be offset under the provisions of West Virginia Code § 8-10-2b. This listing shall contain:

175.04(b)(1). The taxpayer's social security number;

175.04(b)(2). The taxpayer's name;

175.04(b)(3). The taxpayer's last known mailing address;

175.04(b)(4). The amount of the unpaid municipal costs, fines, forfeitures or penalties;

175.04(b)(5). An optional external control number used by the court;

175.04(b)(6). The FIPS (Federal Information Processing System) Code for the municipality in which the court is located; and,

175.04(b)(7). Any other information required by the State Tax Commissioner.

175.05. Expenditure of funds received.

175.05(a). Upon receipt of funds from the State Tax Department, the Municipal Court shall distribute applicable costs, fines, forfeitures and penalties owed to:

175.05(a)(1). The municipality;

175.05(a)(2). The Regional Jail Authority Fund;

175.05(a)(3). The Crime Victims Compensation Fund;

175.05(a)(4). The Community Corrections Fund;

175.05(a)(5). The Governor's subcommittee on law-enforcement training; or

175.05(a)(6). Any other fund or payee that may be applicable.

175.06. Effective date.

175.06(a). This article establishing the Personal Income Tax Refund Offset Program shall become effective immediately upon passage by the City Council.

Passed on First Reading July 6, 2010

Passed on Second Reading July 20, 2010

Rusty Casto, Mayor

A handwritten signature in black ink, appearing to read "Rita Cox", written over a horizontal line.

Rita Cox, Recorder

ORDINANCE 10-5

An ordinance to amend and reenact sections 733.14 and 733.98, Article 733 of the Code of Ordinances of the City of Nitro, West Virginia, all relating to municipal license taxes, and providing a reduced license tax for the renewal of a contractor's license, establishing an initial registration and annual renewal tax for the contractor handyman, repeal license requirement for only the private investigator classification, and providing the effective date for the amendments.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, that sections 733.14 and 733.98, Article 733 of the Codified Ordinances of the City of Nitro, West Virginia be amended and reenacted, all to read as follows:

ARTICLE 733
License Taxes

733.14 IMPOSITION OF TAX.

There is hereby levied and shall be collected from persons actively engaged in the practice, within the corporate limits of the City, of professions, trade or activity recognized and regulated as such by the laws of the State which are hereinafter named, an annual license tax as follows:

Profession, Occupation, Trade or Activity	Price Per Unit
General store	\$ 15.00
Special store	5.00
Beer (State license shall be presented in Clerk's office)	
Retail dealers:	
Class A (restaurants, bars, clubs, fraternal, social organizations)	150.00
Class B (grocery store, chilled/unchilled)	150.00
Distributor	1,000.00
Brewer	1,500.00
Brewpub	1,000.00
Alcoholic beverages (liquor and wine)	
Wine	
Supplier	150.00
Distributor	2,500.00
Retailer	150.00
Wine specialty shop	250.00
Wine tasting	150.00
Private wine bed and breakfast	150.00
Private wine restaurant	250.00
Private wine spa	150.00
Wine sampling license	150.00
Retailers, liquor - Class A license	1,000.00
Class B license	1,000.00

On Foot		10.00
Vehicle not exceeding ½ ton		15.00
Vehicle not exceeding 1 ton		50.00
Vehicle not exceeding 2 tons		100.00
More than 2 tons		150.00
plus \$100 for each additional Ton or fraction thereof		500.00
Itinerant Vendors		
Junk Dealers		
Resident junk dealer within City limits		25.00
Resident junk dealer - no yard for storing		25.00
Resident junk dealer's agent		10.00
Itinerant junk collector		2.00
Non-resident junk dealer		150.00
Non-resident junk dealer's agent		50.00
Laundromats – Car Wash		
1-5 Devices		15.00
6-9 Devices - Each		3.00
10 or more Devices		30.00
Pawnbroker		100.00
Theaters and Public Shows		40.00
Trading Stamps		175.00
Motels, hotels, restaurants		10.00
General Contractors (shall register)	<u>100.00</u>	150.00
Annual renewal		<u>50.00</u>
Handyman (shall register)		<u>25.00</u>
Annual renewal		<u>25.00</u>
Master plumber (shall register)		50.00
Master electrician (shall register)		50.00
Employment agencies		100.00
Loan companies, credit union and banks		50.00
Commercial rental (shall register)		15.00
Residential rental (over three units shall register)		15.00
Acupuncturist		425.00
Athlete agent		10.00
Architects		75.00
Attorney		5.00
Auctioneer		15.00
Barber, Beautician, Manicurist		25.00
Barber or Beautician School		250.00
Certified Public Accountant		65.00
Chiropractors		200.00
Dental Corporation		150.00
Dentists		150.00
Dental Hygienist		65.00
Embalmer & Funeral Director		80.00
Engineers		40.00

Class A (nonprofit social, veterans and fraternal clubs)	375.00
Class B (private club, membership of 1,000 or less)	500.00
Class C (private club, membership more than 1,000)	1,250.00
Vending, merchandise or service machines (providing product)	
Less than 20:	
.01 Device	Each Device 2.00
.05 Device	Each Device 5.00
.10 Device	Each Device 10.00
.10 Plus Device	Each Device 12.50
20 or more:	
.01 Device	50.00
.05 Device	100.00
.10 Device	150.00
.10 Plus Device	250.00
Amusement or Music Devices	
Less than 20:	
.01 Device - Each Device	2.00
.05 Device - Each Device	5.00
.10 Device - Each Device	10.00
.10 Plus Device - Each Device	12.50
20 or more:	
.01 Device - Each Device	50.00
.05 Device - Each Device	150.00
.10 Device - Each Device	225.00
.10 Plus Device - Each Device	300.00
Any device taking more than one denomination of coin shall be licensed on the basis of the largest denomination of coin taken or the total of the coins necessary to make the device function or operate.	
Baggage or parcel checking devices, Vibrator machines and toilet lockers, Sanitary napkins	.50
Billiard or pool, first table	25.00
Each additional table	15.00
Bowling Alley, first alley	25.00
Each additional alley	15.00
Circuses, carnivals (street or other)	
For each performance, exhibit or entertainment - per week	5.00
Riding Devices - per week	10.00
Concession selling services, goods, wares, merchandise, and food - per week per concession	5.00
Games of skill - per week per concession	10.00
Candy or merchandise wheels - per day	25.00
Collection Agency	100.00
Employment Agency	200.00
Fortune Telling, Palmist, Phrenologist, Spiritualist, Clairvoyant, Mind Reader, Medium	200.00
Hawker and Peddler	

Funeral Establishment	200.00
Hearing Aid Fitters/Dealers	100.00
Hospitals	
5-49 Beds	20.00
50-99 Beds	30.00
100-199 Beds	40.00
200 or more Beds	50.00
Hotels, Motels, Boarding Houses	2.00
Each bedroom in excess of 7	\$.25 each up to \$10.00
Insurance Broker	25.00
Insurance Company	50.00
Landscape Architects	100.00
Land Surveyor	20.00
Licensed forester	15.00
Licensed Practical Nurse	40.00
Licensed social worker	30.00
Massage therapist	30.00
Medical Corporation	300.00
Midwives	10.00
Nursing Home Administrator	300.00
Occupational Therapist	90.00
Optometrist	325.00
Osteopathic Physician/Surgeon	100.00
Personal Care Homes - per bed	4.00
Private Investigator	100.00
Professional counselors	75.00
Physical Therapist	60.00
Physicians, Surgeons, Podiatrist	50.00
Practical Nurses	5.00
Private Detective/Investigator	50.00
Psychologists	175.00
Radiological Technologist	20.00
Real Estate Appraiser	
State licensed residential licensee	265.00
State certified general licensee	465.00
State certified residential licensee	315.00
Real Estate Broker	100.00
Real Estate Salesman	50.00
Registered Professional Nurse	25.00
Respiratory care therapist	65.00
Restaurants	2.00
Each 5 chairs or spaces where persons are fed	
in excess of 10	\$.25/section up to \$10.00
Social Worker	5.00
Speech Language Pathologist	60.00
Speech Language Audiologist	60.00
Veterinarians	225.00

All other business not listed above

25.00

733.98 EFFECTIVE DATES.

The amendments to this Article that were enacted in July, two thousand nine, shall be effective the first day of August, two thousand nine: Provided, That the amendment relating to the contractor licensing tax and repeal of private investigator license requirement enacted in July, 2010 shall become effective August 1, 2010.

Passed on First Reading July 6, 2010

Passed on Second Reading

July 20, 2010

Rusty Casto, Mayor

Rita Cox

Rita Cox, City Recorder

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, JULY 20, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order a 7:00 in Council Chambers. Attending with Mayor Casto were Recorder Rita Cox, Ward 1 Councilman A. A. "Joe" Savilla, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Councilmen at Large Dave Casebolt, Bob Fields and Jim McKay.

The meeting began with an introduction of members of Cub Scout Pack 188, parents and volunteers. Mayor Casto told that recently one of their members, John Davis, had an accident that left him seriously injured. He is recovering and was able to attend. The members of the Cub Scouts along with the leaders and family members had held an event to raise money on Sunday and raised \$4000.00 to help defray medical costs. A newsman from WSAZ TV filmed the boys to be named Hometown Heroes. They were also named August Citizens of the Month.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Councilman A. A. "Joe" Savilla and the Pledge of Allegiance was led by John Davis and other members of Pack 188.

FUTURE DATES OF COUNCIL: Recorder Rita Cox said the future dates of Council are August 3 and 17 and September 7 and 21.

APPROVAL OF COUNCIL MINUTES: RECORDER RITA COX MOVED THE MINUTES OF JUNE 22 AND JULY 6 BE APPROVED AS WRITTEN. THE MOTION WAS SECONDED BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

Bob Schamber of the Nitro Seniors introduced Shelly Hodges who was Citizen of the Month previously this year. Shelly told about her trip to Fort Liberte, Haiti, when she has gone before. This visit occurred shortly after the earthquake that hit Haiti. She works at Fruth Pharmacy and used her skills in Haiti. She said they were able to do much good while they are there for two weeks.

Recorder Rita Cox showed Council a copy of the Certificate of Completion that had been granted by Ron King of Code Enforcement to Tri-State Racetrack and Gaming on the completion of the hotel at Mardi Gras Racetrack and Casino.

Mayor Casto said that groundbreaking would take place on August 4, 2010 for the boat launch at the Smith Street Landfill. He said that a previous Council had voted to name the launch after Senator Robert C. Byrd. COUNCILMAN MCKAY MOVED COUNCIL HONOR THE PREVIOUS COUNCIL'S REQUEST TO NAME THE SMITH STREET BOAT LAUNCH AFTER RECENTLY DECEASED SENATOR ROBERT C. BYRD WITH A SECOND BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

OLD BUSINESS

NDA: COUNCILMAN MCKAY MOVED THE MINUTES OF JUNE 8, 2010 MEETING OF THE NITRO DEVELOPMENT AUTHORITY BE MADE A PART OF COUNCIL MINUTES. RECORDER COX SECONDED THE MOTION. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY. COUNCILMAN MCKAY MOVED THE APPOINTMENT OF CHARLES MANN TO THE NDA BOARD OF DIRECTORS BE APPROVED BY COUNCIL WITH A SECOND BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

SECOND READING ORDINANCE PERSONAL INCOME TAX REFUND OFFSET PROGRAM: City Attorney Richie Robb said there should be a public hearing. COUNCILMAN MCKAY MOVED THE PUBLIC HEARING BE OPENED WITH A SECOND BY COUNCILMAN SAVILLA. VOTE WAS

UNANIMOUS FOR THE MOTION. Mayor Casto declared the public hearing open. Richie Robb said this would enable the city to request the state to withhold fees from WV income tax returns. This applies to municipal service fees, fines, and costs among other things. Mayor Casto declared the hearing closed. COUNCILMAN MCKAY MOVED COUNCIL PASS ON SECOND READING AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF THE CITY OF NITRO, WV BY ADDING AN ARTICLE RELATING TO ESTABLISHING THE AUTHORITY TO OFFSET UNPAID MUNICIPAL SERVICE FEES, FINES, COSTS, FORFEITURES OR PENALTIES, OR RESTITUTION AGAINST THE DELINQUENT PAYOR'S WEST VIRGINIA PERSONAL INCOME TAX REFUND. THE MOTION WAS SECONDED BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION.

SECOND READING ORDINANCE AMENDING LICENSE TAX PERTAINING TO GENERAL CONTRACTOR AND HANDYMAN: Richie Robb recommended Council have a public hearing on this item. COUNCILMAN MCKAY MOVED THE PUBLIC HEARING BE OPEN WITH A SECOND BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION. Mayor Casto declared the public hearing open. Rich Robb said the purpose of the amended ordinances was to reduce the amount required for a general contractor's license from \$150.00 to \$100.00 and making the renewal amount \$50.00. The cost for a handyman's license would be \$25.00 with the renewal amount being \$25.00. Councilman Javins thought this is a fair amount for the handyman license. Mayor Casto declared the public hearing closed. COUNCILMAN MCKAY MOVED AN ORDINANCE TO AMEND AND REENACT SECTIONS 733.14 AND 733.98, ARTICLE 733 OF THE CODE OF ORDINANCES OF THE CITY OF NITRO, WEST VIRGINIA, ALL RELATING TO MUNICIPAL LICENSE TAXES PROVIDING A REDUCED LICENSE TAX FOR THE RENEWAL OF A CONTRACTOR'S LICENSE, ESTABLISHING AN INITIAL REGISTRATION AND ANNUAL RENEWAL TAX FOR THE CONTRACTOR HANDYMAN, REPEAL LICENSE REQUIREMENT FOR ONLY THE PRIVATE INVESTIGATOR CLASSIFICATION, AND PROVIDING THE EFFECTIVE DATE FOR THE AMENDMENTS. THE MOTION WAS SECONDED BY COUNCILMAN SAVILLA. Rich Robb also said this included the elimination of the category of Private Investigator since that is covered in another category. VOTE WAS UNANIMOUS FOR THE MOTION.

NEW BUSINESS

ATTORNEY REPORT: Richie Robb said that annexation work is continuing slowly down Rt. 25 and up Goff Mountain Road. He said he and Sandy Saunders had worked on Red Oak Drive. A public meeting was held recently with property owners from that area as an informational meeting. Richie Robb said it takes a majority of property owners and a majority of non property owners. He said one of the benefits is better emergency services but these projects take time.

TREASURER REPORT: John Young said the city has a surplus of \$274,798.00, \$9015.00 is for festivals. Councilman Savilla asked Councilman Fields how much will be needed to complete the War Memorial. Councilman Fields said he would have better idea after the distance run this Saturday. John Young said he would suggest that a \$500.00 per year increase be given to all full time non-seasonal employees who did not get a raise or receive a \$500.00 per year longevity pay increase. COUNCILMAN CASEBOLT MOVED THAT ALL EMPLOYEES RECEIVE A \$500.00 PAY INCREASE FOR FISCAL YEAR 2010-2011, EXCLUDING EMPLOYEES WHO ALREADY RECEIVED A RAISE IN FISCAL YEAR 2010-2011 AND POLICE AND FIRE EMPLOYEES WHO RECEIVE LONGEVITY PAY OF \$500.00, POLICE AND FIRE EMPLOYEES WHO RECEIVE \$250.00 LONGEVITY PAY RECEIVING \$500.00 TOTAL FOR FISCAL YEAR 2010-2011. THE MOTION WAS SECONDED BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION.

COUNCIL COMMENT

Mayor Casto said the ground breaking for the boat launch will be August 4 at noon. Governor Manchin has been invited. Mayor Casto said there are potentially problems with the sewer line under the bleachers at the Nitro High School football field.

Councilman Matthews thanked Council for approving the purchase of the movie screen.

Councilman Javins requested the boat launch area look good on August 4.

COUNCILMAN MATTHEWS MADE A MOTION THAT THE MIDGET LEAGUE FOOTBALL TEAMS BE GIVEN PERMISSION TO PLAY ON THE CITY FOOTBALL FIELD ON SEPTEMBER 12, SEPTEMBER 26 AND OCTOBER 10, 2010. THE MOTION WAS SECONDED BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION. Councilman Matthews said the grant had come through for the trash cans. Councilman Matthews said the 5k run-3k walk would be held on Saturday.

Councilman Racer said he would like to see signs go up recognizing the Nitro High Baseball Championships.

Recorder Cox said she was happy to see city workers being recognized with a salary increase.

Councilman Fields said a trash can would be welcome near the flags.

COUNCILMAN CASEBOLT MOVED 2ND AVENUE BETWEEN 22ND STREET AND 23RD STREET BE CLOSED ON SEPTEMBER 11 BE CLOSED FROM NOON TO 8:00 PM FOR NITRO MISSION TEAM ITALIAN FESTIVAL WITH A SECOND BY RECORDER COX. VOTE WAS UNANIMOUS FOR THE MOTION. Councilman Casebolt asked if boat storage could be put on the landfill. Mayor Casto said that would be a question for Chris Amick of Kemron.

PUBLIC COMMENT

Bob Schamber said the Nitro Library event with reptiles was successful. On July 24 there is a covered dish dinner for seniors and on July 31 a western dance.

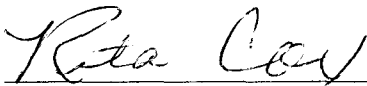
Herschel Facemyre said Nitro was on the move.

Councilman Savilla said the NDA and city can work together.

COUNCILMAN MCKAY MOVED THE MEETING BE ADJOURNED WITH A SECOND BY RECORDER COX. VOTE WAS UNANIMOUS.

—

RUSTY CASTO, MAYOR



RITA COX, RECORDER

Nitro Development Authority
302 21st Street
Nitro, WV 25143
June 8, 2010
Board of Director's Meeting
Minutes

Call to order: President Hershel Facemyre called the meeting of the NDA to order at 7:00P.M.
Ivan Meadows mentioned that Rich Hively is not interested in being on the NDA board.

Members present: Hershel Facemyre, John Adams, Susan Graves, Ivan Meadows, Jim McKay, Leonard Womble, Don Hudnall (Community Center Director), Jack Legg, Jim Westlund, April Plank, Chuck Boggs III, Carmen Kostelansky and Mike Monday.

Members absent: Gene Brightwell, and Herb Fitzimmons.

Approval of May 11 minutes: Motion made by Jim McKay, seconded by Ivan Meadows. Approved by board June 8, 2010.

Financial Report: Susan Graves, treasurer. We are presently paying Mountaineer Gas company the current amount due in the hopes that we can catch up with the past due amount. Mrs. Graves reported that income is down due to Dana Trucking not paying their interest, and lack of renters. The Audit bill will be approximately \$2100 / each year. We should be receiving it soon. Motion to accept financial report made by Jim McKay, seconded by April Plank. Approved by board June 8, 2010.

Committee reports: The following committees did not meet: Executive committee, Beautification committee, (planting flowers before NHS Reunion) , Marketing/ Public Relations, Personnel committee (not formed), Facility/ Property committee, Grant Committee, and Budget/Finance/Audit Committee (discussed through e-mails).

Budget/Finance: Susan Graves presented the proposed budget for 2010/2011. The committee looked at tenants cost of square footage for rental. Proposed increase: \$6.00/square footage for first floor rentals and \$5.75/square footage for 2nd floor rentals. Jim Westlund questioned would this rate increase be enough to cover our utility increases? Hope so! Motion made by Chuck Boggs to approve the proposed budget with the rate increase. Seconded by Mike Monday/ April Plank. All approved June 8, 2010.

Building Committee/Safety Committee: Met on June 8th. Also suggested raising the rate of rent to \$6.00 and \$5.75. Will bring it to the NDA board meeting. Also noted that several trees and bushes need to be trimmed or cut down. Will be completed as time and money come available. Praise to Nitro Sunroof and Awning for providing the escape window for Kings Way Nursery. Also thanks to Donald Hudnall for helping to put it in place.

Annexation Committee: Met on May 18, 2010. Mayor informed the committee that the Bayer Cropscience is not interested in being a part of Nitro or Dunbar. Jim McKay recommended that all monetary perks be deleted from the annexation brochure. Chairman Joe Savilla said would be completed on June 2, 2010. Although Grant committee did not meet, Nitro has received another grant from the Federal Government. Bids have been advertised and the Council will be reviewing them soon.

Ivan Means informed the NDA that Jennifer Sayre is the lady that is interested in writing grants. Her telephone number is 357-0628. Nitro will be starting a chamber of commerce; The Nitro Chamber of Commerce Inc. Motion to accept committee report made by Chuck Boggs and seconded by Jim Westlund.

War Museum met on June 3, 2010. Presently the war museum is not covered by insurance. Jim McKay on the next council meeting agenda to discuss this. Still checking on getting a permanent dwelling for the museum; building between 22nd and 23rd streets, having dollar amounts appointed to different classes of Museum board memberships, and fundraising for the museum. Acceptance of the War Museum committee report made by Jim Westlund and seconded by April Plank.

Old Business:

Update on Dana Transportation (Equipment Care Center of Nitro LLC): Still no response from Dana on any contacts from us or Attorney Barth. Mr. Barth asked Hershel Facemyre if we want to file suit to collect money due. Motion made by Jim McKay and seconded by Susan Graves/Chuck Boggs to sue the ECC of Nitro LLC (Dana)

Possibilities of combining committees will be reviewed by the Executive Committee. Mr. Facemyre will call the meeting.

Leonard Womble provided Hershel Facemyre with suggestions for improving and correcting the Code of Ethics, Code of Conduct, By Laws and Strategic Plan. After reviewing, all agreed job well done. Thank you Mr. Womble. Hershel Facemyre will make the necessary changes to all documents. Motion to accept the revised Code of Ethics, Code of Conduct, By Laws and Strategic Plan made by Jim McKay and seconded by Chuck Boggs. Hershel Facemyre will also make sure the By-laws are mailed with the Annual report.

New Business:

The Annual report has to be sent to the Secretary of State and the Nitro City Council by July 1st, 2010 at the cost of \$25.00. If it is late, the cost is then \$100.00. Hershel and Susan assured us that it would be sent by July 1st. We send a quarterly report to the City Council. Hershel Facemyre and Susan Graves will take care of all reports. THANK YOU!

Summer recess; Susan Graves reports that according to By-laws, we have to meet in July. We have so much going on that Mr. Facemyre suggests meeting both months. Jim Westlund suggest maybe not meeting in August!

Election of officers must be done at the last meeting before the new fiscal year, (now). Ivan Meadows made the motion to accept the same officers that are presently on the board. Seconded by Jim Westlund. All approved on June 8, 2010. Officers will continue to be: Hershel Facemyre, President; Jim McKay, Vice; Carmen Kostelansky, Secretary and Susan Graves, Treasurer.

Carmen Kostelansky will contact Herb Fitzsimmons and James Carrier to inform them that their terms have expired as of July of 2010.

Motion made by Chuck Boggs and seconded by Jim McKay to have Mr. Barth research with Putnam County Records to locate the legal documentation, land value, etc, of the property on 3rd Avenue and 40th Street. All approved.

Adjournment: 8:28P.M.

Next Meeting: July 13, 2010 at 7:00 in the the Nitro Community Center Board Room.

Submitted by; Carmen Kostelansky, Secretary NDA

Carmen

ORDINANCE 10-4

An Ordinance to amend the Codified Ordinances of the City of Nitro, West Virginia, by adding thereto an new article designated 175.01, 175.02, 175.03, 175.04 and 175.05, all relating to establishing the authority to offset unpaid municipal service fees, fines, costs, forfeitures or penalties, or restitution against the delinquent payor's West Virginia personal income tax refund; City Council findings; definitions; establishment of basis for program participation; establishing participation in the Refund Offset Program; and expenditure of funds received.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA that the Codified Ordinances of the City of Nitro, West Virginia, as amended, be amended by adding thereto an new article designated 175.01, 175.02, 175.03, 175.04 and 175.05, all to read as follows:

**CHAPTER SEVEN
ARTICLE 175
PERSONAL INCOME TAX REFUND OFFSET PROGRAM**

175.01. City Council findings. The City Council hereby finds the following:

175.01(a). There exists a need for additional avenues to aid the Municipal Court in the collection of unpaid fines, fees, and court costs, the total amount of which continues to increase; and

175.01(b). The West Virginia Legislature in response to the growing need for financial support, established a program, with the aid of the West Virginia State Tax Department, to assist municipal courts to collect unpaid municipal fines, forfeitures, penalties, restitution, fees and court costs;

175.01(c). Therefore, the City Council does hereby establish and confer upon the City of Nitro Municipal Court the authority to participate in the Municipal Court Income Tax Refund Offset Program established in accordance with West Virginia Code § 8-10-2b, and all rules and procedures promulgated for its administration.

175.02. Definitions. The following terms shall have the meaning ascribed herein, unless the context in which is used required a different meaning.

"City" means the City of Nitro, West Virginia.

"Criminal offense" means a violation of any of the provisions of any City or county ordinance or State statute that results in the Municipal Court levying a fine, costs, forfeiture, penalty, or restitution payable: (a) to the City in the form of payment of delinquent municipal service fees, emergency services user fees, or other legitimate

charges imposed by the City as a result of the ordinance violation, including a motor vehicle violation; or (b) to a person or the City for an economic or financial loss caused by the person against whom the fine, costs, forfeiture, penalty or restitution is imposed.

"Municipal Court" means the Municipal Court of the City.

"Municipal Court Clerk" means the clerk of the Municipal Court.

"Licensee" means the person against whom costs, fines, forfeitures and penalties have been imposed.

"Refund Offset Program" means the Municipal Court Income Tax Refund Offset Program authorized in West Virginia Code § 8-10-2b and administered by the West Virginia State Tax Department through 110 C.S.R. 40, Withholding or Denial of Personal Income Tax Refunds From Taxpayers Who Owe Municipal Costs, Fines, Forfeitures or Penalties.

175.03. Establishment of basis for program participation.

175.03(a). If a person convicted in the Municipal Court of a criminal offense, as defined in West Virginia Code § 17B-3-3c, fails to pay all costs, fines, forfeitures, restitution or penalties imposed by the municipal court within 180 days after the date the judgment was imposed, the Municipal Court Clerk or, upon a judgment rendered on appeal, the Circuit Clerk shall notify the West Virginia Division of Motor Vehicles of the failure to pay.

175.03(b). At the time the judgment is imposed, the judge shall provide the person with written notice that failure to pay all costs, fines, forfeitures, restitution or penalties:

175.03(b)(1). May, under the State Tax Department Refund Offset Program, result in the withholding of any income tax refund due the person; and

175.03(b)(2). Shall result in the suspension of the person's license or privilege to operate a motor vehicle in West Virginia and that the suspension could result in the cancellation of, the failure to renew or the failure to issue an automobile insurance policy providing coverage for the person or the person's family.

175.03(c). Payment shall be stayed during any period an appeal from the conviction which resulted in the imposition of costs, fines, forfeitures, restitution or penalties is pending.

175.03(d). The notice of the failure to pay costs, fines, forfeitures, restitution or penalties may not be given where the Municipal Court, upon application of the person against whom the costs, fines, forfeitures, restitution or penalties were imposed and that was filed prior to the expiration of the 180 day period, enters an order finding that the person is financially unable to pay all or a portion of the costs, fines, forfeitures,

restitution or penalties. However, where the Municipal Court finds that the person is financially unable to pay a portion of the costs, fines, forfeitures, restitution or penalties, the Municipal Court may require the person to pay the remaining portion, and shall notify the Division of Motor Vehicles of the person's failure to pay if not paid within the period of time ordered by the court.

175.03(e). If a person charged with a criminal offense fails to appear or otherwise respond in the Municipal Court, the municipal court clerk shall notify the Division of Motor Vehicles of that failure within 15 days after the scheduled date to appear unless the person sooner appears or otherwise responds in the Municipal Court to the satisfaction of the judge.

175.03(f). If the licensee fails to respond to the Division of Motor Vehicles order of suspension within 90 days of receipt of the certified letter, the Municipal Court clerk shall notify the Tax Commissioner that the licensee has failed to pay the costs, fines, forfeitures, restitution and penalties assessed by the court or has failed to respond to the citation.

175.04. Establishing participation in the Refund Offset Program.

175.04(a). The Municipal Court shall:

175.04(a)(1). Complete and file with the West Virginia State Tax Department the Application To Participate In Municipal Court Income Tax Refund Offset Program, Form WV/MUN-1;

175.04(a)(2). Execute a memorandum of understanding with the State Tax Department that sets forth the duties and responsibilities of both the State Tax Department and the Municipal Court under the refund offset program;

175.04(a)(3). Participate in the testing of the file exchange process and training; and

175.04(a)(4). Perform all other activities necessary to assure full participation in the refund offset program.

175.04(b). To receive refund offsets, the Municipal Court shall provide to the State Tax Commissioner, in an electronic format prescribed by the State Tax Commissioner, a listing, by social security number, of the unpaid municipal costs, fines, forfeitures, restitution or penalties eligible to be offset under the provisions of West Virginia Code § 8-10-2b. This listing shall contain:

175.04(b)(1). The taxpayer's social security number;

175.04(b)(2). The taxpayer's name;

175.04(b)(3). The taxpayer's last known mailing address;

175.04(b)(4). The amount of the unpaid municipal costs, fines, forfeitures or penalties;

175.04(b)(5). An optional external control number used by the court;

175.04(b)(6). The FIPS (Federal Information Processing System) Code for the municipality in which the court is located; and,

175.04(b)(7). Any other information required by the State Tax Commissioner.

175.05. Expenditure of funds received.

175.05(a). Upon receipt of funds from the State Tax Department, the Municipal Court shall distribute applicable costs, fines, forfeitures and penalties owed to:

175.05(a)(1). The municipality;

175.05(a)(2). The Regional Jail Authority Fund;

175.05(a)(3). The Crime Victims Compensation Fund;

175.05(a)(4). The Community Corrections Fund;

175.05(a)(5). The Governor's subcommittee on law-enforcement training; or

175.05(a)(6). Any other fund or payee that may be applicable.

175.06. Effective date.

175.06(a). This article establishing the Personal Income Tax Refund Offset Program shall become effective immediately upon passage by the City Council.

Passed on First Reading July 6, 2010

Passed on Second Reading July 20, 2010

Rusty Casto, Mayor

A handwritten signature in cursive script, appearing to read "Rita Cox", written over a horizontal line.

Rita Cox, Recorder

ORDINANCE

10-5

An ordinance to amend and reenact sections 733.14 and 733.98, Article 733 of the Code of Ordinances of the City of Nitro, West Virginia, all relating to municipal license taxes, and providing a reduced license tax for the renewal of a contractor's license, establishing an initial registration and annual renewal tax for the contractor handyman, repeal license requirement for only the private investigator classification, and providing the effective date for the amendments.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, that sections 733.14 and 733.98, Article 733 of the Codified Ordinances of the City of Nitro, West Virginia be amended and reenacted, all to read as follows:

ARTICLE 733
License Taxes

733.14 IMPOSITION OF TAX.

There is hereby levied and shall be collected from persons actively engaged in the practice, within the corporate limits of the City, of professions, trade or activity recognized and regulated as such by the laws of the State which are hereinafter named, an annual license tax as follows:

Profession, Occupation, Trade or Activity	Price Per Unit
General store	\$ 15.00
Special store	5.00
Beer (State license shall be presented in Clerk's office)	
Retail dealers:	
Class A (restaurants, bars, clubs, fraternal, social organizations)	150.00
Class B (grocery store, chilled/unchilled)	150.00
Distributor	1,000.00
Brewer	1,500.00
Brewpub	1,000.00
Alcoholic beverages (liquor and wine)	
Wine	
Supplier	150.00
Distributor	2,500.00
Retailer	150.00
Wine specialty shop	250.00
Wine tasting	150.00
Private wine bed and breakfast	150.00
Private wine restaurant	250.00
Private wine spa	150.00
Wine sampling license	150.00
Retailers, liquor - Class A license	1,000.00
Class B license	1,000.00

Class A (nonprofit social, veterans and fraternal clubs)	375.00
Class B (private club, membership of 1,000 or less)	500.00
Class C (private club, membership more than 1,000)	1,250.00
Vending, merchandise or service machines (providing product)	
Less than 20:	
.01 Device	Each Device 2.00
.05 Device	Each Device 5.00
.10 Device	Each Device 10.00
.10 Plus Device	Each Device 12.50
20 or more:	
.01 Device	50.00
.05 Device	100.00
.10 Device	150.00
.10 Plus Device	250.00
Amusement or Music Devices	
Less than 20:	
.01 Device - Each Device	2.00
.05 Device - Each Device	5.00
.10 Device - Each Device	10.00
.10 Plus Device - Each Device	12.50
20 or more:	
.01 Device - Each Device	50.00
.05 Device - Each Device	150.00
.10 Device - Each Device	225.00
.10 Plus Device - Each Device	300.00
Any device taking more than one denomination of coin shall be licensed on the basis of the largest denomination of coin taken or the total of the coins necessary to make the device function or operate.	
Baggage or parcel checking devices, Vibrator machines and toilet lockers, Sanitary napkins	.50
Billiard or pool, first table	25.00
Each additional table	15.00
Bowling Alley, first alley	25.00
Each additional alley	15.00
Circuses, carnivals (street or other)	
For each performance, exhibit or entertainment - per week	5.00
Riding Devices - per week	10.00
Concession selling services, goods, wares, merchandise, and food - per week per concession	5.00
Games of skill - per week per concession	10.00
Candy or merchandise wheels - per day	25.00
Collection Agency	100.00
Employment Agency	200.00
Fortune Telling, Palmist, Phrenologist, Spiritualist, Clairvoyant, Mind Reader, Medium	200.00
Hawker and Peddler	

On Foot		10.00
Vehicle not exceeding ½ ton		15.00
Vehicle not exceeding 1 ton		50.00
Vehicle not exceeding 2 tons		100.00
More than 2 tons		
plus \$100 for each additional Ton or fraction thereof		150.00
Itinerant Vendors		500.00
Junk Dealers		
Resident junk dealer within City limits		25.00
Resident junk dealer - no yard for storing		25.00
Resident junk dealer's agent		10.00
Itinerant junk collector		2.00
Non-resident junk dealer		150.00
Non-resident junk dealer's agent		50.00
Laundromats – Car Wash		
1-5 Devices		15.00
6-9 Devices - Each		3.00
10 or more Devices		30.00
Pawnbroker		100.00
Theaters and Public Shows		40.00
Trading Stamps		175.00
Motels, hotels, restaurants		10.00
General Contractors (shall register)	100.00	150.00
<u>Annual renewal</u>		50.00
<u>Handyman (shall register)</u>		25.00
<u>Annual renewal</u>		25.00
Master plumber (shall register)		50.00
Master electrician (shall register)		50.00
Employment agencies		100.00
Loan companies, credit union and banks		50.00
Commercial rental (shall register)		15.00
Residential rental (over three units shall register)		15.00
Acupuncturist		425.00
Athlete agent		10.00
Architects		75.00
Attorney		5.00
Auctioneer		15.00
Barber, Beautician, Manicurist		25.00
Barber or Beautician School		250.00
Certified Public Accountant		65.00
Chiropractors		200.00
Dental Corporation		150.00
Dentists		150.00
Dental Hygienist		65.00
Embalmer & Funeral Director		80.00
Engineers		40.00

Funeral Establishment	200.00
Hearing Aid Fitters/Dealers	100.00
Hospitals 5-49 Beds	20.00
50-99 Beds	30.00
100-199 Beds	40.00
200 or more Beds	50.00
Hotels, Motels, Boarding Houses	2.00
Each bedroom in excess of 7	\$.25 each up to \$10.00
Insurance Broker	25.00
Insurance Company	50.00
Landscape Architects	100.00
Land Surveyor	20.00
Licensed forester	15.00
Licensed Practical Nurse	40.00
Licensed social worker	30.00
Massage therapist	30.00
Medical Corporation	300.00
Midwives	10.00
Nursing Home Administrator	300.00
Occupational Therapist	90.00
Optometrist	325.00
Osteopathic Physician/Surgeon	100.00
Personal Care Homes - per bed	4.00
Private Investigator	100.00
Professional counselors	75.00
Physical Therapist	60.00
Physicians, Surgeons, Podiatrist	50.00
Practical Nurses	5.00
Private Detective/Investigator	50.00
Psychologists	175.00
Radiological Technologist	20.00
Real Estate Appraiser	
State licensed residential licensee	265.00
State certified general licensee	465.00
State certified residential licensee	315.00
Real Estate Broker	100.00
Real Estate Salesman	50.00
Registered Professional Nurse	25.00
Respiratory care therapist	65.00
Restaurants	2.00
Each 5 chairs or spaces where persons are fed in excess of 10	\$.25/section up to \$10.00
Social Worker	5.00
Speech Language Pathologist	60.00
Speech Language Audiologist	60.00
Veterinarians	225.00

All other business not listed above

25.00

733.98 EFFECTIVE DATES.

The amendments to this Article that were enacted in July, two thousand nine, shall be effective the first day of August, two thousand nine: Provided, That the amendment relating to the contractor licensing tax and repeal of private investigator license requirement enacted in July, 2010 shall become effective August 1, 2010.

Passed on First Reading July 6, 2010

Passed on Second Reading

July 20, 2010

Rusty Casto, Mayor

Rita Cox, City Recorder

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, JULY 27, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 10:00 am in Council Chambers. In attendance were Mayor Casto, Recorder Rita Cox, Ward 1 Councilman A. A. "Joe" Savilla, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Councilmen at Large Dave Casebolt, Bob Fields, and Jim McKay and City Treasurer John Young.

Mayor Casto opened the meeting by explaining the city has a monetary surplus and therefore budget revisions are necessary and they have to be made prior to August 1. City Treasurer John Young said the amount originally specified was incorrect. He said that the money that has to be allocated are Coal Severance money, \$8721.00, and 25% of that can go to wages; and \$19,531.00. John Young said the amount of \$805,905.00 has been booked to OPED which he is required to do. Councilman Matthews asked if Council voted to fund OPED this past year. He said that the Council has struggled to for things when the city had the money all along. Councilman Savilla said some cities do not fund OPED. He asked if the money should be put in a rainy day fund. John Young said that some of the money should be but that he needs a cash flow for the operation of the city. He recommended a portion of it be put in a fund. Councilman Matthews said he thought Council voted not to fund OPED.

COUNCILMAN MATTHEWS MOVED COUNCIL GIVE THE \$500.00 RAISE TO THE EMPLOYEES WHO RECEIVED RAISES ON JULY 1. COUNCILMAN SAVILLA SECONDED THE MOTION. Recorder Cox said she thought we should not give the raise until the situation was studied. Councilman Racer asked if we had more roads that needed paved. Recorder Cox said that we do. Councilman Savilla said that we also need to complete the street signs because the old ones need replaced since they are not visible at night. He said that project was not completed. He said that would be a good use of the coal severance money. COUNCILMAN JAVINS MOVED THE \$500.00 RAISE TO THE EMPLOYEES WHO RECEIVED RAISES ON JULY 1 BE TABLED AND STUDIED BY COMMITTEE WITH A SECOND BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION.

COUNCILMAN SAVILLA MOVED THE \$8721.00 COAL SEVERANCE MONEY BE SPENT ON STREET SIGNS WITH A SECOND BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION.

COUNCILMAN SAVILLA MOVED THE \$19,531.00 BE SPENT FOR PAVING AND PATCHING OF STREETS WITH A SECOND BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION.

Mayor Casto announced the next meeting of Council is Tuesday, August at 7:00 pm. The meeting was adjourned.



RUSTY CASTO, MAYOR

RITA COX, RECORDER

REQUEST FOR REVISION TO APPROVED BUDGET

CONTROL NUMBER

Ora Ash, Director
West Virginia State Auditor's Office
200 West Main Street
Clarksburg, WV 26302
Phone: 627-2415 ext. 5114
Fax: 627-2417

Subject to approval of the state auditor, the governing body requests that the budget be revised prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists. (§ 11-8-26a)

2011
FY
GENERAL
FUND
1
REV. NO.
1
PG. OF NO.

CITY OF NITRO

GOVERNMENT ENTITY

Person To Contact Regarding

PO BOX 308

Budget Revision: **JOHN YOUNG**

STREET OR PO BOX

Phone: **304 755-5066****Municipality**Fax: **304 755-7502**

NITRO

25143

Government Type

CITY

ZIP CODE

REVENUES: (net each acct.)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
299	Unassigned Fund Balance		38,514		38,514
298	Assigned Fund Balance		192,819		192,819
	#N/A				
	#N/A				
	#N/A				
	#N/A				

NET INCREASE/(DECREASE) Revenues (ALL PAGES)

231,333

COUNTIES-TRANSFERS TO THE GENERAL FUND FROM OTHER FUNDS MUST HAVE PRIOR APPROVAL OF AUDITOR'S OFFICE

EXPENDITURES: (net each account category)

(WV CODE 7-1-9)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
413	Treasurer's Office	149,460	613		150,073
440	City Hall	1,279,909	13,498		1,293,407
566	Public Work	713,580	1,841		715,421
700	Police Department	1,145,977	1,102		1,147,079
706	Fire Department	757,647	1,929		759,576
750	Streets and Highways	35,000	19,531		54,531
976	Public Safety	128,862	183,804		312,666
903	Fair Associations/Festivals		9,015		9,015
	#N/A				
	#N/A				
	#N/A				
	#N/A				

NET INCREASE/(DECREASE) Expenditures

231,333

APPROVED BY THE STATE AUDITOR

BY: **Director, Local Government Services Division**

Date

[Signature]
AUTHORIZED SIGNATURE
OF ENTITY

7/27/10
APPROVAL
DATE



Nitro City Council

NOTICE TO APPEAR

The Nitro City Council is ordered to attend a meeting at 10:00 am on Tuesday, July 27, 2010 in Council Chambers to address budget revisions for the fiscal year 2010-2011.

Rusty Casto, Mayor

July 23, 2010



NITRO CITY COUNCIL
NOTICE OF COUNCIL MEETING
TUESDAY, JULY 27, 2010 10:00 AM

A. A. "Joe" Savilla
A. A. "JOE" SAVILLA, WARD 1 COUNCILMAN

William R. Racer
BILL RACER, WARD 2 COUNCILMAN

Craig Matthews
CRAIG MATTHEWS, WARD 3 COUNCILMAN

Bill Javins
BILL JAVINS, WARD 4 COUNCILMAN

Dave Casebolt
DAVE CASEBOLT, COUNCILMAN AT LARGE

Jim McKay
JIM MCKAY, COUNCILMAN AT LARGE

Bob Fields
BOB FIELDS, COUNCILMAN AT LARGE

Rita Cox
RITA COX, RECORDER

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MEETING MINUTES
TUESDAY, JULY 27, 2010

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RUSTY CASTO, MAYOR

RITA COX, RECORDER

Certificate of Occupancy

Racing Corporation of West Virginia D/B/A Mardi Gras

Casino & Resort

#1 Greyhound Drive, Nitro, WV 25313

Bernard Hartman & Herbert Tyner

24700 W 12 Mile Road

Southfield, MI 48034

1-248-352-2010



This Certificate is issued certifying at the time of construction this structure was in compliance with the various ordinances of the Jurisdiction regulating Building Construction use for the following:

PERMIT # 09-00407

EDITION OF CODE PERMIT ISSUED: WV BUILDING CODE 2003

ICC COMPLIANT

USE & OCCUPANCY: ICC USE GROUP R-1; NFPA HOTEL

TYPE OF CONSTRUCTION: ICC TYPE 5A; NFPA TYPE V 111

SPRINKLER SYSTEM REQUIRED: NFPA 13 R SYSTEM COMPLIANT

DESIGN OCCUPANT LOAD:

1ST. FLOOR GUEST/BEDS 76 OCCUPANTS

2ND FLOOR GUEST/BEDS 138 OCCUPANTS

3RD FLOOR GUEST/BEDS 130 OCCUPANTS

4TH FLOOR GUEST/BEDS 130 OCCUPANTS

1ST. FLOOR POTENTIAL 210 OCCUPANTS

TOTAL: OCCUPANTS = 684

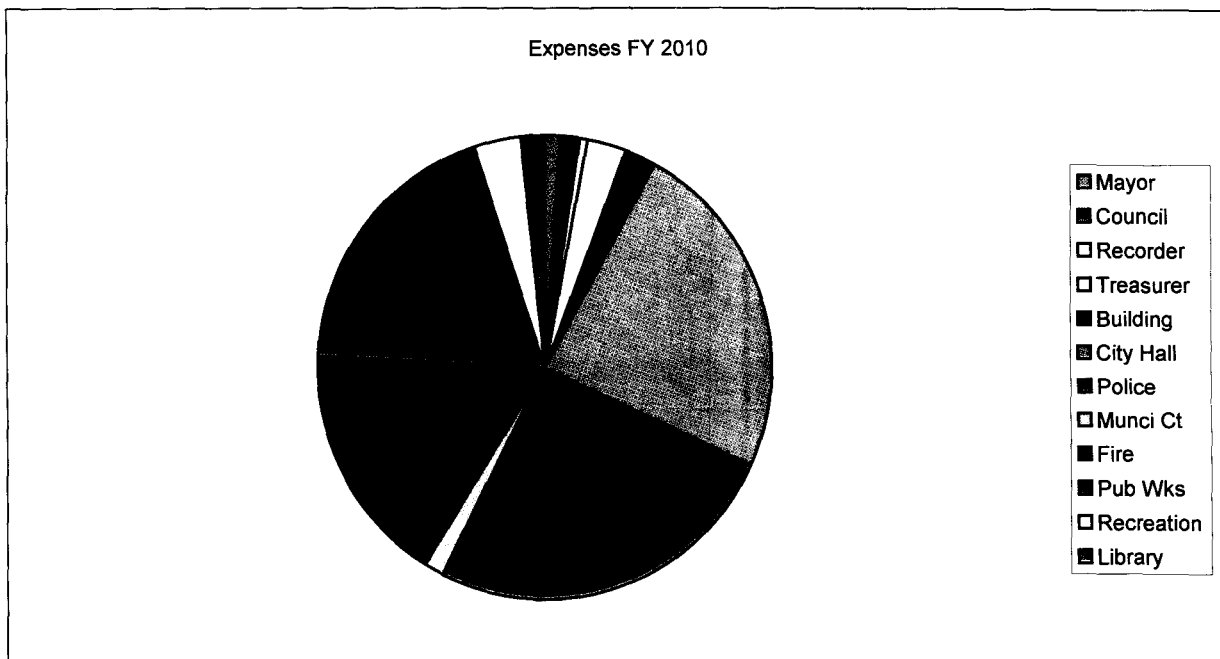
Plus Employees

RON KING, FIRE MARSHAL CITY OF NITRO, WV

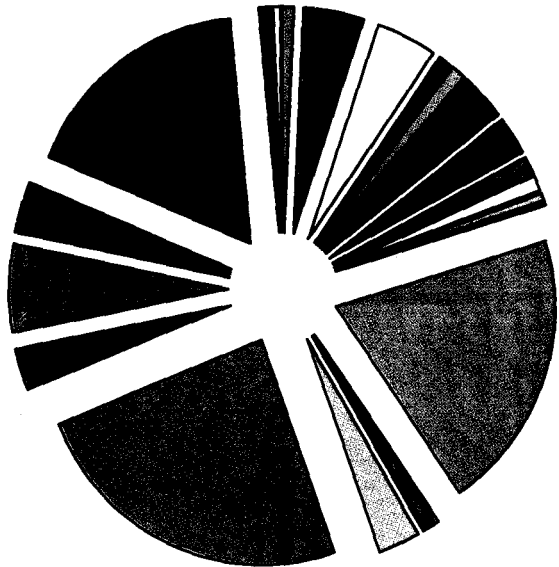
DATE

City of Nitro Expense by Department FY 2010

Department	Expenses FY 2010	Percentage
Mayor	50062	1.04%
Council	76778	1.59%
Recorder	26821	0.55%
Treasurer	125268	2.59%
Building	106614	2.21%
City Hall	1164517	24.09%
Police	1234712	25.54%
Munci Ct	59978	1.24%
Fire	820686	16.98%
Pub Wks	931913	19.28%
Recreation	160970	3.33%
Library	75437	1.56%
Total	4833756	



FY10 Revenues City of Nitro



- Contributions
- Table Games
- Lottery Dog Track
- Lottery Other
- State & County Grants
- Federal Grants
- Private Grants
- Parks & Pool
- Swimming Pool
- Pool Concessions
- Reimb Other Insurance
- Reimb Capitol Cons
- Reimb Lakeview
- Reimb City Calendar
- Reimb Insurance Claims
- Reimb Hospitalization
- Reimb Police Wages
- Reimb Fire Wages
- Reimb Pub Wrks Wages
- Reimb Liability Ins
- Reimb NDA
- Reimb Senior Cit

FY 2010 CITY OF NITRO REVENUES

		Percentage			
Contributions	\$ 38,318.00	0.74%	\$ 38,318.00	0.74%	Contributions
Table Games	\$ 238,992.00	4.62%			
Lottery Dog Track	\$ 221,730.00	4.29%			
Lottery Other	\$ 23,272.00	0.45%	\$ 483,994.00	9.36%	Lottery
State & County Gra	\$ 24,122.00	0.47%			
Federal Grants	\$ 62,484.00	1.21%			
Private Grants	\$ 9,947.00	0.19%	\$ 96,553.00	1.87%	Grants
Parks & Pool	\$ 8,410.00	0.16%			
Swimming Pool	\$ 51,686.00	1.00%			
Pool Concessions	\$ 35,519.00	0.69%	\$ 95,615.00	1.85%	Pool & Recreation
Reimb Other Insura	\$ 1,185.00	0.02%			
Reimb Capitol Cons	\$ 13,000.00	0.25%			
Reimb Lakeview	\$ 3,000.00	0.06%			
Reimb City Calend	\$ 6,854.00	0.13%			
Reimb Insurance C	\$ 9,492.00	0.18%			
Reimb Hospitalizati	\$ 144,867.00	2.80%			
Reimb Police Wage	\$ 42,031.00	0.81%			
Reimb Fire Wages	\$ 1,580.00	0.03%			
Reimb Pub Wrks V	\$ 9,000.00	0.17%			
Reimb Liability Ins	\$ 62,000.00	1.20%			
Reimb NDA	\$ 25,000.00	0.48%			
Reimb Senior Cit	\$ 21,526.00	0.42%	\$ 339,535.00	6.57%	Reimbursements
Prop TX	\$ 1,049,937.00	20.30%			
Oil/Gas	\$ 5,634.00	0.11%			
Motel/Hotel	\$ 2,606.00	0.05%			
Bldg Permits	\$ 25,255.00	0.49%			
Insp Fees	\$ 5,746.00	0.11%			
IRP Fees	\$ 6,987.00	0.14%			
Par Ind	\$ 168,000.00	3.25%			
B&O Tx	\$ 1,237,779.00	23.94%			
THF B&O	\$ 169,447.00	3.28%			
Utility TX	\$ 325,220.00	6.29%			
Regional Jail Tx	\$ 94.00	0.00%			
Liquor Tx	\$ 22,545.00	0.44%			
Business License	\$ 62,410.00	1.21%			
Interest Inc	\$ 2,208.00	0.04%			
Rental Prop	\$ 15,714.00	0.30%			
Court Costs	\$ 61,975.00	1.20%			
Muni Svc Fees	\$ 880,319.00	17.02%			
Sale of Fixed Asset	\$ 27,304.00	0.53%			
Franchise Fees	\$ 21,213.00	0.41%			
Coal Severance	\$ 23,263.00	0.45%			
Misc	\$ 3,365.00	0.07%	\$ 4,117,021.00	79.62%	Taxes & Fees
Total	\$ 5,171,036.00	100.00%	\$ 5,171,036.00		

Council Members

07-06-10 Approved
to go out for bid
on these 7 streets.

We need approximately \$373,000.00 to pave and repair streets in our city. This does not include concrete work that needs to be done, especially in Brookhaven and Ward three. We would like for Council to consider a major portion of extra revenue, ending June 30th, be put toward paving and concrete work that our city desperately needs.

We need council to approve the following streets to be put out for bid for our 2010/1011 budget. The ward councilmen and Aj consider these streets a priority.

1. Rockledge- to 231 mailbox and to dead end sign
2. Cedar St-from Washington Ave to Kanawha Ave
3. Ivy St-Dupont to main ave
4. Walker St-Walker and Lee
5. Locust St-Fredrick St to 1st Ave
6. Mich, Ave. So (500 block)
7. Hickory Rd (one section)

COUNCIL COMMENT

Mayor Casto said the ground breaking for the boat launch will be August 4 at noon. Governor Manchin has been invited. Mayor Casto said there are potentially problems with the sewer line under the bleachers at the Nitro High School football field.

Councilman Matthews thanked Council for approving the purchase of the movie screen.

Councilman Javins requested the boat launch area look good on August 4.

COUNCILMAN MATTHEWS MADE A MOTION THAT THE MIDGET LEAGUE FOOTBALL TEAMS BE GIVEN PERMISSION TO PLAY ON THE CITY FOOTBALL FIELD ON SEPTEMBER 12, SEPTEMBER 26 AND OCTOBER 10, 2010. THE MOTION WAS SECONDED BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION. Councilman Matthews said the grant had come through for the trash cans. Councilman Matthews said the 5k run-3k walk would be held on Saturday.

Councilman Racer said he would like to see signs go up recognizing the Nitro High Baseball Championships.

Recorder Cox said she was happy to see city workers being recognized with a salary increase.

Councilman Fields said a trash can would be welcome near the flags.

COUNCILMAN CASEBOLT MOVED 2ND AVENUE BETWEEN 22ND STREET AND 23RD STREET BE CLOSED ON SEPTEMBER 11 BE CLOSED FROM NOON TO 8:00 PM FOR NITRO MISSION TEAM ITALIAN FESTIVAL WITH A SECOND BY RECORDER COX. VOTE WAS UNANIMOUS FOR THE MOTION. Councilman Casebolt asked if boat storage could be put on the landfill. Mayor Casto said that would be a question for Chris Amick of Kemron.

PUBLIC COMMENT

Bob Schamber said the Nitro Library event with reptiles was successful. On July 24 there is a covered dish dinner for seniors and on July 31 a western dance.

Herschel Facemyre said Nitro was on the move.

Councilman Savilla said the NDA and city can work together.

COUNCILMAN MCKAY MOVED THE MEETING BE ADJOURNED WITH A SECOND BY RECORDER COX. VOTE WAS UNANIMOUS.

RUSTY CASTO, MAYOR

RITA COX, RECORDER

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, JULY 20, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order a 7:00 in Council Chambers. Attending with Mayor Casto were Recorder Rita Cox, Ward 1 Councilman A. A. "Joe" Savilla, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Councilmen at Large Dave Casebolt, Bob Fields and Jim McKay.

The meeting began with an introduction of members of Cub Scout Pack 188, parents and volunteers. Mayor Casto told that recently one of their members, John Davis, had an accident that left him seriously injured. He is recovering and was able to attend. The members of the Cub Scouts along with the leaders and family members had held an event to raise money on Sunday and raised \$4000.00 to help defray medical costs. A newsman from WSAZ TV filmed the boys to be named Hometown Heroes. They were also named August Citizens of the Month.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Councilman A. A. "Joe" Savilla and the Pledge of Allegiance was led by John Davis and other members of Pack 188.

FUTURE DATES OF COUNCIL: Recorder Rita Cox said the future dates of Council are August 3 and 17 and September 7 and 21.

APPROVAL OF COUNCIL MINUTES: RECORDER RITA COX MOVED THE MINUTES OF JUNE 22 AND JULY 6 BE APPROVED AS WRITTEN. THE MOTION WAS SECONDED BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

Bob Schamber of the Nitro Seniors introduced Shelly Hodges who was Citizen of the Month previously this year. Shelly told about her trip to Fort Liberte, Haiti, when she has gone before. This visit occurred shortly after the earthquake that hit Haiti. She works at Fruth Pharmacy and used her skills in Haiti. She said they were able to do much good while they are there for two weeks.

Recorder Rita Cox showed Council a copy of the Certificate of Completion that had been granted by Ron King of Code Enforcement to Tri-State Racetrack and Gaming on the completion of the hotel at Mardi Gras Racetrack and Casino.

Mayor Casto said that groundbreaking would take place on August 4, 2010 for the boat launch at the Smith Street Landfill. He said that a previous Council had voted to name the launch after Senator Robert C. Byrd. COUNCILMAN MCKAY MOVED COUNCIL HONOR THE PREVIOUS COUNCIL'S REQUEST TO NAME THE SMITH STREET BOAT LAUNCH AFTER RECENTLY DECEASED SENATOR ROBERT C. BYRD WITH A SECOND BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

OLD BUSINESS

NDA: COUNCILMAN MCKAY MOVED THE MINUTES OF JUNE 8, 2010 MEETING OF THE NITRO DEVELOPMENT AUTHORITY BE MADE A PART OF COUNCIL MINUTES. RECORDER COX SECONDED THE MOTION. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY. COUNCILMAN MCKAY MOVED THE APPOINTMENT OF CHARLES MANN TO THE NDA BOARD OF DIRECTORS BE APPROVED BY COUNCIL WITH A SECOND BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

SECOND READING ORDINANCE PERSONAL INCOME TAX REFUND OFFSET PROGRAM: City Attorney Richie Robb said there should be a public hearing. COUNCILMAN MCKAY MOVED THE PUBLIC HEARING BE OPENED WITH A SECOND BY COUNCILMAN SAVILLA. VOTE WAS

UNANIMOUS FOR THE MOTION. Mayor Casto declared the public hearing open. Richie Robb said this would enable the city to request the state to withhold fees from WV income tax returns. This applies to municipal service fees, fines, and costs among other things. Mayor Casto declared the hearing closed. COUNCILMAN MCKAY MOVED COUNCIL PASS ON SECOND READING AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF THE CITY OF NITRO, WV BY ADDING AN ARTICLE RELATING TO ESTABLISHING THE AUTHORITY TO OFFSET UNPAID MUNICIPAL SERVICE FEES, FINES, COSTS, FORFEITURES OR PENALTIES, OR RESTITUTION AGAINST THE DELINQUENT PAYOR'S WEST VIRGINIA PERSONAL INCOME TAX REFUND. THE MOTION WAS SECONDED BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION.

SECOND READING ORDINANCE AMENDING LICENSE TAX PERTAINING TO GENERAL CONTRACTOR AND HANDYMAN: Richie Robb recommended Council have a public hearing on this item. COUNCILMAN MCKAY MOVED THE PUBLIC HEARING BE OPEN WITH A SECOND BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION. Mayor Casto declared the public hearing open. Rich Robb said the purpose of the amended ordinances was to reduce the amount required for a general contractor's license from \$150.00 to \$100.00 and making the renewal amount \$50.00. The cost for a handyman's license would be \$25.00 with the renewal amount being \$25.00. Councilman Javins thought this is a fair amount for the handyman license. Mayor Casto declared the public hearing closed. COUNCILMAN MCKAY MOVED AN ORDINANCE TO AMEND AND REENACT SECTIONS 733.14 AND 733.98, ARTICLE 733 OF THE CODE OF ORDINANCES OF THE CITY OF NITRO, WEST VIRGINIA, ALL RELATING TO MUNICIPAL LICENSE TAXES PROVIDING A REDUCED LICENSE TAX FOR THE RENEWAL OF A CONTRACTOR'S LICENSE, ESTABLISHING AN INITIAL REGISTRATION AND ANNUAL RENEWAL TAX FOR THE CONTRACTOR HANDYMAN, REPEAL LICENSE REQUIREMENT FOR ONLY THE PRIVATE INVESTIGATOR CLASSIFICATION, AND PROVIDING THE EFFECTIVE DATE FOR THE AMENDMENTS. THE MOTION WAS SECONDED BY COUNCILMAN SAVILLA. Rich Robb also said this included the elimination of the category of Private Investigator since that is covered in another category. VOTE WAS UNANIMOUS FOR THE MOTION.

NEW BUSINESS

ATTORNEY REPORT: Richie Robb said that annexation work is continuing slowly down Rt. 25 and up Goff Mountain Road. He said he and Sandy Saunders had worked on Red Oak Drive. A public meeting was held recently with property owners from that area as an informational meeting. Richie Robb said it takes a majority of property owners and a majority of non property owners. He said one of the benefits is better emergency services but these projects take time.

TREASURER REPORT: John Young said the city has a surplus of \$274,798.00, \$9015.00 is for festivals. Councilman Savilla asked Councilman Fields how much will be needed to complete the War Memorial. Councilman Fields said he would have better idea after the distance run this Saturday. John Young said he would suggest that a \$500.00 per year increase be given to all full time non-seasonal employees who did not get a raise or receive a \$500.00 per year longevity pay increase. COUNCILMAN CASEBOLT MOVED THAT ALL EMPLOYEES RECEIVE A \$500.00 PAY INCREASE FOR FISCAL YEAR 2010-2011, EXCLUDING EMPLOYEES WHO ALREADY RECEIVED A RAISE IN FISCAL YEAR 2010-2011 AND POLICE AND FIRE EMPLOYEES WHO RECEIVE LONGEVITY PAY OF \$500.00, POLICE AND FIRE EMPLOYEES WHO RECEIVE \$250.00 LONGEVITY PAY RECEIVING \$500.00 TOTAL FOR FISCAL YEAR 2010-2011. THE MOTION WAS SECONDED BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION.

COUNCIL COMMENT

Mayor Casto said the ground breaking for the boat launch will be August 4 at noon. Governor Manchin has been invited. Mayor Casto said there are potentially problems with the sewer line under the bleachers at the Nitro High School football field.

Councilman Matthews thanked Council for approving the purchase of the movie screen.

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Herschel Facemyre said Nitro was on the move.

Councilman Savilla said the NDA and city can work together.

COUNCILMAN MCKAY MOVED THE MEETING BE ADJOURNED WITH A SECOND BY RECORDER COX. VOTE WAS UNANIMOUS.

—

RUSTY CASTO, MAYOR

RITA COX, RECORDER

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, JULY 27, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 10:00 am in Council Chambers. In attendance were Mayor Casto, Recorder Rita Cox, Ward 1 Councilman A. A. "Joe" Savilla, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Councilmen at Large Dave Casebolt, Bob Fields, and Jim McKay and City Treasurer John Young.

Mayor Casto opened the meeting by explaining the city has a monetary surplus and therefore budget revisions are necessary and they have to be made prior to August 1. City Treasurer John Young said the amount originally specified was incorrect. He said that the money that has to be allocated are Coal Severance money, \$8721.00, and 25% of that can go to wages; and \$19,531.00. John Young said the amount of \$805,905.00 has been booked to OPED which he is required to do. Councilman Matthews asked if Council voted to fund OPED this past year. He said that the Council has struggled to for things when the city had the money all along. Councilman Savilla said some cities do not fund OPED. He asked if the money should be put in a rainy day fund. John Young said that some of the money should be but that he needs a cash flow for the operation of the city. He recommended a portion of it be put in a fund. Councilman Matthews said he thought Council voted not to fund OPED.

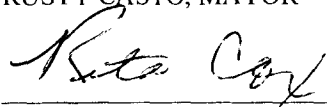
COUNCILMAN MATTHEWS MOVED COUNCIL GIVE THE \$500.00 RAISE TO THE EMPLOYEES WHO RECEIVED RAISES ON JULY 1. COUNCILMAN SAVILLA SECONDED THE MOTION. Recorder Cox said she thought we should not give the raise until the situation was studied. Councilman Racer asked if we had more roads that needed paved. Recorder Cox said that we do. Councilman Savilla said that we also need to complete the street signs because the old ones need replaced since they are not visible at night. He said that project was not completed. He said that would be a good use of the coal severance money. COUNCILMAN JAVINS MOVED THE \$500.00 RAISE TO THE EMPLOYEES WHO RECEIVED RAISES ON JULY 1 BE TABLED AND STUDIED BY COMMITTEE WITH A SECOND BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION.

COUNCILMAN SAVILLA MOVED THE \$8721.00 COAL SEVERANCE MONEY BE SPENT ON STREET SIGNS WITH A SECOND BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION.

COUNCILMAN SAVILLA MOVED THE \$19,531.00 BE SPENT FOR PAVING AND PATCHING OF STREETS WITH A SECOND BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION.

Mayor Casto announced the next meeting of Council is Tuesday, August at 7:00 pm. The meeting was adjourned.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, AUGUST 3, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm in Council Chambers. Attending along with Mayor Casto were Recorder Rita Cox, Ward 1 Councilman A. A. "Joe" Savilla, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Councilmen at Large Dave Casebolt, Bob Fields, and Jim McKay and City Treasurer John Young. City Attorney Richie Robb was not in attendance.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Councilman Jim McKay and the Pledge of Allegiance was led by Councilman Bill Javins.

FUTURE DATES OF COUNCIL: Mayor Casto announced the future dates of Council are August 17, September 7 and September 21.

APPROVAL OF COUNCIL MINUTES: RECORDER COX MOVED THE MINUTES OF JULY 20 AND JULY 27 MEETINGS OF COUNCIL BE APPROVED WITH A SECOND BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

Mayor Casto introduced Jason Spencer who told of a fund raiser to be held Saturday, August 7 for Hallie Smith, a young Nitro citizen who recently passed away. The money raised will go to pay for her medical bills.

OLD BUSINESS

BOAT LAUNCH: Mayor Rusty Casto said the ground breaking scheduled for August 4 for the Smith Street Landfill Boat Launch has been cancelled because Gov. Manchin cannot attend. He said there will be a ribbon cutting ceremony when it is completed. He said that work is supposed to begin soon on the project.

BROWNSFIELD LICENSED REMEDIATION SPECIALIST: Mayor Casto reported the LRS for the Brownfield Grant has been reduced to three finalist. COUNCILMAN SAVILLA MOVED COUNCIL MEET AT 5:30 PM IN COUNCIL CHAMBERS ON SEPTEMBER 21 TO REVIEW PRESENTATIONS BY THE THREE FINALIST FOR THE LRS FOR THE HAZARDOUS WASTE ASSESSMENT GRANT WITH A SECOND BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION.

NITRO BUSINESSMEN'S ASSOCIATION: Mayor Casto said the NBA had offered \$45,000.00 per year to the city for businesses located in the "donut hole" He said that Councilman Matthews had seen Randy McDavid recently and this was his offer. Mayor Casto said that he thought Mr. McDavid would be at the next meeting. Councilman Racer asked if this is where the Brownsfield area is. Mayor Casto said it was not. COUNCILMAN SAVILLA MOVED THE PROPOSAL BE TABLED SO THE ANNEXATION COMMITTEE CAN CONSIDER THE MATTER. THE MOTION WAS SECONDED BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION. Councilman Matthews said the Fire Department should be informed that they are not to service the "donut hole" area.

PAVING BIDS: Councilman Javins opened the bid from WV Paving and said the amount was \$70,150.00 for seven streets. COUNCILMAN SAVILLA MOVED COUNCIL ACCEPT THE BID OF \$70,150.00 FROM WV PAVING TO PAVE ROCKLEDGE TO 231 MAIL BOX AND DEAD END SIGN; WASHINGTON AVE. TO KA. AVE; IVY, DUPONT TO MAIN AVE.; WALKER AND LEE; LOCUST, FREDRICK TO 1ST AVE.; 500 BLOCK OF S. MI. AVE.; HICKORY UP HILL TO CONCRETE PILLARS. COUNCILMAN JAVINS SECONDED THE MOTION. VOTE WAS UNANIMOUS FOR THE MOTION. Councilman Javins said this leaves approximately \$29,000.00 for more paving. Mayor

Ora Ash, Director
West Virginia State Auditor's Office
200 West Main Street
Clarksburg, WV 26302
Phone: 827-2415 ext. 5114
Fax: 827-2417

REQUEST FOR REVISION TO APPROVED BUDGET

Subject to approval of the state auditor, the governing body requests that the budget be revised prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists. (§ 11-8-26a)

CONTROL NUMBER

2011

FY

GENERAL

FUND

1

REV. NO.

1

PG. OF NO.

CITY OF NITRO

GOVERNMENT ENTITY

Person To Contact Regarding

PO BOX 308

Budget Revision:

JOHN YOUNG

STREET OR PO BOX

Municipality

Phone:

304-755-5066

Government Type

Fax:

304-755-7502

NITRO

25143

CITY

ZIP CODE

REVENUES: (net each acct.)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
299	Unassigned Fund Balance		38,514		38,514
298	Assigned Fund Balance		192,819		192,819
	#N/A				
	#N/A				
	#N/A				
	#N/A				

NET INCREASE/(DECREASE) Revenues (ALL PAGES)

231,333

COUNTIES-TRANSFERS TO THE GENERAL FUND FROM OTHER FUNDS MUST HAVE PRIOR APPROVAL OF AUDITOR'S OFFICE

EXPENDITURES: (net each account category)

(WV CODE 7-1-9)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
418	Treasurer's Office	149,460	613	X	150,073
440	City Hall	1,270,000	13,498	X	1,283,498
566	Public Work	213,660	1,841	X	215,501
700	Police Department	1,145,972	1,102	X	1,147,079
706	Fire Department	746,647	1,029	X	747,676
750	Streets and Highways	45,000	19,531		64,531
976	Public Safety	128,882	183,804		312,686
903	Fair Associations/Festivals		9,015		9,015
	#N/A				
	#N/A				
	#N/A				
	#N/A				

NET INCREASE/(DECREASE) Expenditures

231,333

APPROVED BY THE STATE AUDITOR

BY: *(Ora Ash) / Karin*
Director, Local Government Services Division

7/30/10
Date

[Signature]
AUTHORIZED SIGNATURE
OF ENTITY

APPROVAL
DATE

REQUEST FOR REVISION TO APPROVED BUDGET

CONTROL NUMBER

Ora Ash, Director
West Virginia State Auditor's Office
200 West Main Street
Clarksburg, WV 26302
Phone: 627-2415 ext. 5114
Fax: 627-2417

Subject to approval of the state auditor, the governing body requests that the budget be revised prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists. (§ 11-8-28a)

City of Nitro

GOVERNMENT ENTITY

2011

FY

Coal Severance

FUND

2

REV. NO.

1

PG. OF NO.

Municipality

Government Type

JUL 29 2010

Person To Contact Regarding

Budget Revision: John H. Young

Phone: 304 755-5066

Fax: 304 755-7502

PO Box 308

STREET OR PO BOX

Nitro

CITY

ZIP CODE

25143

REVENUES: (net each acct.)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
208	Assigned Fund Balance		8,721		8,721
#N/A					
#N/A					
#N/A					
#N/A					
#N/A					

NET INCREASE/(DECREASE) Revenues (ALL PAGES)

8,721

COUNTIES-TRANSFERS TO THE GENERAL FUND FROM OTHER FUNDS MUST HAVE PRIOR APPROVAL OF AUDITOR'S OFFICE

EXPENDITURES: (net each account category)

(WV CODE 7-1-9)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
752	Signs and Signals		8,721		8,721
#N/A					
#N/A					
#N/A					
#N/A					
#N/A					
#N/A					
#N/A					
#N/A					
#N/A					
#N/A					
#N/A					

NET INCREASE/(DECREASE) Expenditures

8,721

APPROVED BY THE STATE AUDITOR

BY: Ora Ash / Karen
Director, Local Government Services Division

7/29/10
Date

AUTHORIZED SIGNATURE
OF ENTITY

APPROVAL
DATE

Glen B. Gainer, III
WV State Auditor
REVISED

Casto asked A.J. Hill what the status for the preparation on the street signs. A.J. Hill said it would be completed when he came back from vacation. Councilman Javins asked if we could get decals for the speed limit signs. Councilman Matthews said state law requires warning markers at the city entrances that says all residential streets are 15 miles per hour.

PERSONNEL COMMITTEE: Mayor Casto said that there were personnel questions that have come up and a committee should be formed. Councilman Savilla said he thought the entire council should be on the committee. Councilman Javins asked if it will involve the personnel manual and council should take time to look at it. Councilman Matthews said that it is something we need to stay on top of. COUNCILMAN SAVILLA MOVED COUNCIL MEET ON AUGUST 17 AT 6:00 PM TO DISCUSS PERSONNEL ISSUES. COUNCILMAN CASEBOLT SECONDED THE MOTION AND VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

CAPITAL IMPROVEMENTS COMMITTEE: Mayor Casto said there was a need to plan for capital improvements in the city. Treasurer John Young said there were needs that can be addressed but a plan is needed. A. J. Hill said the mower went out today. COUNCILMAN SAVILLA MOVED AN EMERGENCY BE DECLARED AND THE CITY PURCHASE A THUMB FOR THE EXCAVATOR AND A MOWER. THE MOTION WAS SECONDED BY COUNCILMAN MCKAY WITH A UNANIMOUS VOTE FOR THE MOTION TO CARRY.

VFW FLAG FUND: Councilman Fields said the Boomtown Distance Run had raised \$1040.00 for the VFW Flag Memorial on 1st Avenue and 21st Street. He said that \$25,000.00 would still be needed to alleviate the loan. COUNCILMAN SAVILLA MOVED COUNCIL DONATE \$25,000.00 TO THE VFW FLAG MEMORIAL WITH A SECOND BY COUNCILMAN MCKAY. Councilman McKay asked if there was a business plan because it is taxpayer's money. VOTE WAS UNANIMOUS FOR THE MOTION.

NEW BUSINESS

PLANNING COMMISSION REPORT: Recorder Cox said the Planning Commission had considered a request by Walt Taylor to have a conditional use of property to allow him to place two mobile homes in an area that is not zoned for them. After hearing the request and much consideration the Planning Commission voted to not allow the conditional use and rejecting the two mobile homes that would be placed on 40th Street where old 40th Street meets existing 40th Street approximately 200 feet above the street. RECORDER COX MOVED THE REQUEST AND MINUTES OF THE MEETINGS AND THE RESULTING DECISION BE MADE A PART OF THE MINUTES OF COUNCIL WITH A SECOND BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

ATTORNEY REPORT: City Attorney Richie Robb did not attend the meeting.

TREASURER REPORT: John Young presented Council with copies of the latest payroll check register and aged payables. Councilman Matthews asked Mr. Young if the amount the city currently has in OPED was ever put in a budget report and John Young said that it was not.

COUNCIL COMMENTS

Councilman Javins thanked the Paving Committee for the work they did.

Councilman Matthews thanked the workers for Boomtown Days. He said it was very successful. He said the new big movie screen has been tested and it is working well.

Recorder Cox said Nitro resident Duane Wears loaned the city a painting of his cousin Craig Wears who was killed in Viet Nam. The fountain in front of City Hall was began in honor of him. Mayor Casto said he would like to get the fountain back into operation. Recorder Cox thanked Bob Schamber for his quick response in trying to find a place for the August 28 primary to use as a polling place.

Councilman Fields thanked Council for the contribution to the war memorial.

Councilman Casebolt said they would be judging eight engineering firms for the Business Enhancement Plan. He said that it will be reduced to two or three for final consideration.

Councilman McKay reminded Council of the Hallie Smith fundraiser on August 7.

Mayor Casto said on August 26 at 11:00 am there will be a ceremony in front of City Hall to honor Mother Teresa's 100th Birthday. He said it would be a non-religious service and Father Cincinnati would be here from Wheeling to join the ceremony. He said there would be food served following the ceremony.

PUBLIC COMMENT:

Bob Schamber said the Senior Center will be used for a polling place on August 28 for Precinct 354. On August 14 there will be a dance, a covered dish dinner on August 21 and that August 16 was his 72nd birthday.


John Montgomery said there is an Ordinance Committee meeting on Thursday at 7:00 pm.

Leonard Womble said there is a CVB meeting prior to Council at 6:00 pm on September 7.

ADJOURNMENT:

COUNCILMAN MCKAY MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

REQUEST FOR ACTION BY THE PLANNING COMMISSION OF THE CITY OF NITRO

Date: 6/11/10

Applicant: Walter O. Taylor
Address: 10 TUDOR Lane
Nitro

Location of Subject Property: _____

Telephone numbers of person making request:
(H) 304 552-2141 (W) _____ (Cell) 304 552-3549

REQUEST INFORMATION - State the actual request.

Statement of Request:

Place 2 mobile homes where old 40th
street meets existing 40th street townside
approximately 200 ft above 40th on hill

Supporting Documents Attached - 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 and renderings of purposed buildings are desirable items to present. In addition, the Planning Commission or the City Council may request additional information needed to properly evaluate a request.

Supporting Documents Attached:

1. 4065 4069
2. _____
3. _____
4. _____

Date of Request: 6/11/10 Signature of Requestor: Walter O. Taylor

The non-refundable fee of \$100.00, payable to the City of Nitro, is attached.
When the meeting date for the public hearing is established you will be notified so that you can attend and present your request as well as answer quesitons.
Your fee and this form is to be returned to the Building Inspector's office at City Hall.

Filing of this request and the required fee does not guarantee the request will be granted. The fee will not be returned if the request is not approved.

PC 2 (Rev. 6-16-05)

TABLED Till

Monday July 12
Tuesday July 13,
2010

7:00 PM

Monday July 19
OFFICE

[Handwritten signature]

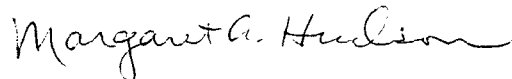
PLANNING COMMISSION CITY OF NITRO

MINUTES of JULY 1, 2010

The Planning Commission of the City of Nitro held a Public Meeting, July 1, 2010. The meeting was called to order by Chairperson, Margaret Hudson, at 7:00 p.m. in Council Chambers at the Nitro Community Center. Other members present were Kermit Thompson, John Montgomery, Tom Waldorf, Rick Frontz and Rita Cox. Ron King, Code Official, also attended.

The purpose of the meeting was to consider a request from Walter Taylor to grant a conditional use permit to locate two mobile homes on or near 4069 40th Street above the intersection of existing 40th Street and old 40th Street. This Public Meeting was advertised in the Charleston Gazette and the Charleston Daily Mail on both June 17, 2010 and June 24, 2010.

After a period of discussion, a motion was made to table the request in order to allow time for a more detailed study. Motion carried.



Margaret A. Hudson, Chairperson

PLANNING COMMISSION, CITY OF NITRO

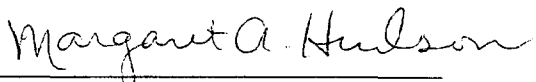
MINUTES OF AUGUST 2, 2010 MEETING

The Planning Commission of the City of Nitro met at City Hall, Monday, August 2, 2010. The meeting was called to order by Chairperson, Margaret Hudson. Committee members Tom Waldorf, Rick Frontz, Rita Cox, and Kermit Thompson as well as Code Official, Ron King were present.

An in-depth study by the Planning Commission was conducted during the weeks since July 1, 2010 when Walter Taylor's request for a conditional use permit to locate two mobile homes on or near 4069 40th Street above the intersection of existing 40th Street was presented to this Board. This study included a site visit and two study/work sessions.

Following a period of discussion a motion was made that "too many potential and unforeseen problems with this property seem inevitable . After a feasibility study of the terrain and drainage problems involved to keep the area free of slippage and erosion the Planning Commission rejects the request for a conditional use permit." The motion was properly seconded. Motion carried.

Since this was the only item of business, the meeting was adjourned.


Margaret A. Hudson, Chairperson

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, AUGUST 17, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm in Council Chambers. Attending the meeting with Mayor Casto were Recorder Rita Cox, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Councilmen at Large Jim McKay, Dave Casebolt, and Bob Fields, City Treasurer John Young and City Attorney Richie Robb. Ward 1 Councilman A. A. "Joe" Savilla was absent.

INVOCATION/PLEDGE OF ALLEGIANCE: Councilman Jim McKay gave the Invocation and the Pledge of Allegiance was led by Councilman Dave Casebolt.

FUTURE DATES OF COUNCIL: Mayor Rusty Casto said the future dates of Council are September 7 and 21, and October 5 and 19.

APPROVAL OF COUNCIL MINUTES: Recorder Rita Cox said the minutes of the August 3 meeting would be ready for the next meeting.

457 SUPPLEMENTAL RETIREMENT: Mayor Casto introduced Roger Hughes who works with WV Treasurer John Perdue, who told about a Retirement 457 Plan for public employees. He said Mayor Casto had approached him about a plan to supplement employees retirement with a contribution from the city.

BUSINESS ENHANCEMENT COMMITTEE: Councilman Casebolt said that the Business Enhancement Committee is applying for a HUD-Tiger II Plan Grant. One grant is for a streetscape master plan with the cost to the city being \$25,000.00 and the other grant is for a comprehensive plan for the city with the city's cost being \$31,250.00. Councilman Casebolt introduced Todd Schoolcraft who said he would answer questions about the grant application. He said that if the city does not have a plan in place by 2014 our zoning laws could be voided. The comprehensive plan shows reasons you have zoning. Councilman Matthews asked if the money from one grant received be used to offset another grant. Mr. Schoolcraft said it could not. Councilman Matthews asked where \$56,250.00 needed would come from. Treasurer John Young said there was money in the general fund to pay for it. Councilman Matthews asked how that could be done since we passed a balanced budget for fiscal year 2010-2011. Mayor Casto asked Ronnie King if we need to be working on a master plan or is this a boondoggle the state has put on us. Ron King said he thought we already have a comprehensive plan and the parts just all need to be pulled together. John Montgomery said it could be called an unfunded mandate. Councilman Casebolt said there were two resolutions that need to be passed to proceed with the grant applications. **COUNCILMAN MCKAY MOVED NITRO CITY COUNCIL ADOPT THE TWO RESOLUTIONS: ONE FOR THE HUD/TIGER II PLANNING GRANT APPLICATION FOR CITY OF NITRO COMPREHENSIVE PLAN IN THE AMOUNT OF \$125,000.00 AND THE HUD/TIGER II PLANNING GRANT APPLICATION FOR THE CITY OF NITRO STREETScape MASTER PLAN IN THE AMOUNT OF \$100,000.00. THE MOTION WAS SECONDED COUNCILMAN BILL JAVINS.** Councilman Matthews asked if the Streetscape line item that had been put aside in the amount of \$60,000.00 could be used to pay the city portion of the HUD/Tiger II Grants. Todd Schoolcraft said the Transportation Enhancement Grant can be postponed. Councilman Matthews said we have already prepared the city budget and the money for the city's grant portion is not in the budget but since the \$60,000.00 is in there for Streetscape that could be used. Councilman Casebolt said that the entire \$56,250.00 will not come due in October. Councilman Matthews asked if city workers can offset some of this money and Todd Schoolcraft thought that his was true. Councilman Matthews said that it was his understanding that Streetscape would be postponed and the money for the grants will come from the money set aside for Streetscape. **VOTE WAS UNANIMOUS FOR THE MOTION.** Councilman Casebolt said the Business Enhancement Plans had been reduced to three firms and the next step was to have Council hear from the three firms, Baker, Triad, and GAI. **COUNCILMAN CASEBOLT MOVED COUNCIL MEET ON MONDAY, AUGUST 23 AT 10:00 AM IN COUNCIL CHAMBERS TO HEAR 30 MINUTE PRESENTATIONS AND FIFTEEN MINUTE FOLLOW-UP FOR THE THREE FINALIST FIRMS. THE MOTION WAS SECONDED BY COUNCILMAN MCKAY.**

VOTE WAS UNANIMOUS FOR THE MOTION.

OLD BUSINESS:

NEW ROOF ON CITY HALL: Mayor Casto said the roof on City Hall has been leaking badly. Councilman Matthews said there is also a leak in the fire department roof. COUNCILMAN CASEBOLT MOVED THAT BIDS BE GOTTEN FOR A NEW ROOF ON CITY HALL DUE TO THE EMERGENCY SITUATION BECAUSE OF THE LEAKS WITH A SECOND BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION.

PERSONNEL COMMITTEE REPORT: Mayor Casto said that the Personnel Committee had met and committee members were asked to look at the City of Charleston new policy and procedures to see what would fit Nitro.

NEW BUSINESS:

ATTORNEY REPORT: Richie Robb said he had no formal report but was prepared any questions from Council. He said the annexation issues seem to be stopped for now since the public meeting held recently. He said that he was prepared to move forward but the residents and property owners of Red Oak had made their feelings known.

TREASURER REPORT: John Young said he had presented Council with copies of July financial statements of revenue and expenses and was prepared to answer questions. He said that a Nitro policeman had traveled to England recently on official business and was given a WV One Purchasing Card. John Young said that the Boomtown Days held in July lost money. Councilman Matthews said that was not the case because donations were raised the previous year for fairs and festivals and that was the money used to help pay for this year's Boomtown Days.

COUNCIL COMMENTS:

Mayor Casto said a bill came to City Hall recently for plaques for Children's Playground from December 2004 from Lawsons in Huntington for \$4343.00. Debra Jordan said money raised for that project was through the Parks and Recreation Account that is no longer in operation. COUNCILMAN SAVILLA MOVED THIS BILL FOR PLAQUES BE TABLED SO THAT IT CAN BE INVESTIGATED WITH A SECOND FROM COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION.

Councilman Javins said he is excited about the future of the City of Nitro and the new business enhancement plans.

Councilman Matthews thanked the Nitro Pool workers who put in so much time during the hot, long summer. He said he would hold a public meeting soon with the residents from Cedar Street who have expressed interest in the paving that is scheduled to be done.

Mayor Casto presented Councilman Fields with a check for \$25,000.00 for the VFW flag memorial. Councilman Fields thanked members of Council for voting to give the money to the memorial.

Recorder Cox thanked Bob Chambers and members of the Seniors Board for allowing the Senior Center to be used as a polling place for Precinct 349 on August 28.

Councilman Casebolt said it was his understanding Council had voted to give Wayne Fleshman \$500.00 to be used during the Antique Fair and this had not been done. Recorder Cox said that instead \$1000.00 had been given to the Mustang Club and it should have been \$500.00 to the Mustang Club and \$500.00 to Wayne Fleshman. COUNCILMAN MCKAY MOVED COUNCIL GIVE \$500.00 TO WAYNE FLESHMAN TO HELP COVER EXPENSES FOR ANTIQUE DAYS WITH A SECOND BY COUNCILMAN CASEBOLT. VOTE WAS UNANIMOUS FOR THE MOTION.

COUNCILMAN MCKAY MOVED MINUTES OF THE JULY 13, 2010 MEETING OF THE NDA BOARD OF DIRECTORS BE MADE A PART OF THE MINUTES. COUNCILMAN CASEBOLT SECOND THE MOTION AND VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

Councilman McKay said the recent fund raiser for Hallie Smith had raised \$1700.00 that was given to her Mother for her bills.

PUBLIC COMMENTS:

Bob Schamber said the Seniors were allowing the polling place to be used for no cost as a public service. He said the exercise room equipment is to be repaired and replaced.

COUNCILMAN JAVINS MOVED THE BID SUBMITTED BY WV PAVING TO COMPLETE THE PAVING OF ROCKLEDGE FOR \$15,265.00 BE ACCEPTED WITH A SECOND BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION.

John Montgomery said the Ordinance Committee would meet on Thursday at 7:00 pm in the NDA Boardroom.

ADJOURNMENT:

COUNCILMAN MCKAY MOVED THE MEETING BE ADJOURNED. THE MOTION WAS SECONDED BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

NITRO CITY COUNCIL RESOLUTION

At a regular Council meeting of the City of Nitro held on the 17th day of August, 2010, the following order was made and entered:

Subject: HUD / Tiger II Planning Grant Application

For: City of Nitro Streetscape Master Plan

In the amount of \$100,000.00

This Plan will result in the development of a long range vision and direction for pedestrian and bicycle routes throughout the city limits. The Master Plan will also make accommodations for safe, comfortable, and convenient passage of pedestrians and business patrons, attracting users of the commercial and business areas along I-64 with the "Old Town" areas of Nitro, while providing a framework to preserve and enhance the rich cultural history of the area.

Whereby the City of Nitro authorizes Sandy Saunders, City Administrator, to submit an application to the Department of Housing and Urban Development requesting funding for the above-mentioned project out of the HUD/Tiger II Planning Fund. The City of Nitro authorizes Sandy Saunders to sign any and all documents and papers which accompany or are part of this application, and any and all documents and papers necessary for the completion of the project should it receive HUD Approval.

The City of Nitro agrees to abide by all rules and regulations pertaining to the HUD / Tiger II Planning Program, and to provide \$25,000.00 in local matching funds should this project receive Federal assistance.

The adoption of the foregoing motion having been moved by JIM MCKAY, and duly seconded by BILL JAVINI, the vote thereon was as follows:

<u>Dawn Cochoet</u> Member	VOTE <u>Yes</u>
<u>Jim McKay</u> Member	VOTE <u>Yes</u>
<u>Bill Javini</u> Member	VOTE <u>Yes</u>
<u>Rita Cox</u> Member	VOTE <u>yes</u>
<u>William D. Racer</u> Member	VOTE <u>yes</u>
<u>Ray C. Matthews</u> Member	VOTE <u>Yeah</u>
<u>Bill Javini</u> Member	VOTE <u>yes</u>
<u>A.A. Samella</u> Member	VOTE <u>absent</u>

Whereupon Rusty Casto, Mayor, declared said motion duly adopted; and it is therefore adjudged and ordered that said motion be, and the same is hereby adopted.

Approved by:

Rusty Casto
MAYOR

Rita Cox
RECORDER

NITRO CITY COUNCIL RESOLUTION

At a regular Council meeting of the City of Nitro held on the 17th day of August, 2010, the following order was made and entered;

Subject: HUD / Tiger II Planning Grant Application

For: City of Nitro Comprehensive Plan

In the amount of \$125,000.00

Whereby the City of Nitro authorizes Sandy Saunders, City Administrator, to submit an application to the Department of Housing and Urban Development requesting funding for the above-mentioned project out of the HUD/Tiger II Planning Fund. The City of Nitro authorizes Sandy Saunders to sign any and all documents and papers which accompany or are part of this application, and any and all documents and papers necessary for the completion of the project should it receive HUD Approval.

The City of Nitro agrees to abide by all rules and regulations pertaining to the HUD / Tiger II Planning Program, and to provide \$31,250.00 in local matching funds should this project receive Federal assistance.

The adoption of the foregoing motion having been moved by JIM MCKAY, and duly seconded by BILL JAVINS, the vote thereon was as follows:

David Casebolt Vote Yes
Member

James May Vote Yes
Member

Rusty Casto Vote Yes
Member

Rita Cox Vote yes
Member

William P. Racer Vote yes
Member

Ray C. Matthews Vote Yeah
Member

Bill Javins Vote yes
Member

A.A. Samella Vote absent
Member

Whereupon Rusty Casto, Mayor, declared said motion duly adopted; and it is therefore adjudged and ordered that said motion be, and the same is hereby adopted.

Approved by:

MAYOR

Rita Cox

Nitro Development Authority
 302 21st Street
 Nitro, WV 25143
 July 13, 2010
 Board of Director's Meeting
 Minutes

Call to order: President Hershel Facemyre called the meeting of the NDA to order at 7:10PM.

Members present: Jack Legg, Jim McKay, Ivan Meadows, Susan Graves, Hershel Facemyre, Carmen Kostelansky, Don Hudnall, and Gene Brightwell.

Members absent: John Adams, Leonard Womble, Jim Westlund, April Plank, Chuck Boggs III, and Mike Monday.

Approval of June 8 minutes: Motion made by Jim McKay to accept the minutes. Seconded by Ivan Meadows. Approved by board, July 13, 2010.

Financial Report: Still owe Mountaineer Gas Company over \$15,000.00. We have until September 1st to pay. We owe Audit fees for 2003, 2004, 2006 and 2007, \$ 6450.00. The Auditor had to recreate accounting records for 2008/2009, owe \$ 2200. Total due for Audits \$ 14,410.00. Motion made by Jim McKay and seconded by Ivan Meadows to accept financial report. Approved by board July 13, 2010.

Committee Reports:

Executive committee met on June 21st to discuss combining committees and on June 29th to review the Audit report. Susan Graves explained the report. We received a letter from the auditor that discloses certain weaknesses found in the audit that have to be corrected to comply with state statutes. Three of the four will be corrected to the best of our ability. 1) Maintenance of Accounting records will be improved, 2) Missing receipts for revenues and investment activity records have already been corrected (not included in Quick Books), and 3) since we are a small organization, we will probably continue noncompliance status with Segregation for Duties every year. Our investment agreement with Inland American Trust does not meet State investment regulations; we have 100% invested in securities. States at no time may more than 75% be invested in securities. Also states that no more than 9% may be invested in a single corporation, we have 100% invested. Prosecuting attorney has 60 days to decide if the NDA will be fined for the investment. After much discussion over the concerns of the Inland American Trust wrongful investment, Susan Graves made a motion to engage Nick Barth to write a letter to Inland American Trust outlining steps that the NDA are willing to pursue to liquidate our investment, plus interest. Second by Jim McKay and approved by board members present. Hershel Facemyre and Susan Graves will meet with Nick Barth.

The following committees did not meet. Budget/Finance/Community Center/Safety Committee/ Beautification/Grant committee/Personnel Committee/ Facility/Property Committee.

War Museum will be meeting on July 29, 7:00PM

Leonard Womble and Hershel Facemyre met with Kelly Pruit. She gave them ideas. She will be glad to write for us. We need to show community outreach to get grant money. Hope to invite her to a Grant Committee meeting.

Annexation meeting planned for Thursday, July 15, 7:30PM.

Old Business:

Dana Trucking - No correspondence from anyone. Trial is scheduled for January.

Executive committee suggested combining present committees into the following 4 committees;

Community Center/Safety and Facility/ Property Committee

Beautification and War Museum Committee

Marketing/Public Relations and Grant Committee

Budget/Finance/Audit and Personnel Committee

Hershel Facemyre asked each committee to use the committee meeting report that is provided because we need a formal written report for our minutes. Also provided were tasks/responsibilities for each committee, Reporting formats, and composition for that committee. Mr. Facemyre asked everyone to review them and come back with comments next month.

Last meeting, the board approved the Code of Ethics and Conflict of Interest policies. We need to sign both forms and keep them on file.

The Annual report submitted to Secretary of State Office. Susan Graves will complete the Annual report for the city before 60 days have passed, August 30th.

Motion made to accept Mr. Charles A Mann as a new board member by Ivan Meadows. Second by Jim McKay. Board approved. Mr. McKay will present Mr. Mann's name to the Nitro City Council for approval to the NDA board.

There has been an interest in buying the Community Center. Ivan Meadows will ask Kim Painter if he will give us an appraisal of the Center. We also need to come up with a list of conditions that we would like to see remain, such as still remaining as a Community center.

Adjournment: 8:28P.M.

Next Meeting: August 10, 2010 in the Nitro Community Center Board Room

Submitted by: Carmen Kostelansky, Secretary NDA.

Carmen

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, SEPTEMBER 7, 2010

CALL TO ORDER: Mayor Casto called the meeting to order at 7:00 pm in Council Chambers. Attending with Mayor Casto were Recorder Rita Cox, Ward 1 Councilman A. A. "Joe" Savilla, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Racer, Councilmen at Large Dave Casebolt, Bob Fields, and Jim McKay, City Treasurer John Young and City Attorney Richie Robb.

INVOCATION/PLEDGE OF ALLGEGIANCE: The Invocation was given by Councilman Jim McKay and the Pledge of Allegiance was led by Brad Morgan.

FUTURE DATES OF COUNCIL: Mayor Casto said the future dates of Council will be September 21, October 5 and October 19. Council will meet at 5:30 pm on September 21 in Council Chambers to hear presentations by the three final applicants for the Phase II Hazardous Waste Assessment Grant for \$200,000.00 from the EPA.

APPROVAL OF COUNCIL MINUTES: RECORDER COX MOVED THE MINUTES OF COUNCIL FOR AUGUST 3 AND AUGUST 17 BE APPROVED WITH A SECOND BY COUNCILMAN BOB FIELDS. VOTE WAS UNANIMOUS FOR THE MOTION.

CITIZEN OF THE MONTH: Mayor Casto said he had made Keith Diehl the September Citizen of the Month in recognition of the 50 years anniversary of Diehl's Restaurant.

Mayor Rusty Casto introduced Brad Morgan who is a member of the St. Albans American Legion, the VFW and the American Vets. He told about an orphanage that is in Afghanistan that is helped by soldiers, many from West Virginia. Mayor Casto has agreed to help get donations. RECORDER RITA COX MOVED COUNCIL ENDORSE THE PROJECT TO COLLECT SUPPLIES FOR THE ORPHANAGE IN AFGHANISTAN AND PAY THE MAILING COST OF \$12.50 FOR EACH BOX. THE MOTION WAS SECONDED BY COUNCILMAN JIM MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION.

OLD BUSINESS

COMPREHENSIVE/MASTER PLAN/STREETSCAPE DESIGN-BAKER ENGINEERING: Councilman Casebolt said that the committee had looked at nine different firms and had narrowed it to three, GAI, Triad, and Baker. These three made presentations to Council and Baker Engineering was chosen. Baker presented Council with two options. COUNCILMAN CASEBOLT MOVED COUNCIL ACCEPT THE PLANS FROM BAKER FOR COMPREHENSIVE PLAN, MASTER PLAN AND STREETSCAPE DESIGN. RECORDER COX SECONDED THE MOTION. VOTE WAS UNANIMOUS FOR THE MOTION. Councilman Casebolt explained that the next step after Council approval was to negotiate the cost of the plan with Baker. COUNCILMAN CASEBOLT MOVED COUNCIL PROCEED WITH NEGOTIATIONS WITH BAKER ENGINEERING CONCERNING THE COMPREHENSIVE PLAN/MASTER PLAN/STREETSCAPE DESIGN. THE MOTION WAS SECONDED BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION. Councilman Casebolt said the city should know by the next Council meeting, September 21, if we have made it to Phase II of the grant selection process on a grant to help pay for city planning.

NEW BUSINESS

2011 CALENDAR: Mayor Casto said it was time to plan the 2011 calendar. COUNCILMAN MATTHEWS MOVED THE 2011 CALENDAR IN THE AMOUNT OF 4500 BE PUT OUT FOR BID WITH A SECOND BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

ATTORNEY REPORT: City Attorney Richie Robb presented Council with an ordinance showing the adoption of the 2009 International Building Code as adopted by West Virginia as the State Building Code. COUNCILMAN SAVILLA MOVED COUNCIL ADOPT ON FIRST READING ARTICLE 1711 WEST VIRGINIA STATE BUILDING CODE 2009 INTERNATIONAL BUILDING CODE. THE MOTION WAS SECONDED BY COUNCILMAN MCKAY AND VOTE WAS UNANIMOUS FOR THE MOTION.

TREASURER REPORT: City Treasurer John Young presented Council with Accounts Payable information since last meeting and payroll information and aged payable information. Councilman Savilla asked what information had been found on the outstanding invoice received recently from Lawsons Monument of Huntington. Mr. Young said he had no new information but would be in Huntington the following day and could make a visit to the company to find out more information. Councilman Javins said he agreed with that decision.

COUNCIL COMMENTS

Councilman Javins said a lot of time had been spent on hearing from local firms but he felt the time had been productive. Councilman Javins said he had received an email from Bret Preston who said the parking lot would be started this fall and the boat dock would be finished next spring. He also recommended any food remaining in the pool concession be donated to the food pantry. Debra Jordan said all the food had been used on the remaining days for the pool being opened.

COUNCILMAN JAVINS MOVED THE MINUTES OF THE AUGUST MEETING OF THE CONVENTION AND VISITORS BUREAU BE MADE A PART OF THE SEPTEMBER 7, 2010 MINUTES OF COUNCIL. RECORDER COX SECONDED THE MOTION AND VOTE WAS UNANIMOUS FOR THE MOTION.

Mayor Casto said he had not received any complaints on the pool this summer. He said paving should start any day. Mayor Casto said the Nitro Library would hold a book sale on September 30, October 1 and 4. Donations of books, dvds, and cds are welcome.

Councilman Matthews said he had hosted a meeting of Cedar Street area residents on August 31 concerning the paving. He said it was a good meeting with good solutions. He said that the movie night had been successful and would continue on Sept. 11. He said the flag in front of City Hall was becoming frayed and needs to be replaced.

COUNCILMAN MATTHEWS MOVED THE NITRO SHOW CHOIR BE PERMITTED TO HOLD THE HAUNTED TRAIL AT RIDENOUR PARK PENDING CERTIFICATE OF INSURANCE FROM THE KANAWHA SCHOOLS INSURER. THE MOTION WAS SECONDED BY COUNCILMAN SAVILLA AND VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

Councilman Racer apologized for missing a recent meeting of Council but said he had been scheduled to work.

Councilman Savilla said he had missed the meeting also but has been very busy with his job.

Recorder Cox commented on the wall that Keith Diehl had established commemorating fallen soldiers from past wars. She said Keith Diehl had found a great way to honor soldiers who lost their lives in war.

Councilman Casebolt said the Italian Fest is to be held this Saturday to raise money for the Nitro Mission Team Christmas program.

Councilman McKay said there is to be a business after hours on September 16 at 7:00 pm in Council Chambers. It will be an informal meeting and everyone is invited

Treasurer John Young asked if the signs that had recently been put out for bid should be tabled for now due to the streetscape theme that the new signs may not fit into. Recorder Cox said that streetscape will mainly focus on the 21st St. area and those signs are already in place. The new signs will be going other places. Councilman Savilla said that street signs need to be put out for emergency service workers.

PUBLIC COMMENT

Bob Schamber supplied Council with a report on bingo, year to date. He said the Seniors are donating \$1000.00 to the Master Plan/Streetscape design program. He said on Saturday there is to be a yard sale from 8:00 to 2:00 in the Senior Center, a dance on September 1 from 5:00 to 900. On the fourth Saturday of the month there is to be a covered dish dinner,

Debra Jordan said the Halloween Hoedown will be held on October 28.


John Montgomery said the Ordinance Committee would not meet this week.

A. J. Hill said the MS4 Storm Water Management Plan should be held by the addition of Baker Engineering.

ADJOURNMENT

COUNCILMAN BILL JAVINS MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN JIM MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

C V B meeting
August 3rd 2010

Board Members Present

1. Leonard Womble
2. Tom Brewer (absent)
3. Bill Javins
4. Rusty Casto
5. John Young
6. Robert Fields
7. Craig Matthews
8. Nora Helm

Meeting was called to order by Leonard Womble

1. Our 501c6 is on fast track with the IRS
2. Oshel Craigo was unable to attend meeting, will try and attend our Sept meeting.
3. Leonard passed out information to board members of how the C V B money can be spent
4. Our understanding, if we have an administrator hired by April 2011 will be sufficient.
5. Discussed several things, of how we could spend our C V B money
 - A. Update Ridenour park-restrooms at Library-War Musuem-
- Improvement on our new boat ramp-river park-flashing billboard-Dwarf trees along 1st ave-target tour buses-combining N D A & Nitro's webb site-new bath house for the pool
6. Several names mentioned, to be a board member from the Mardi Gras Casino & Resort
7. Leonard mentioned a lady from the so chas vistors bureau that would be interested as our C V B administrator
8. Our C V B by-laws are being updated, per our board members
9. Our treasurer provided all board members a copy of our balance sheet as of July 31st 2010
10. Meeting adjourned

ORDINANCE

10 -

An ordinance to amend and reenact Sections 1711.01, 1711.02 and 1711.03, Article 1711 of the Codified Ordinances of the City of Nitro, West Virginia, all relating to the West Virginia State Building Code; adoption of the most recent State Building Code; amending specified sections within the specific Codes; adding additional definitions; and updating the resolution of conflicts relating to the International Plumbing Code.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, that Sections 1711.01, 1711.02 and 1711.03, Article 1711 of the Codified ordinances of the City of Nitro, West Virginia, as amended, be amended and reenacted, all to read as follows:

ARTICLE 1711
West Virginia State Building Code

1711.01 ADOPTION

(a) There is hereby adopted and incorporated by reference as if set out at length herein for the purpose of safeguarding life and property and to ensure the quality of construction of all structures erected or removed throughout the municipality that certain code known as the State Building Code as promulgated by the Fire Marshal under West Virginia Code 29-3-5b.

(b) The Standards and requirements as set out and as published by the International Code Council, as listed below, shall have the same force and effect as if set out verbatim in this section:

2003 2009 International Building Code; Provided, That Section 101.4.5 is repealed; and Provided however, That the language in Section 113.3 is deleted and replaced with the following:

The Board of Appeals shall consist of five members, with up to three alternates, who are qualified to pass on matters pertaining to building construction and a not employees of the jurisdiction, They may include, but are not limited to, a W.Va. Registered Professional Architect, or a WV Licensed General Building, Residential, Electrical, Piping, Plumbing, Mechanical or Fire Protection Contractor, with at least 10 years experience, five of which shall be in responsible charge or work.

And Provided further, That the following Appendices to the International Building Code are adopted: Appendices: A; C; D; E; G; H; and I; & Commentary.

2003 2009 International Residential Code; Provided, That the language in Section R303.5.1 is deleted and replaced with the following:

The control for activation of the required interior stairway lighting shall be

accessible at the top and bottom of each stairway without traversing any steps.
The illumination of exterior stairways shall be controlled from inside the dwelling unit. EXCEPTIONS: 1. Lights that are continuously illuminated or automatically controlled;

2. Interior stairways consisting of less than three steps;

And

Provided however, That the language in Section R311.3.1 is deleted and replaced with the following:

Where a stairway of two or fewer risers is located on the exterior side of a door, other than the required exit door, a landing is not required for the exterior side of the door.

And

Provided further, That the language in Section R311.7.4.1 is deleted and replaced with the following:

The maximum riser height shall be eight and one-quarter (8 1/4) inches

And

Provided further, That the language in Section R311.7.4.2 is deleted and replaced with the following:

The minimum tread depth shall be nine (9) inches.

And

Provided further, That Section R313 is repealed;

And

Provided further, That Section R403.1.7.1 is repealed;

And

Provided further, That Section R403.1.7.2 is repealed;

And

Provided further, That Section N1101 through 1104, Chapter 11 is repealed;

And

Provided further, That the following Appendices to the International Residential Code are adopted: Appendices: A; B; C; D; E; F; G; H; and J; & Commentary.

2003 2009 International Existing Building Code; Provided, That in Section 101.4.2, the term "International Fire Code" is deleted and replaced with "2009 NFPA 101-Life Safety Code"; EXCEPTIONS: The following structures are not subject to inspection by Local Jurisdictions: Group U Utility Structures comprising in area of not more than 200 square feet which have no plumbing or electrical connections and are used only for residential storage purposes. (Examples include sheds that are for residential storage of lawnmowers, tools, bicycles or furniture.) Not included are those utility structures and storage units which have plumbing or electrical connections, are on non-residential use or for storage of explosives or other hazardous or explosive materials;

and

Provided however, That the following Appendices to the International Existing Building Code are adopted: Appendices: A; B; and Resource A

2003 2009 International Plumbing Code, and

Appendices: B; C; D; E; F; and G

2003 2009 International Mechanical Code, and
Appendix: A

2003 2009 International Fuel Gas Code, and
Appendices: A; B; C; and D

2003 International Energy Conservation Code, and
Appendix: 1 and COMMENTARY

2003 ICC/ANSI A117.1 Accessible & Usable Buildings, and
Appendices:

2003 International Property Maintenance Code, as currently included in Part
Eighteen, Property Maintenance Ordinance, or the current Codified Ordinances
of the City of Nitro, West Virginia

2003 2008 NFPA 70, National Electric Code, and
Annex: A; B; C; D; E; F; G; and H

2009 NFPA 101, Life Safety Code, and
Annex A & B

2009 NFPA 1, Fire Code, and
Annex I & R

1711.02 DEFINITIONS

- (a) Building Code - includes all aspects of safe building construction and mechanical operations and all safety aspects related thereto.
- (b) Fire Marshal - means the West Virginia State Fire Marshal and / or his designated representative.
- (c) Local Jurisdiction - means Municipal or County level Government
- (d) ICC or International - refers to International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, Virginia 22041-3401
- (e) NFPA - means National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy MA 02269-9101
- (f) State Building Code - refers to the entire contents of this Ordinance and the referenced National Standards and Codes
- (g) State Fire Code - refers to the entire contents of the State Fire Commission, State Fire Code, 87CSR1, and the referenced Standards and Codes

1711.03 CONFLICT

Whenever there arises is a conflict between the State Fire Code and the State Building Code, the State Fire Code takes precedence.

Whenever there arises is a conflict between the International Plumbing Code ~~portion~~ requirements of the State Building Code and the Rules of the ~~State Board of Health~~ West Virginia State Department of Health and Human Resources, the rules of the ~~Board of Health~~ Department of Health & Human Resources take precedence.

Whenever there is a conflict between the State Building Code and the Statutory Laws of the State of West Virginia, the Laws of the State of West Virginia State Code take precedence.

Passed on First Reading 9-7-10

Passed on Second Reading 9-21-10

Rusty Casto, Mayor



Rita Cox, Recorder

NITRO CITY COUNCIL
MEETING MINUTES
SEPTEMBER 21, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at approximately 7:30 pm in Council Chambers. In attendance with Mayor Casto were Recorder Rita Cox, Ward 1 Councilman A. A. "Joe" Savilla, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Councilmen at Large Bob Fields, Jim McKay, and Dave Casebolt, City Treasurer John Young and City Attorney Richie Robb.

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

FUTURE DATES OF COUNCIL: Mayor Casto said the future dates of Council are October 5 and 19. He said the first Council in November will be announced at the next meeting because the first Tuesday is November 2, which is election day.

APPROVAL OF COUNCIL MINUTES: RECORDER COX MOVED THE MINUTES OF SEPTEMBER 7 BE APPROVED WITH A SECOND BY COUNCILMAN SAVILLA VOTE WAS UNANIMOUS FOR THE MOTION.

Councilman Javins said there was a portion of the August 17 minutes that he did not agree with. Councilman Matthews suggested that rather than reopening the minutes he just remake the original statement which was that there had not been a Parks and Recreation meeting on the Halloween Hoedown for the past 3 or 4 months.

TERRADON: Mayor Casto said Sandy Saunders has been working with Terradon to set up a website for the City of Nitro. Sandy Saunders said that the Municipal Clerk needs a secure website to collect money and the site hosted by Terradon would do this. Councilman Matthews asked if she had gotten two other bids. He said since it is under \$5000.00, the bids could be by telephone. Richie Robb said that two other web designers should be contacted and those bids brought back to the next Council meeting. RECORDER COX MOVED THAT TWO MORE BIDS BE OBTAINED FOR WEBSITE DESIGN WITH A SECOND BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION.

OLD BUSINESS:

SECOND READING ADOPTION WEST VIRGINIA STATE BUILDING CODE (2009 IBC), ARTICLE 1711: COUNCILMAN MCKAY MOVED A PUBLIC HEARING BE OPEN FOR THE SECOND READING OF THE ORDINANCE TO ADOPT WV BUILDING CODE (2009 IBC), ARTICLE 1711 WITH A SECOND BY COUNCILMAN RACER. VOTE WAS UNANIMOUS TO OPEN THE PUBLIC HEARING. City Attorney Robb said that the City of Nitro is updating the code to comply with the WV Code. John Montgomery said that Code Enforcement Officer and Fire Marshal for the City of Nitro, Ron King, had recommended the city adopt the updated Building Code. The Public Hearing was closed. COUNCILMAN MCKAY MOVED COUNCIL ADOPT ON SECOND READING THE WEST VIRGINIA STATE BUILDING CODE (2009 IBC), ARTICLE 1711 WITH A SECOND BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

BIDS FOR STREET SIGNS: Recorder Rita Cox said the City had received four bids for the street signs. The bids were distributed to members of Council for opening. The bids were Safety Caution at \$13,911.30; MD Solutions, \$8976.00; Screen Graphics, \$11,000.00; Garden State, \$9037.00 and Vulcan at \$9805.85. It was determined that Garden State was not a complete bid.. COUNCILMAN SAVILLA MOVED MAYOR CASTO, A. J. HILL AND RECORDER COX MEET TO MAKE A SELECTION ON THE BIDS. COUNCILMAN FIELDS SECONDED THE MOTION. VOTE WAS UNANIMOUS.

BROWNSFIELD HAZARDOUS WASTE PHASE II ASSESSMENT GRANT: Mayor Casto said that the presentations had been made for the LRS and the selection would be put on the agenda for the next meeting.

LAWSON MONUMENT INVOICE: John Young said that the plaques in question were ordered in December, 2004. At that time purchase orders were not necessary to make an order and this order was placed by fax from Chief Jordan. The plaques were for Children's Park. The representative of Lawson said she had sent statements, but she was also used to having to wait for payment. Robin Smith said at one time there was a playground fund and there was no p.o. because it was to come out of the playground fund. That money got put in the general fund, according to Mr. Young. COUNCILMAN RACER MOVED MR. YOUNG BE DIRECTED TO LOOK FOR HE CLOSED ACCOUNT INFORMATION ON THE PLAYGROUND FUND WITH A SECOND BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION.

NEW BUSINESS:

NITRO HIGH SCHOOL HOMECOMING PARADE: RECORDER COX MOVED NITRO HIGH BE PERMITTED TO HOLD THE HOMECOMING PARADE AT 6:00 PM ON OCTOBER 1 WITH A SECOND BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION.

TREASURER REPORT: John Young asked Council to consider placing the \$250,000.00 fund that we currently have at People's Credit Union with WV Treasury where it could draw 2% interest. He also requested permission to purchase software to upgrade the city system, Peachtree 2011 at \$446.00. COUNCILMAN CASEBOLT MOVED THE TREASURER BE PERMITTED TO PURCHASE PEACHTREE 2011 AT \$446.00. THE MOTION WAS SECONDED BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION.

John Young said he would like some direction on what to do about paying employees for election day. He said those who worked have been paid time and a half but the employee manual says Council can declare it a holiday if it is on Saturday. Council did not do that. Richie Robb said he would look at the employee manual before he made a determination. COUNCILMAN SAVILLA MOVED MR. ROBB LOOK AT THE EMPLOYEE MANUAL AND RETURN TO COUNCIL WITH A DETERMINATION. COUNCILMAN MCKAY SECONDED THE MOTION. VOTE WAS UNANIMOUS FOR THE MOTION.

John Young said the officer who recently went to England asked to be paid a per diem amount. Recorder Cox said that she was disappointed the Nitro Police Officer was discussed in local papers due to a perceived misuse of the WV One Card. She said that she felt somewhat at fault since he was not schooled thoroughly on its use and that it was a matter best handled within the city. Mr. Young said he thought he was being asked to do a cover up. Councilman Matthews asked if the officer had charges that were not on the card because he felt he should be reimbursed for those. Mayor Casto said it was his understanding the officer was going to pay for the personal charges. Mr. Young said the mayor did ask him to pay the per diem. Recorder Cox suggested doing away with the WV One Card because of the recent incident. Councilman Matthews suggested that this was too far reaching and the program could be saved, the officer could be reimbursed for any costs he had incurred and a policy be drawn up. He also said this should not be discussed on Council floor.

COUNCIL COMMENT:

Mayor Casto said the City Judge was stepping down and a new judge would be hired.

Councilman Javins said that in early October there would be some minor grading on the boat ramp project. He said that was \$14,117.00 left in the paving fund, \$85,414.00 had been used. COUNCILMAN JAVINS MOVED THE \$14,117.00 BE PUT TOWARD THE CONCRETE WORK THAT NEEDS TO BE DONE WITH A SECOND BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

Councilman Matthews said response to paving on Ivy Street has been positive and the residents of Cedar St. are interested in a park. The DEP grant for trash cans has come through.

Councilman Savilla said the residents of Rockledge in Brookhaven pleased with the paving in that area.

Councilman Casbolt said that the streetscape master plan meeting had produced positive responses to lights and pavers.

Councilman McKay said he is concerned about gas lines that run underground through the city.

PUBLIC COMMENT:

Bob Schamber said the Seniors will have a yard sale, a western dance and a covered dish dinner. He said there was to be a book sale at the library. He said there was a possible grant for a senior van.

John Montgomery said the ordinance committee will meet at 7 on Thursday. He said the city has no written per diem or travel policy.

Leonard Womble said the CVB would meet at 6 prior to the next Council meeting.

Debra Jordan said the 11th Annual Halloween Hoedown would be held October 28. She said it was originally started by the Police and Fire Departments to allow the children to have a safe alternative to trick or treat and to keep down vandalism.

Margie Faulknier said the Halloween celebration was a good thing.

ADJOURNMENT:

COUNCILMAN BILL JAVINS MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN CRAIG MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

ORDINANCE 10-

An ordinance to amend and reenact Sections 1711.01, 1711.02 and 1711.03, Article 1711 of the Codified Ordinances of the City of Nitro, West Virginia, all relating to the West Virginia State Building Code; adoption of the most recent State Building Code; amending specified sections within the specific Codes; adding additional definitions; and updating the resolution of conflicts relating to the International Plumbing Code.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, that Sections 1711.01, 1711.02 and 1711.03, Article 1711 of the Codified ordinances of the City of Nitro, West Virginia, as amended, be amended and reenacted, all to read as follows:

ARTICLE 1711
West Virginia State Building Code

1711.01 ADOPTION

(a) There is hereby adopted and incorporated by reference as if set out at length herein for the purpose of safeguarding life and property and to ensure the quality of construction of all structures erected or removed throughout the municipality that certain code known as the State Building Code as promulgated by the Fire Marshal under West Virginia Code 29-3-5b.

(b) The Standards and requirements as set out and as published by the International Code Council, as listed below, shall have the same force and effect as if set out verbatim in this section:

2003 2009 International Building Code; Provided, That Section 101.4.5 is repealed; and Provided however, That the language in Section 113.3 is deleted and replaced with the following:

The Board of Appeals shall consist of five members, with up to three alternates, who are qualified to pass on matters pertaining to building construction and a not employees of the jurisdiction, They may include, but are not limited to, a W.Va. Registered Professional Architect, or a WV Licensed General Building, Residential, Electrical, Piping, Plumbing, Mechanical or Fire Protection Contractor, with at least 10 years experience, five of which shall be in responsible charge or work.

And Provided further, That the following Appendices to the International Building Code are adopted: Appendices: A; C; D; E; G; H; and I; & Commentary.

2003 2009 International Residential Code; Provided, That the language in Section R303.5.1 is deleted and replaced with the following:

The control for activation of the required interior stairway lighting shall be

accessible at the top and bottom of each stairway without traversing any steps.
The illumination of exterior stairways shall be controlled from inside the dwelling unit. EXCEPTIONS: 1. Lights that are continuously illuminated or automatically controlled;

2. Interior stairways consisting of less than three steps;

And

Provided however, That the language in Section R311.3.1 is deleted and replaced with the following:

Where a stairway of two or fewer risers is located on the exterior side of a door, other than the required exit door, a landing is not required for the exterior side of the door.

And

Provided further, That the language in Section R311.7.4.1 is deleted and replaced with the following:

The maximum riser height shall be eight and one-quarter (8 1/4) inches

And

Provided further, That the language in Section R311.7.4.2 is deleted and replaced with the following:

The minimum tread depth shall be nine (9) inches.

And

Provided further, That Section R313 is repealed;

And

Provided further, That Section R403.1.7.1 is repealed;

And

Provided further, That Section R403.1.7.2 is repealed;

And

Provided further, That Section N1101 through 1104, Chapter 11 is repealed;

And

Provided further, That the following Appendices to the International Residential Code are adopted: Appendices: A; B; C; D; E; F; G; H; and J; & Commentary.

2003 2009 International Existing Building Code; Provided, That in Section 101.4.2, the term "International Fire Code" is deleted and replaced with "2009 NFPA 101-Life Safety Code"; EXCEPTIONS: The following structures are not subject to inspection by Local Jurisdictions: Group U Utility Structures comprising in area of not more than 200 square feet which have no plumbing or electrical connections and are used only for residential storage purposes. (Examples include sheds that are for residential storage of lawnmowers, tools, bicycles or furniture.) Not included are those utility structures and storage units which have plumbing or electrical connections, are on non-residential use or for storage of explosives or other hazardous or explosive materials;

and

Provided however, That the following Appendices to the International Existing Building Code are adopted: Appendices: A; B; and Resource A

2003 2009 International Plumbing Code, and

Appendices: B; C; D; E; F; and G

2003 2009 International Mechanical Code, and
Appendix: A

2003 2009 International Fuel Gas Code, and
Appendices: A; B; C; and D

2003 International Energy Conservation Code, and
Appendix: 1 and COMMENTARY

2003 ICC/ANSI A117.1 Accessible & Usable Buildings, and
Appendices:

2003 International Property Maintenance Code, as currently included in Part
Eighteen, Property Maintenance Ordinance, or the current Codified Ordinances
of the City of Nitro, West Virginia

2003 2008 NFPA 70, National Electric Code, and
Annex: A; B; C; D; E; F; G; and H

2009 NFPA 101, Life Safety Code, and
Annex A & B

2009 NFPA 1, Fire Code, and
Annex I & R

1711.02 DEFINITIONS

- (a) Building Code - includes all aspects of safe building construction and mechanical operations and all safety aspects related thereto.
- (b) Fire Marshal - means the West Virginia State Fire Marshal and / or his designated representative.
- (c) Local Jurisdiction - means Municipal or County level Government
- (d) ICC or International - refers to International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, Virginia 22041-3401
- (e) NFPA - means National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy MA 02269-9101
- (f) State Building Code - refers to the entire contents of this Ordinance and the referenced National Standards and Codes
- (g) State Fire Code - refers to the entire contents of the State Fire Commission, State Fire Code, 87CSR1, and the referenced Standards and Codes

1711.03 CONFLICT

Whenever there arises is a conflict between the State Fire Code and the State Building Code, the State Fire Code takes precedence.


Whenever there arises is a conflict between the International Plumbing Code ~~portion~~ requirements of the State Building Code and the Rules of the ~~State Board of Health~~ West Virginia State Department of Health and Human Resources, the rules of the ~~Board of Health~~ Department of Health & Human Resources take precedence.

Whenever there is a conflict between the State Building Code and the Statutory Laws of the State of West Virginia, the Laws of the State of West Virginia ~~State Code~~ take precedence.

Passed on First Reading 9-7-10

Passed on Second Reading 9/21/10

Rusty Casto, Mayor



Rita Cox, Recorder

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, OCTOBER 5, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm in Council Chambers. Attending along with Mayor Casto were Recorder Rita Cox, Councilmen at Large Jim McKay, Dave Casebolt, and Bob Fields, Ward 1 Councilman A. A. "Joe" Savilla, Ward Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, City Attorney Richie Robb and City Treasurer John Young.

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

FUTURE DATES OF COUNCIL: Mayor Casto announced the next day of Council is October 19, 2010.

APPROVAL OF COUNCIL MINUTES: RECORDER RITA COX MOVED THE APPROVAL OF THE COUNCIL MINUTES OF SEPTEMBER 21 BE TABLED UNTIL THE NEXT MEETING OF COUNCIL WITH A SECOND BY COUNCILMAN A. A. "JOE" SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

CHRISTIAN INTERNET SERVICE: Sandy Saunders said the Christian Internet Service was headed by Greg Eiler and he had expressed an interest in hosting the internet site for the City of Nitro.

OLD BUSINESS:

CALENDAR BIDS: Recorder Rita Cox distributed the three bids the city had received for the 2011 calendar. The bids were read as follows: Colorcraft, \$4995.00; Dunbar Printing, \$4921.00; and Fidelity, \$2998.00 for only 12 pages. COUNCILMAN SAVILLA MOVED DUNBAR PRINTING BE AWARDED THE BID WITH A SECOND BY RECORDER COX. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

SELECTION OF COMPANY FOR STREET SIGNS: Mayor Casto announced the bid from Vulcan was selected to do the street signs.

BROWNSFIELD PHASE 2 HAZARDOUS WASTE ASSESSMENT GRANT-LICENSED REMEDIATION SPECIALIST SELECTION: Mayor Casto asked the members of Council to write down the selections in order of the first, second and third choice for LRS. John Montgomery and Leonard Womble tallied the votes with a tie developing between Triad and Kemron. COUNCILMAN JAVINS MOVED KEMRON BE SELECTED TO CONTINUE THE HAZARDOUS WASTE ASSESSMENT FOR THE NEXT PHASE OF THE BROWNSFIELD WORK. THE MOTION WAS SECONDED BY COUNCILMAN FIELDS. VOTE WAS UNANIMOUS FOR THE MOTION.

MUNICIPAL JUDGE REPLACEMENT UPDATE: Mayor Casto said that Municipal Judge Taylor would be stepping down after October 18. He said he is nominating Richard Walters to replace Judge Taylor. He said he had come highly recommended by Robin Smith. Mayor Casto introduced Richard Walters. Mr. Walters said he had been an attorney for 15 years, he is a Syracuse graduate, and a resident of Cross Lanes. His children attend Nitro High. COUNCILMAN MCKAY MOVED COUNCIL CONFIRM MAYOR CASTO NOMINATION WITH A SECOND BY RECORDER COX. VOTE WAS UNANIMOUS FOR THE NOMINATION. Mayor Casto said there would be a reception for outgoing Judge Taylor after the October 19 meeting of Council.

LAWSON'S MONUMENT INVOICE: City Treasurer John Young said that evidence of payment could be found on the invoice for \$4443.00 to Lawsons Monument. COUNCILMAN MATTHEWS MOVED THE CITY PAY THE INVOICE FOR PLAQUES ORDERED FOR CHILDREN'S PARK. THE MOTION WAS SECONDED BY COUNCILMAN SAVILLA. Councilman McKay said he thought that there should be more investigation into the money owed before it is paid. Recorder Cox said she thought that the

employee was credible and was trying to get paid for work done. Councilman McKay questioned the length of time between the original invoice and the city being made aware of the work. Councilman Matthews said that there may be a problem with the way the bill was handled but he thought that should be addressed after the company had been paid. VOTING FOR THE MOTION WERE RECORDER COX, COUNCILMEN CASEBOLT, FIELDS, SAVILLA, RACER AND MATTHEWS. VOTING IN OPPOSITION TO THE MOTION WERE COUNCILMEN JAVINS AND MCKAY. THE MOTION CARRIED.

PAYMENT OF OVERTIME FOR ELECTION DAY- AUGUST 28, 2010: Richie Robb said his interpretation of the employee handbook is that the if the people who worked election day were paid time and a half, then the employees who did not work it should be paid for eight hours. He said it was Council's decision to declare a Saturday election as a holiday.

CVB APPOINTEE: Mayor Casto introduced Robert Lagg , the general manager from Mardi Gras Hotel. He was voted as the newest member of the CVB Board of Directors. RECORDER COX MOVED ROBERT LAGG'S APPOINTMENT TO THE CVB BOARD OF DIRECTORS FOR A THREE YEAR TERM BE CONFIRMED BY COUNCIL. THE MOTION WA SECONDED BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

TREASURER REPORT: John Young said the Dodge Durango has been paid. He said that the WV Treasurer's Office has offered to keep \$250,000.00 of the city money in a WV fund. He said he had spoken with a representative of Peoples and they would not be able to match the interest paid by the Treasurer's office. He said the money would be in a CD and would not be accessible at Peoples. COUNCILMAN MCKAY MOVED \$250,000.00 BE MOVED TO THE WV TREASURERS FUND WITH A SECOND BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

COUNCIL COMMENTS:

COUNCILMAN JAVINS MADE A MOTION THE MINUTES OF THE SEPTEMBER 7 MEETING OF THE CVB BE MADE PART OF THE MINUTES. THE MOTION WAS SECONDED BY RECORDER COX. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

Councilman Savilla asked everyone to keep Councilman Matthews' Mother in their thoughts.

Recorder Cox reminded everyone that early voting starts Oct. 13 for the general election.

Councilman Fields said the ground breaking for the Veteran's Cemetery in Institute will be Oct. 14.

Councilman McKay said that the CVB had voted to repay the city \$5000.00.

Mayor Casto said the Ka. Co. Commission will honor Diehl's Restaurant.

PUBLIC COMMENT:

Bob Schamber said that the bingo proceeds are down but they are receiving a grant for \$20,000.00 to upgrade the exercise room.

John Montgomery said the Ordinance Committee meets at 7:00 on Thursday.

ADJOURNMENT:

COUNCILMAN MCKAY MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

C V B Meeting Sept 7th 2010

Board Members Present

1. Bill Javins
2. Craig Matthews (absent)
3. Tom Brewer
4. Rusty Casto
5. John Young
6. Nora Helm (vacation)
7. Leonard Womble
8. Robert Fields

Meeting was called to order by Leonard Womble

1. Received draft of our updated By-Laws
2. Accepted minutes from the August meeting and to be made part of council minutes
3. Report from the treasurer as of August 31st 2010
 - A. Balance \$4,427.94
 - B. We will receive \$1,500.00 from the Mardi Gras Casino and Resort. for Hotel/Motel tax, for the last two days in August 2010
4. Our guest speaker (Oshel Craigo) could not attend meeting
5. Dave Casebolt presented the board, with information for the long range plan for the city of Nitro. The meeting consisted primarily, the discussion of the plan. The Mayor stated that it's a golden opportunity for the city. We all made comments of how that would greatly enhance the city's growth in all areas. Out of the three final engineers that was interviewed, Baker Engineering was selected. We can now go forward with the negotiating of price, with the Engineering Group. All board members received copies of the (Nitro comprehensive plan proposed professional team staffing and expenses.) We also received copies of Phase I thru IV. We also received copies of the Nitro Streetscape and Pedestrian Master Plan. Board members voted unanimously to accept and support the plans for the future of Nitro.
6. We discussed that we must have only one web site for our city and not two or three
7. Mr Lagg might be interested in serving on our board, from Mardi Gras Casino and Resort

Next meeting October 5th N D A room at 6 P M

Meeting adjourned

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, OCTOBER 19, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm in Council Chambers. In attendance were along with Mayor Rusty Casto were Recorder Rita Cox, Councilmen at Large Jim McKay, Dave Casebolt, and Bob Fields, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, City Treasurer John Young, and City Attorney Richie Robb. Absent were Ward 1 Councilman A. A. "Joe" Savilla and Ward 2 Councilman Bill Racer.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Ivan Meadows and the Pledge of Allegiance was led by Nathan Wills.

FUTURE DATES OF COUNCIL: COUNCILMAN MATTHEWS MOVED COUNCIL MEETINGS BE HELD MONDAY, NOVEMBER 8 AND TUESDAY, NOVEMBER 16 AT 7:00 PM IN COUNCIL CHAMBERS. VOTE WAS UNANIMOUS FOR THE MOTION.

APPROVAL OF COUNCIL MINUTES: RECORDER COX MOVED THE MINUTES OF SEPTEMBER 21 AND OCTOBER 5 BE APPROVED AS SUBMITTED WITH A SECOND BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

Councilman Bob Fields presented a shovel used in the groundbreaking of the WV Veterans' Cemetery in Institute, WV on Thursday, October 14, 2010 to Richard Savilla and Nathan Wills for the War Museum. Councilman Fields said he attended the groundbreaking with Mayor Rusty Casto and Recorder Rita Cox. He said there was 354 acres that was donated by Dow Chemical. There is space for 60,000 burials. The cemetery will be named for Don Kinnard, a veteran of the Viet Nam War.

OLD BUSINESS:

SELECTION OF CITY WEB PAGE DESIGNER: John Young said that he met with Mayor Casto and Recorder Cox and Sandy Saunders and that Terradon was selected as the City of Nitro web page designer. He said the page is to be in operation November 1.

MUNICIPAL SERVICE FEE BILLING BIDS: Recorder Cox said the municipal service fee billing had been advertised and two bids were received, Color Craft Printing and Automated Mailing. Bids were distributed and opened. Councilman Matthews read the bid from Automated Mailing which was \$0.27 each per invoice and Councilman Fields read the bid from Color Craft Printing which was \$.2168 each per invoice. John Young said the work was currently being satisfactorily by Color Craft. RECORDER COX MOVED THE WORK BE AWARDED TO COLOR CRAFT PRINTING WITH A SECOND BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION.

TREASURER REPORT: John Young said he and Recorder Rita Cox met recently with Tom Brewer of Peoples Federal Credit Union and he said that our deposits will be insured the National Credit Union Share Insurance Fund (NCUSIF) on each account of \$250,000.00, the funds will be available for withdrawal with an APY of 2.10%. COUNCILMAN MCKAY MOVED FUNDS BE LEFT WITH PEOPLES FEDERAL CREDIT UNION WITH THE FOUR SIGNATORIES ON THE ACCOUNT BEING RECORDER RITA COX, MAYOR RUSTY CASTO, TREASURER JOHN YOUNG AND MARY BETH BURT. COUNCILMAN FIELDS SECONDED THE MOTION. VOTE WAS UNANIMOUS FOR THE MOTION.

John Young said he would like the Finance Committee to consider merit raises for employees. COUNCILMAN CASEBOLT MOVED COUNCIL MEET AT 6:00 PM ON NOVEMBER 16 TO CONSIDER MERIT RAISES AS RECOMMENDED BY DEPARTMENT HEADS WITH A SECOND BY RECORDER COX. VOTE WAS UNANIMOUS FOR THE MOTION.

John Young said that revenue for the table games was up but that the money from Charlestown was included in with the other table games revenue so he was not able to determine how much of the money was from them.

OUTGOING MUNICIPAL COURT JUDGE: Mayor Rusty Casto introduced outgoing Municipal Court Judge Shawn Taylor and presented him with a plaque commemorating his service as judge. He introduced Richard Walters, the new Municipal Court Judge and asked Judge Taylor to swear him in by reading and repeating the Oath of Office. Mayor Casto said there would be a reception following the meeting.

COUNCIL COMMENTS:

Mayor Casto said members of Kanawha County Commission would be present for the ground breaking on Thursday for the Robert C. Byrd Boat Launch at 11:30 am.

Councilman Javins said he is looking forward to the boat launch being built.

Councilman Matthews said the Hoedown is October 28 at 6:00 pm. He said the flags and fountain in front of City Hall need replaced.

Councilman Casebolt said Laura Cox of Baker Engineering said we are still in the running for the HUD Community Challenge Grant.

COUNCILMAN MCKAY MOVED THE MINUTES OF THE AUGUST AND SEPTEMBER MEETINGS OF THE NDA BE MADE A PART OF THE MINUTES OF TONIGHT'S MEETING. THE MOTION WAS SECONDED BY RECORDER COX AND VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

PUBLIC COMMENT:

Bob Schamber said the Seniors will have a covered dish dinner on Saturday and a country music dance on Nov. 13.

John Montgomery said there would not be an Ordinance Committee meeting this week.

ADJOURNMENT:

COUNCILMAN MCKAY MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN FIELDS. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

Nitro Development Authority
302 21st Street
Nitro, WV 25143
August 10, 2010
Board of Director's Meeting
Minutes

Call to order: President Hershel Facemyre called the meeting of the NDA to order at 7:03PM.

Members present: Susan Graves, Leonard Womble, John Adams, Ivan Meadows, Charles Mann, April Plank, Hershel Facemyre, Chuck Boggs III, Carmen Kostelansky, Jim Westlund, Gene Brightwell, and Community Center Director, Don Hudnall.

Members absent: Jack Legg, Mike Monday and Jim McKay

Hershel Facemyre introduced and welcomed new board member Charles Mann.

Approval of July 13 minutes: Motion made by Ivan Meadows to accept the minutes. Seconded by April Plank. Approved by board, August 10, 2010.

Financial Report: Susan Graves reported that the new fiscal year started in July. We have a \$6,000 deficit. Rent due today for August. Questioned late charges? There are no late charges mentioned in this year's leases. Chuck Boggs suggested maybe we should try again for late fees. If we did, the leases would have to be redone. We have \$75,000.00 in liabilities but not all due right now. This includes the outstanding loan from the roof repair. All renters have paid rent for July, which included the new rates. Jim Westlund asked if the increase is going to be enough to cover our expenses. Not sure! Hope to break even. May have to increase again next year. Motion made by Jim Westlund and seconded by Chuck Boggs, to accept the financial report. Approved by board August 10, 2010.

Committee Reports:

The following committees did not meet: Executive, Budget/Finance/Audit, Marketing/Public Relations, Grant, Personnel, Beautification, Facility/Property and War Museum Liaison.

The building committee met on August 3, 2010, 10:00 AM. Members present were Gene Brightwell, Jack Legg, Jim Westlund, Don Hudnall and Ivan Meadows. The hallways have been cleared of items. It was suggested that Don Hudnall advertise in the paper and on our sign on 21st street, the open rooms for rent. Ivan Meadows and Jack Legg removed the bushes in front of the building. Motion to accept committee report made by John Adams, second by April Plank. All approved.

A big thank you to Jack Legg for all his hard work in cleaning up the front of the Community Center and also on 21st Street. THANK YOU!

Old Business:

Dana Trucking – Nothing going on. Harvey Peyton petitioned the Putnam County Court to be removed from Dana's suit.

Hershel Facemyre met with Nick Barth this afternoon. He has not been able to make contact with Dana. Dana is not answering or picking up mail.

Mr. Barth also researched deeds for the land in Putnam County. There is no record of land owned by the NDA off of 40th street. All land is still owned by Monsanto.

Nick Barth is pursuing the NDA investment by looking at our coverage by our Insurance policies.

Jim Westlund questioned if we are keeping records of everything being done. John Adams, met with the company in Chicago 4 months ago, assured us that he will send Hershel Facemyre the necessary papers, rejection letter, to have a good paper trail. Mr. Facemyre will get it all to Mr. Barth.

Motion made by Leonard Womble and seconded by Chuck Boggs to sale the Nitro Community Center. If the NDA does sell the Community center, can we put conditions on the sale? Concerns with Little League and the Seniors still using the community center. An appraisal of the Community center would cost approximately \$1500.00. Jim Westlund suggested we ask Kim Painter, appraiser, to give us his opinion if a certain amount is sufficient for a price. Chuck Boggs said he would ask Kim Painter what he thinks is a fair price.

Hershel Facemyre reminded the 5 committees that they can meet as they need to. Marketing needs to meet before September to work on Website, handbook/pamphlet. Please make sure that the NDA has documentation of committee meetings by using the Committee report form.

Strategic plan needs to be reviewed by all members and comments made at the next meeting.

All members have signed the Code of Ethics and Conflicts of Interest Policy statements.

Hershel Facemyre and Leonard Womble met with Kelly Pruett. She will gladly help us find grants.

Mike Monday and Hershel Facemyre met with the Putnam County Development Authority. They are eager to work with us. Both groups need to work together not against each other.

Hershel received an email asking if the NDA knows of 15 – 20 acres with a 20,000 square foot building available. Mr. Facemyre will look into the possibilities. This is what the NDA main focus should be.

Chuck Boggs will set up the meeting with Ivan Meadows and Kim Painter.

Adjournment: Motion to adjourn made by Jim Westlund. Second by Gene Brightwell.

Next Meeting: Sept 14, 2010, 7:00PM. in the Nitro Community Center Board Room

Submitted by: Carmen Kostelansky, Secretary, NDA.

Nitro Development Authority
302 21st Street
Nitro, WV 25143
September 1, 2010
Board of Director's Special Meeting Minutes

Call to order: President Hershel Facemyre called the meeting of the NDA to order at 6:03PM.

Members present: Jack Legg, Jim McKay, Ivan Meadows, Susan Graves, Carmen Kostelansky, Mike Monday, Leonard Womble, Charles Mann, Chuck Boggs III, April Plank and Hershel Facemyre.

Members absent: John Adams, Jim Westlund, Gene Brightwell

Committee Reports:

Community Center/Safety and Facility/Property Committee: Ivan Meadows chairperson. The committee met on August 28, 2010. Members present: Ivan Meadows, Gene Brightwell, Chuck Boggs III and Leonard Womble: Absent: Jack Legg, Jim Westlund and John Adams. Others present: Jim McKay and Hershel Facemyre

The committee met with Kim Painter to get his opinion on the value of the Nitro Community Center as a property appraiser. The committee recommends to the board to move fast to negotiate the sale of the property and authorize Hershel Facemyre, Chuck Boggs III, and Jim Westlund to meet with representatives from Kings Way Church and negotiate the sale of the property.

Jim McKay made the motion, second by Mike Monday to move quickly on the negotiations. All approved. Also Jim McKay recommended that Jim Westlund be removed from the committee's recommendation, due to Jim's being out of town/ not present and replaced with Susan Graves. Second by Chuck Boggs. Motion passed 6-4. Motion made by Jim McKay, seconded by Leonard Womble to change the recommendation to the board to read: Authorize Hershel Facemyre, Chuck Boggs III and Susan Graves to meet with representatives from Kings Way Church and negotiate the sale of the property. Their report will be given at the September 14 meeting of the NDA. All approved.

Comments/Concerns:

Discussion on the price to sell the Nitro Community Center. Concerns for tenants, especially Seniors, Little league, activities in gym and Police Department were expressed. The Board recommended starting the asking price for the property at \$500,000.00.

Adjournment: 6:38PM

Next Meeting: September 14, 2010, 7:00PM in the Nitro Community Center Board Room.

Submitted by: Carmen Kostelansky, Secretary, NDA.



**Post Office Box 583
Nitro, West Virginia 25143**

**Board of Director's Meeting
September 14, 2010, 7:00pm
Nitro Community Center Office**

Minutes

Call to Order: The meeting was called to order by NDA President, Hershel Facemyre at 7:00 p.m.

Members present: Susan Graves, Gene Brightwell, Ivan Meadows, Charles Mann, Jim McKay, Leonard Womble, Jim Westlund, Jack Legg, Chuck Boggs, April Plank and Hershel Facemyre.

Members Absent: John Adams, Mike Monday and Carmen Kostelansky

Addendum to the agenda: Hershel Facemyre requested to add #7 to the agenda concerning an update to the NDA regarding the trust with Passero/Adams.

Approval of Minutes: September 1, 2010 Special meeting minutes—Jim McKay moved to approve the minutes. Jack Legg seconded the motion. Board approved. August 10, 2010 meeting minutes was moved by Susan Graves to approve, Chuck Boggs seconded the motion. Board approved.

Financial Report: Susan Graves, Treasurer, reported as of August 1, 2010 the checking account balance was \$2,194.94. After consultation with the Board president, funds were transferred from the S-11 account into the S-10 account to cover payroll. As of August 31, 2010 the checking account balance was \$1,150. The board discussed past due accounts. Ivan Meadows will check with Don regarding Herb Fitzsimmon's account (Action Images)—not sure if it's past due or there was a misprint in records. The loan payable for the roof of the Community Center will start being automatically withdrawn from the account beginning in September 2010. Susan went over profit and loss with board and the detail of the checking account. Jim McKay moved to approve report, Jim Westlund seconded motion, board approved.

Committee Reports:

1. Executive Committee – Hershel Facemyre - did not meet.
2. Community Center/Safety and Facility/Property Committee – Ivan Meadows, did not meet.
3. Beautification Committee – was given by Jack Legg since Carmen was unable to attend regular meeting. Jack informed board of the purchase of some flowers that were planted up and down the streets. Jim McKay moved to approve the report, Chuck Boggs seconded the motion. Board approved.
4. Marketing/Public Relations and Grant Committee – April Plank, reported the committee met on September 9, 2010. They discussed current projects such as the NDA

completed by the end of October, present to the board at the November meeting and publish by end of November. The brochure was emailed to committee members for suggestions/additions/changes. Goal to have brochure complete by end of 2010. Handbook was postponed until the 2010 census is available for use. Jim McKay moved to approve the Marketing/PR, Jim McKay moved to approve the Marketing/PR, Chuck Boggs seconded the motion. Board approved.

0321

5. Budget/Finance/Audit and Personnel Committee – Susan Graves, did not meet. Susan discussed draft of the Investment Policy to the board. Corrections were made and will present to board at next scheduled meeting. She also, discussed Request for Proposal (RFP) requirement for the next audit. She will meet with the committee and finalize the necessary action for the REP and report back to the Board.

Non-NDA Reports

1. War Museum Liaison – The War Museum Committee currently has no leadership and a report was not available.
2. Annexation Liaison – Jim McKay reported the City Annexation Committee had not met the past month.

Old Business:

1. Update Equipment Care Center of Nitro LLC (Dana Transportation) Loan/Payment status - Nick, the NDA's attorney, contacted the Secretary of State's office and filed papers with the SOS but was undeliverable to Dana. Nick suggested hand-carrying the subpoena. If unsuccessful we need to decide to foreclose, try another route or wait for other action to be taken. The Board discussion led to the decision to move forward with foreclosure. Jim Westlund made a motion to move forward to foreclose on the Dana site. Jim McKay seconded the motion. The Board approved. Hershel will speak with Nick regarding moving forward with foreclosure.
2. Update Equipment Care Center of Nitro LLC (Dana Transportation) Lawsuit against NDA - Hershel announced that the trial is moving forward and still is scheduled for March 2011 and judge will not reschedule hearing as requested.
3. Status of possible sale of NDA property - Hershel, Susan and Chuck met with Kingsway Christian Church about purchasing the Community Center. Meeting went well. The offer was \$500,000. Kingsway will go to their board and have a total body meeting with the church. Currently, the NDA is waiting for the counter offer. Kingsway's intentions are to keep building the same as far as tenants and are eager to move forward. They will contact Hershel re: next move. Once the NDA receives a counter offer a special meeting will be called. Jim Westlund brought disclosures up for discussion. Chuck Boggs informed board that we will need to provide disclosure agreements to Kingsway. An As-Is Agreements will also be processed.
4. Establish Priorities for Strategic Plan - The Strategic Plan discussion began and Susan moved to table the Strategic Plan because of the array of activities the NDA is facing—that things can change. Chuck Boggs seconded the motion adding that once we sell the property the Plan will change. Board agreed to table Strategic Plan.
5. City acknowledgement of receipt of NDA Annual Report/State Code 7-12-12 - Hershel Facemyre has a signed copy by mayor of Annual Report. Quarterlies are due next month. He informed board that both Q & A Reports need to be acknowledged by city administration. April Plank moved to accept this discussion into minutes. Ivan seconded.

discussion with... read it to Board. Jim McKay moved to approve into minutes. Chuck seconded. Board approved.

7. Update to the NDA regarding the investment with Passero/Adams - Nick Barth, Board Attorney, suggested that he send a letter to Passero/Adams regarding the investment to identify violation of state code and clarification areas or responsibility. After much discussion, Jim McKay moved to have the letter sent. Chuck seconded to send letter. Board approved.

New Business:

1. Leonard Womble brought to board's attention that logo should include Kanawha-Putnam Counties. Jim McKay moved to approve the logo change, Chuck seconded, board approved. Hershel will make change to logo and provide to members.
2. Hershel was asked by the City Business Enhancement Committee to write letter to City of Nitro in support of procuring a grant for Streetscape and Master Plan planning. Due to level of importance and lack of time, Hershel wrote the letter. Jim McKay moved to approve Hershel's action, Chuck seconded. Board approved.
3. It was decided that a formal motion needed to be made in support of the Streetscape Plan, Master Plan and Comprehensive Plan for of the City of Nitro. Leonard moved to officially accept this, Gene Brightwell seconded the motion. Board approved. Hershel Facemyre encouraged board members to attend the city meeting with Banker Engineering re: the Master Plan.
4. Ivan informed the NDA that the basketball court at the Community Center has been sealed and updated.

Comments:

Jim Westlund brought up a concern of finances for attorney fees. Hershel informed board that he had spoken with the attorney and the attorney is not pressuring the NDA for a payment. He is willing to be patient. Hershel further stated that we must make a payment as soon as possible to maintain good faith.

Adjournment: 8:10 p.m.

Next meeting: October 12, 2010, 7:00pm at the Nitro Community Center Office

Respectfully Submitted: April Plank, filling in for Carmen

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, NOVEMBER 8, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm in Council Chamber. In attendance with Mayor Casto were Recorder Rita Cox, Ward 1 Councilman A. A. "Joe" Savilla, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Councilman at Large Dave Casebolt, Councilman at Large Bob Fields and Councilman at Large Jim McKay, City Treasurer John Young and City Attorney Richie Robb.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Rev. H. B. White and the Pledge of Allegiance was led by NDA President Herchel Facemyre.

FUTURE DATES OF COUNCIL: Mayor Casto said the next meeting of Council will be Tuesday, November 16 at 7:00 pm in Council Chambers.

APPROVAL OF COUNCIL MINUTES: Recorder Rita Cox said she was made aware of a mistake in the minutes naming Council meeting on Tuesday, November 8 rather than Monday, November 8. Recorder Cox said she would make that correction. RECORDER RITA COX MOVED THE MINUTES OF OCTOBER 19, 2010 BE APPROVED WITH THE CORRECTION BEING MADE ON THE DAY, MONDAY, NOVEMBER 8. THE MOTION WAS SECONDED BY COUNCILMAN CRAIG MATTHEWS AND VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

CITIZEN OF THE MONTH: Mayor Rusty Casto introduced Eileen Morgan as the November Citizen of the Month. She was accompanied by her daughter and her husband, Jaci and H. B. White, as well as other members of her extended family.

OLD BUSINESS:

CONTINGENCY FUND: Recorder Rita Cox reported that the City of Nitro currently has \$350,000.00 in two funds at People's Federal Credit Union in interest bearing accounts. Treasurer John Young said that \$60,000.00 has been committed by Council for the Streetscape plan.

STREETSCAPE/PROFESSIONAL SERVICES AGREEMENT: Councilman Dave Casebolt said the city did not receive the grant that was applied for to develop the comprehensive plan, master plan and streetscape design. He said he Baker Engineering recommending putting the comprehensive plan on the back burner, concentrating the streetscape plan on 20th Street to 22nd Street, the gateways and Ridenour Lake, and they renegotiated the contract for the streetscape master plan and streetscape design.

COUNCILMAN CASEBOLT MOVED THE STREETSCAPE AND PEDESTRIAN MASTER PLAN BY BAKER ENGINEERING BE APPROVED FOR \$38,200.00. THE MOTION WAS SECONDED BY COUNCILMAN MCKAY. Councilman Javins said this was a great opportunity and Councilman McKay said that \$57,000.00 has already been approved. Councilman Matthews said the \$57,000.00 was to come out of the \$60,000.00 that had been set aside and not out of OPED. Councilman Savilla said the money should come out of the \$350,000.00 contingency fund and not out of OPED. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

COUNCILMAN CASEBOLT MOVED THAT STREETSCAPE DESIGN BE FUNDED IN THE AMOUNT OF \$34,500.00 TO BAKER ENGINEERING WITH A SECOND BY COUNCILMAN MCKAY. Recorder Cox asked if this was to be paid in a lump sum and Councilman Casebolt said it would be done in payments, not in a lump sum. He said he thought it would come from the contingency fund. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

Mayor Casto said that he thought the city would benefit from the use of a good sidewalk sweeper. COUNCILMAN MCKAY MOVED BID BE PUT OUT FOR A NEW AND/OR A USED SIDEWALK SWEEPER WITH A SECOND BY COUNCILMAN FIELDS. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

NEW BUSINESS:

CHRISTMAS PARADE SHOW CHOIR PARTICIPATION: Councilman Matthews said the plan was to have a parade on Dec. 4 at 6:00 pm with a tree lighting and cookies and cider afterwards sponsored by the Nitro Antique Mall. The tree will be donated by Kenny Painter at Nitro Flower Shop. The Nitro Show Choir will have Santa and decorations at Children's Park. COUNCILMAN MATTHEWS MOVED THE HOLIDAY PARADE BE HELD DECEMBER 4 AT 6:00 PM WITH A TREE LIGHTING CEREMONY FOLLOWING AND THE NITRO HIGH SHOW CHOIR DECORATE AND USE CHILDREN'S PARK FOR SANTA. THE MOTION WAS SECONDED BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

ATTORNEY REPORT: Richie Robb reported that the City of Nitro Civil Service Commission consisting of Judy Hudson, Jay Long, and Frank Gibeaut met earlier today along with Mayor Casto, Richie Robb, Recorder Cox, and John Young. One issue was the \$500.00 raise given to all employees except part time during the current fiscal year. That issue has been resolved with the parks and recreation employee being declared fulltime and therefore entitled to the raise. Another issue was the job of executive administrative assistant and if a new job had been created and therefore needed to be posted for other employees to apply for. The ruling of the Nitro Civil Service Commission was that due to the new duties comprising approximately 75% of the job and the old duties out of property maintenance comprising approximately 25% of the job, a new job was in fact created and needed to be posted for competitive bidding within the existing city employees. The Commission also determined this was a necessary position. COUNCILMAN CASEBOLT MOVED THE POSITION OF EXECUTIVE ADMINISTRATIVE ASSISTANT BE ESTABLISHED AS A POSITION WITH A SECOND BY COUNCILMAN MATTHEWS. Councilman Matthews asked if this opens a new job in the Building Department. Richie Robb said no, but that the Commission felt that duties added meant that it should be classified as a new job a ratified by Council, and then posted. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

Richie Robb said that \$500.00 raise was to be just that amount even though it might be given in different amounts at pay time, ultimately the person would receive \$500.00 by the end of the fiscal year.

Another issue was a full time person who did not get the raise. The Commission determined the job was full time, the person had been let go and then brought back due to the financial situation of the city. The recommendation of the Commission in this case was the person should receive the \$500.00 increase and the individual be given specific job duties and accountability for the entire fiscal year. The position had been called seasonal but the job has sufficient duties to define it as full time. COUNCILMAN CASEBOLT MOVED THE JOB OF PARKS AND RECREATION EMPLOYEE BE GIVEN A DESCRIPTION, MADE FULL TIME AND ADVERTISED WITHIN THE CITY. THE MOTON WAS SECONDED BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION. Debra Jordan identified herself as the person being discussed. She said her job included the city calendar, pool manager, festivals. She said she has been laid off twice by Mr. Young. Councilman Savilla said the Mayor runs City Hall, not the Treasurer. COUNCILMAN CASEBOLT MOVED THE MAYOR RETURN TO COUNCIL WITH A DESCRIPTION OF THE DUTIES OF PARKS AND RECREATION JOB. THE MOTION WAS SECONDED BY COUNCILMAN MATTHEWS AND VOTE WAS UNANIMOUS FOR THE MOTION.

COUNCILMAN MATTHEWS MOVED THE THREE FIREMEN WHO DID NOT RECEIVE THE \$250.00 PAY INCREASE BE GIVEN THE INCREASE WITH A SECOND BY RECORDER COX. VOTE WAS UANIMOUS FOR THE MOTION.

COUNCIL COMMENTS:

Mayor Rusty Casto said the DOH would hold a public meeting Nov.18 at 2:00 pm in Council Chambers about the Nitro Bridge replacement. He said the Cub Scouts were holding a coat drive.

Councilman Bill Javins said he had some pictures of the boat launch. COUNCILMAN JAVINS MOVED THE MINUTES OF THE OCTOBER 6 MEETING OF THE CVB BE MADE A PART OF THE MINUTES OF THIS COUNCIL MEETING WITH A SECOND BY RECORDER RITA COX. VOTE WAS UNANIMOUS FOR THE MOTION. He said the CVB had voted at tonight's meeting to reimburse the city for candy purchased for the Hoedown.

Councilman Craig Matthews thanked the workers for the Hoedown. He said the trashcans on 21st Street had been purchased with grants from RC & D and DEP, nine in all.

Councilman A. A. "Joe" Savilla said he had missed the Hoedown because he was with Senator elect Manchin.

Councilman Bob Fields thanked A. J. Hill, Debra Jordan and the crew for the work on the Hoedown.

Mayor Casto said he would like to go into Executive session to discuss a purchase with Leonard Womble, Herchel Facemyre and John Montgomery joining Council. COUNCILMAN SAVILLA MOVED COUNCIL GO INTO EXECUTIVE SESSION WITH A SECOND BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION

Executive Session 8:14 pm.

Resumed Council 8:35 pm.

ADJOURNMENT: COUNCILMAN MCKAY MOVED COUNCIL BE ADJOURNED WITH A SECOND BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

C V B Meeting October 6th 2010

Board Members Present

1. Bill Javins
2. Craig Matthews (absent)
3. Tom Brewer (absent)
4. Rusty Casto
5. John Young
6. Nora Helm
7. Leonard Womble
8. Bob Fields

Meeting was called to order by Leonard Womble

1. Made a motion to accept the minutes from meeting Sept 7th 2010-Vote was unanimous
2. Made a motion to accept the treasurer report-Vote was unanimous
3. Made a motion to pay back the \$5,000.00 loan to the city's general fund.
Balance after paying back the loan was \$57,847.90
4. Mr Young presented our 501 C (6) from the Internal Revenue Service-Copy enclosed for your records .
5. The Board of Directors vote was unanimous to accept Robert Lagg to our Board of Directors. He will be representing the Marti Gras Resort and Casino. His thirty years of experience in the industry will be a great asset to our C V B. We all look forward working with him and going forward. His knowledge and expertise of the business will bring great ideas to our C V B
6. We discussed the purpose and objectives of our C V B. Mr. Young will help promote local tourism development. Page three section 2c
7. Mayor Casto will help with all activities designed to increase tourism within the city of Nitro. Page three section 2e
8. Mr Lagg will help develop partnerships with allied organizations. Page three section 2g
9. John Young will check with our insurance company to see if Bill Javins and Leonard Womble is covered under our current insurance policy since we are responsible for signing checks.
10. Each member will bring back information to the board of what they feel is most important to spend our money on at this time.
11. All members agreed that the Lake is a priority to improve
12. Next meeting in November will be announced due to the election and council meeting being moved forward. Tentative November 9th.
13. Meeting adjourned

Copy Enclosed

NITRO CITY COUNCIL
FINANCE COMMITTEE MEETING MINUTES
NOVEMBER 16, 2010

CALL TO ORDER: Mayor Rusty Casto called to order at 6:00 pm in Council Chambers. Attending along with Mayor Casto were Recorder Rita Cox, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Councilmen at Large Dave Casebolt, Jim McKay, and Bob Fields, and City Treasurer John Young.

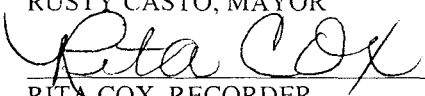
Mayor Casto called on City Treasurer John Young for a report on the finances of the city and recommendations for raises. John Young said that the city finances were in good shape and revenues are holding up. He recommended that Council not take action on across the board raises until the end of January to see how Mardi-Gras Hotel does and the new table games at Charlestown. He said since these are both new, the revenue is an unknown quantity that needs to be looked at before action is taken. He presented Council with current wage scales in area cities that compare. He said that he and Councilman Matthews are working on the numbers needed for salary for a Kelly shift person for the Fire Department. Councilman Casebolt suggested a committee be formed to look into the matter of pay scales. Councilman Matthews said the committee could look at local cities for pay formulas. He also said that within departments there are different skills that the employees have that are known to the departments heads and these could be identified.

Councilman Fields asked how this would be applied to the employees at the library. Mayor Casto suggested the Kanawha County Library be contacted. Councilman Casebolt asked if job descriptions could be prepared by departments by the first part of 2011. Mayor Casto said that could probably be done by the next meeting. John Young said the skills of employees in Public Works could be identified. Mayor Casto said that since department heads are preparing job descriptions for a future meeting that would allow Council time to look at the salaries compiled by John Young of area cities.

Councilman Matthews suggested that Mary Beth Burt be appointed as personnel head in place of Mayor Casto since the employee provisions allow for this. He said that most of these duties are done by her currently such as payroll, workers compensation and vacation. He said that it would not be creating a new position. He suggested once the job descriptions are prepared by departments, Mary Beth Burt could keep them in her files. He said it would not be fair to expect her to compile them. He said that while Recorder Cox is to keep vacation time it is Mary Beth Burt who tracks it. Councilman Matthews said that he thought she should be compensated for these jobs. Recorder Cox pointed out that she already does nearly all the jobs listed in the employee provisions having to do with personnel. Mayor Casto directed John Young to study this and look at an increase in pay to cover the duties she does and bring it back to the next meeting. Mayor Casto directed A. J. Hill to try and locate job descriptions done for his department in the past.

Councilman McKay asked if he was looking at the correct version of the employee provisions. It was determined that it was. Recorder Cox said that John Montgomery had asked for copies of the employee provisions for the Ordinance Committee. Mayor Casto requested Executive Session. COUNCILMAN MCKAY MOVED COUNCIL GO INTO EXECUTIVE SESSION WITH A SECOND BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, NOVEMBER 16, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm in Council Chambers. Attending the meeting with Mayor Casto were Recorder Rita Cox, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Councilmen at Large Dave Casebolt, Bob Fields, and Jim McKay, City Treasurer John Young and City Attorney Richie Robb. Councilman A. A. "Joe" Savilla was not present.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Gary Painter and the Pledge of Allegiance was led by Councilman Fields.

FUTURE DATES OF COUNCIL: Mayor Rusty Casto said the future dates of Council are December 7 and 21.

APPROVAL OF COUNCIL MINUTES: RECORDER COX MOVED THE COUNCIL MINUTES OF NOVEMBER 8, 2010 BE APPROVED AND THE MOTION WAS SECONDED BY COUNCILMAN FIELDS. VOTING FOR THE MOTION WERE RECORDER COX, COUNCILMEN MCKAY, CASEBOLT, FIELDS, MATTHEWS, AND JAVINS WITH COUNCILMAN RACER ABSTAINING. THE MOTION CARRIED.

LIVINGSTONE MINISTRY: Recorder Cox introduced John Anderson and Gary Painter of Livingstone Ministry. Gary Painter said they were housed in Hurricane and they had a mission to restore homes and hope. They work in Kanawha, Putnam and Wood counties. Recorder Cox said she had become familiar with their work because of a house in Nitro that had been donated by Larry Dawson and restored by Livingstone for a family.

PTO BOOT DRIVE: Mayor Casto introduced Nitro Elementary teacher Lee Ann Vance Bright. She said that the school is still in need of approximately \$15,000.00 to complete the school playground and would like to have a boot drive. COUNCILMAN MATTHEWS MOVED NITRO ELEMENTARY PTO BE PERMITTED TO HOLD A BOOT DRIVE ON DECEMBER 11 FROM 8 AM TO 2 PM AT 21ST STREET AND FIRST AVENUE WITH A SECOND BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION.

OLD BUSINESS:

EMPLOYEE PAY INCREASE/COMMITTEE REPORT: Mayor Casto said the Finance Committee had met prior to tonight's Council meeting. Department heads are to put together pay scales and evaluations are to be done. He said that the committee determined to postpone most raises until January to see how revenues are flowing since the Mardi Gras Hotel and table games at Charlestown are both new and therefore unknown revenue sources.

DOH MEETING/NITRO BRIDGE: Mayor Casto announced there will be a meeting at 2 pm, November 18 in Council Chambers with the Department of Highways spokesman to discuss tentative plans for the Nitro-St. Albans Bridge replacement.

NEW BUSINESS:

FISHING DOCK/NITRO CITY PARK: Mayor Casto said that Bret Preston of the Department of Natural Resources had told him recently that there is a possibility of building a fishing dock around the Nitro City Park area, funded by the DNR.

TREASURER REPORT: John Young said that B & O is up from this time last year. He said that a generator is needed for the Nitro Fire Department for operations during power outages. He said that the

new digital radios are going to need to be installed soon for the Fire Department vehicles. COUNCILMAN MATTHEWS MOVED FUNDING FOR THE GENERATOR AND INSTALLATION OF THE GENERATOR BE APPROVED WITH A SECOND BY COUNCILMAN FIELDS. VOTE WAS UNANIMOUS FOR THE MOTION TO PASS.

ATTORNEY REPORT: Richie Robb said the Ordinance Committee was working on several ordinances including an ordinance for travel policy for employees, an ordinance for a drug free workplace and working on improving the employee provisions.

COUNCIL COMMENTS:

Mayor Rusty Casto reminded everyone of the November 18 meeting at 2 pm in Council Chambers about the Nitro-St. Albans Bridge. He said the public was welcome and encouraged to attend.

Councilman Bill Javins said he was pleased to see work being done on the boat launch.

Councilman Craig Matthews said the Christmas parade is Saturday, December 4 at 6 pm on First Avenue from 41st Street to 21st Street where there will be a tree lighting. He said the tree was donated by Kenny Painter of Nitro Floral

COUNCILMAN MCKAY MOVED THE MINUTES OF THE OCTOBER 12 MEETING OF THE NITRO DEVELOPMENT AUTHORITY BE MADE A PART OF THE MINUTES OF THIS COUNCIL MEETING WITH A SECOND BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY. He said that there had been two memberships expire from the NDA Board of Directors. COUNCILMAN MCKAY MOVED GENE BRIGHTWELL AND MARY BRADLEY BE APPOINTED TO THREE YEAR MEMBERSHIPS ON THE BOARD OF DIRECTORS FOR THE NITRO DEVELOPMENT AUTHORITY. THE MOTION WAS SECONDED BY COUNCILMAN BILL JAVINS AND VOTE WAS UNANIMOUS FOR THE MOTION.

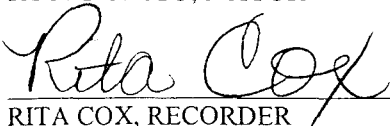
PUBLIC COMMENT:

Bob Schamber said the recent dance held by the Seniors had made \$913.00 and there was an Elvis impersonator in attendance. He said the dance was very successful.

John Montgomery said the Ordinance Committee will meet a 7 pm, November 18 in the NDA Boardroom. The committee will work on a travel policy ordinance and a drug free workplace ordinance. A. J. Hill Jr. said his employees are randomly tested at Foley Labs for drugs. Recorder Cox said that Fire Chief E. W. Hedrick said the local Firefighters union 1822 had voted in support of a drug free workplace ordinance.

ADJOURNMENT: COUNCILMAN JAVINS MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

Nitro Development Authority302 21st Street

Nitro, West Virginia

October 12, 2010, 7:00PM

Board of Director's Meeting

Minutes

April passed out Halloween treats to the board members. Thank you April!!!

Call to order: President Hershel Facemyre called the regular meeting of the NDA to order at 7:04PM.

Members present: Hershel Facemyre, April Plank, Jim Westlund, Mike Monday, Jack Legg, Charles Mann, Jim McKay, Ivan Meadows, Gene Brightwell, Susan Graves, Chuck Boggs, Carmen Kostelansky and Don Hudnall.

Members absent: John Adams and Leonard Womble.

Approval of September 14, 2010 Minutes: Carmen Kostelansky, secretary. Motion by Jim McKay to accept minutes, second by Charles Mann. Board approved.

Financial Report: Susan Graves, treasurer, reported all utility bills are paid and we are finally caught up with the gas bill. Of course the bill will begin to increase monthly because of the weather. Jim Westlund asked if the income from the gym rental is from the basketball league. Donald said only half. Jim McKay motioned to accept the financial report, Jim Westlund second the motion. Board approved.

Committee reports:

1. Executive Committee: Did not meet.
2. Community Center/Safety and Facility/Property Committee: Met on October 5, 2010. They reported that the sign on 21st street will be changed to read Office-Shop-Storage space to rent. Senior citizens received a \$20,000.00 grant to replace exercise equipment. Questions arose about liability. Motors in overhead gym heaters are going to be replaced, thanks to Ivan Meadows obtaining a scissor lift and motors for \$130.00 each. Basketball league will pay. Motion to accept report made by Chuck Boggs, seconded by Charles Mann//Mike Monday. Board approved.
3. Beatification Committee: Did not meet.
4. Marketing/Public Relations and Grant Committee: Did not meet.
5. Budget/Finance/Audit and Personnel Committee: Did not meet.

Non-NDA Reports:

1. War Museum Liaison: No meeting report received.
2. Annexation Liaison: No meeting report received.

Old Business:

1. Hershel Facemyre reported that Mr. Barth will start foreclosure right away against Dana Trucking. Hopefully will sale in November. Jeff Wakefield was contacted to defend Dana Trucking.

2. Letter written by John Adams to Attorney Barth stating that the board was informed and fully aware of how the money in the investment would be controlled. They also felt they were not out of compliance with the State code. Hershel and John met; Inland Trust has a potential buyer for our investment. Jim Westlund suggested we send a letter to take legal action in recovering our investment. After much discussion, Jim Westlund made a motion, seconded by Mike Monday, to send a letter to Passero/Adams telling them to resolve the issue in 60 days and we will not preceded with any legal action. Two members abstained from voting, 1 member voted no and 8 members voted yes. The motion was approved.

3. Report on the sale of the Nitro Community Center: (Donald Hudnall was asked to leave because of his ties with King's Way Church.) The NDA received a counter offer from King's Way of \$225,000.00. After much

discussion, a motion was made by Gene Brightwell, second by Mike Monday, to make a counter offer through the committee, Hershel, Susan and Chuck, meeting with King's Way. The decisions will be made by the committee, and final approval through the board. The motion was approved unanimously. The committee will schedule a meeting with Kings Way as soon as possible and report back to the Board at the next meeting.

New Business:

1. Jim McKay recommended Mary Bradley to be placed on our board. Hershel Facemyre told him to have her submit a resume to the board. Our bi-laws state that a board member does not have to live in Nitro, but may have a business in Nitro.

2. Ivan Meadows thanks April for the magazine. She said she would bring another, WV Executive Magazine, to next meeting.

Adjournment: Motion to adjourn made by Chuck Boggs, seconded by Jim Westlund. Board approved. Meeting adjourned at 8:18PM.

Next Meeting: May have to be scheduled for November 8, because City Council is supposed to meet on November 9. Mr. Facemyre will let everyone know.

Submitted by: Carmen Kostelansky

NITRO CITY COUNCIL
MEETING MINUTES
DECEMBER 7, 2010

CALL TO ORDER: The meeting was called to order at 7:00 pm by Mayor Rusty Casto. Attending along with Mayor Casto were Recorder Rita Cox. Councilmen at Large Dave Casebolt and Jim McKay, Ward 1 Councilman A. A. "Joe" Savilla, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, City Attorney Richie Robb and City Treasurer John Young. Ward 4 Councilman Bill Javins and Councilman at Large Bob Fields were not present.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Councilman A. A. "Joe" Savilla and the Pledge of Allegiance was led by Richie Robb.

FUTURE DATES OF COUNCIL: Mayor Casto announced the future dates of Council will be December 21, 2010, January 4 and January 18, 2011.

APPROVAL OF COUNCIL MINUTES: RECORDER COX MOVED THE MINUTES OF THE NOVEMBER 16, 2010 MEETING OF COUNCIL AND THE NOVEMBER 16, 2010 MEETING OF THE FINANCE COMMITTEE BE APPROVED. THE MOTION WAS SECONDED BY COUNCILMAN SAVILLA AND VOTE WAS UNANIMOUS FOR THE MOTION.

CITIZEN OF THE MONTH: Councilman Dave Casebolt introduced Kaylee Kohl and her Mother, Kimberly Kohl of Brookhaven. Kaylee is one of four finalist in a Gap photo contest. Voting can be done online from December 6 to 20 and the child with the most votes will win. She has won a trip to San Francisco. She was one of millions of entries.

OLD BUSINESS:

AUDIT RESULTS FISCAL YEARS ENDING JUNE 30, 2008 AND JUNE 30, 2009: City Treasurer John Young said the audit scores for the two audits was B+. He said the management letters supplied to Council spell out what needs to be corrected. He said that there are some items that have already been corrected. There is on item under segregation of duties that will not be corrected because it requires hiring an additional employee and that will not occur due to budgetary problems. He said that there are copies of the complete audit report available in his office in City Hall.

ADDITIONAL PAY FOR EMPLOYEE COVERING PERSONNEL DUTIES: RECORDER RITA COX MOVED THAT EMPLOYEE MARY BETH BURT BE GIVEN A PAY RAISE TO ADJUST HER PAY TO COMPARABLE EMPLOYEES IN AREA CITIES WHO DO COMPARABLE WORK IN PERSONNEL DUTIES. THE MOTION WAS SECONDED BY COUNCILMAN CRAIG MATTHEWS. Councilman Jim McKay recommended that City Attorney Richie Robb be questioned about the legality of what Councilman McKay saw as creating a new position. Recorder Cox said that her opinion was that a new position was not being created, that Mary Beth Burt was going to be compensated for work that she currently does. Councilman Matthews said that a raise could be considered when the budget for the next fiscal year is being put together. COUNCILMAN MCKAY MOVED THE MOTION BE TABLED WITH A SECOND BY COUNCILMAN RACER. VOTING FOR THE MOTION WERE COUNCILMEN MCKAY, RACER, MATTHEWS, AND SAVILLA. VOTING IN OPPOSITION TO THE MOTION WERE COUNCILMAN SAVILLA AND RECORDER COX. THE MOTION CARRIED.

BOAT LAUNCH UPDATE: Mayor Casto asked Captain Ron King to update Council on progress at the Smith Street Landfill Boat Launch. Captain King said that the workers are only planning to put up one light pole and light and not all the light poles that were in the original plans for the boat launch. He said that lighting is important for public safety and for the safety of the boaters using the facility which is required to be open at all times. He said the lighting was addressed by the residents in the area and the builder is not installing as many lights as originally approved. Mayor Casto said he would contact Bret Preston with the DNR to clarify the matter.

NEW BUSINESS:

FIRST READING AN ORDINANCE ESTABLISHING HEALTH DEPARTMENT: City Attorney said that the members of Council and the Ordinance Committee members had not had time to read the ordinance information presented. COUNCILMAN CRAIG MATTHEWS MOVED THE INFORMATION ON FORMING A CITY HEALTH DEPARTMENT BE REFERRED TO THE ORDINANCE COMMITTEE TO PREPARE A REPORT FOR COUNCIL. COUNCILMAN A. A. "JOE" SAVILLA SECONDED THE MOTION AND VOTE WAS UNANIMOUS FOR THE MOTION. Richie Robb suggested Council meet to discuss the recommendation of the Ordinance Committee after the Committee has a chance to look at the information presented and write an ordinance. COUNCILMAN MATTHEWS MOVED COUNCIL MEET AT 6:00 PM DECEMBER 21 TO DISCUSS HEALTH DEPARTMENT ONLY. THE MOTION WAS SECONDED BY COUNCILMAN SAVILLA AND VOTE WAS UNANIMOUS FOR THE MOTION.

FOOD DISTRIBUTION/DECEMBER 14, 2010: Recorder Cox said there is to be a USDA food distribution on December 14 from 1:00 to 3:00 pm at Cornerstone Church on Plant Road. The recipients will be notified and volunteers are needed to help distribute the food.

FIRE DEPARTMENT RADIO INSTALLATION: John Young said that it is necessary for the Fire Department to have new radios installed in all vehicles and the cost will be \$6875.00. COUNCILMAN SAVILLA MOVED THE RADIOS BE INSTALLED AT THE COST OF \$6875.00 IN ALL FIRE DEPARTMENT VEHICLES. THE MOTION WAS SECONDED BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

ATTORNEY REPORT: Richie Robb said he wanted to address the question brought up last month concerning overtime for the Police Department. He said there are three levels that govern overtime: federal, state and municipal and he will look at all three and report back to Council.

TREASURER REPORT: John Young said he has presented financial reports to Council including revenue and the standing of each department as to the budget for the fiscal year. He said that he would answer any questions.

COUNCIL COMMENT:

Mayor Casto said that the 24th Annual Dagostine Toy Run will be held December 11. He said that the 2011 calendar should be ready December 21 and mailed soon after that. He said he had collected \$8000 in pennies for peace for Greg Mortenson's schools in Afghanistan. COUNCILMAN MATTHEWS MOVED THE MONEY BE DEPOSITED IN AND RUN THROUGH THE CITY OF NITRO ACCOUNT WITH A SECOND BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION.

Councilman Matthews said the Christmas parade was successful.

Councilman Savilla said that he agreed the parade was a great success.

Recorder Cox said that the parade was fun to participate in and she enjoyed the large turnout. She said she thought the weather was appropriate.

Councilman Casebolt asked the Mayor should to present the job description for the parks and recreation department position that Council voted to be done.

PUBLIC COMMENTS:

Bob Schamber said the Senior's weblink should be ready this month. He reported that Shelly Hodges,

pharmacist at Fruth Pharmacy, would be going to Fort Liberte', Haiti in the Spring of 2011 and donations for the trip were welcome.

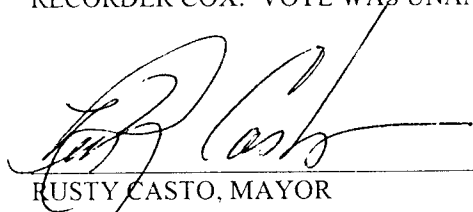
Hershel Facemyre reported that the NDA had sold the Community Center to Kingsway Church as of December 1.

John Montgomery said the Ordinance Committee would meet at 7:00 pm on December 9 in the NDA Boardroom.

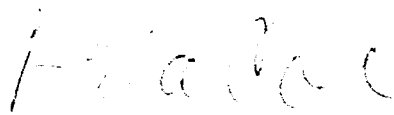
Harvey Collins said he had lived in Nitro since he was 12 years old. He said he was proud of the city.

ADJOURNMENT:

COUNCILMAN MATTHEWS MOVED THE MEETING BE ADJOURNED WITH A SECOND BY RECORDER COX. VOTE WAS UNANIMOUS FOR THE MOTION.



RUSTY CASTO, MAYOR



RITA COX, RECORDER

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, DECEMBER 21, 2010

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm in Council Chambers. Attending the meeting with Mayor Casto were Councilmen at Large Jim McKay, Dave Casebolt, and Bob Fields. Ward 1 Councilman A. A. "Joe" Savilla, Ward 2 Councilman, Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Recorder Rita Cox, City Attorney Richie Robb and City Treasurer Richie Robb.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Ivan Meadows and the Pledge of Allegiance was led by Joshua Shaffer.

RECOGNITION OF CROSS LANES RESIDENT'S DONATION TO SISSONVILLE FIRE DEPARTMENT REBUILDING FUND: Mayor Casto recognized Joshua Shaffer who donated his money to Sissonville Volunteer Fire Department. Mayor Casto had collected money from Council members, Bob Schamber and himself and bought a piggy bank to reimburse Joshua \$45.85.

FUTURE DATES OF COUNCIL: Mayor Casto recognized the following dates for Council: January 4 and 18, 2011.

APPROVAL OF COUNCIL MINUTES: RECORDER COX MOVED THE MINUTES OF DECEMBER 7 BE TABLED UNTIL THE NEXT MEETING WITH A SECOND BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION.

OLD BUSINESS:

SIDEWALK SWEEPERS: Mayor Casto said the bids for sidewalk sweepers will be ready for the January 18 meeting of Council. He said he thought that keeping the streets clean is especially important with the Streetscape program. He said the Nitro Regional Wastewater can pay half of the cost.

NDA: COUNCILMAN MCKAY MOVED THE MINUTES AND TREASURERS REPORT OF THE NOVEMBER 9, 2010 MEETING OF THE NDA BE MADE A PART OF THE MINUTES OF THIS MEETING. THE MOTION WAS SECONDED BY RECORDER COX. VOTE WAS UNANIMOUS FOR THE MOTION.

COUNCILMAN MCKAY MOVED THAT FRANK GROVER JR. BE APPOINTED TO A THREE YEAR TERM AS A MEMBER OF THE BOARD OF THE NITRO DEVELOPMENT AUTHORITY WITH A SECOND BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

NEW BUSINESS:

FIRST READING AN ORDINANCE FORMING THE NITRO HEALTH DEPARTMENT: City Attorney Richie Robb read the title only authorizing the city to establish a health department. COUNCILMAN SAVILLA MOVED COUNCIL PASS ON FIRST READING AN ORDINANCE TO AMEND PART ELEVEN OF THE CODIFIED ORDINANCES OF THE CITY OF NITRO, WEST VIRGINIA, AS AMENDED, BY ADDING THERETO A NEW ARTICLE, DESIGNATED 1119, ALL RELATING TO AUTHORIZING THE CITY TO CREATE A MUNICIPAL BOARD OF HEALTH. THE MOTION WAS SECONDED BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION.

ATTORNEY REPORT: Richie Robb referred to the letter from R. Schulenberg of the Kanawha County Prosecutors Office concerning audits of fiscal year 2008 and 2009. He said the letter Mr. Robb sent states that the City Treasurer and custodian of the police funds should meet with the auditor's representative to establish policies and procedures for the police fund expenditures. Mr. Robb requested Council's authority to proceed on this matter. COUNCILMAN MCKAY MOVED THAT JOHN YOUNG AND CAPTAIN JAVINS MEET WITH THE WV AUDITOR'S OFFICE TO CLARIFY WHAT PROCEDURES NEED TO BE TAKEN TO BE IN COMPLIANCE WITH THE WV AUDITOR REGARDING THE NITRO POLICE FUND EXPENDITURES FOR PURCHASES. THE MOTION WAS SECONDED BY

COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION.

COUNCIL COMMENT:

Mayor Casto said Ridenour Lake would be stocked with trout during the first part of 2011.

Councilman Javins wished everyone a Merry Christmas.

Councilman Matthews said there was a serious incident recently when there was a fire and only two men on duty with the Nitro Fire Department. He said Casey Mathes was able to perform a rescue even though he was not on duty. He said there was a fire hydrant taken out of commission that was needed for that fire.

Councilman Savilla said we need professionals that are paid well to do the jobs, we need to keep good employees

Councilman Fields said the fire could have been much worse. He wished everyone a Merry Christmas.

Councilman Casebolt said he has received a letter from DOH on Phase II of Streetscape. It asks for a commitment of 20% which he believes to be \$60,000.00 to be spent in fiscal year 2013. COUNCILMAN CASEBOLT MADE THE MOTION THAT COUNCIL COMMITT PRIOR TO JANUARY 15, 2011 20% (\$60,00.00) OF THE STREETScape PHASE II, TO BE SPENT IN FISCAL YEAR 2013 AND PUT IN A LETTER OF COMMITMENT. THE MOTION WAS SECONDED BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION.

Councilman McKay said Merry Christmas and he is looking forward to next year.

PUBLIC COMMENT:

Bob Schamber said the Team Haiti trip is February 23, 2011 for 15 days.

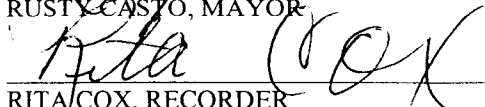
Captain Javins said that Council voted in the mid 90's Council voted to pay overtime in the manner it had been paid. Councilman Casebolt said if it is code that is what should be done. Councilman Matthews said a personnel policy needs to be drafted for fire and police. R. Robb said the Ordinance Committee is working on this. Councilman Casebolt said it should be discussed at the next meeting. Chief Jordan employees are not coming out from vacation because they do not get time and a half.

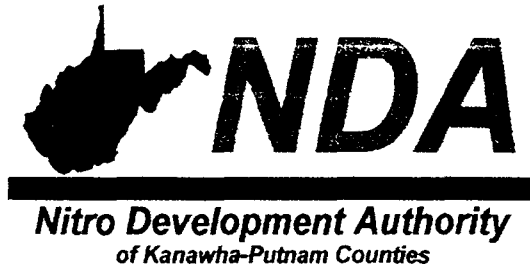
TREASURER COMMENT: John Young said that revenue remained good but will probably be down in January. He said that Chief Hedrick will be looking at buying a new fire truck because a lot is being spent on maintenance. He said the trash truck will be paid off soon. Councilman Matthews said his recommendation is to refurbish a truck and purchase a new one with the refurbished going to backup status. He said that you can't get parts for the American La France.

Ivan Meadows said he is disappointed that Public Works are not appreciated.

ADJOURNMENT: COUNCILMAN MATTHEWS MOVED THE MEETING BE ADJOURNED. THE MOTION WAS SECONDED BY COUNCILMAN RACER. VOTE WAS UNANIMOUS FOR THE MOTION.


RUSTY CASTO, MAYOR


RITA COX, RECORDER



Post Office Box 583
Nitro, West Virginia 25143

Board of Director's Meeting
November 9, 2010, 7:00pm
Nitro Community Center Office

Call to Order: Hershel Facemyre, President, called the meeting to order at 6:59PM

Members present: Hershel Facemyre, Leonard Womble, Jim Westlund, Gene Brightwell, Charles Mann, Jim McKay, Jack Legg, Ivan Meadows, Susan Graves, April Plank, Carmen Kostelansky, and Donald Hudnall.

Members absent: John Adams, Mike Monday and Chuck Boggs

Approval of Minutes: Motion made by Jim McKay to accept the minutes of October 12, 2010. Leonard Womble seconded the motion. All board members approved.

Financial Report: Susan Graves, Treasurer

Motion to accept the financial report made by Jim McKay, seconded by Gene Brightwell. All approved.

Committee Reports:

1. Executive Committee – Hershel Facemyre- Did not meet.
2. Community Center/Safety and Facility/Property Committee – Ivan Meadows - Did not meet.
Meetings will be scheduled on the second Tuesday morning of each month (same day the NDA meets in the evening)
The Nitro Youth Basketball League purchased the motors that were used to replace the heaters in the gym. They are now working, noisy, but the gym is now warm!! The NDA appreciates all the work that the NYBL has done to keep the gym in tip top shape. Thank you!!!!
3. Beautification Committee – Carmen Kostelansky - Did not meet
4. Marketing/Public Relations and Grant Committee – April Plank – Did not meet. April will be sending us an e-mail asking for a short biography to be placed on the web site.
5. Budget/Finance/Audit and Personnel Committee – Susan Graves- Short meeting before the NDA meeting. The committee will give us an updated financial investment report next month.

Non-NDA Reports

1. War Museum Liaison – Reports given by member of the War Museum Committee – Carmen Kostelansky reported that Delmar Bird had received a call from the dog track asking about adding the museum to the tours given by the Dog Track. She will put an answering machine in the museum to handle the tour schedule. Tours will be scheduled for Fridays 9-12 and 1-4. All other days will be set up. The museum is only open every third Saturday.
2. Annexation Liaison – Report given by the City Council representative to the NDA – Nothing to report.

Old Business:

1. Update Equipment Care Center of Nitro LLC (Dana Transportation) Loan/Payment status; Harvey Peyton is officially not Dana's attorney any longer. He has hired a firm in Charleston. Lawyer McCormick is confident that the suit will be dropped.
2. Update Equipment Care Center of Nitro LLC (Dana Transportation) Lawsuit against the NDA; The property will be sold on November 19 on the Court House steps, Chuck Boggs and Hershel Facemyre will be there to represent the NDA. Jim Westlund is also invited to attend. If the bid is not enough to cover the value, then Mr. Facemyre will bid higher so the property will return back to us. Dana has made contact with Attorney Barth, to offer the NDA \$100,000.00 for the property. Of course, Mr. Barth told him no. Mr. Facemyre feels that an appropriate price to accept for the property is \$250,000.00. Jim Westlund asked why accept \$250,000.00 instead of what they still owe us of \$285,000.00. Susan Graves said that if the auction happens the \$250,000.00 would be the principal and no interest. Also, she reported that Dana has paid 2 extra interest payments. Motion made by Jim McKay to keep \$250,000.00 as the sale price, seconded by April Plank. All approved. Mr. Barth believes that Dana will come up with the money because it would be a phenomenal cost for him to move his trucks and business.
3. Status of Attorney correspondence with Passero/Adams; Hershel Facemyre has been in contact through e-mails from John Adams. There is a firm buyer for \$80,000.00 of our investment. Mr. Adams is trying to recoup the \$150,000.00. Passero/Adams hope to sale all the stock and require our funds in one sweep. They still have 60 days in which to do this as stated in a previous letter sent to them by Hershel Facemyre.
4. Status of possible sale of NDA property; The committee, Chuck Boggs, Hershel Facemyre and Susan Graves, met with Kings Way representatives and they are ready to purchase the Nitro Community Center. After their waiting period and the approval from the church board, Mr. Facemyre will call a special board meeting to get the final okay from us for the sale of the Nitro Community for \$225,000.00. It is the goal of Kings Way to keep the Nitro Community Center as a Community center for their Outreach ministry. The NDA will be able to use the office and our present meeting room. Ivan Meadows asked why we aren't advertising the sale of the Community Center to get a higher bid? (Mr. Hudnall was asked to leave for the discussion.) Jack Legg also questioned the \$225,000.00. Where were these questions and concerns months ago when Kings Way first became interested in purchasing the Community center? Hershel Facemyre reminded the NDA of Mr. Painter's comment about the building.
5. Nomination and Election of Board Members – Gene Brightwell's term as a board member runs out in November. Ivan Meadows nominated Gene for another 3 year term, seconded by Jim McKay. All approved. Hershel Facemyre met with Mary Bradley about becoming a board member. Mr. Facemyre gave each of us her resume. Jim McKay made the motion to accept her as a new board member. Jim Westlund seconded the motion. Eleven of the members approved. Ivan Meadows abstained. John Adams requested his name be removed for an additional term.

Hershel Facemyre asked if we should have someone representing the Dog track Mardi Gras? There was no objection. He will approach the interested party for the DNA. If the NDA gets to do what their job

description states, we will need a variety of different types of people to be on the NDA board. April Plank will also approach Doug Skaff about becoming a member of the board. He just recently purchased Lansing Home Products. All agreed.

New Business:

April Plank invited all to the annual reception of the "Young Executive Club" at the Governor's Mansion on November 18th 5-8PM.

Susan Graves informed everyone of the Casino Charity week-end November 19 and 20th at the Greenbrier. There will also be a PGA Golf Tournament July 25 – 31st at the Greenbrier.

Adjournment: Motion to adjourn made by Jim McKay, seconded by April Plank. Meeting adjourned at 7:54PM

Next meeting: December 14, 2010, 7:00pm at the Nitro Community Center Office.

ORDINANCE _____

An Ordinance to amend Part Eleven of the Codified Ordinances of the City of Nitro, West Virginia, as amended, by adding thereto a new Article, designated 1119, all relating to authorizing the City to create a municipal board of health; definitions; jurisdiction of the municipal board of health; appointment to and composition of municipal board of health; qualifications; number of appointees; members of the municipal board of health, terms of appointment, reappointment, oath of office, vacancies, removal, compensation, and expenses; municipal board of health meetings, attendance, bylaws, quorum, chairperson selection, and powers and duties; powers and duties of municipal board of health; municipal health officer, term of appointment, qualifications, reappointment, compensation, and removal; powers and duties of municipal health officer; financial responsibilities of appointing authorities for municipal board of health; levies; appropriations of municipal general funds for public health purposes; state funding; obstructing municipal health officer and others in the enforcement of public health laws; other violations; and penalties.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA that Part Eleven of the Codified Ordinances of the City of Nitro, West Virginia, as amended, be amended by adding thereto a new article designated 1119 and reenacted, all to read as follows:

PART ELEVEN - HEALTH AND SANITATION CODE

**ARTICLE 1119
Municipal Board of Health**

1119.01. Authorization for the establishment of the City of Nitro Board of Health.

The City Council is hereby authorized to create, establish and operate a municipal board of health pursuant to Chapter 16, Article 2 and other provisions of the Code of West Virginia of 1931, as amended, and to be responsible for directing, supervising and carrying out matters relating to the public health of the City of Nitro. This article establishes provisions applicable to the municipal board of health to ensure the consistent performance of duties relating to basic public health services and other health services and the enforcement of the laws of this state and city pertaining to public health.

1119.02. Definitions. The following terms shall have the meaning ascribed herein, unless the context in which the term is used requires a different meaning.

(a) "Basic public health services" means those services the municipal board of health is required to provide to protect the health of the public: (1) communicable and reportable disease prevention and control; (2) community health promotion; and (3) environmental health protection.

(b) "Bureau" means the Bureau for Public Health of the Department.

(c) "City" means the City of Nitro, West Virginia.

(d) "City Council" means the City Council of the City.

(e) "City of Nitro Board of Health," "municipal board of health," "municipal board" or "board" means a board of health created by the City Council and serving the City.

(f) "City health department" means the staff and facilities of the municipal board of health.

(g) "City health officer" means the individual physician with a current West Virginia license to practice medicine who supervises and directs the activities of the City health department services, staff and facilities and is appointed by the municipal board of health with approval by the Commissioner.

(h) "Commissioner" means the Commissioner of the Bureau for Public Health, who is the State Health Officer.

(i) "Communicable and reportable disease prevention and control" means and includes disease surveillance, case investigation and follow-up, outbreak investigation, response to epidemics, and prevention and control of rabies, sexually transmitted diseases, vaccine preventable diseases, HIV/AIDS, tuberculosis and other communicable and reportable diseases.

(j) "Community health promotion" means and includes assessing and reporting community health needs to improve health status, facilitating community partnerships including identifying the community's priority health needs, mobilization of a community around identified priorities, and monitoring the progress of community health education services.

(k) "Department" means the West Virginia Department of Health and Human Resources.

(l) "Director" or "director of health" means the State Health Officer.

(m) "Environmental health protection" means and includes efforts to protect the City from environmental health risks including, inspection of housing, institutions, recreational facilities, sewage and wastewater facilities; inspection and sampling of drinking water facilities; and response to disease outbreaks or disasters.

(n) "Enhanced public health services" means services that are provided by the Municipal board of health that focus on health promotion activities to address a major health problem in the City, are targeted to a particular population and assist individuals in the City to access the health care system, such as lead and radon abatement for

indoor air quality and positive pregnancy tracking.

(o) "Performance-based standards" means generally accepted, objective standards such as rules or guidelines against which the City health department's level of performance can be measured.

(p) "Primary care services" means health care services, including medical care, that emphasize first contact patient care and assume overall and ongoing responsibility for the patient in health maintenance and treatment of disease. Primary care services are services that the municipal board of health may offer if that board has determined that an unmet need for primary care services exists in its service area.

(q) "Program plan" or "plan of operation" means the annual plan the Municipal board of health is required to submit to the Commissioner for approval.

(r) "Secretary" means the Secretary of the Department.

(s) "Service area" means the territorial jurisdiction of the Municipal board of health.

1119.03. Service area of the municipal board of health.

The service area of the municipal board of health is the area within the geographical boundaries of the City.

1119.04. Appointment to and composition of municipal board of health; qualifications; number of appointees.

The Municipal board of health shall be composed of five members selected and appointed by vote of the City Council. Each member appointed to the Municipal board of health shall be a resident of the City. No more than two members who reside in the same municipal ward may be appointed and no more than two members may be appointed who are personally licensed or certified in, engaged in, or actively participating in the same business, profession or occupation. No more than three members of the Municipal board of health may belong to the same political party.

1119.05. Municipal board of health; terms of appointment; reappointment; oath of office; vacancies; removal; compensation; expenses.

(a) The term of office for members selected and appointed to the Municipal board of health shall be five years. Members may serve until their duly qualified successors are selected and appointed by vote of the City Council. Members may be reappointed for additional terms of five years. Board members' oaths of office shall be duly recorded before entering into or discharging any duties of the office.

(b) Any vacancy on the Municipal board of health shall be filled by appointment by the City Council. This appointment shall be for the unexpired term.

(c) The Municipal board of health may remove any of its members pursuant to the provisions of its lawfully adopted bylaws and shall remove any of its members for official misconduct, incompetence, neglect of duty, gross immorality or the revocation of any state professional license or certification. The Municipal board of health, or any of its members may be removed by the state health officer for failure or refusal to comply with duties as set forth by statute or rule. Upon removal, a successor or successors to the member or members removed shall immediately be appointed by the City Council .

(d) The Municipal board of health shall determine the compensation each member may receive for attending meetings of and other activities for the board as required by law: Provided, That this compensation may not exceed one hundred dollars per day. Each member of the Municipal board of health may be reimbursed for all reasonable and necessary travel and other expenses actually incurred by the member in the performance of duties as a member of the Municipal board.

1119.06. Municipal board of health; meetings; attendance; bylaws; quorum; chairperson selection, powers and duties.

(a) The Municipal board of health may meet as often as necessary to orderly and efficiently execute its duties and exercise its powers: Provided, That the board shall meet no fewer than four times per year . Members of the Municipal board of health shall attend board meetings in compliance with attendance policies established by its bylaws or rules.

(b) The Municipal board of health is authorized to and shall adopt and may amend bylaws or rules governing the time and place of its regular meetings, procedures and method of conducting its meetings including quorum, meeting attendance policies, requirements for written minutes and board actions as public records, duties and election process for officers, process for filling board vacancies, number, duties, tenure and eligibility of members, and any other matters affecting how the board is organized to perform its duties. A quorum of the board for transacting business is a simple majority of the constituent membership of the board.

(c) The Municipal board of health, pursuant to its bylaws, shall elect from its members a chairperson. The chairperson shall serve for a term of one year and may be reelected for additional terms. The chairperson may, on behalf of the board, sign documents, execute contracts and otherwise act for and in the name of the board in all matters within its lawful powers and as duly authorized by a majority of the board members.

1119.07. Municipal board of health; powers and duties.

(a) The Municipal board of health shall:

(1) Provide the following basic public health services and programs in accordance with state public health performance-based standards:

(i) Community health promotion including assessing and reporting community health needs to improve health status, facilitating community partnerships including identifying the community's priority health needs, mobilization of a community around identified priorities and monitoring the progress of community health education services;

(ii) Environmental health protection including the promoting and maintaining of clean and safe air, water, food and facilities and the administering of public health laws as specified by the Commissioner as to general sanitation, the sanitation of public drinking water, sewage and wastewater, food and milk, and the sanitation of housing, institutions, and recreation; and

(iii) Communicable or reportable disease prevention and control including disease surveillance, case investigation and follow-up, outbreak investigation, response to epidemics, and prevention and control of rabies, sexually transmitted diseases, vaccine preventable diseases, HIV/AIDS, tuberculosis and other communicable and reportable diseases;

(2) Appoint a City health officer to serve at the will and pleasure of the Municipal board of health with approval of the Commissioner;

(3) Submit a general plan of operation to the Commissioner for approval. This program plan shall be submitted annually and comply with provisions of the municipal board of health standards administrative rule;

(4) Provide equipment and facilities for the City health department that are in compliance with federal and state law;

(5) Permit the Commissioner to act by and through it, as needed: Provided, That the Commissioner may enforce all municipal ordinances of the board's service area relating to public health, and the rules and orders of the Municipal board of health within the service area of the Municipal board of health: Provided however, That the Commissioner may enforce the laws, rules and orders when, in the opinion of the Commissioner, a public health emergency exists or when the Municipal board of health fails or refuses to enforce public health laws and rules necessary to prevent and control the spread of a communicable or reportable disease dangerous to the public health;

(6) Deposit all moneys and collected fees into a City account designated for Municipal board of health purposes;

(7) Submit vouchers or other instruments approved by the Municipal board of health and signed by the City health officer or designated representative to the City treasurer for payment of necessary and reasonable expenditures from the City public health funds;

(8) Participate in audits, be in compliance with tax procedures required by the state and

annually develop a budget for the next fiscal year;

(9) Perform public health duties assigned by City ordinance consistent with state public health laws; and

(10) Enforce the public health laws of this state and any other laws of this state applicable to the Municipal board of health.

(b) The Municipal board of health may:

(l) Provide primary care services, clinical and categorical programs, and enhanced public health services;

(2) Employ or contract with any technical, administrative, clerical or other persons, to serve as needed and at the will and pleasure of the Municipal board of health. Staff and any contractors providing services to the Municipal board of health shall comply with applicable West Virginia certification and licensure requirements. Eligible staff employed by the Municipal board of health shall be covered by the rules of the division of personnel under section 29-10-6 of the West Virginia Code. However, the Municipal board of health may, in the alternative and with the consent and approval of the City Council, establish and adopt a merit system for its eligible employees. The merit system may be similar to the state merit system and may be established by the Municipal board of health by its order, subject to the approval of the City Council, adopting and making applicable to the Municipal board of health all, or any portion of any order, rule, standard, or compensation rate in effect in the state merit system as may be desired and as is properly applicable;

(3) Adopt and promulgate and from time to time amend rules consistent with state public health laws and the rules of the Department, that are necessary and proper for the protection of the general health of the City and the prevention of the introduction, propagation and spread of disease. All rules shall be filed with the City Recorder and shall be kept by the recording officer in a separate book as public records;

(4) Accept, receive and receipt for money or property from any federal, state or local governmental agency, from any other public source or from any private source, to be used for public health purposes or for the establishment or construction of public health facilities;

(5) Assess, charge and collect fees for permits and licenses for the provision of public health services in accordance with State law;

(6) Assess, charge and collect fees for services provided by the City health department: Provided, That fees for services shall be submitted to and approved by the Commissioner;

(7) Contract for payment with any municipality, Kanawha County or Putnam County, or

the board of education for Kanawha County or Putnam County for the provision of health services or for the use of public health facilities. Any contract shall be in writing and permit provision of services or use of facilities for a period not to exceed one fiscal year. The written contract may include provisions for annual renewal by agreement of the parties; and

(8) Retain and make available child safety car seats, collect rental and security deposit fees for the expenses of retaining and making available child safety car seats, and conduct public education activities concerning the use and preventing the misuse of child safety car seats: Provided, That this subsection is not intended to conflict with the provisions of West Virginia Code 17C-15-46.

(c) The Municipal board of health is charged with protecting the health and safety, as well as promoting the interests of the citizens of the City and West Virginia. All state funds appropriated by the Legislature for the benefit of local boards of health shall be used for provision of basic public health services.

1119.08. City health officer; term of appointment; qualifications; reappointment; compensation; and removal.

The Municipal board of health shall appoint a full-time or part-time City health officer with approval by the Commissioner. The City health officer shall be a physician currently licensed in this state and knowledgeable in the science of public health. The City health officer serves at the will and pleasure of the Municipal board of health for a term of one year and is eligible for reappointment at compensation determined by the Municipal board of health.

The City health officer may be removed from office by the Commissioner if the City health officer fails or refuses to carry out the lawful orders or rules of the Secretary in the event the Commissioner determines a public health emergency exists or if the City health officer fails or refuses to enforce public health laws and rules necessary to prevent and control the spread of communicable or reportable diseases dangerous to the public health. Upon removal, a successor City health officer shall immediately be appointed by the Municipal board of health pursuant to the provisions of West Virginia State Code.

1119.09. City health officer; powers and duties.

(a) The City health officer serves as the executive officer of the Municipal board of health and under its supervision. The City health officer shall administer the provisions of West Virginia State Code, all other laws of this state and the rules and orders of the Secretary relating to public health and applicable to the Municipal board of health's service area, municipal ordinances of the Municipal board of health's service area relating to public health and the rules and orders of the Municipal board of health.

(b) The City health officer has the following additional powers and duties which may be

delegated with the approval of the board:

- (1) To attend Municipal board of health meetings as a nonvoting member. The City health officer serves as secretary at all board meetings and is responsible for maintaining the Municipal board of health's offices, meeting minutes and records;
- (2) To supervise and direct the activities of the Municipal board of health's health services, employees and facilities;
- (3) To ensure that procedures are established for the receipt of communicable or reportable disease reports from local physicians and other reporting sources and for the transmittal of the reports to the Commissioner;
- (4) To perform mandatory HIV tests on persons convicted of sex-related offenses and resident within the service area; and
- (5) To determine when sufficient corrections have been made to warrant removal of any restrictions or limitations placed on an individual or entity for public health purposes by an employee of the Municipal board of health

1119.10. Financial responsibilities of appointing authorities for Municipal board of health; levies; appropriations of municipal general funds for public health purposes; state funding.

The City Council shall provide financial support for the operation of the City health department. The City Council may levy a municipal tax to provide funds for the Municipal board of health: Provided, That the tax may not exceed three cents on each one hundred dollars of assessed valuation of the taxable property in the City, according to the latest assessment.

The City Council may appropriate and spend money from the City's general funds for public health purposes and pay the expenses of the operation of the Municipal board of health services and facilities.

1119.11. Obstructing City health officer and others in the enforcement of public health laws; other violations; penalties.

Any person who willfully obstructs the City health officer, or any public health nurse, sanitarian or any other person employed by the Municipal board of health and charged with the enforcement of any public health law, in the performance of that person's legal duties in enforcing the law, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$50.00 and not more than \$500.00.

Any person who willfully violates any of the provisions of this article, or any of the rules or orders adopted or issued pursuant to the provisions, for which a penalty is not otherwise provided, is guilty of a misdemeanor and, upon conviction, shall be punished

by a fine of not less than \$200.00 and not more than \$1,000.00

1119.12. Effective date. This article shall be effective on and after February 1, 2011.

Passed on First Reading December 21, 2010

Passed on Second Reading January 4, 2011

Rusty Casto, Mayor

Rita Cox

Rita Cox, Recorder

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, JANUARY 4, 2011

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm in Council Chambers. Attending were Mayor Casto, Recorder Rita Cox, Ward 1 Councilman A. A. "Joe" Savilla, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Councilmen at Large Jim McKay, Bob Fields, and Dave Casebolt, and City Attorney Richie Robb. City Treasurer John Young was not present.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Councilman Jim McKay and the Pledge of Allegiance was led by Councilman Dave Casebolt.

FUTURE DATES OF COUNCIL: Mayor Casto said the future dates of Council are January 18, February 1 and 15.

APPROVAL OF COUNCIL MINUTES: RECORDER COX MOVED THE MINUTES OF DECEMBER 7 AND DECEMBER REGULARLY SCHEDULED MEETINGS OF COUNCIL AND DECEMBER 21 MEETING TO DISCUSS HEALTH DEPARTMENT BE APPROVED AS WRITTEN. THE MOTION WAS SECONDED BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

CITIZEN OF THE MONTH: Mayor Casto said the person selected as Citizen of the Month could not be present at the meeting. COUNCILMAN FIELDS MOVED THE CITIZEN OF THE MONTH BE TABLED TO THE NEXT MEETING. THE MOTION WAS SECONDED BY COUNCILMAN JAVINS WITH A UNANIMOUS VOTE FOR THE MOTION.

OLD BUSINESS:

PURCHASE OF FIRE TRUCK: Mayor Casto called on Fire Chief E. W. Hedrick who informed Council that there have been numerous operational problems with both the American LaFrance fire truck and the FMC fire truck. He said that a volunteer fire company in Indiana is interested in buying the LaFrance and possibly the FMC. He requested Council's permission to accept the offer for one or both of the used fire trucks and in turn to declare the situation an emergency purchase to buy two new trucks. Recorder Cox said that Council would be causing the emergency by selling two trucks. Richie Robb, City Attorney said that was true but it was his belief the city could do that. COUNCILMAN SAVILLA MOVED THE RESOLUTION BE PASSED TO ALLOW THE TREASURER TO PURCHASE ONE/TWO REPLACEMENT TRUCKS PENDING THE PURCHASE OF ONE OR TWO TRUCKS BY THE VOLUNTEER FIRE DEPARTMENT IN INDIANA. THE MOTION WAS SECONDED BY COUNCILMAN RACER. VOTE WAS UNANIMOUS FOR THE MOTION.

POLICE DEPARTMENT PAY: COUNCILMAN SAVILLA MOVED THE ITEM ON POLICE DEPARTMENT PAY BE TABLED UNTIL A FUTURE MEETING DUE TO TREASURER JOHN YOUNG'S ABSENCE. THE MOTION WAS SECONDED BY RECORDER COX. VOTE WAS UNANIMOUS FOR THE MOTION.

PUBLIC HEARING/AN ORDINANCE AUTHORIZING THE CITY OF NITRO TO CREATE A MUNICIPAL HEALTH BOARD: Richie Robb told Council that by passing the Ordinance being discussed, there would not be a health department created. Passing the ordinance would give Council the power to investigate the possibility. John Montgomery, co-chair of the Ordinance Committee, said that was the goal, to authorize Council to create a municipal health board. He said passage of the ordinance did not create a health department. Nitro resident, Nancy Tonkin, said she was opposed to a health department being formed for several reasons: she does not want to be taxed anymore, the duties would duplicate what Kanawha Charleston Health Department already does, and she opposed to the introduction of smoking back into the county. Councilman Matthews said that there is no plan to use taxes for a health department and he

would like to see it funded by corporate donations and budgetary changes. Nancy Tonkin said to allow smoking would violate the clean indoor air standards that have been achieved. She said the City of Nitro would be taking on a lot of responsibility by creating a health board. Councilman Fields said the Kanawha Charleston Health Board has three members appointed by the county and three by Charleston. Councilman Matthews said that Charleston Mayor Danny Jones had recently been quoted as saying that other cities in the county should help pay for the health department. COUNCILMAN SAVILLA MOVED THE HEARING BE CLOSED WITH A SECOND BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION.

SECOND READING AN ORDINANCE AUTHORIZING THE CITY OF NITRO TO CREATE A MUNICIPAL HEALTH BOARD: City Attorney Richie Robb read by title only An Ordinance Authorizing the City of Nitro to Establish a Municipal Board of Health Designated 1119. COUNCILMAN SAVILLA MOVED THE ORDINANCE AUTHORIZING THE CITY OF NITRO TO CREATE A MUNICIPAL HEALTH BOARD DESIGNATED 1119 BE PASSED ON SECOND READING WITH A SECOND BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

NITRO STREETScape MASTER PLAN COMMUNITY MEETING/JANUARY 13, 5:00 - 7:00 PM/KATHY MATTEA AUDITORIUM: Councilman Casebolt reported that a public meeting will be held for the Nitro Streetscape Master Plan on January 13 from 5 to 7 pm in the Kathy Mattea Auditorium in the Community Center. The purpose of the meeting is for information and public input on decisions about Streetscape. Refreshments will be served.

NEW BUSINESS:

INSTALLATION OF POLICE RADIOS: RECORDER COX MOVED THE POLICE DEPARTMENT BE AUTHORIZED TO INSTALL IRP RADIOS IN ALL POLICE CARS AND SUVS AT A COST OF \$5500.00 WITH A SECOND BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION

POLICE PENSION 2010: RECORDER COX MOVED THE NITRO POLICE PENSION INFORMATION TO BE SUBMITTED TO THE WV TREASURER'S OFFICE FOR FISCAL YEAR ENDING JUNE 30, 2010 BE MADE A PART OF COUNCIL MINUTES WITH A SECOND BY COUNCILMAN MCKAY. COUNCIL VOTED UNANIMOUSLY FOR THE MOTION.

TREASURER REPORT: John Young was not in attendance so no report was given.

ATTORNEY REPORT: Richie Robb said he had no prepared report but would answer any questions from Council.

COUNCIL COMMENTS:

Mayor Casto said the city had approximately 28 tons of salt in preparation for the remainder of the winter weather. He said the Department of Natural Resources are going to stock Ridenour Lake with trout in the next week.

Councilman Matthews said the city had been awarded a \$20,000.00 grant by Kanawha County Public Safety Committee to buy equipment for a new fire truck

Councilman Casebolt said some of the lights on the flags outside City Hall need to be replaced.

PUBLIC COMMENTS:

John Montgomery said the Ordinance Committee will meet Thursday at 7:00 pm in the NDA Boardroom.

Leonard Womble said he wanted to remind everyone that the Convention and Visitors Bureau meets monthly and public input and attendance was welcome.

ADJOURNMENT:

COUNCILMEN MCKAY MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR

A handwritten signature in black ink, appearing to read "Rita Cox", written over a horizontal line.

RITA COX, RECORDER

RESOLUTION 11-01

WHEREAS the Chief of the Nitro Fire Department brought to this Council's attention the ongoing problems of repairs to that department's primary service vehicle; and

WHEREAS the same chief has located an interested purchaser of the vehicle, a volunteer fire department in the State of Indiana; and

WHEREAS the sale of the vehicle would leave the city without a primary service consequently diminishing the desired and necessary level of fire protection.

Now therefore be it Resolved that the appropriate city officials as follows:

Councilman Craig Matthews Treasurer John Young

are designated to effect the sale of the subject vehicle. Further, under the provisions of Section 111.05 of the Nitro Codified Ordinances, the Council determines the foregoing sale will constitute a bona fide emergency situation due to unforeseen causes, namely the diminishment of adequate fire protection the sale of the aforesaid vehicle. Accordingly, the Council deems the purchase of a replacement primary fire service vehicle to be of an emergency nature not requiring the solicitation of competitive bids. Therefore, this Council under the provision of Section 111.05 authorizes the purchasing director to make such purchase without competitive bids and establishes guidelines, if any, upon such purchase as follows: none.

Adopted the 4th day of January, 2011 by a majority of Council members.

Rusty Casto, Mayor

Rita Cox
Rita Cox, Recorder

ORDINANCE _____

An Ordinance to amend Part Eleven of the Codified Ordinances of the City of Nitro, West Virginia, as amended, by adding thereto a new Article, designated 1119, all relating to authorizing the City to create a municipal board of health; definitions; jurisdiction of the municipal board of health; appointment to and composition of municipal board of health; qualifications; number of appointees; members of the municipal board of health, terms of appointment, reappointment, oath of office, vacancies, removal, compensation, and expenses; municipal board of health meetings, attendance, bylaws, quorum, chairperson selection, and powers and duties; powers and duties of municipal board of health; municipal health officer, term of appointment, qualifications, reappointment, compensation, and removal; powers and duties of municipal health officer; financial responsibilities of appointing authorities for municipal board of health; levies; appropriations of municipal general funds for public health purposes; state funding; obstructing municipal health officer and others in the enforcement of public health laws; other violations; and penalties.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA that Part Eleven of the Codified Ordinances of the City of Nitro, West Virginia, as amended, be amended by adding thereto a new article designated 1119 and reenacted, all to read as follows:

PART ELEVEN - HEALTH AND SANITATION CODE

**ARTICLE 1119
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1119.02. Definitions. The following terms shall have the meaning ascribed herein, unless the context in which the term is used requires a different meaning.

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(c) "City" means the City of Nitro, West Virginia.

(d) "City Council" means the City Council of the City.

(e) "City of Nitro Board of Health," "municipal board of health," "municipal board" or "board" means a board of health created by the City Council and serving the City.

(f) "City health department" means the staff and facilities of the municipal board of health.

(g) "City health officer" means the individual physician with a current West Virginia license to practice medicine who supervises and directs the activities of the City health department services, staff and facilities and is appointed by the municipal board of health with approval by the Commissioner.

(h) "Commissioner" means the Commissioner of the Bureau for Public Health, who is the State Health Officer.

(i) "Communicable and reportable disease prevention and control" means and includes disease surveillance, case investigation and follow-up, outbreak investigation, response to epidemics, and prevention and control of rabies, sexually transmitted diseases, vaccine preventable diseases, HIV/AIDS, tuberculosis and other communicable and reportable diseases.

(j) "Community health promotion" means and includes assessing and reporting community health needs to improve health status, facilitating community partnerships including identifying the community's priority health needs, mobilization of a community around identified priorities, and monitoring the progress of community health education services.

(k) "Department" means the West Virginia Department of Health and Human Resources.

(l) "Director" or "director of health" means the State Health Officer.

(m) "Environmental health protection" means and includes efforts to protect the City from environmental health risks including, inspection of housing, institutions, recreational facilities, sewage and wastewater facilities; inspection and sampling of drinking water facilities; and response to disease outbreaks or disasters.

(n) "Enhanced public health services" means services that are provided by the Municipal board of health that focus on health promotion activities to address a major health problem in the City, are targeted to a particular population and assist individuals in the City to access the health care system, such as lead and radon abatement for

indoor air quality and positive pregnancy tracking.

(o) "Performance-based standards" means generally accepted, objective standards such as rules or guidelines against which the City health department's level of performance can be measured.

(p) "Primary care services" means health care services, including medical care, that emphasize first contact patient care and assume overall and ongoing responsibility for the patient in health maintenance and treatment of disease. Primary care services are services that the municipal board of health may offer if that board has determined that an unmet need for primary care services exists in its service area.

(q) "Program plan" or "plan of operation" means the annual plan the Municipal board of health is required to submit to the Commissioner for approval.

(r) "Secretary" means the Secretary of the Department.

(s) "Service area" means the territorial jurisdiction of the Municipal board of health.

1119.03. Service area of the municipal board of health.

The service area of the municipal board of health is the area within the geographical boundaries of the City.

1119.04. Appointment to and composition of municipal board of health; qualifications; number of appointees.

The Municipal board of health shall be composed of five members selected and appointed by vote of the City Council. Each member appointed to the Municipal board of health shall be a resident of the City. No more than two members who reside in the same municipal ward may be appointed and no more than two members may be appointed who are personally licensed or certified in, engaged in, or actively participating in the same business, profession or occupation. No more than three members of the Municipal board of health may belong to the same political party.

1119.05. Municipal board of health; terms of appointment; reappointment; oath of office; vacancies; removal; compensation; expenses.

(a) The term of office for members selected and appointed to the Municipal board of health shall be five years. Members may serve until their duly qualified successors are selected and appointed by vote of the City Council. Members may be reappointed for additional terms of five years. Board members' oaths of office shall be duly recorded before entering into or discharging any duties of the office.

(b) Any vacancy on the Municipal board of health shall be filled by appointment by the City Council. This appointment shall be for the unexpired term.

(c) The Municipal board of health may remove any of its members pursuant to the provisions of its lawfully adopted bylaws and shall remove any of its members for official misconduct, incompetence, neglect of duty, gross immorality or the revocation of any state professional license or certification. The Municipal board of health, or any of its members may be removed by the state health officer for failure or refusal to comply with duties as set forth by statute or rule. Upon removal, a successor or successors to the member or members removed shall immediately be appointed by the City Council .

(d) The Municipal board of health shall determine the compensation each member may receive for attending meetings of and other activities for the board as required by law: Provided, That this compensation may not exceed one hundred dollars per day. Each member of the Municipal board of health may be reimbursed for all reasonable and necessary travel and other expenses actually incurred by the member in the performance of duties as a member of the Municipal board.

1119.06. Municipal board of health; meetings; attendance; bylaws; quorum; chairperson selection, powers and duties.

(a) The Municipal board of health may meet as often as necessary to orderly and efficiently execute its duties and exercise its powers: Provided, That the board shall meet no fewer than four times per year . Members of the Municipal board of health shall attend board meetings in compliance with attendance policies established by its bylaws or rules.

(b) The Municipal board of health is authorized to and shall adopt and may amend bylaws or rules governing the time and place of its regular meetings, procedures and method of conducting its meetings including quorum, meeting attendance policies, requirements for written minutes and board actions as public records, duties and election process for officers, process for filling board vacancies, number, duties, tenure and eligibility of members, and any other matters affecting how the board is organized to perform its duties. A quorum of the board for transacting business is a simple majority of the constituent membership of the board.

(c) The Municipal board of health, pursuant to its bylaws, shall elect from its members a chairperson. The chairperson shall serve for a term of one year and may be reelected for additional terms. The chairperson may, on behalf of the board, sign documents, execute contracts and otherwise act for and in the name of the board in all matters within its lawful powers and as duly authorized by a majority of the board members.

1119.07. Municipal board of health; powers and duties.

(a) The Municipal board of health shall:

(1) Provide the following basic public health services and programs in accordance with state public health performance-based standards:

(i) Community health promotion including assessing and reporting community health needs to improve health status, facilitating community partnerships including identifying the community's priority health needs, mobilization of a community around identified priorities and monitoring the progress of community health education services;

(ii) Environmental health protection including the promoting and maintaining of clean and safe air, water, food and facilities and the administering of public health laws as specified by the Commissioner as to general sanitation, the sanitation of public drinking water, sewage and wastewater, food and milk, and the sanitation of housing, institutions, and recreation; and

(iii) Communicable or reportable disease prevention and control including disease surveillance, case investigation and follow-up, outbreak investigation, response to epidemics, and prevention and control of rabies, sexually transmitted diseases, vaccine preventable diseases, HIV/AIDS, tuberculosis and other communicable and reportable diseases;

(2) Appoint a City health officer to serve at the will and pleasure of the Municipal board of health with approval of the Commissioner;

(3) Submit a general plan of operation to the Commissioner for approval. This program plan shall be submitted annually and comply with provisions of the municipal board of health standards administrative rule;

(4) Provide equipment and facilities for the City health department that are in compliance with federal and state law;

(5) Permit the Commissioner to act by and through it, as needed: Provided, That the Commissioner may enforce all municipal ordinances of the board's service area relating to public health, and the rules and orders of the Municipal board of health within the service area of the Municipal board of health: Provided however, That the Commissioner may enforce the laws, rules and orders when, in the opinion of the Commissioner, a public health emergency exists or when the Municipal board of health fails or refuses to enforce public health laws and rules necessary to prevent and control the spread of a communicable or reportable disease dangerous to the public health;

(6) Deposit all moneys and collected fees into a City account designated for Municipal board of health purposes;

(7) Submit vouchers or other instruments approved by the Municipal board of health and signed by the City health officer or designated representative to the City treasurer for payment of necessary and reasonable expenditures from the City public health funds;

(8) Participate in audits, be in compliance with tax procedures required by the state and

annually develop a budget for the next fiscal year;

(9) Perform public health duties assigned by City ordinance consistent with state public health laws; and

(10) Enforce the public health laws of this state and any other laws of this state applicable to the Municipal board of health.

(b) The Municipal board of health may:

(1) Provide primary care services, clinical and categorical programs, and enhanced public health services;

(2) Employ or contract with any technical, administrative, clerical or other persons, to serve as needed and at the will and pleasure of the Municipal board of health. Staff and any contractors providing services to the Municipal board of health shall comply with applicable West Virginia certification and licensure requirements. Eligible staff employed by the Municipal board of health shall be covered by the rules of the division of personnel under section 29-10-6 of the West Virginia Code. However, the Municipal board of health may, in the alternative and with the consent and approval of the City Council, establish and adopt a merit system for its eligible employees. The merit system may be similar to the state merit system and may be established by the Municipal board of health by its order, subject to the approval of the City Council, adopting and making applicable to the Municipal board of health all, or any portion of any order, rule, standard, or compensation rate in effect in the state merit system as may be desired and as is properly applicable;

(3) Adopt and promulgate and from time to time amend rules consistent with state public health laws and the rules of the Department, that are necessary and proper for the protection of the general health of the City and the prevention of the introduction, propagation and spread of disease. All rules shall be filed with the City Recorder and shall be kept by the recording officer in a separate book as public records;

(4) Accept, receive and receipt for money or property from any federal, state or local governmental agency, from any other public source or from any private source, to be used for public health purposes or for the establishment or construction of public health facilities;

(5) Assess, charge and collect fees for permits and licenses for the provision of public health services in accordance with State law;

(6) Assess, charge and collect fees for services provided by the City health department: Provided, That fees for services shall be submitted to and approved by the Commissioner;

(7) Contract for payment with any municipality, Kanawha County or Putnam County, or

the board of education for Kanawha County or Putnam County for the provision of health services or for the use of public health facilities. Any contract shall be in writing and permit provision of services or use of facilities for a period not to exceed one fiscal year. The written contract may include provisions for annual renewal by agreement of the parties; and

(8) Retain and make available child safety car seats, collect rental and security deposit fees for the expenses of retaining and making available child safety car seats, and conduct public education activities concerning the use and preventing the misuse of child safety car seats: Provided, That this subsection is not intended to conflict with the provisions of West Virginia Code 17C-15-46.

(c) The Municipal board of health is charged with protecting the health and safety, as well as promoting the interests of the citizens of the City and West Virginia. All state funds appropriated by the Legislature for the benefit of local boards of health shall be used for provision of basic public health services.

1119.08. City health officer; term of appointment; qualifications; reappointment; compensation; and removal.

The Municipal board of health shall appoint a full-time or part-time City health officer with approval by the Commissioner. The City health officer shall be a physician currently licensed in this state and knowledgeable in the science of public health. The City health officer serves at the will and pleasure of the Municipal board of health for a term of one year and is eligible for reappointment at compensation determined by the Municipal board of health.

The City health officer may be removed from office by the Commissioner if the City health officer fails or refuses to carry out the lawful orders or rules of the Secretary in the event the Commissioner determines a public health emergency exists or if the City health officer fails or refuses to enforce public health laws and rules necessary to prevent and control the spread of communicable or reportable diseases dangerous to the public health. Upon removal, a successor City health officer shall immediately be appointed by the Municipal board of health pursuant to the provisions of West Virginia State Code.

1119.09. City health officer; powers and duties.

(a) The City health officer serves as the executive officer of the Municipal board of health and under its supervision. The City health officer shall administer the provisions of West Virginia State Code, all other laws of this state and the rules and orders of the Secretary relating to public health and applicable to the Municipal board of health's service area, municipal ordinances of the Municipal board of health's service area relating to public health and the rules and orders of the Municipal board of health.

(b) The City health officer has the following additional powers and duties which may be

delegated with the approval of the board:

- (1) To attend Municipal board of health meetings as a nonvoting member. The City health officer serves as secretary at all board meetings and is responsible for maintaining the Municipal board of health's offices, meeting minutes and records;
- (2) To supervise and direct the activities of the Municipal board of health's health services, employees and facilities;
- (3) To ensure that procedures are established for the receipt of communicable or reportable disease reports from local physicians and other reporting sources and for the transmittal of the reports to the Commissioner;
- (4) To perform mandatory HIV tests on persons convicted of sex-related offenses and resident within the service area; and
- (5) To determine when sufficient corrections have been made to warrant removal of any restrictions or limitations placed on an individual or entity for public health purposes by an employee of the Municipal board of health

1119.10. Financial responsibilities of appointing authorities for Municipal board of health; levies; appropriations of municipal general funds for public health purposes; state funding.

The City Council shall provide financial support for the operation of the City health department. The City Council may levy a municipal tax to provide funds for the Municipal board of health: Provided, That the tax may not exceed three cents on each one hundred dollars of assessed valuation of the taxable property in the City, according to the latest assessment.

The City Council may appropriate and spend money from the City's general funds for public health purposes and pay the expenses of the operation of the Municipal board of health services and facilities.

1119.11. Obstructing City health officer and others in the enforcement of public health laws; other violations; penalties.

Any person who willfully obstructs the City health officer, or any public health nurse, sanitarian or any other person employed by the Municipal board of health and charged with the enforcement of any public health law, in the performance of that person's legal duties in enforcing the law, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$50.00 and not more than \$500.00.

Any person who willfully violates any of the provisions of this article, or any of the rules or orders adopted or issued pursuant to the provisions, for which a penalty is not otherwise provided, is guilty of a misdemeanor and, upon conviction, shall be punished

by a fine of not less than \$200.00 and not more than \$1,000.00

1119.12. Effective date. This article shall be effective on and after February 1, 2011.

Passed on First Reading December 21, 2010

Passed on Second Reading January 4, 2011

Rusty Casto, Mayor

Rita Cox
Rita Cox, Recorder



To: John D. Perdue

State Treasurer

Under penalty for false swearing (West Virginia Code §61-5-3), I hereby certify foregoing information in this annual report of the NITRO POLICE Pension and Protection Fund for fiscal year 2010 to be true and accurate in all respects and has been presented to the NITRO city council on JANUARY 4, 2011.

DATE: JANUARY 4th, 2011

NAME: RUSTY CASTO, MAYOR

SIGNED: X

Title: Chairperson of the Board of Trustees of the Policemen's Pension and Relief Fund/Fireman's Pension and Relief Fund.

MUNICIPALITY: NITRO

RUSTY CASTO
MAYOR
304-755-0705

P. O. BOX 308
NITRO, WEST VIRGINIA 25143

RITA COX
RECORDER
304-755-0707

**WORKSHEET FOR THE APPLICATION FOR DISTRIBUTION(S) AND CERTIFICATION OF
MUNICIPAL CONTRIBUTIONS TO THE OPEN MUNICIPAL PENSIONS AND PROTECTION FUND**

Pension Fund _____

Treasurer _____

Municipality _____

A. Contributions by Employees Hired prior to 1/1/2010 Min. 7%-Max. 8.5% (FY2009-FY2010)	_____ %	\$ _____	1. Payroll (FY2009-2010 Actual Payroll of Employees Hired prior to 1/1/2010) AND	\$ _____
A1. Contributions by Employees Hired on or after 1/1/2010 9.5% of pay required (FY2009-FY2010)	_____ %	\$ _____	1a. Payroll (FY2009-2010 Actual Payroll of Employees Hired on or after to 1/1/2010)	\$ _____
			2. Normal Cost %**	_____ %
B. State Share		\$ _____	3. Normal Cost (Item 1+Item 1a) x (Item 2)	\$ _____
			4. Unfunded Liability Amortization Cost	\$ _____
C. Municipal Obligation*		\$ _____	5. Funding Obligation for the year Under the Standard Funding Method	\$ _____
			6.State Share	\$ _____
D. Total (A + A1.+B.+C)		\$ _____	7.***Municipal Share Under the Standard Funding Method (Item 5 – Item 6)	\$ _____

* Please indicate below the funding method being used in Item C.

____ Item 7 (Standard Funding Method)

Alternative Funding Method:

____ 107% of Prior Year's Contributions §8-22-20(c)(1)

____ 108% of Prior Year's Contributions §8-22-20(c)(1)

____ Prior year's contribution increased by a percentage** such that a contribution of this percentage increase over the next fifteen years may be expected to continue to maintain fund solvency.

** From the Actuary's Report

***§ 8-22-20(c)(3) requires cities to contribute annually to the fund an amount, which may not be less than the normal cost, as determined by the actuary

Notes: The "State Share" comes from the Insurance taxes collected by the Insurance Commissioner during the 2009 calendar year.

Allocation of these funds by the State Treasurer's Office is made on September 1, 2010.

Actuarial information is based on your last actuarial valuations as required by Chapter 8-22-20 and Chapter 8-22-26a (f).

Treasurer

JOHN E. YOUNG, CPA

Municipality

CITY OF NITRO

Fiscal Year

(July 1 - June 30)

7/1/2009 6/30/2010

Name of Actuary

Period of Actuarial Study

FY _____ FY _____ FY _____

Actuarial Funding Method

(please check appropriate box)

☐ Standard Funding Method
☒ 107% of Prior Year's Contribution
☐ % Necessary to Maintain Plan Solvency for 15 Yrs

Standard Funding Method

107% of Prior Year's Contribution

% Necessary to Maintain Plan Solvency for 15 Yrs

_____ %

Actuarial Assumptions

	%	Investment Rate of Return
	%	Percent Growth in State Share
	%	Percent of Plan Funded (Funded Ratio)
\$		Unfunded Actuarial Accrued Liability
	%	Projected Pay Increase Per Year

PART I		Item	Amount
Beginning Fair Value of Pension Plan		July 1	\$ 1,323,466
I. Revenue During Fiscal Year			
1. Employee Contributions		Percent of Gross Salary 8% %	\$ 55,160
Total amounts contributed by employees or withheld from their salaries			
2. Government Contributions			
a. From Parent Local Government		Required employer contributions from your municipality	\$ 120,210
b. Additional employer contributions from your municipality			\$
c. From State Government		State aid received from the State Treasurer's Office	\$ 260,410
3. Earnings on Investments			
a. Net Appreciation/(Depreciation) of Fair Value of Investments		\$ 132,530	
b. Bond Interest		\$ 11,741	
c. Dividends		\$ 22,663	
d. Net Realized Gain (Loss) on Sale or Exchange of Assets		\$	
e. Other		\$	
f. Less Investment Expense		\$ 6,273	
Net Investment Income			\$ 160,661
4. All other revenues		Please Specify	\$
Total Revenues		Total of items I.1. through I.4.	\$ 696,658
II. Expenditures During Fiscal Year			
1. Benefits Paid		Salaries, wages, and other benefits	\$ 240,721
2. Withdrawals		Amount paid to employees or former employees or their survivors, (refunded) return of contributions made by employees (based on proof of loss), death benefits, and any benefits for such amounts	\$ 15,856

The above named municipal treasurer further certifies that a report of the actuarial soundness of the pension fund for the 2010 fiscal year, prepared in accordance with Chapter 8-22-26a (f) of the West Virginia Code, has previously been transferred to the State Treasurer's Office; and

The above named municipal treasurer further certifies that the following amounts are true and correct:

A.	Actual amount contributed by the municipality's covered employees hired prior to January 1, 2010, during the fiscal year ending June 30, 2010.	\$ 54,787.14
A1.	Actual amount contributed by the municipality's covered employees hired on or after January 1, 2010, during the fiscal year ending June 30, 2010.	\$ 378.38
B.	State Share	\$ 113,532.00
C.	Municipal Obligation	\$ 110,741.44
D.	TOTAL	\$ 279,438.96

The previously named municipal treasurer further certified that of the supplemental amount indicated in Item C: \$ 110,741.44 has been irrevocably contributed to the previously named pension and relief fund. It is understood that if this amount is less than the supplemental amount indicated in Item C, then only a portion of the municipality's allocable amount (from the Municipal Pensions and Protection Fund) will be distributed. The portion shall be determined by dividing the amount contributed above by the total city obligation as shown in item C. Remaining proportional shares will be distributed only upon additional certification that the municipality has contributed additional monies due the pension and relief fund by the previously named treasurer.

The total year to date amount of irrevocable contribution is: \$ _____ which includes the above additional contribution.

Certified by:

Signature of Municipal Treasurer

Certified on:

Date

Phone:

304-755-5066

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, JANUARY 18, 2011

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm in Council Chambers. Attending were Mayor Casto, Recorder Rita Cox, Ward 1 Councilman A. A. "Joe" Savilla, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Councilman at Large Dave Casebolt, Councilman at Large Bob Fields, Councilman at Large Jim McKay, City Attorney Richie Robb and City Treasurer John Young.

INVOCATION/PLEDGE OF ALLEGIANCE: Councilman Bob Fields gave the Invocation and the Pledge of Allegiance was led by Recorder Rita Cox.

FUTURE DATES OF COUNCIL: Mayor Casto announced the future dates of Council are February 1 and 15 and March 1 and 15.

APPROVAL OF COUNCIL MINUTES: RECORDER COX MOVED THE APPROVAL OF THE JANUARY 4, 2011 MINUTES OF COUNCIL BE TABLED UNTIL THE NEXT MEETING WITH A SECOND BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION.

NITRO TEEN LIBRARY BOARD: COUNCILMAN FIELDS MOVED THE REPORT ON THE TEEN LIBRARY BOARD BE MOVED TO A FUTURE MEETING WITH A SECOND BY RECORDER COX. VOTE WAS UNANIMOUS FOR THE MOTION.

OLD BUSINESS:

NDA: COUNCILMAN MCKAY MOVED THE MINUTES OF THE JANUARY MEETING OF THE NITRO DEVELOPMENT AUTHORITY BE MADE A PART OF COUNCIL MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN SAVILLA. VOTE WAS UNANIMOUS FOR THE MOTION.

Councilman McKay said the NDA Board has a limit of 21 members and the Board currently has 15 but would like to add another member. COUNCILMAN MCKAY MOVED MARDI GRAS HOTEL EMPLOYEE PAT BLANKENSHIP BE APPROVED FOR MEMBERSHIP ON THE NDA BOARD. THE MOTION WAS SECONDED BY RECORDER COX. VOTE WAS UNANIMOUS FOR THE MOTION.

SIDEWALK SWEEPER BIDS: Recorder Cox reported that the public notice requesting bids for a new and/or refurbished sidewalk sweeper were due on Martin Luther King Jr. Day when City Hall was closed. Richie Robb recommended the Public Notice be put in local papers a second time. RECORDER COX MOVED THE INVITATION TO BID ON SIDEWALK SWEEPERS BOTH NEW AND REFURBISHED BE ADVERTISED. THE MOTION WAS SECONDED BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION.

NEW BUSINESS:

SALT SPREADER: Mayor Casto reported that it was necessary last week to buy a new salt spreader. The old one was broken, three bids were acquired, and a new one was purchased from Baker for \$4500.00. The broken one had been given to Nitro by the City of St. Albans and had been repaired several times in the last three years.

COMMITTEE TO ASSESS CITY HALL NEEDS: COUNCILMAN CASEBOLT MOVED A COMMITTEE BE FORMED TO ASSESS THE NEED FOR A NEW CITY HALL WITH A SECOND BY COUNCILMAN MCKAY. Councilman Casebolt asked Council members to bring suggested names to be appointed to a committee. VOTE WAS UNANIMOUS FOR THE MOTION.

ATTORNEY REPORT: Richie Robb said that he does not think the issue of overtime payment in a week

when earned time is taken off can be addressed with are resolution but needs to be done by Ordinance. Councilman Matthews said that as it currently is being interpreted people are being punished for taking vacation time. COUNCILMAN MATTHEWS MOVED THE ISSUE OF OVERTIME PAYMENT IN A WEEK WHEN AN EMPLOYEE HAS TAKEN VACATION BE REFERRED TO THE ORDINANCE COMMITTEE AND THEN A REPORT BE GIVEN BACK TO COUNCIL. THE MOTION WAS SECONDED BY COUNCILMAN CASEBOLT. VOTE WAS UNANIMOUS FOR THE MOTION.

TREASURER REPORT: John Young said that revenues are up compared to last year at this time but expenses are up. This is the usually low point in cash flow for the city. Mr. Young said he would like clarification on Council's vote on the purchase of new fire trucks at the previous meeting since he was not in attendance. Councilman Savilla said that pending the purchase of the Indiana volunteer fire department: if they buy one of Nitro's trucks the city would buy one new truck; if they buy two of Nitro's used trucks, the City of Nitro would be authorized to buy two new trucks because it was an emergency situation. Councilman Racer said he thinks one would be an emergency but that a second truck should be put out for bid. Recorder Cox said that it looked as if we were creating our own emergency and that did not seem like a true emergency. Chief Hedrick said the money is supposed to be approved by Friday for the purchase of Nitro's used trucks. The new truck is to be purchased from Sutphen in Columbus, Ohio and they will have one truck ready in about 30 days. The second truck would not be ready until midsummer.

COUNCIL COMMENTS:

Councilman Savilla said he and his wife, Joan, are celebrating their 47th wedding anniversary.

COUNCILMAN BILL JAVINS MOVED THE MINUTES OF THE DECEMBER MEETING OF THE CONVENTION AND VISITORS' BUREAU BE MADE A PART OF COUNCIL MINUTES. THE MOTION WAS SECONDED BY RECORDER COX. VOTE WAS UNANIMOUS FOR THE MOTION.

Councilman Fields said work on the War Memorial on 21st Street and First Avenue would resume when the weather was warmer.

Councilman Casebolt said he was concerned about the annexation process and how quickly it could proceed.

ADJOURNMENT:

COUNCILMAN MCKAY MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR


 RITA COX, RECORDER



City Council

0371

Post Office Box 583
Nitro, West Virginia 25143

www.nitrodevelopment.org

NDA Minutes January 11, 2011

Members present: Hershel Facemyre, April Plank, Susan Graves, Mike Monday, Jack Legg, Jim McKay, Chuck Boggs, Frank Groves, Charles Mann, Leonard Womble, Mary Bradley, Ivan Meadows. **Members not present:** Jim Westlund, Gene Brightwell, and Carmen Kostolansky.

The meeting was called to order at 7:00 PM by President, Hershel Facemyre. Hershel welcomed newest member, Frank Groves, to the NDA. Frank is a past member.

Approval of December Board Minutes:

The board went over the minutes from the December meeting. Jim McKay moved to accept the minutes, Chuck Boggs seconded the motion. Board approved.

Treasurers Report:

Susan went over the Treasurer's Report and reported there are no outstanding issues as far as the sale of the Community Center and that all NDA bills are paid in-full. Susan stated that she expects little bills to trickle in such as a final sewage bill, but as of this meeting's date, everything is paid in-full. On the flip-side, an unexpected audit bill in the amount of \$8,800 came in the mail that day. Since the NDA's auditing bill between the years of 2003-2010 has been paid in-full, it's expected the new bill reflects the years from between 1999-2002. The board discussed and decided that the \$8,800 bill should be dismissed since it's so old and the auditor's should have caught the expense (bill) when the audit was performed 7-10 years ago. The NDA will write a letter to Glenn Gainer, WV Auditor, and state the situation as unethical and an error on the auditor's office and should be dismissed. A further investigation will proceed of the situation.

Committee Reports:

There were no committee reports. None of the standing committees met during the period prior to this Board meeting. Although the following information was shared with the Board: The Marketing/PR Committee did not meet but April Plank provided the board with a report in which the committee had been working on. April reported that the NDA official Web site had been launched and asked members to visit the site, read through and let her know of any changes. She also stated that business cards would need to be made soon, at least for Hershel Facemyre as president. April will begin working on business cards. She also announced that the NDA was offered free advertising within the *West Virginia Executive* magazine, and upon the board's

approval, she would begin working on that as well. Hershel also stated that the marketing committee had been working on a "launch party" of the NDA and their Web site where the NDA would invite residents, businesses, realtors, etc. to the event. The NDA wants to build working relationships with the community and residents, or anyone who has a vested interest in the City of Nitro—and hosting a party will begin that relationship.

Jim McKay moved to accept the Marketing Committee Report, Leonard seconded. Board approved.

The Finance/Budget Committee did not meet but Susan will call a meeting next week to discuss policies and come up with a budget/financial plan for the NDA.

The Museum/Liaison Committee did not meet but Hershel would like to get involved with the VFW as the War Museum is essential to the CVB and the tourism of Nitro. Leonard stated that the importance of the Living Memorial is a vital part of our community.

The Annexation Committee did not meet but Jim McKay stated that Bayer met with Nitro's Wastewater Utility about merging with their wastewater utility, which could save both parties money. Bayer announced today that they would lay off 220 employees over the next three years. Bayer is also upset over the Dunbar annexation. There's a meeting scheduled with Bayer at the end of the month.

Old Business:

Hershel began by informing the board about the Dana payment situation, which was scheduled to be paid on or before December 23, 2010. A Dana Trucking representative came to the Community Center to drop off the payment to Don, who informed the representative that he was not affiliated with the NDA since the property was sold to Kingsway Christian Church. The Dana rep asked where to submit payment and Don informed the rep that Susan Graves's office, who is a member of the board, was located across the street. The Dana rep dropped the payment off in the mail slot of Susan's office as she was not there at the time due to the holidays. Since we are not aware of the time/day the payment was dropped off, it's hard to say if it was made on-time. If the board doesn't receive the second payment on or before January 23, 2011 the board will again proceed with the foreclosure on the Dana property.

Hershel Facemyre deposited \$70,000 today from Passero/Adams. The full amount has been returned to the NDA the total amount of the initial investment of \$150,000 with the previous \$80,000 received in December 2010, which is great news. The investment issue with Passero/Adams and the state code violation is resolved.

Chuck Boggs moved to accept the Treasurer's Report, Jim McKay seconded. Board approved.

The updated bio of Patrick Blankenship was received. Jim McKay moved to accept Blankenship as a NDA board member, Frank seconded. Board approved. April will post his updated bio on the Web site.

Per Hershel, a letter regarding Inland Trust/Passero Adams was officially submitted into the minutes.

Hershel ask the Board members to review the strategic plan, mission statement, and history of the organization and then to be prepared to establish new goals, committee structure, financial plan, and direction for the NDA. Also, he asked the Finance committee to meet to finalize the

NDA investment policy. Hershel inquired about the form that was given to all NDA board members at the last meeting that was to be filled out. Jim McKay emailed Hershel his suggestions on how to improve the committee structure of the NDA. Hershel re-emphasized to the members to revisit the focus of the board, its strategic plan, mission statement, to help keep the board focused on what we should be doing as an organization. Hershel asked all board members to send him personal recommendations on how to improve the board so the NDA can move forward and he would like to have everything finalized in March 2011.

New Business:

Susan stated in looking at the Mission Statement that she would like to remove Item F; which regarded the Nitro Community Center. Board approved the removal of Item F of the Mission Statement and Hershel will revise as of today's date.

Ivan Meadows asked Hershel if the NDA has a book of listed properties in Nitro, approximately 14-15 properties which the NDA might have owned. Hershel has looked at several deeds and cannot find many properties the NDA owns. Also the NDA attorney researched the properties owned on record in the Kanawha and Putnam Counties Court Hours. He discovered only two properties on record, Hershel will retrieve the information that Jack Legg has and verify the properties that were listed in the document that Jack has.

Chuck announced the listing of two properties in Nitro and will send that info to April Plank to post on the Web site under Commercial Properties.

Jim McKay suggested a few advertising options, as well as Mary. South Charleston is a prime example as to a successful city—they're CVB especially. April will email board members an article regarding advertising/marketing which provides information about the significance of it.

Hershel went over the opportunity for Nitro to have a low-income health clinic/center in Nitro which could also possibly include dental care. He will be working on this community outreach program if board approves. Frank moved to approve Hershel working on this outreach program, April seconded motion. Board approved.

The meeting was adjourned at 8:20 PM.

The next Board of Directors Meeting will be February 8, 2011.

Submitted by April Plank, Acting Secretary

NITRO CVB

*Minutes
as agreed*

TO: Nitro CVB Board Members

FROM: Bill Javins, Board Secretary

SUBJECT: Minutes of "Special" Meeting Held on December 21, 2010

DATE: January 4, 2011

On this past December 21, 2010, after the conclusion of the regularly scheduled Nitro City Council Meeting, Chairman Leonard Womble called to order this "Special" meeting of the Nitro CVB Board in Council Chambers.

The purpose of this meeting was to authorize the Nitro CVB's participation in the WV Division of Tourism's Matching Advertising Partnership Program ("MAPP") through the preparation and submittal of a grant application to fund seventy-five (75) of the cost of the purchase of two (2) adjacent pages of advertising in the 2011-2012 edition of the Midland Trail Scenic Highway Association's *Midland Trail Destination Guidebook*.

The total cost of the two-page (2) advertisement was defined in the handout (2 pages) provided to each attending Board member by Chairman Womble. At the bottom of the second page appeared a proposed motion for the Board's consideration.

After an open discussion, the motion, e.g.

"I move that the CVB Board authorize our Chairman to complete and file with the WV Division of Tourism a Grant Application, in the amount of \$3,748.49, obtain up to a maximum of four (4) 'Partners', at a unit cost which will generate a total of \$200.00, and obligate the Nitro CVB to contribute \$1,049.50 of its funds toward the cost of a two-page (2) advertisement to appear in the 2011-2012 edition of the Midland Trail Scenic Highway Association's Guide A magazine."

was offered by the Board's Secretary and seconded by Mr. Matthews. The motion was then passed unanimously by a show of hands of those Board members present.

The Board members present and voting at this "special" meeting were Messrs. Casto, Fields, Javins, Matthews, Womble and Young. Those Board members absent were Ms. Helm and Messrs. Brewer and Lagg.

Attached to these meeting minutes is a copy of the financials defining the funding for the cost (\$4,997.99) associated with the two-page (2) advertising as referenced in these minutes.

**WV DIVISION OF TOURISM
MATCHING ADVERTISING PARTNERSHIP PROGRAM**

GRANT SUBMISSION FORM (Submission Checklist)

- Grant Submission and Application Form
- Media Breakout Form
- Partner Breakout
- Tracking (N/A)
- Disclosure and Participation Verification and Certification letter forms (Applicant and Partners)

GRANT APPLICATION PACKAGE

- Grant Application Form
- Project Narrative
- Disclosure
- Project Budget

Print Media: (Midland Trail National Scenic Byway magazine)	
2-pages	\$4,346.08
Production Fees	651.91
Grand Total	4,997.99

Project Local Source Funds Form	
Applicant Organization (Nitro CVB)	\$1,049.50
Partners (4 local businesses @\$50.00 each)	
Company A	50.00
Company B	50.00
Company C	50.00
Company D	50.00
Subtotal	200.00

Total Project Local Funds	\$1,249.50
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Amount of State Funds Applied For	3,748.49
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Total Local and State Funds	\$4,997.99
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Certification Page (CVB Chairman's signature required)

Media Breakout Form	
Net Cost Magazine	\$4,346.08
Broadcast Media	
Internet Media	
Billboards	
Printing Costs	
Production Expenses	651.91
TOTAL ADVERTISING PROGRAM	\$4,997.99

Partner Breakout Form (Identifies the "Partners")

Applicant Disclosure and Participation Verification and Certification (CVB Chairman's signature required)

WV DIVISION OF TOURISM
MATCHING ADVERTISING PARTNERSHIP PROGRAM

Partner Disclosure and Participation (Signed form required for each partner)

Destination Marketing Questionnaire

MOTION: I move that the CVB Board authorize our Chairman to complete and file with the WV Division of Tourism a Grant Application, in the amount of \$ 3,748.49, obtain up to a maximum of four (4) "Partners", at a unit cost which will generate a total of \$ 200.00, and obligate the Nitro CVB to contribute \$1,049.50 of its funds toward the cost of a two (2) page advertisement to appear in the 2011-2012 edition of the Midland Trail Scenic Highway Association's Guide Magazine.

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, FEBRUARY 1, 2011

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm in Council Chambers. Attending were Mayor Casto, Recorder Rita Cox, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Councilman at Large Dave Casebolt, Councilman at Large Jim McKay, Councilman at Large Bob Fields, City Treasurer John Young and City Attorney Richie Robb. Ward 1 Councilman A. A. "Joe" Savilla was absent.

INVOCATION/ PLEDGE OF ALLEGIANCE: The Invocation was given by Councilman Bob Fields and the Pledge of Allegiance was led by Parker Holstein, a Boy Scout working on a merit badge.

FUTURE DATES OF COUNCIL: Mayor Casto announced the future dates of Council are February 15, March 1 and March 15.

APPROVAL OF COUNCIL MINUTES: RECORDER RITA COX MOVED THE MINUTES OF JANUARY 4 AND JANUARY 18, 2011 BE APPROVED AS SUBMITTED. THE MOTION WAS SECONDED BY COUNCILMAN BOB FIELDS. VOTE WAS UNANIMOUS FOR THE MOTION.

CITIZEN OF THE MONTH: Mayor Rusty Casto said he intended to make Rev. Paul Farley and Joel Boggess Citizen of the Month because of the help they gave in distributing the food for those in need. Rev. Farley has had heart surgery and when they are both available he will have them at Council to be honored.

OLD BUSINESS:

CITY HALL COMMITTEE: Mayor Rusty Casto said that he is asking each member of Council to nominate a member to the City Hall Committee with one of his appointments being Joe Prine, a resident of Ward 3. Councilman Bob Fields recommended Mike Oldham, resident of Ward 2, and Councilman Dave Casebolt recommended Kim Painter of Ward 3. Councilman Jim McKay recommended Ward 3 resident Chuck Boggs II, and Recorder Rita Cox said Ward 4 resident Brenda Tyler requested to be on the committee. Mayor Casto said he is also recommending Councilman Craig Matthews and Treasurer John Young.

NEW BUSINESS:

PURCHASE OF POLICE DEPARTMENT WEAPONS: Mayor Casto called on Captain W. E. Javins of the Nitro Police Department to report on the weapons purchase. Captain Javins said the department received three bids. One bid was from Chuck Boggs, Charleston, WV 15 - P220 service pistols, \$731.05 each with no trade in/officer buy back option, guns sent to Sig Sauer for engraving at \$60.00 each, plus shipping handling and insurance, buy back to be discussed. Dunlap's Gun and Pawn, Hurricane, WV, was another bid, 15 - P220 service pistols, \$899.00 each, sent to Sig Sauer at \$60.00 each for engraving, approximately 12 weeks. A bid from Gander Mountain, Charleston, WV, 15 - P220 service pistols, \$799.00 each, additional cost of \$60.00 per gun with guns sent to Sig Sauer for engraving. And the fourth bid was from Sig Sauer for 15 - P220 service pistols, price \$609.00 each with engraving fee for badge and department name at \$60.00 each, trade in used P220 w/three mags each \$375.00 making total cost \$4410.00. COUNCILMAN FIELDS MOVED THE NITRO POLICE DEPARTMENT PURCHASE THE GUNS FROM SIG SAUER BASED ON THE BID INFORMATION SUBMITTED BY CAPTAIN JAVINS WITH A SECOND BY COUNCILMAN RACER. VOTE WAS UNANIMOUS FOR THE BID.

City Treasurer John Young presented Council with a budget revision which increased the Police Department budget by \$58,000.00 in revenues with the increase coming from \$20,000.00 from reimbursements and \$38,000.00 coming from other grants. The previously approved expenditures were \$1,147,079.00 and the revised amount increase by \$58,000.00 to \$1,205,079.00. RECORDER COX MOVED THE BUDGET REVISION NUMBER TWO BE PASSED BY RESOLUTION. THE MOTION

WAS SECONDED BY COUNCILMAN CASEBOLT. VOTING FOR THE MOTION WERE COUNCILMEN MCKAY, FIELDS, RACER, MATTHEWS, JAVINS, CASEBOLT AND RECORDER COX. MAYOR RUSTY CASTO DECLARED THE MOTION CARRIED FOR RESOLUTION 11-1.

RESOLUTION LAND WATER CONSERVATION FUND GRANT FOR RIDENOUR LAKE: COUNCILMAN CASEBOLT MOVED THAT COUNCIL PASS A RESOLUTION FOR LAND AND WATER CONSERVATION FUND APPLICATION FOR RECONSTRUCTION OF A PICNIC SHELTER AT RIDENOUR LAKE IN THE AMOUNT OF \$198,000.00. THE MOTION WAS SECONDED BY RECORDER COX. VOTE WAS UNANIMOUS FOR THE MOTION FOR RESOLUTION 11-2

RESOLUTION UDAG/PAR INDUSTRIAL DEVELOPMENT/PARTIAL RELEASE DEED OF TRUST/RESOLUTION 11-3: Charles Jones, attorney for Campbell Woods, PLLC, presented Council with Resolution 11-3 that would release approximately four acres of land (two parcels) to be purchased by Nitro Corporation. Mr. Jones gave a brief history of the UDAG grant purchase and subsequent bankruptcy of the Par Industry. He said the property is across from the old Viscose plant. Mr. Jones said the city would receive \$150,000.00. COUNCILMAN MCKAY MOVED THE RESOLUTION 11-3 BE APPROVED WITH A SECOND BY RECORDER COX. RESOLUTION 11-3 PASSED WITH A UNANIMOUS COUNCIL VOTE. VOTING FOR THE RESOLUTION WERE RECORDER RITA COX, COUNCILMEN AT LARGE JIM MCKAY, DAVE CASEBOLT, AND BOB FIELDS. WARD 2 COUNCILMAN BILL RACER, WARD 3 COUNCILMAN CRAIG MATTHEWS AND WARD 4 COUNCILMAN BILL JAVINS.

ANTIQUA FAIR/JUNE 10, 11, 12: COUNCILMAN MATTHEWS MOVED THIS ITEM BE TABLED UNTIL A FUTURE MEETING WITH A SECOND BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION.

ATTORNEY REPORT: Richie Robb said that he had nothing to report but he was prepared to answer questions from Council. Councilman Matthews had a question concerning the memorandum of understanding on the wetlands and Tri-State Racetrack. He said it was his understanding that it had never been executed. Richie Robb said he would look it over and report back.

TREASURER REPORT: John Young said the city had received \$85,000.00 for the purchase of the two used fire truck, the FMC and the American LaFrance, from the volunteer fire department in Indiana and \$7000.00 of that will be sent to the broker.

He also reported that the representative from the WV Auditor's office said that clothing allotments have to be entered on W2's as it counts as income. The city can purchase the clothing or the recipient can purchase it and bring in receipts to be reimbursed and it will not count as income.

COUNCIL COMMENTS:

Mayor Casto said that the Library will host a free movie at 11:00 am, February 12.

COUNCILMAN JAVINS MOVED THE MINUTES OF THE JANUARY MEETING OF THE CVB BE MADE A PART OF COUNCIL MINUTES. COUNCILMAN MATTHEWS SECONDED THE MOTION AND VOTE AS UNANIMOUS FOR THE MOTION TO PASS.

Councilman Matthews said the Valentine Dinner and Dance will be at 6:30 pm on February 12 at the Nitro Moose Lodge. Cost is \$15.00 for dinner and dance and \$10.00 for dance only.

Councilman Casebolt said the Seniors are receiving a grant for \$30,000.00 for a new van.

PUBLIC COMMENTS:

Bob Schamber said there will be a Senior Dance on February 19 and a dinner on February 22. He said

\$20,000.00 had spent on upgrades on the exercise room.

Captain Javins said Suddenlink will be rewiring.

John Montgomery said the Ordinance Committee will meet at 7:00 pm on Thursday, February 3 in NDA Boardroom.

ADJOURNMENT:

COUNCILMAN JIM MCKAY MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN BILL JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

RESOLUTION

At a regular session of the municipal council, held (Month, day and year) February 1st, 2011, the following order was made and entered:

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

RESOLVED: That subject to approval of the State Auditor as ex officio chief inspector of public offices the municipal council does hereby direct the budget be revised PRIOR TO THE EXPENDITURE OR OBLIGATION OF FUNDS FOR WHICH NO APPROPRIATION OR INSUFFICIENT APPROPRIATION CURRENTLY EXISTS, as shown on budget revision number 2, a copy of which is entered as part of this record.

The adoption of the foregoing resolution having been moved by Recorder Rita Cox and duly seconded by Councilman Dave Casebolt the vote thereon was as follows:

<u>Councilman Jim McKay</u>	<u>(Yes)</u> or No
<u>Councilman Dave Casebolt</u>	<u>(Yes)</u>
<u>Councilman Bob Fields</u>	<u>(Yes)</u> or No
<u>Recorder Rita Cox</u>	<u>(Yes)</u>
<u>Councilman Bill Race</u>	<u>(Yes)</u> or No
<u>Councilman Craig Matthews</u>	<u>(Yes)</u> or No
<u>Councilman Bill Jarvis</u>	<u>(Yes)</u> or No

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

Ora Ash, Director
West Virginia State Auditor's Office
200 West Main Street
Clarksburg, WV 26302
Phone: 627-2415 ext. 5114
Fax: 627-2417

Person To Contact Regarding
Budget Revision: **JOHN YOUNG**
Phone: **304 755-5066**
Fax: **304 755-7502**

REQUEST FOR REVISION TO APPROVED BUDGET

Subject to approval of the state auditor, the governing body requests that the budget be revised prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists. (§ 11-8-26a)

CITY OF NITRO

GOVERNMENT ENTITY

PO BOX 308

STREET OR PO BOX

NITRO

25143

CITY

ZIP CODE

CONTROL NUMBER 0381

2011

FY

GENERAL

FUND

2

REV. NO.

1

PG. OF NO.

RECEIVED
Montgomery
Government Type
FEB 02 2011**REVENUES: (net each acct.)**

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
381	Reimbursements	340,200 697,200	20,000		310,200 717,200
367	Other Grants		38,000		38,000
	#N/A				
	#N/A				
	#N/A				
	#N/A				

NET INCREASE/(DECREASE) Revenues (ALL PAGES)

58,000

COUNTIES-TRANSFERS TO THE GENERAL FUND FROM OTHER FUNDS MUST HAVE PRIOR APPROVAL OF AUDITOR'S OFFICE

EXPENDITURES: (net each account category)

(WV CODE 7-1-8)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
700	Police Department	1,147,079	58,000		1,205,079
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				

NET INCREASE/(DECREASE) Expenditures

58,000

APPROVED BY THE STATE AUDITOR

BY: Ora Ash/Karen
Director, Local Government Services Division2/2/2011
DateAUTHORIZED SIGNATURE
OF ENTITY2/1/11
APPROVAL
DATE

CVB Meeting January 4th 2011

Board Members Present

1. Bill Javins
2. Bob Lagg
3. Craig Matthews
4. Nora Helm (absent)
5. Tom Brewer
6. Bob Fields
7. Leonard Womble
8. Rusty Casto
9. John Young (absent)

Meeting called to order by Leonard Womble

1. Leonard passed out grant information, which included the following information:
 - a. New Plans In Store For Former Clendenin School
 - b. South Charleston Technology Park
 - c. Nitro CVB \$7500.00 MAPP Grant Submitted
 - d. Grant Submission form
 - e. Grant Application form
 - f. Project Narrative
 - g. Matching Advertising Partnership Program
 - h. Project budget
 - i. Media Breakout form
 - j. Partner Breakout form
 - k. Applicant Disclosure and Participation Verification and certification
 - l. Partner Disclosure and Participation Verification and Certification
 - m. Destination Marketing Organization Questionnaire
 - n. Certification
2. Going to put together qualifications for our CVB Director
3. The NDA will play a major role in our CVB
4. Putting together a marketing plan for our CVB
5. Our goal is to work toward getting a full time Director
6. Leonard felt that the CVB website was too far down on the City's web page
7. Craig suggested that we might want to put a banner at the Moose Lodge for the Valentine Dance
8. Dave suggested that we might want to contact Nathan Wills about using one of his billboards for the CVB

Next meeting February 1st N D A room 6 PM

Meeting Adjourned

Resolution

11-2

0383

CITY OF NITRO COUNCIL RESOLUTION

At a regular Council meeting of the City of Nitro held on the 1st day of February, 2011, the following order was made and entered;

SUBJECT: Land and Water conservation Fund Application

FOR: Reconstruction of a Plcnic Shelter at Ridenour Lake In the

Amount of \$ 198,000.00

Whereby the City of Nitro authorizes Russell W. Casto, III, Mayor to submit an application to the State of West Virginia requesting funding for the above-mentioned project out of the Land and Water Conservation Fund. The City of Nitro authorizes Mary Rita Cox to sign any and all documents and papers which accompany or are part of this application, and any and all documents and papers necessary for the completion of the project should it receive National Park Service Approval.

The City of Nitro agrees to abide by all rules and regulations pertaining to the Land and Water Conservation Fund Program, and to operate and maintain the proposed facility for public use under the requirements of the Land and Water Conservation Fund should this project receive Federal assistance.

The adoption of the foregoing motion having been moved by Coucilman, Dave Casebolt

And duly seconded by Rita Cox, Recorder, the vote thereon was as follows: Unanimous.

Whereupon Mary Rita Cox declared said motion duly adopted; and it is therefore adjudge and ordered that said motion be, and the same is hereby adopted



Rusty Casto, Mayor

2.1.11

2/1/11



Rita Cox, Recorder

2/1/11

2/1/11

RESOLUTION NO. 11-3INTRODUCED BY: Councilman Jim McKay

WHEREAS the City of Nitro, West Virginia presently receives payments for a term of fifteen (15) years for its role in financing various industrial-type infrastructure improvements pursuant to the City's receipt of an Urban Development Action Grant (UDAG) through the United States Department of Housing and Urban Development; and

WHEREAS the foregoing payments are secured by a certain Deed of Trust executed by Par Industrial Corporation and Par Associates with the City of Nitro as beneficiary dated August 5, 1997 and of record in the Office of the Clerk of the County Commission of Putnam County, West Virginia in Trust Deed Book Number 413 at page 98; and

WHEREAS the foregoing Deed of Trust encumbers real property described in that instrument constitutes one-hundred and thirty (130) acres more or less; and

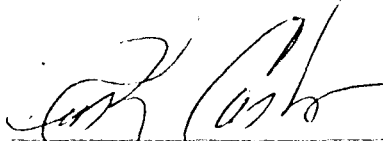
WHEREAS an entity known as Nitro Corporation seeks to purchase two (2) parcels constituting three and 97th hundredth (3.97) acres of the real property encumbered by the subject Deed of Trust as more particularly described in the attached *Partial Release of Deed Trust* which is made a part of this Resolution and

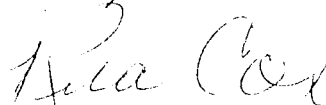
WHEREAS Nitro Corporation seeks to remove the encumbrance caused by the aforesaid Deed of Trust.

Now therefore be it Resolved the City Council of the City of Nitro, West Virginia Authorizes the Mayor to execute the subject *Partial Release of Deed of Trust* upon

the City Treasurer's receipt of a certified check from said Nitro Corporation in the amount of one-hundred and fifty thousand dollars (\$150,000.00)

Adopted this 1st day of February, 2011.



Rusty Casto, Mayor

Rita Cox, Recorder

Prepared By:
Richard A. Robb
City Attorney

NITRO CITY COUNCIL
MEETING MINUTES
TUESDAY, FEBRUARY 15, 2011

CALL TO ORDER: Mayor Rusty Casto called the meeting to order at 7:00 pm in Council Chambers. Attending the meeting were Mayor Casto, Recorder Rita Cox, Ward 1 Councilman A. A. "Joe" Savilla, Ward 2 Councilman Bill Racer, Ward 3 Councilman Craig Matthews, Ward 4 Councilman Bill Javins, Councilman at Large Bob Fields, Councilman at Large Jim McKay, Councilman at Large Dave Casebolt, City Attorney Richie Robb and City Treasurer John Young.

INVOCATION/PLEDGE OF ALLEGIANCE: The invocation was given by Councilman Jim McKay and the Pledge of Allegiance was led by Boy Scout Jason Bailey.

FUTURE DATES OF COUNCIL: Mayor Rusty Casto announced the future dates of Council are March 1 and 15 and April 5 and 19.

APPROVAL OF COUNCIL MINUTES: RECORDER COX MOVED THE MINUTES OF FEBRUARY 1, 2011 BE APPROVED WITH A SECOND BY COUNCILMAN MCKAY. Recorder Rita Cox said that there were two correction to be made in the minutes, one indicating that Councilman Bob Fields appointed Mike Oldham to the City Hall Committee and the other being that Councilman Dave Casebolt appointed Kim Painter to the City Hall Committee. VOTE WAS UNANIMOUS FOR APPROVAL OF THE MINUTES.

OLD BUSINESS

NITRO-ST. ALBANS BRIDGE: Mayor Casto announced there will be two public meetings to prepare for the closing of the Nitro-St. Albans Bridge. On March 7 there is to be a meeting at St. Albans High School and on March 8 there is to be a meeting at Nitro High School. Both meetings will from 4:30 pm to 7:00 pm with an overview given at 5:30 pm. COUNCILMAN MCKAY MOVED THAT \$60.00 BE APPROVED FOR REFRESHMENTS FOR THE MARCH 8 MEETING. THE MOTION WAS SECONDED BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION.

AFGHANISTAN ORPHANAGE: Mayor Casto said the orphanage that Council had agreed to mail supplies to had been written about in the Charleston Daily Mail recently. He said the soldier he had been in contact with would attend Council when he returned from Afghanistan. Mayor Casto said that approximately 25 boxes of supplies had been sent from the City.

CITY HALL COMMITTEE: Mayor Casto said the City Hall Committee would meet next week and he would welcome more names from Council to be on the Committee.

BIDS POLICE DEPARTMENT PRINTER/COPIER/SCANNER: Recorder Cox said that she had received five bids. RECORDER COX MOVED A COMMITTEE CONSISTING OF RECORDER COX, MAYOR CASTO, TREASURER JOHN YOUNG, ROBIN SMITH AND NITRO POLICEMAN BRIAN OXLEY MEET THURSDAY, FEBRUARY 17 AT 11:00 AM IN MAYOR CASTO'S OFFICE TO SELECT THE BID FOR THE COPIER. THE MOTION WAS SECONDED BY COUNCILMAN MATTHEWS. VOTE WAS UNANIMOUS FOR THE MOTION.

NEW BUSINESS

FIRST READING AN ORDINANCE REDUCING B & O FOR ANNEXED BUSINESSES: Richie Robb read the Ordinance by title: An Ordinance to Amend and Reenact Section 711.33, Article 71 of the Codified Ordinances of the City of Nitro, West Virginia, all Relating to Business and Occupation Tax Credits, and Authorizing a Five-Year One Hundred Percent Tax Credit for Annexation of a Qualified Business Facility. COUNCILMAN JIM MCKAY MOVED THE ORDINANCE AUTHORIZING A FIVE-YEAR ONE HUNDRED PERCENT B & O TAX CREDIT FOR ANNEXATION OF A QUALIFIED BUSINESS BE PASSED ON FIRST READING WITH THE REMOVAL OF THE WORD "VOLUNTARILY" FROM THE ORDINANCE. THE MOTION WAS SECONDED BY COUNCILMAN

A. A. "JOE" SAVILLA VOTE WAS UNANIMOUS FOR THE MOTION.

ATTORNEY REPORT: Richie Robb said he had no formal report for Council but would answer questions from Council.

TREASURER REPORT: John Young said revenue was up over the previous year by \$111,000.00. He said he is working on budget packets for each Council member. He indicated that the financial report supplied to Council reflected what the WV Auditor representative said was the accepted format. He said he had received billing from Baker Engineering for Streetscape and Pedestrian Master Plan and Streetscape Design and he needed direction on how to pay it. He said he was told it could be paid from Hotel Motel tax revenue. Recorder Cox asked who had told him. Councilman Matthews said that some was to come out of the original \$60,000.00 committed from Streetscape but would not be used during the current budget.

John Young said that 61 liens had been filled on unpaid municipal service fees.

COUNCIL COMMENT

Mayor Rusty Casto said that the last day of public school will be June 6. He said that Antrak will use a photo taken by Chase Gunnoe on the homepage.

Councilman Bill Javins thanked John Young for keeping the city in the black.

Councilman Craig Matthews said the Valentine Dance was a big success. He said he had applied for a grant for improvements at Ridenour Lake and thanked Robin Smith, A. J. Hill and Debra Jordan for help in writing the grant. He introduced Bruce Crowder who asked Council's cooperation in putting on the Antique Fair, street dance and Starry, Starry Night Car Show. He said the date would be June 11, with proceeds going to the Make A Wish Foundation. They would like to have 21st blocked off for concessions and a band. COUNCILMAN MATTHEWS MOVED THE ANTIQUE FESTIVAL/CAR SHOW BE PERMITTED ON JUNE 11, 2011. THE MOTION WAS SECONDED BY RECORDER COX. VOTE WAS UNANIMOUS FOR THE MOTION.

COUNCILMAN MCKAY MOVED THE MINUTES OF THE CURRENT NDA MEETING AND NDA FINANCIAL REPORT BE MADE A PART OF THE COUNCIL MINUTES WITH A SECOND BY COUNCILMAN RACER. VOTE WAS UNANIMOUS FOR THE MOTION.

Councilman McKay said he wanted to speak up on behalf of Bayer Crop Science and their place in the community. Councilman Racer, Councilman Savilla, and Councilman Matthews said they agree.

PUBLIC COMMENT

Bob Schamber said he supports Bayer. He said a \$20,000.00 grant was awarded to Seniors for exercise equipment and a \$34,000.00 grant awarded for a new van. There is a Valentine Dance February 19 and a dinner February 26.

John Montgomery said the Ordinance Committee will meet on Thursday, 7 pm, NDA Boardroom.

Leonard Womble urged Council to support local businesses.

ADJOURNMENT

COUNCILMAN MATTHEWS MOVED THE MEETING BE ADJOURNED WITH A SECOND BY COUNCILMAN MCKAY. VOTE WAS UNANIMOUS FOR THE MOTION.

RUSTY CASTO, MAYOR



RITA COX, RECORDER

ORDINANCE NO. 11 -

An Ordinance to amend and reenact Section 711.33, Article 711 of the Codified Ordinances of the City of Nitro, West Virginia, all relating to business and occupation tax credits, and authorizing a five-year one hundred percent tax credit for annexation of a qualified business facility.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA that Section 711.33, Article 711 of the Codified Ordinances of the City of Nitro, West Virginia be amended and reenacted, all to read as follows:

ARTICLE 711
Business and Occupation Tax

711.33. ECONOMIC DEVELOPMENT TAX CREDIT.

(a). On and after the first day of January, two thousand nine, only the following tax credits may be used as incentives for the development and/or expansion of business properties in the City: Provided, That for purposes of this ordinance, in addition to the terms defined in Section 711.01 of the ordinances, the following terms shall have the meaning ascribed herein.

(1). "Affiliate" means and includes all persons, as defined in this section, which are affiliates of each other, when either directly or indirectly:

(A) One person controls or has the power to control the other, or

(B) A third party or third parties control or have the power to control two persons, the two thus being affiliates. In determining whether concerns are independently owned and operated and whether or not an affiliation exists, consideration shall be given to all appropriate factors, including common ownership, common management and contractual relationships.

(C). The term "affiliate" includes a member of an affiliated group.

(2). "Annexed business facility" means a business facility that is annexed into the City subsequent to the first day of January, two thousand nine.

(3). "Base year employment" means the average employment within the City, which the qualified business utilized to conduct business taxable under Article 711 of these Ordinances during the twelve-month period immediately preceding first application for this credit.

(4). "Business facility" means a building, or several buildings in a given area that are constructed in accordance with a development plan approved by the City Treasurer, such building or buildings to be primarily used for the buying and selling of goods and services including management information services. "Business facility" shall also include a factory, mill, plant, refinery, warehouse, or building or complex of buildings, including the land upon which it is located, and all machinery, equipment and other real

and tangible personal property located at or within such facility that is used in connection with the operation of such facility in the manufacturing, compounding or preparing of tangible personal property for sale, profit or commercial use, and in the business of providing a manufacturing service. "Business facility" shall not include residential buildings used by transient individuals for temporary residential purposes or facilities used for gambling purposes.

(5). "City" means the City of Nitro, West Virginia.

(6). "Corporation" includes any corporation, a joint-stock company and any association or other organization that is classified as a corporation under federal income tax law.

(A) The term "corporation" includes a limited liability company if it is taxable as a corporation under federal income tax law.

(7). "Expanded business facility" means any business facility situated in the City, other than a new business facility or annexed business facility, resulting from the acquisition, construction, reconstruction, installation or erection of improvements or additions to that existing business facility if such improvements or additions are purchased or constructed on or after the first day of January, two thousand nine.

(8). "Full-time employee" means a permanent hourly employee of an eligible taxpayer, who is a West Virginia domiciled resident, and works in a qualified business more than eighteen hundred hours during the entire twelve-month period ending on the last day of the taxable year of the qualified business, such hours to include any combination of hours worked at the qualified business, hours of employer paid vacation leave and other employer paid leave, but shall not include unemployment compensation. Full-time employee does not include an employee who is a part-time, seasonal or temporary employee.

(A). No combination of part-time, seasonal or temporary employees may be considered equivalent to a full-time employee.

(B). No person who is not an employee (such as an independent contractor) may be considered a full-time employee.

(C). An employee who moves to West Virginia in order to become a West Virginia domiciled resident in order to fill a new job may be counted as a full-time employee if he or she otherwise qualifies as a full-time employee.

(9). "Management information services" means, and is limited to, data processing, data storage, data recovery and backup, programming recovery and backup, telecommunications, computation and computer processing, computer programming, electronic information, and data management activities, or any combination of such activities, when not subject to regulation by the West Virginia Public Service Commission, when such activity or activities are carried on for the purpose of managing, planning for, organizing or operating any industrial or commercial business, or any enterprise, facility or facilities of an industrial or commercial business

regardless of whether such industrial or commercial business or enterprise facility is located in this City.

(10). "Mayor" means the Mayor of the City of Nitro, West Virginia.

(11). "New business facility" means a business facility, other than an expanded business facility or an annexed business facility, that on or after the first day of January, two thousand nine, is newly constructed, purchased or leased by the taxpayer and located within the boundaries of the City, and is employed by the taxpayer in the conduct of a business the gross income of which is taxable pursuant to Article 711 of these ordinances. The facility shall not be considered a new business facility in the hands of the taxpayer if the taxpayer's only activity with respect to the business facility is to lease it to another person or persons. The facility may not have been purchased or leased by the taxpayer from a related or affiliated person.

(12). "New employee" means a person residing and domiciled in this State, who was hired by the taxpayer to fill a new position or a new job in this City which previously did not exist in the taxpayer's existing business facility in this City prior to the date on which the taxpayer's qualified investment is placed in service or use in this City, or which came into existence when the taxpayer's qualified investment was placed in service or use in this City. In no case shall the number of new employees directly attributable to such investment for purposes of this credit exceed the total net increase in the taxpayer's employment in this City: Provided, That persons filling jobs saved as a direct result of taxpayer's qualified investment in property purchased or leased for business expansion on or after the first day of January, two thousand nine, may be treated as new employees filling new jobs if the taxpayer certifies the material facts to the City Treasurer and the City Treasurer expressly finds that:

(A) But for the new employer purchasing the assets of a business in bankruptcy under chapter seven or eleven of the United States Bankruptcy Code and such new employer making qualified investment in property purchased or leased for business expansion, the assets would have been sold by the United States bankruptcy court in a liquidation sale and the jobs so saved would have been lost; or

(B) But for taxpayer's qualified investment in property purchased or leased for business expansion in this City, taxpayer would have closed its business facility in this City and the employees of the taxpayer located at such facility would have lost their jobs: Provided, however, That this certification may not be made unless the City Treasurer finds that the taxpayer is insolvent as defined in 11 U.S.C. § 101(31) or that the taxpayer's business facility was destroyed in whole or in significant part by fire, flood or other act of God.

(13). "New job" means a job at a qualified business located in this City, which did not exist in this City with the employer as of the first day of the second calendar month preceding the calendar month in which the qualified investment in the qualified business came into service or use.

(14). "Ordinances" means the Codified Ordinances of the City of Nitro, West Virginia and those ordinances enacted by the City but which have not been incorporated into said Codified Ordinances of the City of Nitro, West Virginia.

(15). "Partnership" means and includes a syndicate, group, pool, joint venture or other unincorporated organization through or by means of which any business, financial operation, or venture is carried on, which is classified as a partnership for federal income tax purposes for the taxable year.

(A) The term "partnership" may include a limited liability company if it is not taxable as a corporation under federal income tax law.

(16). "Person" includes any natural person, corporation, partnership or limited liability company.

(17). "Property" means real property, and improvements thereto, and new, tangible personal property, but only if such property was constructed, or purchased, on or after the passage of this section for use as a component part of an ongoing business operation located within the City. This term includes only tangible personal property with respect to which depreciation is allowable in determining the personal income tax or corporate net income tax liability of the business taxpayer, and has a useful life at the time the property is placed in service or use in this City of four years or more. Property acquired by written lease for a primary term of five years or longer, if used as a component part of an expanded business facility, shall be included within this definition. "Property", within the meaning of this definition, shall not include:

(A). Repair costs, including materials used in the repair, unless for federal income tax purposes the cost of the repair shall be capitalized and not expended;

(B). Motor vehicles licensed by the Department of Motor Vehicles;

(C). Airplanes;

(D). Off premise transportation equipment; or

(E). Property which is acquired incident to the purchase of the stock or assets of a taxpayer, or which is property was or had been used by the seller in the seller's business in the City: Provided, That, the City Treasurer may waive this disqualification.

(18). "Qualified business" means any business subject to the business and occupation taxes imposed by Article 711 of the Ordinances that, after the passage of this section, and in the first twelve (12) months of the business' existence in the City makes qualified investment in a new business facility that results in the next succeeding twenty-four (24) months in a full-time average work force of at least five (5) persons or a yearly gross income as defined in section 711.01 of this Article of at least five hundred thousand dollars (\$500,000.00): Provided, That if the qualified investment is in an expanded business facility, the qualified investment shall occur in the first twelve (12) months after approval is granted under subsection (k) of this section, and during the next succeeding twenty-four (24) months the qualified business' full-time average yearly work force shall increase by at least five (5) persons over base year employment or the

qualified business' yearly gross income as defined in section 711.01 of this Article shall increase by at least five hundred thousand dollars (\$500,000). "Qualified business" shall also include an affiliated group of taxpayers if such group elects to file a West Virginia consolidated corporation net income tax return under W. Va. Code § 11-24-1 et seq.

(19) "Qualified investment" means a monetary investment, other than investment for regular or normal maintenance purposes, in either a new or expanded business facility located within the municipal boundaries of the City.

(b) Manufacturing Business.

(1) Any qualified business taxable under Section 711.06 of this Article shall be eligible for a decreasing tax credit to be taken over a period of four years, and applied against the taxpayer's business and occupation tax liability arising under said section 711.06. The first taxable year, for purposes of this tax credit, shall commence on the first day of the taxpayer's fiscal year immediately succeeding the month in which the qualified investment is first placed in service or use: Provided, That for purposes of this tax credit, each subsequent tax year shall commence on the anniversary date of the first taxable year. The total amount of the tax credit taken may not exceed the total amount of the qualified investment. The tax credit herein authorized shall be calculated as follows.

(A). New manufacturing business facility.

Calculation of Tax Credit.

Year	Percent of B&O tax liability used as a tax credit
1 st year	100%
2 nd year	75%
3 rd year	50%
4 th year	25%
5 th year	0%

(B). Expanded manufacturing business facility. The tax credit treatment accorded to the qualified investment in a qualified expanded manufacturing business facility shall be the same as that accorded to a qualified new manufacturing business facility: Provided, That the tax credit shall only apply to that incremental portion of the gross income directly attributable to the qualified investment in the expanded business facility. Upon determining the portion upon which the tax credit shall be applied, the tax credit shall be calculated as follows.

Calculation of Tax Credit.

Year	Percent of B&O tax liability used as a tax credit
1 st year	100%
2 nd year	75%
3 rd year	50%
4 th year	25%
5 th year	0%

(c) Retail or Wholesale Business.

(1) Any qualified business that commences retail or wholesale sales activities within the corporate limits of the City that are taxable under Section 711.07 of this Article shall be eligible for a decreasing tax credit to be taken over a period of four years, and applied against the taxpayer's business and occupation tax liability arising under said section 711.07. The first taxable year, for purposes of this tax credit, shall commence on the first day of the taxpayer's fiscal year immediately succeeding the month in which the qualified investment is first placed in service or use: Provided, That for purposes of this tax credit, each subsequent tax year shall commence on the anniversary date of the first taxable year. The total amount of the tax credit taken may not exceed the total amount of the qualified investment. The tax credit herein authorized shall be calculated as follows.

(A). New retail or wholesale business facility.

Calculation of Tax Credit.

Year	Percent of B&O tax liability used as a tax credit
1 st year	100%
2 nd year	75%
3 rd year	50%
4 th year	25%
5 th year	0%

(B). Expanded retail or wholesale business facility. The tax credit treatment accorded to the qualified investment in a qualified expanded retail or wholesale business facility shall be the same as that accorded to a qualified new retail or wholesale business facility: Provided, That the tax credit shall only apply to that incremental portion of the gross income directly attributable to the qualified investment in the expanded retail or wholesale business facility. Upon determining the portion upon which the tax credit shall be applied, the tax credit shall be calculated as follows.

Calculation of Tax Credit.

Year	Percent of B&O tax liability used as a tax credit
1 st year	100%
2 nd year	75%
3 rd year	50%
4 th year	25%
5 th year	0%

(d) Service Business.

(1) Any qualified business taxable under Section 711.11 of this Article shall be eligible for a decreasing tax credit to be taken over a period of four years, and applied against the taxpayer's business and occupation tax liability arising under said section 711.11: Provided, That a service business that, at the time of the passage of this section, is paying taxes to the City under the service classification for work performed within the City, although its principal place of business is without the City, shall be

eligible for a credit upon location of its principal place of business within the City. The first taxable year, for purposes of this tax credit, shall commence on the first day of the taxpayer's fiscal year immediately succeeding the month in which the qualified investment is first placed in service or use: Provided, That for purposes of this tax credit, each subsequent tax year shall commence on the anniversary date of the first taxable year. The total amount of the tax credit taken may not exceed the total amount of the qualified investment. The tax credit herein authorized shall be calculated as follows.

(A). New service business facility.

Calculation of Tax Credit.

Year	Percent of B&O tax liability used as a tax credit
1 st year	100%
2 nd year	75%
3 rd year	50%
4 th year	25%
5 th year	0%

(B). Expanded service business facility. The tax credit treatment accorded to the qualified investment in a qualified expanded service business facility shall be the same as that accorded to a qualified new service business facility: Provided, That the tax credit shall only apply to that incremental portion of the gross income directly attributable to the qualified investment in the expanded business facility. Upon determining the portion upon which the tax credit shall be applied, the tax credit shall be calculated as follows.

Calculation of Tax Credit.

Year	Percent of B&O tax liability used as a tax credit
1 st year	100%
2 nd year	75%
3 rd year	50%
4 th year	25%
5 th year	0%

(e) Rental Income Credit.

(1) Any qualified business taxable under Section 711.12 of this Article that is a multi-unit commercial building facility constructed and placed in service or use on or after the first day of January, two thousand nine shall be eligible for a decreasing tax credit to be taken over a period of four years, and applied against the taxpayer's business and occupation tax liability arising under said section 711.12. The first taxable year, for purposes of this tax credit, shall commence on the first day of the taxpayer's fiscal year immediately succeeding the month in which the qualified investment is first placed in service or use: Provided, That for purposes of this tax credit, each subsequent tax year shall commence on the anniversary date of the first taxable year. The total amount of the tax credit taken may not exceed the total amount of the qualified investment. The tax credit herein authorized shall be calculated as follows.

(A). New multi-unit commercial business facility.

Calculation of Tax Credit.

Year	Percent of B&O tax liability used as a tax credit
1 st year	100%
2 nd year	75%
3 rd year	50%
4 th year	25%
5 th year	0%

(B). Expanded multi-unit commercial business facility. The tax credit treatment accorded to the qualified investment in a qualified expanded multi-unit commercial business facility shall be the same as that accorded to a qualified new multi-unit commercial business facility: Provided, That the tax credit shall only apply to that incremental portion of the gross income directly attributable to the qualified investment in the expanded retail or wholesale business facility. Upon determining the portion upon which the tax credit shall be applied, the tax credit shall be calculated as follows.

Calculation of Tax Credit.

Year	Percent of B&O tax liability used as a tax credit
1 st year	100%
2 nd year	75%
3 rd year	50%
4 th year	25%
5 th year	0%

(f). Annexed business facility. Any annexed business facility that is subject to tax under Section 711.06, 711.07, 711.11 or 711.12 of these ordinances shall be classified as a qualified business facility eligible for a decreasing tax credit to be taken over a period of four years and applied against the taxpayer's business and occupation tax liability arising under said Section 711.06, 711.07, 711.11 or 711.12. The first taxable year, for purposes of this tax credit, shall commence on the first day of the taxpayer's fiscal year immediately succeeding the month in which the business facility is annexed into the City: Provided, That for purposes of this tax credit, each subsequent tax year shall commence on the anniversary date of the first taxable year. The tax credit herein authorized shall be calculated as follows.

(A). Annexed business facility.

Calculation of Tax Credit.

Year	Percent of B&O tax liability used as a tax credit
1 st year	100%
2 nd year	75%
3 rd year	50%
4 th year	25%
5 th year	0%

(B) Business facility annexed on or after March 1, 2011. Any business facility that is subject to tax under Section 711.06, 711.07, 711.11 or 711.12 of these ordinances and is annexed into the City on or after March 1, 2011 shall be classified as a qualified business facility eligible for a tax credit to be taken as indicated below and applied against the taxpayer's business and occupation tax liability arising under said Section 711.06, 711.07, 711.11 or 711.12. The first taxable year, for purposes of this tax credit, shall commence on the first day of the taxpayer's fiscal year immediately succeeding the month in which the business facility is annexed into the City: Provided, That for purposes of this tax credit, each subsequent tax year shall commence on the anniversary date of the first taxable year. The tax credit herein authorized shall be calculated as follows.

Calculation of Tax Credit.

<u>Year</u>	<u>Percent of B&O tax liability used as a tax credit</u>
<u>1st year</u>	<u>100%</u>
<u>2nd year</u>	<u>100%</u>
<u>3rd year</u>	<u>100%</u>
<u>4th year</u>	<u>100%</u>
<u>5th year</u>	<u>100%</u>
<u>6th year and every year thereafter</u>	<u>0%</u>

(g). In order for a business to qualify for this credit, the jobs created shall be located within the City and shall be utilized in the qualified business' activities in the City that are taxable under Section 711.06, 711.07, 711.11 or 711.12 of these Ordinances. In addition, the jobs created shall be retained for the full term of the credit in order for the credit to be applicable: Provided, That if the number of qualifying jobs at any time drops below the base year employment level plus fifty, the credit shall be lost.

(h) Credits for the Purchase of Existing Businesses.

(1) Any qualified manufacturing, retailing, wholesaling, service or multi-unit commercial building facility or business taxable under Section 711.06, 711.07, 711.11 or 711.12 of this Article that is purchased by another person may qualify for the tax credit herein authorized, such credit to be applied against any increase in tax liability after such sale has been consummated: Provided, That the credit shall only apply to that incremental portion of gross income which is greater than the average gross income generated by the preceding business over the previous three years.

(2) Any current tax credit that an existing qualified business may have is eligible for transfer to the person purchasing the business: Provided, That only the remaining term of the existing credit may be transferred. Any such transfer of an existing tax credit to the person purchasing the business shall make such business ineligible for the credit available under the foregoing subsection (h)(1).

(i) A person will not qualify to use the tax credit authorized by this section if at the time of application the person is using a tax credit or tax rebate under the authority of

Ordinance 96-05: Provided, That this restriction will cease to be effective at the time the person is no longer using a tax credit or tax rebate that is authorized under Ordinance 96-05.

(j) Any taxpayer authorized to use the tax credit provided in this section that does not pay when required any B&O tax imposed by Article 711 of the Ordinances immediately forfeits any future use of the tax credit. Other than notifying the non-complying taxpayer that the taxpayer has forfeited its authorization to use the credit, the City Treasurer is not required to provide a hearing or any other procedure: Provided, That if the taxpayer can demonstrate that the required payment of B&O taxes did in fact occur within the time stated in Sections 711.17 and 711.18 of this Article 711, the City Treasurer shall authorize the taxpayer's continued use of the tax credit.


(k) The City Treasurer shall develop such forms as are necessary to facilitate the application and approval of any business seeking to qualify for this tax credit. The forms at a minimum shall require the business' name, address, federal employers identification number, the activities of the business, the number of employees of the business, the projected amount of qualified investment, and any other information the City Treasurer determines to be necessary. The City Treasurer shall provide information regarding this tax credit section to any business that requests it. Upon receipt of all of the relevant information, the City Treasurer shall recommend to the City Council that it either approve or disapprove the application. Upon receipt of the Treasurer's recommendation, the City Council shall vote to either approve or disapprove the application.


(l) In order to assure the tax credit herein authorized is being properly utilized by each business determined by the City to be qualified to use the tax credit, the City Treasurer may, in person or by duly appointed agent, make examination of the books, records and papers, and audit the accounts of any such business, and may take the evidence, on oath, of any person whom he may believe shall be in possession of any relevant information. As soon as possible after procuring such information as the City Treasurer may be able to obtain that substantiates improper use of the tax credit, he shall proceed to assess the tax due and shall notify the business assessed of the amount of tax due. If the taxpayer shall refuse to pay the amount of tax due, the City Treasurer is authorized to pursue any and all action necessary to collect the amount of tax so assessed.

(m) City Treasurer Determinations and Denials. The City Treasurer is hereby authorized to make any necessary determinations regarding forfeiture or carryover of the tax credits authorized by this section. Further, the City Treasurer, subject to review by Council, may determine that a particular tax credit application violates the spirit and intention of this section, and deny the credit on that basis.

Passed on First Reading: February 15, 2011

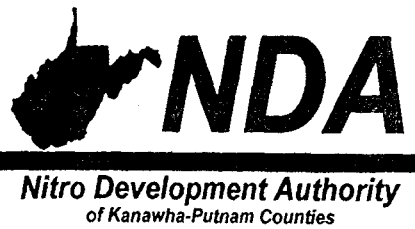
Passed on Second Reading: March 15, 2011


Rusty Casto, Mayor, City of Nitro


Rita Cox, Recorder, City of Nitro

NOTE: The purpose of this Ordinance amendment is to increase the amount of the credit and time the B&O tax credit may be used by a business that is annexed into the City.

Strike-throughs indicate language that is being removed from the ordinance. Underlining indicates language that is being added to the ordinance.



City Council

0399

Post Office Box 583
Nitro, West Virginia 25143

www.nitrodevelopment.org

NDA Minutes January 11, 2011

Members present: Hershel Facemyre, April Plank, Susan Graves, Mike Monday, Jack Legg, Jim McKay, Chuck Boggs, Frank Groves, Charles Mann, Leonard Womble, Mary Bradley, Ivan Meadows. **Members not present:** Jim Westlund, Gene Brightwell, and Carmen Kostolansky.

The meeting was called to order at 7:00 PM by President, Hershel Facemyre. Hershel welcomed newest member, Frank Groves, to the NDA. Frank is a past member.

Approval of December Board Minutes:

The board went over the minutes from the December meeting. Jim McKay moved to accept the minutes, Chuck Boggs seconded the motion. Board approved.

Treasurers Report:

Susan went over the Treasurer's Report and reported there are no outstanding issues as far as the sale of the Community Center and that all NDA bills are paid in-full. Susan stated that she expects little bills to trickle in such as a final sewage bill, but as of this meeting's date, everything is paid in-full. On the flip-side, an unexpected audit bill in the amount of \$8,800 came in the mail that day. Since the NDA's auditing bill between the years of 2003-2010 has been paid in-full, it's expected the new bill reflects the years from between 1999-2002. The board discussed and decided that the \$8,800 bill should be dismissed since it's so old and the auditor's should have caught the expense (bill) when the audit was performed 7-10 years ago. The NDA will write a letter to Glenn Gainer, WV Auditor, and state the situation as unethical and an error on the auditor's office and should be dismissed. A further investigation will proceed of the situation.

Committee Reports:

There were no committee reports. None of the standing committees met during the period prior to this Board meeting. Although the following information was shared with the Board: The Marketing/PR Committee did not meet but April Plank provided the board with a report in which the committee had been working on. April reported that the NDA official Web site had been launched and asked members to visit the site, read through and let her know of any changes. She also stated that business cards would need to be made soon, at least for Hershel Facemyre as president. April will begin working on business cards. She also announced that the NDA was offered free advertising within the *West Virginia Executive* magazine, and upon the board's

approval, she would begin working on that as well. Hershel also stated that the marketing committee had been working on a "launch party" of the NDA and their Web site where the NDA would invite residents, businesses, realtors, etc. to the event. The NDA wants to build working relationships with the community and residents, or anyone who has a vested interest in the City of Nitro—and hosting a party will begin that relationship.

Jim McKay moved to accept the Marketing Committee Report, Leonard seconded. Board approved.

The Finance/Budget Committee did not meet but Susan will call a meeting next week to discuss policies and come up with a budget/financial plan for the NDA.

The Museum/Liaison Committee did not meet but Hershel would like to get involved with the VFW as the War Museum is essential to the CVB and the tourism of Nitro. Leonard stated that the importance of the Living Memorial is a vital part of our community.

The Annexation Committee did not meet but Jim McKay stated that Bayer met with Nitro's Wastewater Utility about merging with their wastewater utility, which could save both parties money. Bayer announced today that they would lay off 220 employees over the next three years. Bayer is also upset over the Dunbar annexation. There's a meeting scheduled with Bayer at the end of the month

Old Business:

Hershel began by informing the board about the Dana payment situation, which was scheduled to be paid on or before December 23, 2010. A Dana Trucking representative came to the Community Center to drop off the payment to Don, who informed the representative that he was not affiliated with the NDA since the property was sold to Kingsway Christian Church. The Dana rep asked where to submit payment and Don informed the rep that Susan Graves's office, who is a member of the board, was located across the street. The Dana rep dropped the payment off in the mail slot of Susan's office as she was not there at the time due to the holidays. Since we are not aware of the time/day the payment was dropped off, it's hard to say if it was made on-time. If the board doesn't receive the second payment on or before January 23, 2011 the board will again proceed with the foreclosure on the Dana property.

Hershel Facemyre deposited \$70,000 today from Passero/Adams. The full amount has been returned to the NDA the total amount of the initial investment of \$150,000 with the previous \$80,000 received in December 2010, which is great news. The investment issue with Passero/Adams and the state code violation is resolved.

Chuck Boggs moved to accept the Treasurer's Report, Jim McKay seconded. Board approved.

The updated bio of Patrick Blankenship was received. Jim McKay moved to accept Blankenship as a NDA board member, Frank seconded. Board approved. April will post his updated bio on the Web site.

Per Hershel, a letter regarding Inland Trust/Passero Adams was officially submitted into the minutes.

Hershel ask the Board members to review the strategic plan, mission statement, and history of the organization and then to be prepared to establish new goals, committee structure, financial plan, and direction for the NDA. Also, he asked the Finance committee to meet to finalize the