

# City of Clarksburg

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West Virginia

**MUNICIPAL HOME RULE PILOT  
PROGRAM APPLICATION**

**2015 AMENDMENT**

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## CITY OF CLARKSBURG

222 WEST MAIN STREET • CLARKSBURG, WV 26301 • PH. (304) 624-1673 • FAX (304) 624-6135

OFFICE OF THE MAYOR

December 29, 2015

West Virginia Home Rule Program  
West Virginia Department of Commerce  
State Capitol Complex  
Building 6, Room 525  
Charleston, WV 25303

Re: Home Rule Application Amendment

Dear Home Rule Program Committee:

On behalf of the citizens and elected leaders of Clarksburg, thank you for allowing Clarksburg to participate in the Home Rule Program. As evidenced by the success of the Pilot Program, implementing Home Rule has allowed municipalities to move forward in areas of economic development, neighborhood revitalization, and more efficient governance. With local government being the closest level of government the people, Home Rule has provided novel ideas and afforded municipalities the opportunity to better serve its constituents.

At this time, we are submitting an amendment to our Home Rule Application and, as in the past, we will continue to take a responsible approach to ensure that Home Rule contributes toward the enhancement of the lives of the people who live, work, visit and play in our city. The enclosed amended application sets forth the next area of governance where we believe added responsibilities at our city government level can produce positive changes in our efforts to improve the quality of life in our community. As always, we remain committed to open government and open discussions regarding all matters that come before our elected officials and all issues that concern our citizens.

Thank you again for playing such an important role in making government more efficient and effective and much appreciation to each of you for committing your time and effort to making a positive difference throughout our great state. Should you have any questions concerning any aspect of our Home Rule Application or our amendment thereto, please do not hesitate to contact me.

Sincerely,

Catherine A. Goings, Mayor

CAG:amw  
Enclosure



OFFICE OF  
CITY MANAGER

# CITY OF CLARKSBURG

WEST VIRGINIA

December 29, 2015

West Virginia Home Rule Pilot Program  
West Virginia Department of Commerce  
State Capital Complex  
Building 6, Room 525  
Charleston, West Virginia 25303

Re: Home Rule Application Amendment

Dear Members of the Home Rule Program Committee:

On behalf of my office and the elected officials of Clarksburg, West Virginia, I extend our appreciation for your consideration and vital deliberation of our Home Rule Application Amendment. Our municipality is motivated and welcome the positive difference the Home Rule Program has provided. The current approved Home Rule Plan has had a positive impact on the governing relationship we have with our residents.

The City of Clarksburg is submitting an amendment to our Home Rule Application. The amended plan further details the added responsibilities we request in the enclosed narrative and application. We have discussed and deliberated to the fullest extent to which we feel these changes will make to our governing practices. We will continue to take a responsible approach to ensure that Home Rule contributes towards the success of the program and most importantly our community. Our residents have had the opportunity to review what the City of Clarksburg proposes in addition to discussing these changes with various members of City Council and myself. We are proud to present our amended application in the hopes of ultimately having the ability to improve the quality of life for the Clarksburg residents.

If you have any questions or if I can be of any further assistance, please do not hesitate to contact my office. I can be reached Monday through Friday from 8am to 4:30pm at (304) 624-1677 or by email at [mhowe@cityofclarksburgwv.com](mailto:mhowe@cityofclarksburgwv.com).

Sincerely,

Martin Howe, ICMA-CM  
City Manager

cc: Honorable Mayor and Council Members

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## EXECUTIVE SUMMARY

The City of Clarksburg is a Class II Municipal Corporation located in Harrison County, West Virginia, having a population of approximately 16,000+, was selected as a participant in the West Virginia Home Rule Pilot Program by the West Virginia Municipal Home Rule Board at its meeting held on October 6, 2014, as to all sections of its application. Clarksburg's original application contains eight (8) sections,

- COLLECTION OF CLEAN-UP COST
- COLLECTION OF DEMOLITION LIEN
- RELIEF FROM PARTY AFFILIATION REQUIREMENT
- PROCUREMENT OF ARCHITECT-ENGINEERING SERVICES
- BUILDING AND ZONING ADMINISTRATION ENFORCEMENT PROVISIONS
- ENHANCING THE CITY'S LEGAL PUBLICATIONS
- APPROPRIATE ADEQUATE FUNDING FOR ADVERTISING THE CITY
- IMPOSE SALES AND USE TAX

The City of Clarksburg had enacted the provision relief from party affiliation requirement for Municipal Non-Partisan Election and Board Commissioners. The City of Clarksburg is currently in the process of enacting the procurement of Architect – Engineering Services, the appropriate adequate funding for advertising the City and also the 1% Sales & Use Tax.

This is the first amendment of Clarksburg's Home Rule Plan.

The City of Clarksburg (the City) is tucked away in the hills of North-Central West Virginia. Clarksburg is the County Seat of Harrison County. Clarksburg is located at the intersection of two (2) heavily traveled highways and the second busiest interchanges in the state; Interstate 79 and U.S. Route 50. Clarksburg enjoys the amenities of the largest city in the region with the advantages of a small hometown community. Clarksburg residents enjoy a rich mixture of retail, industrial, and government services, along with a thriving business community, with an abundance of recreational facilities. Clarksburg also has one of the best preserved historic downtowns in the state.

The population of the City of Clarksburg has been steady in the last decade. We aim to increase the population of our City and provide greatly needed municipal services to the residents of Clarksburg. However, the City faces numerous challenges in managing its<sup>2</sup> budget and delivering services mandated by state law. The City is often restricted by state laws that prevent the City from carrying out duties and responsibilities to its residents in a cost-effective, efficient, and timely manner. The following proposed amendment to the Municipal Home Rule Plan outlines solutions to enhance and improve the ability of the City to meet its present and future obligations. Approval of this plan will ensure that the City can continue improving the services and quality of life provided to its residents.

Clarksburg takes great pride in the quality and efficiency of its administrative staff and believes that the amendments to its Home Rule Plan herein set forth will add to and improve the efficient management of its assets and the efficiency with which it carries forth its municipal purposes. Approval of this plan will ensure that the City can continue improving the services and quality of life provided to its residents.

**SECTION I: APPLICANT INFORMATION**

**A. General Information**

Name of Municipality: City of Clarksburg

Certifying Official: Martin Howe      Title: City Manager

Contact Person: Martin Howe      Title: City Manager

Address: 222 West Main Street

City, State, Zip: Clarksburg, WV 26301

Telephone Number: 304-624-1677      Fax Number: 304-624-1662

E-Mail Address: mhowe@cityofclarksburgwv.com

2010 census Population: 16,000+

**B. Municipal Classification**

Class I       Class II       Class III       Class IV

**C. Category of Issues to be Addressed**

Please identify areas to be addressed through home rule: (Check all that apply)

Taxing     Organization     Administrative     Personnel

(Please describe-attach additional pages for each category):

Please see a summary description of each category on the following pages.

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## **SECTION II: NARRATIVE**

### **PERMIT LOCAL CERTIFICATION AND SUPERVISION OF CODE ENFORCEMENT OFFICIALS AND INSPECTORS**

**Introduction:** Clarksburg is at the center of North Central West Virginia, and the county seat of Harrison County. The City has been successful with developments of three (3) Brownfields sites and continuing to redefine itself. Clarksburg is an outstanding place to live, work and play. In an effort to continue our growth, and to provide a standard of excellence its residents deserve, the City would like to amend its Home Rule Application in the following manner.

The City proposes to permit local certification and supervision of code enforcement officials and inspectors. This amendment will exempt Clarksburg from the code official/inspector licensing authority delegated to the State Fire Commission under existing statutory law. City personnel are tested and certified by the International Code Commission (ICC) which also provides continuing education for individuals it certifies.

**Problem:** The Fire Commission adds no additional process and is simply an additional layer of bureaucratic red tape with no added value or efficiency. The city would continue to adopt and follow the State Fire Code as defined by the State Fire Commission.

**Proposed Solution:** The specific statutes and regulations from which we will request the Home Rule Board to exempt the City of Clarksburg are:

1. Subsections (d) and (f) of Section 5b, Article 3, Chapter 29, (§ 29-3-5b(d) and (f) of the code; and
2. Subsection (d) of Section 16, Article 12, Chapter 8, (§ 8-12-16(d)) of the code; and
3. All of the provisions of Title 87, Series 7 of the Code of State Regulations.

By way of explanation, Subsection (d) authorizes and empowers the Fire Commission to “propose legislative rules establishing State standards and fee schedules for the licensing, registration, certification, regulation and continuing education of persons who will conduct inspections relating to the State Building Code, which include, but are not limited to, building code officials, inspectors, plans, examiners and home inspectors.”

Subsection (f) of § 29-3-5b provides that “for the purposes of this section the term “building code” is intended to include all aspects of safe building construction and mechanical operations and all safety aspects related thereto. In any question of priority (of conflict between any local ordinance and the State Building Code) the decision of the State Fire Commission determine the relative priority of such state law, county or municipal ordinance or regulation of any agency thereof and determine compliance with the State Building Code by officials of the State, Counties, Municipalities and political subdivisions of the State.”

Based on the above provisions, the State Fire Commission asserts that legislative “pre-emption” of municipalities’ plenary power to regulate the construction, repair of buildings and their closure, demolition or removal under W. Va. Code § 8-12-16, and that to fulfill its statutory purpose, the State Fire Commission has been empowered with the ability to review and oversee “all aspects” of every municipality’s code enforcement practices.

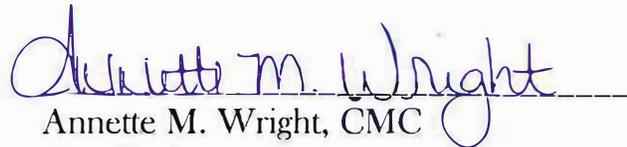
**Conclusion:** The legislature has tasked the State Fire Commission with determining and defining the State Fire Code, and with licensure of code officials, inspectors and plan examiners, there is no explicit authority for direct regulation of municipalities. Moreover, while the State Fire Commission is authorized to license code officials and inspectors, the actual testing is generally done through national organizations, such as the International Code Commission rather than the State Fire Commission. The City of Clarksburg would like the authority to make the decisions for our municipality.

Hearing Mandate Verification

I, the undersigned City Clerk of Clarksburg, do hereby certify that on the 23<sup>rd</sup> day of November, 2015, at 6:00 p.m., a public hearing was held in the City Council Chambers at 222 West Main Street of Clarksburg. The subject of said hearing being Article 112 authorizing the submission of the proposed Municipal Home Rule Plan consistent with W.Va. Code § 8-1-5a.

The attached are true, correct and complete copies of the minutes taken evidencing the Public Hearing and the signatures of persons present during such Public Hearing.

Witness the signature of the undersigned City Clerk of the City of Clarksburg, West Virginia, and the seal of this City, this 24<sup>th</sup> day of November, 2015.



Annette M. Wright, CMC  
City Clerk  
Clarksburg, West Virginia

**NOTICE OF  
PUBLIC HEARING  
CITY OF CLARKSBURG  
HARRISON COUNTY,  
WEST VIRGINIA  
HOME RULE  
PLAN AMENDMENTS**

Notice is hereby given that the City of Clarksburg, Harrison County, West Virginia, will hold a public hearing on Monday, November 23, 2015, at 6:00 p.m. in Council Chambers in City Hall at 222 W. Main Street, Clarksburg, West Virginia 26301. The purpose of the public hearing will be to discuss and hear public comments with respect to the City of Clarksburg's proposed amendments to its written Home Rule Plan and Application for Amendment to such plan. This information will be considered by the governing body of the City of Clarksburg, its Application to be filed with the West Virginia Home Rule Board for the amendments set forth in the Application. The City of Clarksburg's proposed Home Rule Plan Application for Amendments is available for public inspection in the office of the City Manager, at Clarksburg City Hall, 222 W. Main Street, Clarksburg, West Virginia, beginning October 19, 2015, Monday through Friday between the hours of 8:00 a.m. and 4:00 p.m. Said proposed Home Rule Amendments and Application can also be found on Clarksburg's website at cityofclarksburgwv.com.

All interested citizens are invited to attend the public hearing scheduled on Monday, November 23, 2015 at 6:00 p.m. to present oral or written comments with respect to the proposed amendments to the Home Rule Plan. Until that time written comments may also be presented and addressed to Martin Howe, City Manager, City of Clarksburg, 222 W. Main Street, Clarksburg, West Virginia 26301. After the public hearing, the governing body of the City of Clarksburg will consider on two readings an Ordinance authorizing the Application for Amendments. It is anticipated that the first reading of the Ordinance will be at the public hearing on Thursday, December 3, 2015, and the second reading will be at the regular meeting of council on Thursday, December 17, 2015. Both readings will take place in Council Chambers at City Hall, City of Clarksburg, 222 W. Main Street, Clarksburg, West Virginia 26301, which meetings are open to the public

Catherine A. Goings, Mayor

**PUBLISHER'S CERTIFICATE**

I, Wendy Greenhouse, Advertising Manager of THE EXPONENT TELEGRAM, a newspaper of general circulation published in the city of Clarksburg, County and state aforesaid, do hereby certify that the annexed:

**NOTICE OF PUBLIC HEARING**

was published in THE EXPONENT-TELEGRAM 2 time(s) commencing on 10/19/2015 and ending on 10/26/2015 at the request of

**CITY OF CLARKSBURG.**

Given under my hand this 10/27/15.

The publisher's fee for said publication is: \$101.83.

[Signature]  
Advertising Manager of The Exponent-Telegram

Subscribed to and sworn to before me this 10/27/15

[Signature]  
Notary Public in and for Harrison County, WV

My commission expires on

The 29th day of August 20 17



**NOTICE OF**  
**PUBLIC HEARING**  
**CITY OF CLARKSBURG**  
**HARRISON COUNTY,**  
**WEST VIRGINIA**  
**HOME RULE**  
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Catherine A. Goings, Mayor

Public Hearing  
Monday, November 23, 2015  
6:00 p.m.  
Re: Proposed Amendment to Home Rule Plan

On Monday, November 23, 2015 at approximately 6:00 p.m. in Council Chambers, Clarksburg Municipal Building, 222 West Main Street, Clarksburg, a public hearing was held on the proposed amendment to the City's Home Rule Application. A Class II legal advertisement providing information regarding said public hearing appeared in *The Exponent Telegram* on October 19, 2015 and October 26, 2015.

City Manager Martin Howe opened the hearing by introducing Council members and staff in attendance and circulated a sign-in sheet, a copy of which is attached hereto. Mr. Howe apprised that the City is considering amending its Home Rule Plan and that this public hearing is being held concerning the same and pursuant to W.Va. Code § 8-1-5a(f) and (g). Mr. Howe informed that an ordinance to authorize amending the Home Rule Plan would be on Council's December agenda. Mr. Howe further informed that the Plan Amendment has been available for public inspection in his office since Friday, October 16<sup>th</sup> and also on the City's website since Monday, October 19<sup>th</sup>. Mr. Howe stated that this amendment is a collaborative effort among multiple cities (Clarksburg, Bridgeport, Shinnston and Buckhannon).

Mr. Morgan stated that the City is not purporting to exempt itself from the State Building Code in any form or exempt itself from regulations adopted by the Fire Commission and that the City will still use those codes known as the "State Building Code." Mr. Morgan stated that it is the City's position that there is no need to seek recertification through the Fire Commission once certified by the ICC as this adds an additional layer of bureaucracy. Mr. Morgan further stated that there is a difference between certification and licensure and further remarked that he disagreed that the Fire Commission has plenary supervisory authority over all code enforcement activities. Mr. Morgan apprised that the Building Code Appeals Board would still be available to those wishing to appeal decisions. Mr. Morgan discussed the procedures and timeframe for presenting the amendment to the Home Rule Board in January 2016.

Mr. Pedersen inquired if the City was trying to eliminate the jurisdiction of the Fire Commission as to any oversight with Mr. Morgan responding that it is the City's position that there is no statute that states the Fire Commission has general oversight of all code enforcement operations. Mr. Morgan acknowledged and agreed that should a conflict arise between a local ordinance and the life safety code then the life safety code would prevail. Mr. Morgan confirmed that the court system would be the recourse to address appeal decisions once the same has been handled by the Building Code Appeals Board.

Mr. Martin Shaffer voiced his opposition to the Home Rule amendment stating that the individual hired in 2005 to be the Code Official was not qualified and that in the ten years since that time, he has not taken classes to get certified; and, further, Mr. Shaffer alleged that fraudulent information was submitted to the Fire Commission to obtain the license. Also, Mr. Shaffer opined that one of the members of the Building Code Appeals Board was not qualified to sit on said Board. Mr. Shaffer alleged deception on the part of the City and remarked that such deception

was the reason the oversight was needed by the Fire Commission. Mr. Shaffer opined that having the Fire Marshal oversee what the City is doing should not be a problem. Mr. Shaffer commented that the local judges have not stood up for due process and shared his situation wherein he went before the Building Code Appeals Board and, ultimately, before the judge and further opining that the judge made a ruling based on an incomplete record by the City. Mr. Shaffer alleged that a certified code official needed to be running the department and remarked that the same unqualified individual continues to run the department. Mr. Shaffer commented that the City, not the State, created the problem and that the City has done nothing to fix the problem. Mr. Shaffer contended that the City retaliated against him by going after this brother's property and shared a story concerning bid documents as to asbestos removal.

Mr. Shaffer added that the Fire Commission tried to settle the matter wherein all the houses on the demolition list would be reinspected and that the City declined to do so. Mr. Shaffer stated that he believed that there should be a certified code official in the Code Office at City Hall and that the City Engineer, Mr. Keeling, is never at City Hall to oversee anything.

Ms. Margaret Bailey rebutted Mr. Shaffer's comments stating that he failed to disclose that the Supreme Court had upheld the City's order that Mr. Shaffer's structure located on East Main Street be demolished. Ms. Bailey opined that the City has endured much pain and has spent much money due to Mr. Shaffer and that his actions and negativity have harmed the City.

There being no further comments, the public hearing was closed at approximately 6:55 p.m.

  
Annette Wright, City Clerk

Attachment

**PUBLIC HEARING**

	<u>Name</u>	<u>Address</u>
1.	Stewart Hurst	64 Daffodil Ln Clarksburg WV 26301
2.	Jim Davis	Ex post Tully
3.	Jerry Blair	Atty At Law
4.	Martin Schaffer	211 W. SIXTH ST
5.	RALPH POBORSKI	429 NORNOR AVE
6.	JIM Malfregot (Vice Mayor)	613 E. MAIN ST CLARKSBURG
7.	Catherine A. Goin	154 E. MAIN ST. CLKBRG
8.	Anthony N. Belotte	2207 Golfway, Clarksburg
9.	Margaret Ann Buley	531 Milford St, Clarksburg, WV
10.	Gary Bowden	340 Buckhannon Ave., Clarksburg
11.	GREG MORGAN	1246 Country Club <sup>Clarksburg</sup> Road
12.	Martin Hane	222 W. Main St.
13.	Annette Wright	222 W. Main St.
14.		
15.		
16.		
17.		
18.		

# A G E N D A

## C I T Y   O F   C L A R K S B U R G

AGENDA FOR **REGULAR** MEETING OF COUNCIL OF THE CITY OF CLARKSBURG TO BE HELD **THURSDAY, DECEMBER 3, 2015** AT THE CLARKSBURG MUNICIPAL BUILDING – COUNCIL CHAMBERS, 222 WEST MAIN STREET, CLARKSBURG, WEST VIRGINIA AT **7:00 P.M.**

PRIOR TO THE REGULAR COUNCIL MEETING, COUNCIL WILL BE MEETING IN COUNCIL CHAMBERS AT 6:30 P.M. FOR A CONFERENCE SESSION

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### O R D E R   O F   B U S I N E S S

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1. ROLL CALL
2. PRAYER (*to be given by Councilmember Bowden*) & PLEDGE
3. APPROVAL OF MINUTES:  
REGULAR SESSION – NOVEMBER 19, 2015
4. PETITIONS, COMMUNICATIONS AND PUBLIC HEARINGS
5. CITY MANAGER’S REPORT/UPDATE
6. UNFINISHED BUSINESS
7. NEW BUSINESS:
  - A. CONSIDERATION OF **FIRST READING** OF AN **ORDINANCE** WHICH AUTHORIZES THE ISSUANCE BY THE MUNICIPAL BUILDING COMMISSION, CLARKSBURG, WEST VIRGINIA OF ITS LEASE REVENUE BONDS, IN ONE OR MORE SERIES, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$250,000 (THE “BONDS”) FOR THE PURPOSE OF FINANCING COSTS OF THE ACQUISITION BY THE BUILDING COMMISSION OF THE HARRISON COUNTY YMCA FACILITY (THE “FACILITY”) LOCATED ON LOWNDES HILL TOGETHER WITH ALL NECESSARY APPURTENANCES AND THE PAYMENT OF COSTS OF ISSUANCE OF THE BONDS; THE LEASING OF THE FACILITY BY THE CITY FROM THE BUILDING COMMISSION PURSUANT TO AN AGREEMENT AND LEASE BY AND BETWEEN THE BUILDING COMMISSION AND THE CITY AND THE PAYMENT OF LEASE RENTALS BY THE CITY PURSUANT TO SUCH LEASE AGREEMENT AT SUCH TIMES AND IN SUCH AMOUNTS SO AS TO PROVIDE FOR THE PAYMENT OF DEBT SERVICE ON THE BONDS AND RELATED MATTERS

- B. CONSIDERATION OF FIRST READING OF AN ORDINANCE AUTHORIZING SUBMISSION OF AN APPLICATION TO THE WEST VIRGINIA MUNICIPAL HOME RULE BOARD TO EXEMPT THE CITY OF CLARKSBURG FROM THE CODE OFFICIAL/INSPECTOR LICENSING AUTHORITY DELEGATED TO THE STATE FIRE COMMISSION UNDER EXISTING STATUTORY LAW
  - C. CONSIDERATION OF APPROVING SUBMISSION OF APPLICATION FOR FEDERAL ASSISTANCE SF-424 WITH THE U.S. DEPARTMENT OF AGRICULTURE FOR A LOAN OF \$2.5 MILLION NOT TO EXCEED \$3 MILLION FOR INFRASTRUCTURE PROJECTS INCLUDING REPLACEMENT OF SYCAMORE STREET BRIDGE AND FOR MAJOR REPAIR AND RECONSTRUCTION OF SECTIONS OF SOUTH 2<sup>ND</sup> STREET, BETWEEN ELLIOT STREET AND VanBUREN AVENUE, AND AUTHORIZING THE MAYOR TO EXECUTE THE APPLICATION AND ALL REQUIRED DOCUMENTS ON BEHALF OF THE CITY
  - D. CONSIDERATION OF RATIFICATION OF CITY MANAGER'S REAPPOINTMENT OF JOHN MADIA TO THE URBAN RENEWAL AUTHORITY
- 8. COUNCIL COMMENTS
  - 9. ADJOURNMENT

**DECEMBER 3, 2015**

The Clarksburg City Council met in REGULAR SESSION on Thursday, December 3, 2015 at 7:00 P.M. at the Clarksburg Municipal Building – Council Chambers, 222 West Main Street, Clarksburg, West Virginia, with Mayor Goings presiding.

**COUNCIL MEMBERS PRESENT:**

Gary Bowden  
Robert Caplan  
Ryan Kennedy  
Sam Lopez  
Chad Sigmon  
Vice Mayor Jim Malfregeot  
Mayor Catherine Goings

**ALSO PRESENT:**

Martin Howe, City Manager  
Greg Morgan, City Attorney  
Annette Wright, City Clerk

The prayer was given by Councilmember Bowden followed by the Pledge of Allegiance.

**MOTION** by Vice Mayor Malfregeot. **SECONDED** by Councilmember Caplan for approval of the minutes of the Regular session of Council held on November 19, 2015. **MOTION APPROVED UNANIMOUSLY.**

Mayor Goings called for petitions, communications and public hearings with no one appearing therefor.

**AGENDA ITEM NO. 5: CITY MANAGER’S REPORT/UPDATE**

December 3, 2015  
Submitted by Martin G. Howe

**General Updates**

1. Chestnut Street – The bid opening will be Tuesday, December 8<sup>th</sup> at 10:00 a.m. in Charleston.
2. Lowndes Hill – YMCA – The Municipal Building Commission approved the first reading of the Lease Revenue Bond Ordinance to acquire the Lowndes Hill property. I recommend Council also approve under New Business.
3. Rocky’s Building – This is a city-owned building. As part of our planning for future activities at Jackson Square and remodeling of the building, a new roof has been installed at a cost of \$16,250. The Public Works personnel are currently demolishing the interior to prepare for future design.
4. Urban Renewal Authority (URA) – My reappointment to this board is John Madia. His term has expired on the board; therefore, I recommend that Council confirm by appointment under New Business.

**Police & Fire**

1. Police Civil Service Commission meeting – PCSC will be meeting Tuesday, December 8<sup>th</sup> at 5:45 p.m. for the following:
  - a) One (1) of the applicants removed from the eligibility list requested a hearing to contest being removed.
  - b) PCSC will also be reviewing backgrounds completed for applicants within the 2<sup>nd</sup> group testing.
2. Police – Check presentation resulting from the investigation of the Hot Stuff/Cool Things matter will take place on Wednesday, December 9<sup>th</sup> at 1:30 p.m. at RCB High School.

**Sanitary Board**

- Spring/Hedge and St. Clair Street area – Sanitary Board approved and awarded contract to low bidder Bear Contracting in the amount of \$95,925 with an additional \$3,600 for asphalt paving.
- a) The contract signing and pre-construction meeting was held on Tuesday, December 1<sup>st</sup>.

- b) The contractor has begun ordering the necessary supplies for the project. The project has a completion time period of sixty (60) days, with an allowance for weather related delays.

**FOIA Requests**

Douglas Dorrer – 204 E. Main Street – submitted the following request for information:

1. Results of voting of each City Council member on the vote for B&O tax reduction on retail & manufacturing.
2. List of all federally-contracted businesses for years 2013, 2014 and 2015 that paid B&O taxes to the City specifically for:
  - a) FBI/CJIS Center
  - b) Biometrics (known as Keeley Building)  
347 Main Street  
Clarksburg, WV 26301
  - c) Derek Hotsinpillar Federal Building  
320 W. Pike Street  
Clarksburg, WV 26301
3. List of B&O taxes for years 2013, 2014 and 2015 for the following businesses:
  - a) The 5<sup>th</sup> Floor – Richard and Catherine Goings
  - b) Embellishments – Catherine Goings
  - c) Wicked Sisters – Catherine Goings
  - d) REG Developers – Richard and Catherine Goings
  - e) Malfregeot Enterprises – James Malfregeot
  - f) Malfregeot, Inc. – James Malfregeot
  - g) Gary Bowden Advertising & Marketing – Gary Bowden

Responded to request on Monday, November 30<sup>th</sup>. The information pertaining to items 1 and 2 will be made available on Friday, December 18<sup>th</sup> at 9:00 a.m. The items listed in request number 3(a)-(g) are considered protected information; and, therefore, no tax information will be provided. The list of accounts will be provided as to whether or not they are current or delinquent.

With regard to the City Manager's Report, Councilmember Bowden inquired as to the removal from the police eligibility list with Mr. Howe informing that applicants can be removed at any phase with applicants provided the opportunity for a public hearing regarding such removal before the Police Civil Service Commission.

**UNFINISHED BUSINESS:** None.

**NEW BUSINESS:**

- A. **CONSIDERATION OF FIRST READING OF AN ORDINANCE WHICH AUTHORIZES THE ISSUANCE BY THE MUNICIPAL BUILDING COMMISSION, CLARKSBURG, WEST VIRGINIA OF ITS LEASE REVENUE BONDS, IN ONE OR MORE SERIES, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$250,000 (THE "BONDS") FOR THE PURPOSE OF FINANCING COSTS OF THE ACQUISITION BY THE BUILDING COMMISSION OF THE HARRISON COUNTY YMCA FACILITY (THE "FACILITY") LOCATED ON LOWNDES HILL TOGETHER WITH ALL NECESSARY APPURTENANCES AND THE PAYMENT OF COSTS OF ISSUANCE OF THE BONDS; THE LEASING OF THE FACILITY BY THE CITY FROM THE BUILDING COMMISSION PURSUANT TO AN AGREEMENT AND LEASE BY AND BETWEEN THE BUILDING COMMISSION AND THE CITY AND THE PAYMENT OF LEASE RENTALS BY THE CITY PURSUANT TO SUCH LEASE AGREEMENT AT SUCH TIMES AND IN SUCH AMOUNTS SO AS TO PROVIDE FOR THE PAYMENT OF DEBT SERVICE ON THE BONDS AND RELATED MATTERS**

**MOTION** by Councilmember Lopez, **SECONDED** by Councilmember Caplan for approval of the above-captioned ordinance on first reading. Under discussion, Councilmember Kennedy

advised that he intended to vote against this ordinance stating that he did not believe it was a good use of government funds to bail out a private entity that made bad decisions and that the City has other more important matters that need financial attention, such as pensions. Councilmember Bowden inquired if there were any provisions wherein the YMCA could buy back the building with Mr. Howe responding that no such discussions have been held and that the City wants to protect the property. Mr. Aman advised that the arrangement between the City and the YMCA is separate and apart from the bond issue and that this will be a taxable bond because of the uncertainty of the future use of the facility. Mr. Howe stated that a lease agreement would need to be worked out with the YMCA. Mayor Goings also noted the desire to salvage the property and that it was not the City's intent to operate the YMCA. Councilmember Lopez expressed his support for this ordinance commenting that the facility provides activities for our youth. Councilmember Bowden inquired if the facility could be placed under Parks & Rec if the YMCA can no longer operate it with Mr. Howe responding affirmatively. Concluding discussion, **MOTION CARRIED 6-1** with Councilmember Kennedy casting the dissenting vote.

**B. CONSIDERATION OF FIRST READING OF AN ORDINANCE AUTHORIZING SUBMISSION OF AN APPLICATION TO THE WEST VIRGINIA MUNICIPAL HOME RULE BOARD TO EXEMPT THE CITY OF CLARKSBURG FROM THE CODE OFFICIAL/INSPECTOR LICENSING AUTHORITY DELEGATED TO THE STATE FIRE COMMISSION UNDER EXISTING STATUTORY LAW**

**MOTION** by Vice Mayor Malfregeot, **SECONDED** by Councilmember Lopez for approval of the above-captioned ordinance on first reading. **MOTION APPROVED 6-0** with Councilmember Kennedy abstaining due to a direct interest by his law firm's client.

**C. CONSIDERATION OF APPROVING SUBMISSION OF APPLICATION FOR FEDERAL ASSISTANCE SF-424 WITH THE U.S. DEPARTMENT OF AGRICULTURE FOR A LOAN OF \$2.5 MILLION NOT TO EXCEED \$3 MILLION FOR INFRASTRUCTURE PROJECTS INCLUDING REPLACEMENT OF SYCAMORE STREET BRIDGE AND FOR MAJOR REPAIR AND RECONSTRUCTION OF SECTIONS OF SOUTH 2<sup>ND</sup> STREET, BETWEEN ELLIOT STREET AND VAN BUREN AVENUE, AND AUTHORIZING THE MAYOR TO EXECUTE THE APPLICATION AND ALL REQUIRED DOCUMENTS ON BEHALF OF THE CITY**

**MOTION** by Vice Mayor Malfregeot, **SECONDED** by Councilmember Kennedy for approval of the above-captioned matter. **MOTION APPROVED UNANIMOUSLY.**

**D. CONSIDERATION OF RATIFICATION OF CITY MANAGER'S REAPPOINTMENT OF JOHN MADIA TO THE URBAN RENEWAL AUTHORITY**

**MOTION** by Councilmember Caplan, **SECONDED** by Councilmember Bowden to ratify the City Manager's reappointment of John Madia to the Urban Renewal Authority. **MOTION APPROVED UNANIMOUSLY.**

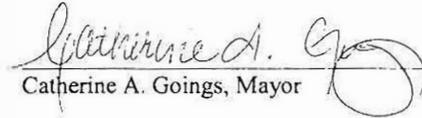
**MOTION** by Vice Mayor Malfregeot, **SECONDED** by Councilmember Sigmon to adjourn into Executive Session pursuant to Chapter 6, Article 9A, Section 4 of the West Virginia Code to discuss matters involving the purchase, sale or lease of property, advance construction planning, the investment of public funds or other matters involving competition which, if made public, might adversely affect the financial or other interests of the City and to discuss personnel matters and that the following persons be present: Mayor and members of City Council, City Manager, City Attorney, Assistant City Manager and Finance Director. **MOTION APPROVED UNANIMOUSLY.**

Concluding Executive Session, **MOTION** by Councilmember Lopez, **SECONDED** by Councilmember Caplan to reconvene into Regular Session. **MOTION APPROVED UNANIMOUSLY.**

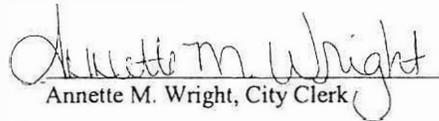
**COUNCIL COMMENTS:**

- Councilmember Kennedy: Expressed his sympathies and condolences for the families in the recent terrorist attack in California.
- Vice Mayor Malfregeot: Apprised of the Christmas Parade tomorrow evening.
- Mayor Goings: Expressed appreciation to James and John of Public Works for their assistance with decorating the Christmas tree(s).

There being no further business to come before Council, **MOTION** by Councilmember Caplan, **SECONDED** by Councilmember Kennedy for adjournment. **MOTION APPROVED UNANIMOUSLY.**

  
Catherine A. Goings, Mayor

Approved: December 17, 2015

  
Annette M. Wright, City Clerk

### PUBLISHER'S CERTIFICATE

I, Loretta Greathouse  
\_\_, Advertising Manager of THE EXPONENT TELEGRAM, a newspaper of general circulation published in the city of Clarksburg, County and state aforesaid, do hereby certify that the annexed:

**PUBLIC HEARING**  
A PUBLIC HEARING WILL BE HELD PRIOR TO FINAL VOTE ON ADOPTION OF THE FOLLOWING ORDINANCE DURING A REGULAR MEETING OF COUNCIL OF THE CITY OF CLARKSBURG, TO BE HELD ON THURSDAY, DECEMBER 17, 2015 AT 7:00 P.M. AT THE CLARKSBURG MUNICIPAL BUILDING, 222 WEST MAIN STREET, CLARKSBURG, AT WHICH TIME ANY INTERESTED PARTIES MAY APPEAR AT SAID MEETING AND BE HEARD WITH RESPECT TO THIS PROPOSED ORDINANCE. COPIES OF THIS PROPOSED ORDINANCE ARE AVAILABLE FOR PUBLIC INSPECTION IN THE OFFICE OF THE CITY CLERK AT SAID MUNICIPAL BUILDING DURING REGULAR BUSINESS HOURS. CITIZENS WITH TEXT TELEPHONES MAY CONTACT THE CITY THROUGH THE USE OF THE STATE RELAY SERVICE BY CALLING 1-800-982-8771.

AN ORDINANCE AUTHORIZING SUBMISSION OF AN APPLICATION TO THE WEST VIRGINIA MUNICIPAL HOME RULE BOARD TO EXEMPT THE CITY OF CLARKSBURG FROM THE CODE OFFICIAL/INSPECTOR LICENSING AUTHORITY DELEGATED TO THE STATE FIRE COMMISSION UNDER EXISTING STATUTORY LAW

PASSED BY THE CITY COUNCIL OF THE CITY OF CLARKSBURG ON FIRST READING ON THE 3RD DAY OF DECEMBER 2015.

CATHERINE A. GOINGS, MAYOR

ATTEST: ANNETTE M. WRIGHT, CITY CLERK

### PUBLIC HEARING

was published in THE EXPONENT-TELEGRAM 2 time(s) commencing on 12/08/2015 and ending on 12/15/2015 at the request of

**CITY OF CLARKSBURG.**

Given under my hand this 12/18/15.

The publisher's fee for said publication is: \$73.06.

Loretta Greathouse  
Advertising Manager of The Exponent-Telegram

Subscribed to and sworn to before me this 12/18/15

Sarah E. Hurst

Notary Public in and for Harrison County, WV

My commission expires on

The 27<sup>th</sup> day of August 2017



# AGENDA

## CITY OF CLARKSBURG

AGENDA FOR **REGULAR** MEETING OF COUNCIL OF THE CITY OF CLARKSBURG TO BE HELD **THURSDAY, DECEMBER 17, 2015** AT THE CLARKSBURG MUNICIPAL BUILDING – COUNCIL CHAMBERS, 222 WEST MAIN STREET, CLARKSBURG, WEST VIRGINIA AT **7:00 P.M.**

**PRIOR TO THE REGULAR COUNCIL MEETING, COUNCIL WILL BE MEETING IN COUNCIL CHAMBERS AT 6:30 P.M. FOR A CONFERENCE SESSION**

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### ORDER OF BUSINESS

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1. ROLL CALL
2. PRAYER (*to be given by Councilmember Caplan*) & PLEDGE
3. APPROVAL OF MINUTES:  
REGULAR SESSION – DECEMBER 3, 2015  
SPECIAL SESSION – DECEMBER 9, 2015
4. PETITIONS, COMMUNICATIONS AND PUBLIC HEARINGS
5. CITY MANAGER’S REPORT/UPDATE
6. UNFINISHED BUSINESS:
  - A. CONSIDERATION OF **SECOND READING OF AN ORDINANCE** WHICH AUTHORIZES THE ISSUANCE BY THE MUNICIPAL BUILDING COMMISSION, CLARKSBURG, WEST VIRGINIA OF ITS LEASE REVENUE BONDS, IN ONE OR MORE SERIES, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$250,000 (THE “BONDS”) FOR THE PURPOSE OF FINANCING COSTS OF THE ACQUISITION BY THE BUILDING COMMISSION OF THE HARRISON COUNTY YMCA FACILITY (THE “FACILITY”) LOCATED ON LOWNDES HILL TOGETHER WITH ALL NECESSARY APPURTENANCES AND THE PAYMENT OF COSTS OF ISSUANCE OF THE BONDS; THE LEASING OF THE FACILITY BY THE CITY FROM THE BUILDING COMMISSION PURSUANT TO AN AGREEMENT AND LEASE BY AND BETWEEN THE BUILDING COMMISSION AND THE CITY AND THE PAYMENT OF LEASE RENTALS BY THE CITY PURSUANT TO SUCH LEASE AGREEMENT AT SUCH TIMES AND IN SUCH AMOUNTS SO AS TO PROVIDE FOR THE PAYMENT OF DEBT SERVICE ON THE BONDS AND RELATED MATTERS

- B. CONSIDERATION OF **SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE** AUTHORIZING SUBMISSION OF AN APPLICATION TO THE WEST VIRGINIA MUNICIPAL HOME RULE BOARD TO EXEMPT THE CITY OF CLARKSBURG FROM THE CODE OFFICIAL/INSPECTOR LICENSING AUTHORITY DELEGATED TO THE STATE FIRE COMMISSION UNDER EXISTING STATUTORY LAW
  
  - C. CONSIDERATION OF **SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE** OF THE CITY OF CLARKSBURG AMENDING ARTICLE 746, PART SEVEN OF THE CODIFIED ORDINANCES OF THE CITY IMPOSING A MUNICIPAL SALES AND SERVICES TAX IN ACCORDANCE WITH WEST VIRGINIA CODE § 8-1-5a
7. NEW BUSINESS:
- A. CONSIDERATION OF **FIRST READING OF AN ORDINANCE** OF THE CITY OF CLARKSBURG PROVIDING FOR THE ABANDONMENT OF A PORTION OF THAT CERTAIN 10 FOOT UNNAMED, UNIMPROVED, AND UNOPENED ALLEY LOCATED ON THE NORTHERN SIDE OF THORN STREET FROM A POINT AT THE NORTH EASTERN CORNER OF TAX PARCEL 58 TO THE WESTERLY CORNER OF TAX PARCEL 45, IN THE CITY OF CLARKSBURG, CLARK DISTRICT, HARRISON COUNTY, WEST VIRGINIA, AS SHOWN ON THE PETITION FOR SAID ABANDONMENT ON FILE IN THE CITY CLERK'S OFFICE; PROVIDING FOR FINDINGS OF FACT IN CONNECTION WITH SAID ABANDONMENT; AND AUTHORIZING THE EXECUTION OF THE PROPER QUITCLAIM DEEDS, RESERVING THEREFROM UTILITY RIGHTS-OF-WAY
  
  - B. CONSIDERATION OF A **RESOLUTION** OF THE COUNCIL OF THE CITY OF CLARKSBURG REQUESTING APPROVAL OF THE WEST VIRGINIA DEVELOPMENT OFFICE FOR A CHANGE OF SCOPE FOR A 2007 COMMUNITY PARTICIPATION GRANT IN THE AMOUNT OF \$13,000 FOR THE CLARKSBURG FIRE DEPARTMENT SMOKE DETECTOR PROGRAM
  
  - C. CONSIDERATION OF APPOINTMENT TO THE MUNICIPAL BUILDING COMMISSION
  
  - D. CONSIDERATION OF EMPLOYMENT CONTRACT BETWEEN THE CITY OF CLARKSBURG AND THE CITY MANAGER OF THE CITY OF CLARKSBURG
8. COUNCIL COMMENTS
9. ADJOURNMENT

## DECEMBER 17, 2015

The Clarksburg City Council met in REGULAR SESSION on Thursday, December 17, 2015 at 7:00 P.M. at the Clarksburg Municipal Building – Council Chambers, 222 West Main Street, Clarksburg, West Virginia, with Mayor Goings presiding.

### COUNCIL MEMBERS PRESENT:

Gary Bowden  
Robert Caplan  
Sam Lopez  
Chad Sigmon  
Vice Mayor Jim Malfregeot  
Mayor Catherine Goings

### ALSO PRESENT:

Martin Howe, City Manager  
Greg Morgan, City Attorney  
Annette Wright, City Clerk

### COUNCIL MEMBER(S) ABSENT:

Ryan Kennedy

The prayer was given by Councilmember Caplan followed by the Pledge of Allegiance.

At this time, Council deviated from the Agenda for the following presentation: Mayor Goings, on behalf of City Council, presented the Liberty High School Cheerleading Squad with a plaque in recognition of their recent accomplishments: Runner Up in the Regional Championship and Third Place in the State Championship.

**MOTION** by Vice Mayor Malfregeot, **SECONDED** by Councilmember Caplan for approval of the minutes of the Regular session of Council held on December 3, 2015. **MOTION APPROVED UNANIMOUSLY.**

**MOTION** by Vice Mayor Malfregeot, **SECONDED** by Councilmember Lopez for approval of the minutes of the Special session held on December 9, 2015. **MOTION APPROVED UNANIMOUSLY.**

Mayor Goings called for petitions, communications and public hearings with the following individual appearing therefor.

**Kimberly Davis**, P.O. Box 165, Clarksburg, WV – appeared before Council concerning property at 1120 E. Main Street, Clarksburg. Ms. Davis provided pictures to Council regarding said rental property opining the same to be in code violation. Ms. Davis advised that she was evicted over a year ago as she was behind on her rent and that the landlord(s) kept her personal property/contents. Ms. Davis stated that the building was atrocious and contained mold, as well as

electrical concerns. Mayor Goings informed Ms. Davis that the Administration would have the code issues checked into.

**AGENDA ITEM NO. 5: CITY MANAGER’S REPORT/UPDATE**

December 17, 2015

Submitted by Martin G. Howe

**General Updates**

1. Waldomore – Electrical Upgrade – Architectural Services Contract in the amount of \$68,000 was executed for the bidding and construction phases.
  - a) Project Timeline:
    - Advertise – Tuesday, December 29, 2015 and Tuesday, January 5, 2016
    - Pre-bid Meeting – Tuesday, January 12<sup>th</sup> at 1:30 p.m. at the Waldomore
    - Bid Opening – Thursday, January 28<sup>th</sup> at 1:30 p.m. City Manager’s Conference Room
    - Award of Bid – Thursday, February 4<sup>th</sup> – Council to consider awarding of bid
    - September 30, 2016 – Contract anticipated to be substantially completed
2. Lowndes Hill – YMCA – The Municipal Building Commission approved the second reading of the Lease Revenue Bond Ordinance to acquire the Lowndes Hill property. I recommend Council also approve under New Business.
3. Sales Tax – In preparation of ordinance being approved, the Finance Director has drafted a Notice to be sent to all businesses explaining the implementation of the 1% sales tax, as well as the reduction of Business & Occupation Tax.

**Police & Fire**

1. HIDTA (High Intensity Drug Trafficking Areas Program) – The Police Department was awarded the Appalachia HIDTA sub-grant for the year 2016 in the amount of \$38,250.
2. Police Civil Service Commission – the PCSC had a meeting today to review background information on the second group of candidates, eleven (11) out of thirteen (13) will be moving on to the polygraph phase.

**Economic Development**

State Office Building –

- a) Paving of base asphalt is to be started immediately, weather permitting.
- b) The sidewalks and curbs are underway and should be completed on the North and West side of building.
- c) Many interior fixtures are being installed as well as the Terrazo flooring on the 1<sup>st</sup> floor.

**FOIA Requests**

Two (2) more FOIA requests have been submitted during the month of December.

Jimmy Marino –

- Received a request submitted on Thursday, December 10<sup>th</sup>. The request is to review all Sam’s Club charge card statements for years 2014 and 2015. I responded to the request on Tuesday, December 15<sup>th</sup>. The information he had requested will be made available for inspection Friday, January 8, 2016.
- Received request on Thursday, December 17<sup>th</sup> for all documents including but not limited to any payments made to Bill Mayer (Public Works Employee) and what the payments were excluding his regular wage payments for the past six (6) months. A response to the request will be provided as well as a date and time to review such documents.

**UNFINISHED BUSINESS:**

**A. CONSIDERATION OF SECOND READING OF AN ORDINANCE WHICH AUTHORIZES THE ISSUANCE BY THE MUNICIPAL BUILDING COMMISSION, CLARKSBURG, WEST VIRGINIA OF ITS LEASE REVENUE BONDS, IN ONE OR MORE SERIES, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$250,000 (THE “BONDS”) FOR THE PURPOSE OF FINANCING COSTS OF THE ACQUISITION BY THE BUILDING COMMISSION OF THE HARRISON COUNTY YMCA FACILITY (THE “FACILITY”) LOCATED ON LOWNDES HILL TOGETHER WITH ALL NECESSARY APPURTENANCES AND THE PAYMENT OF COSTS OF ISSUANCE OF THE BONDS; THE LEASING OF THE FACILITY BY THE CITY FROM THE BUILDING COMMISSION PURSUANT TO AN AGREEMENT AND LEASE BY AND BETWEEN THE BUILDING COMMISSION AND THE CITY AND THE PAYMENT OF LEASE RENTALS BY THE CITY PURSUANT TO SUCH LEASE AGREEMENT AT SUCH TIMES AND IN SUCH AMOUNTS SO AS TO PROVIDE FOR THE PAYMENT OF DEBT SERVICE ON THE BONDS AND RELATED MATTERS**

**MOTION** by Vice Mayor Malfregeot, **SECONDED** by Councilmember Caplan for approval of the above-captioned ordinance on second reading. **MOTION APPROVED UNANIMOUSLY.**

**B. CONSIDERATION OF SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE AUTHORIZING SUBMISSION OF AN APPLICATION TO THE WEST VIRGINIA MUNICIPAL HOME RULE BOARD TO EXEMPT THE CITY OF CLARKSBURG FROM THE CODE OFFICIAL/INSPECTOR LICENSING AUTHORITY DELEGATED TO THE STATE FIRE COMMISSION UNDER EXISTING STATUTORY LAW**

City Clerk Wright announced that notices regarding the public hearing on the above-captioned ordinance appeared in *The Exponent Telegram* on December 8, 2015 and December 15, 2015 and that the publisher's certificate would be filed with the permanent record. Mayor Goings declared the public hearing open with the following individuals appearing therefor:

**Chuck Arnett** – requested an explanation of the above with Mr. Morgan informing that approval of the above would authorize the City to make an application to the Home Rule Board to amend its plan which would exempt the City from certain regulations by the State Fire Commission in terms of licensure of code officials, but not exempt ourselves from the State Fire Code. Further, Mr. Morgan stated that it was the City's position that certain regulations are an overreach and that the exemption would permit certification and licensing by the ICC. Mr. Arnett stated that he was uncertain as to how he felt about this remarking that he did not believe that Council has dealt with the Code Enforcement issues in a helpful or positive manner. Mr. Arnett suggested that the Code Enforcement Department be reviewed in order to fix the problems and make the Department effective. With regard to Certificates of Occupancy for rental properties, Mr. Arnett opined that the manpower of the Code Enforcement Department was insufficient to perform all necessary inspections therefor and that possibly there may not be a system in place robust enough to handle the needs the Code Enforcement Department is tasked to do. In closing, Mr. Arnett stated that he is somewhat concerned that this may be an attempt to avoid dealing with the problems and inquired if this would be beneficial to the citizens.

**Kimberly Davis** – remarked that this is on point as to her earlier remarks concerning the rental property she stated was not code compliant. Ms. Davis commented that the above concerns her as she must be licensed to do her job and that teachers, etc. have to be licensed for their positions. Ms. Davis inquired as to why the City would want to bypass this licensing.

Mr. Morgan stated that the City would not be bypassing the licensing; as the certification would be by the ICC and that the City believed that the above would eliminate the duplication of the State. Ms. Davis inquired as to what the State requires with Mr. Howe responding that the State requires a \$50.00 fee and credit hours. In closing, Ms. Davis expressed her disagreement to the above remarking that there are times when extreme scrutiny and additional oversight are necessary.

**Betty Gulas** – informed that she has been to the City several times about Code Enforcement and she feels that they are not doing their job. Ms. Gulas remarked that there are things going on now on S. Chestnut Street that should not be such as cars parked in the road and on the sidewalk with nothing being done about the same. Ms. Gulas opined that Code Enforcement needed the extra scrutiny and that someone other than the City was needed for oversight.

There being no one else wishing to speak, Mayor Goings closed the public hearing. **MOTION** by Vice Mayor Malfregeot, **SECONDED** by Councilmember Lopez for approval of the above-captioned ordinance on second and final reading. **MOTION APPROVED UNANIMOUSLY.**

**C. CONSIDERATION OF SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE OF THE CITY OF CLARKSBURG AMENDING ARTICLE 746, PART SEVEN OF THE CODIFIED ORDINANCES OF THE CITY IMPOSING A MUNICIPAL SALES AND SERVICES TAX IN ACCORDANCE WITH WEST VIRGINIA CODE § 8-1-5a**

City Clerk Wright announced that notices regarding the public hearing on the above-captioned ordinance appeared in *The Exponent Telegram* on December 10, 2015 and December 17, 2015 and that the publisher's certificate would be filed with the permanent record. Mayor Goings declared the public hearing open with no one appearing therefor. Upon closing the public hearing, **MOTION** by Councilmember Caplan, **SECONDED** by Vice Mayor Malfregeot for consideration of the above-captioned matter. **MOTION** by Councilmember Caplan, **SECONDED** by Councilmember Lopez to amend the above-referenced ordinance by adding the following sentence under Article 746.05(3):

“No credit is allowed under this Ordinance for payment of any sales or use taxes imposed by this State or any other State.”

Under discussion, Mr. Morgan explained that the State Tax Department requested the above-noted amendment wherein all the language and process would be the same as to the State sales tax as it would be difficult for the different municipalities to have variations. **MOTION, AS AMENDED, APPROVED UNANIMOUSLY.**

**NEW BUSINESS:**

**A. CONSIDERATION OF FIRST READING OF AN ORDINANCE OF THE CITY OF CLARKSBURG PROVIDING FOR THE ABANDONMENT OF A PORTION OF THAT CERTAIN 10 FOOT UNNAMED, UNIMPROVED, AND UNOPENED ALLEY LOCATED ON THE NORTHERN SIDE OF THORN STREET FROM A POINT AT THE NORTH EASTERN CORNER OF TAX PARCEL 58 TO THE WESTERLY CORNER OF TAX PARCEL 45, IN THE CITY OF CLARKSBURG, CLARK DISTRICT, HARRISON COUNTY, WEST VIRGINIA, AS SHOWN ON THE PETITION FOR SAID ABANDONMENT ON FILE IN THE CITY CLERK'S OFFICE; PROVIDING FOR FINDINGS OF FACT IN CONNECTION WITH SAID ABANDONMENT; AND AUTHORIZING THE EXECUTION OF THE PROPER QUITCLAIM DEEDS, RESERVING THEREFROM UTILITY RIGHTS-OF-WAY**

**MOTION** by Councilmember Caplan, **SECONDED** by Councilmember Lopez for approval of the above-captioned ordinance on first reading. **MOTION APPROVED UNANIMOUSLY.**

**B. CONSIDERATION OF A RESOLUTION OF THE COUNCIL OF THE CITY OF CLARKSBURG REQUESTING APPROVAL OF THE WEST VIRGINIA DEVELOPMENT OFFICE FOR A CHANGE OF SCOPE FOR A 2007 COMMUNITY PARTICIPATION GRANT IN THE AMOUNT OF \$13,000 FOR THE CLARKSBURG FIRE DEPARTMENT SMOKE DETECTOR PROGRAM**

**MOTION** by Vice Mayor Malfregeot, **SECONDED** by Councilmember Lopez for adoption of the above-captioned resolution. Mr. Howe informed that the purchase of smoke detectors was an ineligible expenditure under the 2007 grant and that the \$13,000 will be used toward the demolition of structures. Mr. Howe confirmed that the smoke detector program under the inception/direction of Captain Murphy would continue. **MOTION APPROVED UNANIMOUSLY.**

**C. CONSIDERATION OF APPOINTMENT TO THE MUNICIPAL BUILDING COMMISSION**

**MOTION** by Councilmember Caplan, **SECONDED** by Vice Mayor Malfregeot to reappoint Larry Mazza to the Municipal Building Commission. **MOTION APPROVED UNANIMOUSLY.**

*(At this time, Council deviated from the Agenda to allow for Council Comments prior to consideration of Agenda Item D)*

**COUNCIL COMMENTS:**

Councilmember Bowden: Wished everyone a Merry Christmas and Happy Holidays!

Councilmember Caplan: Echoed holiday greetings and expressed appreciation to the Mayor for the many beautiful lights throughout downtown.

Councilmember Sigmon: Also extended holiday greetings to all; thanked all who participated in the "Wreaths Across America" project to honor the veterans; and expressed appreciation to all involved in the successful Jazz Stroll event.

Councilmember Lopez: Wished everyone a Merry Christmas and Happy New Year!

Vice Mayor Malfregeot: Thanked everyone for attending this evening's meeting and extended holiday greetings to all.

Mayor Goings: Also wished everyone a Merry Christmas!

**D. CONSIDERATION OF EMPLOYMENT CONTRACT BETWEEN THE CITY OF CLARKSBURG AND THE CITY MANAGER OF THE CITY OF CLARKSBURG**

**MOTION** by Vice Mayor Malfregeot, **SECONDED** by Councilmember Lopez to adjourn into Executive Session pursuant to Chapter 6, Article 9A, Section 4 of the West Virginia Code to discuss personnel matters and that the following persons be present: Mayor and members of City Council and City Attorney, and further, reserving the right to call other persons into Executive Session, as necessary. **MOTION APPROVED UNANIMOUSLY.**

Concluding Executive Session, **MOTION** by Councilmember Lopez, **SECONDED** by Councilmember Caplan to reconvene into Regular Session. **MOTION APPROVED UNANIMOUSLY.**

**MOTION** by Vice Mayor Malfregeot, **SECONDED** by Councilmember Lopez to amend the Manager's contract to extend its term by 24 months to the end of September 2018 and to raise his annual salary to \$100,500, and subject to a resolution of Council at the next meeting. **MOTION CARRIED 5-1 with Councilmember Sigmon casting the dissenting vote.**

There being no further business to come before Council, **MOTION** by Councilmember Caplan, **SECONDED** by Councilmember Lopez for adjournment. **MOTION APPROVED UNANIMOUSLY.**

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Catherine A. Goings, Mayor

Approved: January 7, 2016

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Annette M. Wright, City Clerk

**Ordinance Authorizing Submission of Plan**

**AN ORDINANCE AUTHORIZING SUBMISSION OF AN APPLICATION TO THE WEST VIRGINIA MUNICIPAL HOME RULE BOARD TO EXEMPT THE CITY OF CLARKSBURG FROM THE CODE OFFICIAL / INSPECTOR LICENSING AUTHORITY DELEGATED TO THE STATE FIRE COMMISSION UNDER EXISTING STATUTORY LAW.**

**WHEREAS**, the City Council of the City of Clarksburg, Harrison County, West Virginia, authorizes the City of Clarksburg to submit to the West Virginia Municipal Home Rule Board an Application for approval of an amendment of its Home Rule Plan, as the same may be amended or supplemented, to exempt the City of Clarksburg from the code official / inspector licensing authority delegated to the State Fire Commission under existing statutory law, NOW THEREFORE,.

**BE IT ORDAINED** by the City Council of the City of Clarksburg, Harrison County, West Virginia, hereby authorizes the City Manager of the City of Clarksburg to execute such Application for and on behalf of the City and to certify this Ordinance to the Municipal Home Rule Board of the State of West Virginia in accordance with the rules and regulations applicable thereto and to take any and all action necessary with respect to said Application and to execute such other documents, hearings, notices, certificates, and affidavits as are necessary or convenient to the filing of such Application.

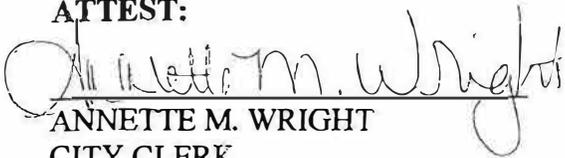
This Ordinance shall be effective upon passage.

Passed by Council of the City of Clarksburg on FIRST READING on this 30<sup>th</sup> day of November 2015.

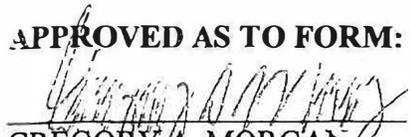
Passed by Council of the City of Clarksburg on SECOND AND FINAL READING on this 17<sup>th</sup> day of December 2015.

  
CATHERINE GOINGS, MAYOR

**ATTEST:**

  
ANNETTE M. WRIGHT  
CITY CLERK

**APPROVED AS TO FORM:**

  
GREGORY A. MORGAN  
CITY ATTORNEY

## **Code Official / Inspector Ordinance**

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Ordinance to be approved once City is authorized to amend plan.

The City will be presenting bullet points of ordinance at the Home Rule Board Public Meeting.

LAW OFFICES OF  
**YOUNG MORGAN & CANN, PLLC**

363 LEE AVENUE

CLARKSBURG, WEST VIRGINIA 26301

CARMINE J. CANN  
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(304) 624-5687  
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ROGER J. MORGAN (2011)  
JAMES CANN (1970)  
LLOYD H. YOUNG (1978)

Greg Morgan  
City Attorney of Clarksburg

Date: **December 29, 2015**  
Applicant: **CITY OF CLARKSBURG, WEST VIRGINIA**  
Re: City of Clarksburg Municipal Home Rule Proposal

Ladies and Gentlemen:

As City Attorney for the City of Clarksburg, I have reviewed West Virginia Code § 8-1-5a, Municipal Home Rule Pilot Program "Procedure to Amend Written Plan" Application Guidelines, the proposed City of Clarksburg Municipal Home Rule Amended Written Plan, and other documents related thereto (collectively, the "Amended Plan") as I have deemed necessary for the purposes of this opinion.

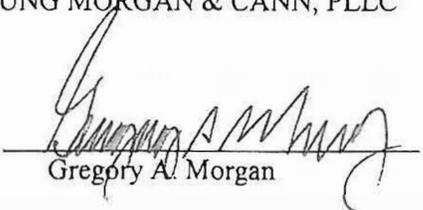
Based upon the examination of such documents and my understanding of the intent of the proposed provisions contained in the Plan, it is my opinion that the Amended Plan complies with the required statutory requirements in that:

1. The Plan does not contain any proposed changes to ordinances, acts, resolutions, rules or regulations that are contrary to the:
  - i. US of WV Constitutions,
  - ii. Chapter 60 – A Uniform Controlled Substances Act,
  - iii. Chapter 61 – Crimes and Their Punishment,
  - iv. Chapter 62 – Criminal Procedure – of this code;
2. The Plan does not contain any proposed changes to ordinances, acts, resolutions, rules or regulations that would create a defined contribution employee pension or retirement plan for its employees currently covered by a defined benefit pensions plan.

The Municipal Home Rule Board may rely upon this opinion.

Very truly yours,

YOUNG MORGAN & CANN, PLLC

By:   
Gregory A. Morgan

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# CITY OF CLARKSBURG

WEST VIRGINIA

OFFICE OF  
CITY MANAGER

December 29, 2015

West Virginia Home Rule Pilot Program  
West Virginia Department of Commerce  
State Capitol Complex  
Building 6, Room 525  
Charleston, West Virginia 25303

Re: West Virginia Fees Statement

Dear Members of the Home Rule Board:

In regard to the Section III: Affidavits Application Checklist requirements, please accept this as the City of Clarksburg's State of West Virginia Fees Statement. This letter is to acknowledge that the City of Clarksburg is current on all fees and has no outstanding fees due to the State of West Virginia

If you have any questions or concerns moving forward, please do not hesitate to call my office, Monday through Friday, 8 am to 4:30 pm at 304/624.1677 or contact me by email at [mhowe@cityofclarksburgwv.com](mailto:mhowe@cityofclarksburgwv.com).

Respectively,

Martin Howe  
City Manager