



Municipal Home Rule Pilot Program
Phase II
City of Bluefield
Application



**Municipal Home Rule Pilot Program Phase II
Application Checklist
City of Bluefield, West Virginia**

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Municipal Home Rule Pilot Program Phase II
Application
City of Bluefield

Section I: Applicant Information

A: General Information

Name of Municipality: City of Bluefield, West Virginia	2010 Census Population: 10,447 residents
Certifying Official and Title: Thomas J. Cole, Mayor	Contact Person and Title: Joshua D. Cline, Assistant City Manager
Address: 200 Rogers Street Bluefield, WV 24701	Telephone Number: 304.327.5568
Email Address: joshua.cline@cityofbluefield.com	Fax Number: 304.327.8670

B. Municipal Classification

The City of Bluefield, West Virginia is a Class II municipality as defined in West Virginia State Code §8-1-3.

C. Category of Issues to be Addressed

The City of Bluefield will be addressing the following categories of issues in its Municipal Home Rule Pilot Program Phase II Application:

- 1) B&O Tax Reduction and Retail Sales Tax Implementation (Tax)
- 2) Disposition of City Property (Administration)
- 3) On-Spot Citations (Administration)
- 4) Contracts with Other Jurisdictions Via Resolution (Administrative)
- 5) Procurement of Architect-Engineering Services (Administrative)

Section II: Narrative

Proposal #1: B&O Tax Reduction and Retail Sales Tax Implementation

Specific state laws, policy rule, or regulation in question:
West Virginia Code §8-13-5

Specific Problem:

The current Business and Occupation (B&O) Tax set by West Virginia Code §8-13-5 and related laws in tax classifications, exemptions and maximum rates restrict the City of Bluefield's ability to generate necessary financial resources in a manner that is consistent with current economic conditions. The B&O tax itself was rejected as an anti-business tax and a hindrance to economic growth when the State of West Virginia repealed it in the 1980s. Current maximum rates were set by the State of West Virginia in 1959 are outdated. Current mandatory classifications and

exemptions under state law were adopted and modified by the state between approximately 1921 and 1987. These classifications and exemptions are antiquated.

In studies conducted on the business climate within the state, it has been shown that local B&O taxes are a major reason why many businesses locate just outside the city limits. Evidence of this is seen in the many vacant and abandoned buildings in downtowns and business districts not just in Bluefield, but in municipalities across West Virginia. Furthermore, a B&O tax is an “on your honor” tax. This can prove to be difficult if businesses are not accurately reporting to the municipality. While an audit of a business can be conducted, the time and cost is not always feasible for a municipality. Nor is the potentially negative public perception this process can generate. A municipal sales/use tax would improve equality in reporting and give the weight of the State Department of Taxation behind it for enforcement.

West Virginia Code allows cities to use a municipal retail sales/use tax. However, this use is restricted to municipalities that do not use a B&O tax or the power is granted through a Home Rule Pilot Program application that is approved. The current tax structure for the municipality makes it difficult for the City of Bluefield to compete as a boarder city with Virginia, often awarded the distinction as the most “business-friendly” state in nation. The use of the municipal sales/use tax would allow the City of Bluefield to work towards tax reform, which includes the reduction of the B&O tax, to build a more competitive business climate.

Proposed Solution:

The City of Bluefield proposes the implementation of an ordinance allowing the city the authority to impose a municipal retail sales/use tax. This would remove part of the tax burden from local businesses to consumers, creating a fairer way for the City of Bluefield to raise revenue. A good faith reduction in the current B&O tax rates would occur during the implementation of this tax.

Category of Issues to be Addressed:

Tax

Fiscal Impact:

Please see Attachment: “City of Bluefield Proposed B&O Tax Reduction and Sales Tax Implementation Worksheet”

Proposal #2: Disposition of City Property

Specific state laws, policy rule, or regulation in question:

West Virginia Code § 8-12-18

Specific Problem:

To sell a piece of property, either real or personal, the City of Bluefield must hold a public auction. State Code requires this for all real and personal property with a value of more than one thousand dollars (\$1,000.00). These auctions must also be announced in a Class II legal advertisement. There are problems that can transpire with this process. First, a property may not meet an acceptable price during the auction process. Other times, the property may be purchased for personal storage. This can have a negative effect when the property is located in a business district and economic development is hindered. Another negative effect on economic development can occur when a property is bought cheap at auction and the new owner expects

to make a significant return on his/her investment, causing the property to be under utilized or undeveloped for some time. Properties are also purchased by owners with good intentions of developing the property to positively impact the economy of the City of Bluefield. However, they are falling short due to resources and a number of other situations, leaving the property in no better condition than when it was purchased.

For many non-profits, purchasing a property can be a hindrance. Many of these organizations complete work considered advantageous to the citizens of Bluefield and save the City of Bluefield from the cost of offering another service or program. Currently, the city must convey or lease a property for a "fair and adequate consideration." What is considered "fair and adequate" can equal a cost greater than the organization can incur creating a stumbling block in the organization's operations.

Proposed Solution:

The City of Bluefield proposes the implementation of an ordinance allowing the city to convey real and/or personal property with a value more than one thousand dollars (\$1,000.00) for fair market value without having to follow the auction procedures outlined in West Virginia Code § 8-12-18. The City of Bluefield would be allowed to directly sell property to an individual or group. This can only be done when the primary purpose is to facilitate economic development within the City of Bluefield and/or to improve the availability of necessary or convenient resources for the benefit of its residents.

The City of Bluefield also proposes that it be allowed to lease or convey (without auction) for less than fair market value buildings and land to non-profit organizations who are providing services to the public, that, in their absence, the City itself might have to finance or administer; provided that a test similar to that imposed by West Virginia Code § 1-5-3 is met and that ownership of the land or building would revert to the City in the event the non-profit ceased to provide such services to the public.

Category of Issues to be Addressed:

Administrative

Proposal #3: On-Spot Citations

Specific state laws, policy rule, or regulation in question:

West Virginia Code § 8-12-16

Specific Problem:

The current process allowed by state law to address code enforcement issues is lengthy, taking a month or more. Unfortunately, this can lead to recidivism in some cases. At this time, West Virginia Code § 8-12-16, only allows municipalities the authority to "adopt ordinances regulating the repair, alteration, or the vacating and closing or removal or demolition... of any dwellings or other buildings unfit for human habitation due to dilapidation, defects increasing the hazard of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities or any other conditions... which would cause such dwellings or other buildings to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare." This does not allow municipalities to address problems with property maintenance that detract from the neighborhood or constitute eyesores yet at the time do not constitute a threat to public safety.

Proposed Solutions:

The City of Bluefield proposes the implementation of an ordinance to address the issue. The ordinance will be modeled after the successful City of Charleston and City of Huntington "On-Spot Citation" ordinances passed. The ordinance will give the authority to the City of Bluefield, its building and zoning administrators, and/or city law enforcement officers to issue citations for reoccurring exterior sanitation/common nuisance violations (including, but not limited to, trash/rubbish, overgrown weeds/grass, junked or otherwise unlawfully situated motor vehicles, maintenance of vacant structures, broken windows or glass, failure to maintain sidewalks and driveways) at the site of the violation and at the time the violation is recognized, similar to the manner in which traffic citations are issued.

Category of Issues to be Addressed:

Administrative

Proposal #4: Contracts with Other Jurisdictions via Resolution

Specific state laws, policy rule, or regulation in question:

West Virginia Code § 8-11-3(10)

Specific Problem:

Currently, the City of Bluefield cannot enter into a contractual agreement or any other agreement with another governmental entity/jurisdiction until the City Board of Directors approves the agreement by ordinance as required by West Virginia Code § 8-11-3(10). This process requires two readings for the ordinance to be passed. In a majority of cases this is not detrimental to city functions. However, it does present a time-period hurdle for the municipality to go through in its day-to-day functions, particularly in mutual aid agreements for emergency services.

Proposed Solutions:

In an effort to build goodwill and to expedite the process of entering into a contractual agreement or any other agreement with another governmental entity, the City of Bluefield proposes that it be allowed to approve these contracts or other agreements by resolution in the same manner as it does when presented similar contracts or agreements with non-governmental entities.

Category of Issues to be Addressed:

Administrative

Proposal #5: Procurement of Architect-Engineering Services

Specific state laws, policy rule, or regulation in question:

West Virginia Code § 5G-1-3

Specific Problem:

The City of Bluefield is hindered by West Virginia State Code § 5G-1-3 to utilize a selection process that does not necessarily provide the "best value" when selecting a firm for a project. Following state code, the city must advertise and then select three firms that are best qualified to perform the desired service. A negotiation for cost begins only after the three firms are selected. A selection committee will first negotiate with the most qualified firm. If negotiations do not end

in a contract for services being signed, the second most qualified firm is then brought in for negotiations, and so on and so forth. This can present multiple problems. First, if no firm can be decided upon the process must be repeated. Second, if the most qualified firm has the best presentation and price, but is not immediately decided on first, the process may need to be repeated or a less attractive offer must be accepted. Ultimately both problems lead to a waste of administrative time diverting attention away from necessary work or by delays in the project, and dollars if new advertisements must be issued.

Proposed Solutions:

The City of Bluefield seeks to streamline this process and allow for the true “best value” to be selected by issuing a Request for Proposal for architect-engineering services. A selection committee would then select the proposal that provides the best value by taking into consideration the price, qualifications, and all other pertinent factors related to the project.

Category of Issues to be Addressed:

Administrative

Conclusion

Over the last century, a city built for over 30,000 residents has been reduced to just over 10,000. Much of this has come in part to a deterioration of economic conditions and the lack of power the municipality has had to work against those forces. The City of Bluefield is a boarder city that daily competes against our neighbor, Virginia. Often, Virginia ranks high in business attractiveness, but also in many quality-of-life categories.

Locally, this has translated into a number of issues. Businesses tend to locate across the state line in Bluefield, Virginia due to out-dated and business-unfriendly tax structures. For decades, this has hindered potential revenue streams for the City of Bluefield. In turn, that lack of revenue has limited the services that can be offered. A decline in services often leads to a lack of pride in property ownership and to the necessary ownership and maintenance by the city of many properties within Bluefield. The decline in the demand for housing due to population loss and lack of pride in upkeep has left many blighted and unkempt properties. Added to that are costly procedures to procure services for major projects. This hinders important public projects from being implemented as quickly as they should be.

The Municipal Home Rule Pilot Program Phase II is a vitally important first step towards city officials having the power to improve the prospects of City of Bluefield. Having more localized authority over tax systems, architectural and engineering services, agreements, the sale of city-owned properties, in addition to presenting the city as a clean, inviting place to live and work will allow the City of Bluefield begin building a better future.

CITY OF BLUEFIELD, WEST VIRGINIA

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Public Hearing:

In re: HOME RULE APPLICATION

Board Room,
Bluefield City Hall,
200 Rogers Street,
Bluefield, West Virginia,
Tuesday, April 1, 2014.

A Public Hearing, taken before The Bluefield City Board, pursuant to public notice hereto, commencing at 5:40 p.m., EDST.

BEFORE: THOMAS COLE - Mayor
BARBARA THOMPSON SMITH - Vice-Mayor
CHUCK McGONAGLE - Director
ELLEN LIGHT - Director
MICHAEL GIBSON - Director (Not Present)
JOSHUA CLINE - Redevelopment & Planning
Assistant City Manager
DENNIS DILLOW - Interim City Manager

Also Present:
BOBBI KERSEY - City Clerk
BRIAN COCHRAN - City Attorney
JEFF WARDEN - Chief Fireman.

ORIGINAL

P R O C E E D I N G S

1
2 MAYOR COLE: Good afternoon. It's a
3 beautiful day today. I want to thank you for coming
4 out. We'll call this public hearing to order to
5 discuss and go over our Home Rule application.

6 A couple of things, housekeeping maybe, or
7 comments, we would request that comments today only be
8 on the Home Rule application. If there is something
9 else, our regular City Board meeting will be next
10 Tuesday. Public comments will be on Home Rule only.

11 I guess I'd like to make sure everyone
12 understands this is our application to be accepted into
13 the Home Rule Program. It's a pilot program. This
14 will be their second round. There were four
15 municipalities originally in the program. Those four
16 will be in next year in addition to 16 other
17 municipalities that will be accepted.

18 We don't know how many will apply. We assume
19 there will be a tremendous number. We feel Bluefield
20 has a very good opportunity to be selected based on our
21 being a border town.

22 I'm going to turn this over to Josh in a
23 moment. He will go over that. Each item of our Home
24 Rule application will require, if we're approved, an
25 ordinance. So it's not like, once we have this meeting

1 and we vote on it and we're accepted, everything goes
2 into place. There will be an ordinance passed for each
3 of those categories. We would have the potential or
4 the opportunity to expand that later as well. Just
5 because it's in our application does not mean it will
6 become a city ordinance just based on the fact that
7 it's in our application.

8 Have I said that, basically, correctly?

9 MR. CLINE: Correct.

10 MAYOR COLE: With that, I'll turn it over
11 to our assistant city manager, Josh Cline, to go over
12 our application.

13 MR. CLINE: Just to give a brief overview
14 of this process, and just for informational purposes,
15 for public record, currently, right now in West
16 Virginia, municipalities derive their power directly
17 from Chapter 8 of the State code. The State Supreme
18 Court rulings having traditionally held that we need to
19 stay within those boundaries that are set forth in
20 Chapter 8.

21 I'll give just a law dictionary definition for
22 what Home Rule is, in constitutional or statutory law,
23 local self-government, or the right thereof, is what
24 Home Rule is. A little bit more expanded definition,
25 from the US Advisory Commission on intergovernmental

1 relations says that "Home Rule is the power of the
2 local government to conduct its own affairs including
3 specifically the power to determine its own
4 organization, functions it performs, its taxing
5 authority and the numbers and employment conditions of
6 its personnel."

7 As Mayor Cole stated, five years ago the state
8 started its first phase of this program. Charleston,
9 Huntington, Wheeling and Bridgeport applied, and were
10 accepted. There were a total of 25 proposals that were
11 submitted. After the pilot program concluded, there
12 was a legislative audit, or a review of the process.
13 It found that it was very successful, with 20 of those
14 proposals being implemented in those areas, in those
15 four cities.

16 The audit also encouraged statewide adoption
17 of Home Rule. Within that test period, the state did
18 adopt five of those initiatives to run statewide. We
19 started with a fire insurance lien, \$5,000, or 10
20 percent liens for unpaid, delinquent fire, police or
21 street fees were also included. Condensing into a
22 general municipal business license was passed. Vacant
23 building registration and a lien program was also
24 passed, that every municipality could do. And this was
25 not passed by the state, but more through an agreement

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1 with the Division of Natural Resources. They expanded
2 the urban deer hunt season, and also increased the bag
3 limit.

4 However, while successful, the legislature did
5 not take the advice of the legislative audit and make
6 it statewide. They have gone through and decided that
7 a Phase II Program is what we need to do. There have
8 been additional limitations that have been added.

9 There are 16 positions open. There is an
10 asterisks next to that because the four initial cities
11 that chartered this program in the first phase are
12 asked to re-apply and to come back into the program.

13 There are 230 municipalities that can apply
14 for this. We've heard varying accounts of, "There's
15 going to be a lot of applicants" and "There are not
16 going to be a lot of applicants." We have been keeping
17 a watch on the headlines across the state to see how
18 many will apply. I think we'll have right around the
19 16 number applying for this program. That could change
20 depending on how the program does and if everyone gets
21 their ducks in a row and gets their application
22 together before the due date.

23 There is a seven-member Home Rule Board that
24 was appointed to review the applications. Applications
25 are going to be reviewed and selections will be made by

1 them. I said, "There are no guidelines." This is a
2 previous power point. There have been guidelines that
3 have been selected that they will use to judge. It's
4 pretty basic criteria: "Did you follow the instructions
5 right," so on and so forth, "How well did you come up
6 with a plan that would meet a challenge?" Those kinds
7 of things are what they will be judging on.

8 If we are selected, our program will run until
9 July 1st of 2019. So the question really states, "Why
10 do we need this?" I believe there is a ground level
11 belief that communities know how to govern themselves
12 better than anyone else. What works best in Wheeling
13 doesn't always work best in Bluefield, and vice versa.
14 This program can also help our city departments become
15 very efficient in their program of work and how they're
16 able to do their jobs.

17 Also, as stated earlier, there are some
18 parameters, things we can't put on our application.
19 This is part of that judging criteria. One of the
20 questions is: "Did you put anything in there that
21 pretty much couldn't be put into the application?"
22 Some of those things include environmental laws,
23 bidding on government contracts and construction,
24 Freedom of Information Act, open meetings, prevailing
25 wage, the written plan of the municipality.

1 We also cannot make any proposals pertaining
2 to changes in federal law of crimes and punishment,
3 state crimes and punishment laws, specifically Chapter
4 68, 61 and 62 of the state code, pensions and
5 retirements plans, annexation, taxation.

6 There is one exception, which we'll cover:
7 Tax increment financing, extraction of natural
8 resources, persons or property outside of the municipal
9 boundary, marriage and divorce laws, carrying of a
10 firearm, occupation tax fees, assessment payable by a
11 nonresident.

12 Sometimes there's the question asked, "Well,
13 what's left after all of those things," because
14 sometimes those are big things that we need to do. We
15 have spoken with our department heads. We've also been
16 reviewing prior applications that have been accepted.
17 We have come up with five proposals that we believe are
18 a good starting point for us.

19 Mayor Cole mentioned earlier about amending
20 the plan. If we are accepted, we can, to our
21 knowledge, amend the plan. We can submit a new
22 proposal. The Home Rule Board will vote, up and down,
23 on that item. If they vote "Yes," that's something we
24 can add to our application at a future time, should we
25 be accepted.

1 Those five things are On-Spot Citations,
2 Contracts with Other Jurisdiction via Resolution,
3 Disposition of City Property, B&O Tax Reduction with a
4 1-percent sales and use tax implemented, Procurement of
5 Architectural Services.

6 On-The-Spot Citations, currently, the law
7 right now does not allow for preventative measures.
8 The current process is long. It takes over a month,
9 and it really doesn't do anything to prevent repeat
10 offenders.

11 What we would be asking, and as you came in,
12 there were handouts of the plan, as we'll be submitting
13 it. You all have copies. We would be asking for the
14 ability to issue citations similar to moving
15 violations, after first warnings. Officers and code
16 enforcement officers would be allowed to issue these
17 citations. We've really modeled our approach after the
18 cities of Huntington and Charleston, for this item.

19 Contracts Via Resolution: Currently, right
20 now, if we were to establish a contract with another
21 jurisdiction, we would have to pass an ordinance. It
22 takes two readings, and a little bit of a process.
23 This just allows us to do a little bit quicker
24 housekeeping and pass a resolution, to be able to start
25 up those agreements, and not take the extra time. This



1 has been modeled after the City of Charleston.

2 Currently, property, both real and personal,
3 over \$1,000 must be sold at public auction for a
4 municipality. Often, property is purchased for means
5 other than economic development. Public auction and
6 advertisement can cost the City funds that could be
7 better appropriated elsewhere. And worse, sometimes
8 that property may not meet a minimum bid for sale, and
9 the process was really for naught.

10 What we would like to do is to be able, the
11 primary purpose -- and I underlined and I emphasize,
12 "The primary purpose is to facilitate economic
13 development within the City of Bluefield or the
14 availability of necessary or convenient resources for
15 the benefit of the citizenry." We'd like to be able
16 sell that property directly. So if I'm a developer,
17 the City can sell directly to me, and negotiate
18 directly with me, and there is no public auction
19 process.

20 This was modeled after the City of Charleston.
21 They did this with a Kroger facility, and have seen a
22 great expansion of their Kroger there in the middle of
23 Charleston, and has brought availability of resources,
24 and also some economic development to that area for the
25 city.

1 B&O Tax Reduction and a Retail Sales and Use
2 Tax Implementation: The B&O tax is an outdated,
3 restrictive tax structure. It's very antiquated.
4 Current maximum rates were set long ago. They really
5 do not reflect today's economic conditions. The state,
6 itself, does not use this structure. It's been deemed
7 business unfriendly in a number of studies. Really, I
8 believe it is a leading source why many businesses
9 locate outside the city limits, not only in Bluefield,
10 but across the state.

11 Current B&O tax makes up a third of our City's
12 revenues. (I apologize for the incorrect percentage.)
13 So this is going to be a very delicate process.
14 Please, hear me say that now. This is not going to be
15 something that, as Mayor Cole said, once this meeting
16 is over, that everything is done tomorrow. That is not
17 the way we'll do that. We'll take our time.

18 We've put a proposal together of how we think
19 that B&O should be reduced. It's in your handouts. So
20 we'll make sure that this is a very delicate process.
21 We'll study it further. We'll also work with the state
22 auditor's office. They'll be collecting that for an
23 administrative fee of up to 5 percent. So we won't be
24 collecting the revenues. The state will collect that
25 and then remit that money back to the City.

1 Our sales-and-use tax cannot exceed 1 percent.
2 That's also very important. And the B&O tax is also
3 going to be reduced in specific categories. It's not
4 going to be an across-the-board drop of B&O. It's
5 going to be a good faith reduction in order to put
6 forth that 1-percent sales tax.

7 Procurement of Architectural and Engineering
8 Services: Currently, right now, it's a long,
9 convoluted process of receiving bids on a project and
10 how to go through that. What we would like to do is
11 move to request for a proposal of process where we say:
12 "This is the project. Everybody send your bids in.
13 Let's do that."

14 We think that it will be a way that we can
15 take in better prices. We can take qualifications and
16 other factors into consideration, and really make our
17 best decision on how to A) save the City money, but
18 also to receive the best services for the project.

19 The City of Charleston did this proposal. It
20 has worked really well for them. So it does have a
21 good track record.

22 Again, as I said, we can amend our initiatives
23 and add new initiatives in the future. We reviewed
24 proposals the last time this presentation was given. I
25 have not had anything added to it, but we're always

1 open to new ideas. So, please, the public, City Board
2 members, department heads, new ideas are always
3 welcomed. It's something we can amend, and add later.
4 I hope we'll have a few new ideas.

5 I think it's important for us to apply for
6 Home Rule at this phase, and these items, and then
7 hopefully to have new items now. If we don't apply
8 now, we won't be able to add anything later. So I
9 think it's very important that we apply at this moment
10 so we have the opportunity to add to it later.

11 Our time lines for submission we have met so
12 far. In February, we published our public notices for
13 this hearing. We are having our public hearing today.
14 At the next board meeting, I would propose that we have
15 our first reading of our ordinance, and the second
16 meeting in April, the second reading of the ordinance.
17 And then in May we'll submit our Home Rule application
18 to the Home Rule Board. That will be ahead of our June
19 1st applications date that we are supposed to have
20 things in.

21 Finally, for reporting in the future, it just
22 does not stop there. There is more homework to be
23 done, to report back to the Board. If we're selected,
24 beginning December 1st in 2015, we'll have to submit an
25 annual progress report to the Home Rule Board, and let

1 them know how we're doing, how it's worked in
2 Bluefield. This helps to give them information on how
3 things are going.

4 Once the Board begins implementing the
5 ordinances, those will continue in full force and
6 effect until repealed, but if they're amended, in any
7 way, throughout this program and after the program,
8 they're null and void. So that's very important to
9 remember. Once we do these things, they're there, for
10 your information.

11 Again, I think, referring back to Mayor Cole's
12 statement, this is not something that we'll just jump
13 into once this is over. This will be a very delicate
14 process of how we begin to implement these items.
15 We'll proceed with full caution and full thought.

16 Just some quick acknowledgments: The
17 Municipal League, those individuals listed, Spilman,
18 Thomas & Battle have really been instrumental in
19 providing good information to the City. We thank them.
20 Then, also, the cities that were listed earlier, we've
21 received good information from them; and also Jim Hunt
22 from Amazing Cities, in helping put this application
23 together.

24 That's my presentation. We'll go to public
25 comment, and I'll be happy to take any questions.

1 MAYOR COLE: Very good. Thank you, Josh.
2 I would like to commend Josh for all his work on this.
3 It's really been his project, from the beginning, and
4 he has just done an outstanding job putting all this
5 together, and really doing his homework. So, thank
6 you, Josh.

7 We have some folks here who have signed up for
8 public comments. Keep in mind, we do want to keep
9 these comments focused on Home Rule. Anything else, we
10 need to put off for a regular board meeting.

11 Art, first on the list.

12 MR. RILEY: Thank you, Mr. Mayor. First,
13 I appreciate the opportunity to speak. I'd like to ask
14 a few questions. The five things that we've outlined
15 will be what we apply to the Home Rule Board to put
16 into effect, through ordinance, if it's passed here.
17 This is all we're going to go for?

18 MR. CLINE: At this moment. That can be
19 added to at a later date with a proposal that's
20 written, passed by the Board, and then submitted to the
21 Home Rule Board for approval.

22 MR. RILEY: Does it have to be submitted
23 before June 1st?

24 MR. CLINE: No. These items will be
25 submitted before June 1st. Other items can be

1 submitted later, should we be accepted into the pilot
2 program.

3 MR. RILEY: What's the time frame on us
4 being accepted or rejected?

5 MR. CLINE: That will be up to the
6 discretion of the Home Rule Board. I would hope that
7 by fall, we will know if we're accepted or not.

8 MR. RILEY: A couple of things in these
9 issues to be addressed: The disposition of City
10 property, traditionally, we've always, and the state
11 law requires, I think, that anything valued at over
12 \$1,000 be auctioned at public auction.

13 Now, I think one of the things that we have,
14 that this is here for, is because we have no control
15 over what happens to it once it's sold to the highest
16 bidder. However, that, more or less, takes the element
17 out of it of, "I'll do this and you do that."

18 If you have a public auction, it's cut and
19 dried. Your bidders are there, and they auction. I
20 would just comment on that. I don't see anything wrong
21 with the way we're doing it. Now, I realize that for
22 economic development, you have a certain amount of
23 leeway there.

24 We mentioned the City of Charleston, but the
25 City of Charleston also has several organizations.

1 They have an Urban Renewal Authority. They have CURA.
2 Those are the people who work these deals out,
3 particularly the Kroger deal. That was worked out with
4 the City of Charleston, and one of the organizations
5 that is a part of the City of Charleston, but it was a
6 deal for the economic development.

7 Now, we are a little short on organizations of
8 that type here. So that may be something to look at.
9 The bottom line is, a suggestion would be to leave it
10 like it is. That, of course, is just a comment from
11 the public.

12 MAYOR COLE: I guess I would point out,
13 it's in our application. It doesn't mean it would be
14 passed as an ordinance, and it wouldn't preclude us
15 from selling something at auction. We can still do an
16 auction, if it was a situation that made sense.
17 Otherwise, there would be some leeway for the City to
18 do that.

19 MRS. LIGHT: It sounds to me, Art, like
20 it might force us to be creating these economic
21 development boards and things like that, so we can pay
22 better attention to who buys our property, and make
23 sure it's for economic development instead of just
24 saying, "Oh, Joe Blow, you won the bid. Here you go.
25 Let's see what you do with our property." And maybe

1 Joe Blow bought it for the highest bid, and say he's
2 going to do it, and then go off to Argentina.

3 MR. RILEY: Go make a lawn out of it.

4 MRS. LIGHT: That's right.

5 MR. RILEY: And that's a point well
6 taken. At one time, we had some of these
7 organizations. Of course, I realize Josh has had a
8 pretty full plate, but we had an economic development
9 authority. It met for years and years, and developed
10 heartburn from coffee and donuts. So we need an
11 activist --

12 MRS. LIGHT: Yes, we do.

13 MR. RILEY: -- and a development
14 authority, as a suggestion to the board.

15 On-Spot Citations, there is one thing in there
16 that struck my mind, and that is sidewalks and
17 driveways. That's included in the application as part
18 of the things that code enforcement will go after, and
19 cite them for. Now it's going to be a whole lot easier
20 for a property owner to fix up his property, his house
21 or barn or whatever it is, if the paving is not
22 included in it, because the odds are, if you're going
23 to pave a sidewalk and a driveway, you're going to have
24 more in that than you've got in the house.

25 And, to me, that would be a burden to the

1 property owner, and maybe, perhaps a deterrent to them
2 fixing their property up; because if you've got a
3 \$5,000 house and you're going to spend \$10,000 on the
4 sidewalk and driveway, it hardly seems worth while. So
5 that, particularly, just that little portion of that
6 thing, struck me as it might be onerous.

7 B&O Tax Reduction and Retail Sales

8 Implementation: From looking at this, on the surface,
9 you're going to tax the citizens an additional
10 \$625,000, by way of the 1-percent sales tax. Now,
11 presumably, some of that money will come from out of
12 the area, but the bulk of it is going to come from the
13 citizens of Bluefield.

14 MRS. LIGHT: Excuse me. I'm just trying
15 to get this number here. Oh, okay.

16 MR. RILEY: They're the ones who can ill
17 afford it. Now, in addition to that, that will replace
18 the B&O tax on retail sales, that 1 percent.

19 MRS. LIGHT: The current B&O tax is .5
20 percent on retail sales.

21 MR. RILEY: Yes, ma'am.

22 MRS. LIGHT: Then you're just going to
23 replace half of that, because I'm sure we're paying it
24 now, in prices.

25 MR. RILEY: Well, there's two or three

1 things to pursue on that. One of them is, there is
2 \$14,000,000 worth of retail sales that's exempt, from
3 this particular provision. Now we have retail sales
4 of \$77,000,000 that we're getting B&O tax on, which is
5 50 cents, 100.

6 Now, when you move to the sales tax, we've
7 only got 62,000 in retail sales that we're going to tax
8 1 percent. I'm curious about the exemption of the
9 14,000,000.

10 MRS. LIGHT: Now, why did that number
11 change?

12 MR. CLINE: In creating this document, it
13 took into account items that would be exempt from sale
14 in future purchases: Automobiles, food, items of that
15 nature. In putting together the estimates -- and these
16 are just estimates. We took those businesses that we
17 knew sold in those areas, and we put an estimate
18 together of what those exempted sales would be for the
19 upcoming year.

20 MR. RILEY: Then those are specific
21 categories of retail that are exempt from the sales
22 tax?

23 MR. CLINE: Correct, automobiles --

24 MR. RILEY: They are in the B&O tax now.
25 Aren't automobiles? What about motor fuel?

1 MR. CLINE: Automobiles, motor fuel, food
2 taxes now, no longer in the state, those types of
3 items.

4 MAYOR COLE: That's state mandated, or
5 law?

6 MR. CLINE: Correct.

7 MRS. LIGHT: Don't we still get half a
8 percent of B&O, Art?

9 MR. RILEY: No, ma'am.

10 MRS. LIGHT: Then why are they listed up
11 there in Retail now, before B&O?

12 MAYOR COLE: I guess, one thing, Art,
13 this isn't necessarily -- as Josh indicated, is not
14 necessarily exactly what we'll do if we're approved. I
15 think that it requires, as Josh said -- how did you
16 word it? You did it very eloquently.

17 MR. CLINE: These are thoughtful
18 estimates.

19 MAYOR COLE: Yes. There is more work to
20 be done before this would be an ordinance and be
21 passed.

22 MR. CLINE: Correct. These are
23 preliminary figures subject to change. These are our
24 best estimates. This information was provided by our
25 treasurer and former city manager.

1 MR. RILEY: Well, I guess I have a
2 problem because we're here tonight for a public hearing
3 on an ordinance that is very clearly outlined --

4 MAYOR COLE: This isn't an ordinance.

5 MR. RILEY: -- and it's still in the
6 works.

7 MAYOR COLE: This is our application.

8 MR. RILEY: I mean, this is the
9 application, but this is what you all will approve.

10 MAYOR COLE: There will be a separate
11 ordinance and it will have a public hearing as well
12 or --

13 MR. CLINE: Correct. It will have
14 multiple readings.

15 MAYOR COLE: So before this could pass,
16 there would be a separate public hearing for that to
17 happen, if we're approved.

18 MR. RILEY: But this is what we are
19 presenting with our application.

20 MAYOR COLE: That's correct.

21 MR. RILEY: That is what the citizens are
22 looking at as to what will happen if we get Home Rule.

23 MRS. LIGHT: We'll be allowed to make an
24 ordinance, but it won't necessarily have to be exactly
25 this ordinance.

1 MAYOR COLE: Right.

2 MR. CLINE: Correct.

3 MR. RILEY: Once we're approved, you
4 can't amend it.

5 MRS. LIGHT: Yes, you can. Yes, you can.

6 MAYOR COLE: Yes, you can.

7 MR. RILEY: Not according to that, that
8 you just showed, Josh.

9 MR. CLINE: Everything does not have to
10 be applied for there, as it is. These numbers can
11 change. What we are asking for is the ability to
12 implement a sales tax. We have to show a good faith
13 reduction. This is our estimate of what we would
14 submit at this time to be our estimate. That can
15 change.

16 MAYOR COLE: And I would point out, this
17 was something that was put together by our previous
18 city manager and the treasurer.

19 MR. CLINE: Right. What we are asking
20 for is the larger idea that we can implement a sales
21 tax. That could change, as we go forward, when the
22 rubber meets the road, and we put that into practice.
23 This is just our effort of showing, "This is what we're
24 projecting will be our good faith reduction in the
25 B&O."

1 For this sales tax to be even considered, we
2 have to show a good faith reduction. This is just
3 showing that good faith reduction at an estimate.
4 Those can change as we put the actual ordinance in
5 place. The board, it will be at their discretion to be
6 able to decide where they would like to see those
7 reductions in B&O.

8 MR. RILEY: All right. Will there be
9 another public hearing, on that particular subject?

10 MR. CLINE: Yes, sir.

11 MAYOR COLE: Yes.

12 MR. RILEY: At what point in time?

13 MRS. LIGHT: Yes, on each of those
14 ordinances.

15 MAYOR COLE: It would be some time after,
16 and if, we are approved.

17 MR. RILEY: Then you will go back over
18 these again?

19 MAYOR COLE: Yes. Each one will require
20 an ordinance.

21 I guess, one thing I would say about the B&O
22 tax, it was adopted when the state quite charging B&O
23 tax, and turned that over to the municipalities. If
24 you have read it, that was written in the '70s. It is
25 very antiquated. It's very out of date. It does

1 create issues with business coming into the city. I
2 mean, I can think of several instances where people did
3 not locate in the city simply because of that.

4 One other thing I would point out, in the bulk
5 of these, that B&O is passed on to the consumer anyway.

6 MR. RILEY: It is. And to that end, if
7 the sales tax is implemented, will the B&O tax not be
8 charged to our prospective customers? And the answer
9 to that probably is, yes, it will be.

10 MAYOR COLE: Well, that's free market.

11 MR. RILEY: Yes, it is.

12 MAYOR COLE: We can't control that, but I
13 would tell you that, if a business isn't competitive,
14 the free market tends to weed them out.

15 MR. RILEY: Right. But the bottom line
16 is, there is \$625,000 more a year in new taxes here,
17 and that's all I can see. The people of Bluefield are
18 going to pay the majority of that \$625,000 simply
19 because of the mobility of our citizens, and where they
20 shop and what they do. So I guess that's what I'm
21 getting at, Mr. Mayor, that the bottom line is, there's
22 \$625,000 in new taxes, in this outline. That's the
23 reason that I have asked about it.

24 MAYOR COLE: Well, I'm not sure. Maybe I
25 shouldn't say anything because it's talking out of

1 school a little bit, but the Town of Bluefield collects
2 \$1,000,000 prepared food tax. We're capped at what
3 that tax could be.

4 People have the choice of where to go, but if
5 we're more competitive on B&O, then people can be more
6 competitive on their pricing. And it really is a free
7 market kind of thing.

8 MR. RILEY: That's right.

9 MAYOR COLE: I understand your point. I
10 would also point out, again, this is not the ordinance.
11 I mean, it could be. We may present this exact same
12 thing eight months from now, but it will be a separate
13 hearing. The public will have the opportunity to
14 comment, to object to it, and that sort of thing. This
15 is just for our application.

16 MR. RILEY: Continuing on that, now, this
17 will be submitted along with our proposal for Home
18 Rule?

19 MR. CLINE: Correct.

20 MRS. LIGHT: This is our proposal. This
21 is our application.

22 MR. RILEY: Then where, along the line,
23 can we change it?

24 MAYOR COLE: After we're approved --

25 MRS. LIGHT: After we're approved.

1 MAYOR COLE: -- it can be amended. None
2 of this becomes ordinance because we're approved.

3 MR. RILEY: No, and I'm aware of that,
4 but the Home Rule Board is going to look at this and
5 say, "This is what Bluefield wants to do."

6 Now, if we go and we're approved for Home
7 Rule, and at that point we start changing the rules of
8 the game, I question how that's going to work.

9 MR. CLINE: Again, I would bring you back
10 to the idea that we're asking for the larger idea of a
11 reduction, to implement a sales tax. What this is, is
12 just a preliminary figure to show that this is a good
13 faith reduction of that B&O, which is a requirement for
14 the sales tax implementation. You must show a good
15 faith reduction. These are our preliminary figures on
16 how to do that. That does not mean that that is what
17 the Board will approve.

18 As the Mayor said, it may be what they
19 approve, but that will come up for discussion. There
20 will be ordinance readings and public hearings when it
21 comes to that time. This is for an application to show
22 a broader view of the idea that we'd like to reduce
23 B&O, and begin moving toward the sales tax system.

24 MRS. LIGHT: We could get approved and
25 come back, Art, and say, "We are not going to change

1 anything at all except we're going to implement a
2 10-percent B&O tax only on antique dealers, and they're
3 the only ones."

4 MR. RILEY: You mean you haven't done
5 that?

6 MRS. LIGHT: Well, we're getting close.
7 You see what I mean? They're going to give us -- if we
8 are accepted for Home Rule, they are going to give us
9 parameters. You can work under the parameter of
10 changing your B&O tax structure, or you can work under
11 the parameter of changing your On-The-Spot Citations,
12 but that's just what they're going to give us,
13 generally, if they accept us into the Home Rule
14 program. We can change these numbers. We can fiddle
15 with these numbers.

16 MAYOR COLE: I guess the one thing that
17 wouldn't change is, if we got approved, this is
18 something that we feel -- what the exact numbers are, I
19 don't know, but we -- I'll speak for myself. I would
20 like to see us have a reduction in B&O tax, because it
21 is so antiquated. Like I said, it was written in the
22 '70s, if you read it. The examples they use are so
23 outdated.

24 And if we reduce the B&O tax, it helps
25 businesses be more competitive and gives us the ability

1 to attract somebody to Bluefield. It's a little bit of
2 a Catch 22. What do you do if all the businesses
3 leave? And look at the number of businesses that have
4 left. I want to curb that.

5 MR. RILEY: Does anyone here know
6 specifically why these businesses have left? I noticed
7 that Two-Way Radio had left right above Charlie's
8 place.

9 MRS. LIGHT: Where did they go?

10 MR. RILEY: I don't know. The building
11 was vacant yesterday.

12 MAYOR COLE: I don't know specifically
13 about every business, but I do know about some
14 businesses. And part of it is -- this is a small piece
15 of it, but it is a piece of it. We want to be
16 competitive. Every time we read something about
17 Bluefield "We need to attract businesses."

18 I think -- I mean, I understand your position
19 in making those comments, but I think you also
20 understand how important businesses are. They make up
21 a third of our budget. Is that right?

22 MR. RILEY: Forty percent.

23 MAYOR COLE: That's a big deal. We don't
24 want to put the burden on a smaller and smaller and
25 smaller group of businesses. I would rather have a

1 smaller burden on a larger number of businesses.

2 You'll have plenty of opportunity to discuss
3 what we end up with before it would become an
4 ordinance.

5 MR. RILEY: And part of that, probably,
6 is a misunderstanding, on my part, because tonight, I
7 thought we were having a public hearing on what we are
8 going to submit on what we're going to do. Now, that's
9 what I thought was the purpose.

10 MRS. LIGHT: It's what we are going to do
11 in general, the proposed, what we are going to do, in
12 general.

13 MR. RILEY: But this is a specific
14 application for a specific thing. I would think that
15 we would want to be very specific about why we are
16 applying for Home Rule.

17 MRS. LIGHT: And we are, specifically,
18 these five things, but within these five things,
19 especially in the B&O tax reduction, we have leeway.

20 MAYOR COLE: I wouldn't say "leeway"
21 necessarily, but there will be a -- like I said, this
22 may be exactly what we do, but this is not going to be
23 law if we're approved into Home Rule. You will have
24 another opportunity to discuss the finer points of each
25 category.

1 MR. RILEY: Well, as I said, I'm
2 concerned about the shoppers of the City of Bluefield
3 seeing everything they buy go up by \$625,000.

4 MRS. LIGHT: But they go buy their
5 groceries in Virginia, and they have to pay their taxes
6 in Virginia.

7 MR. RILEY: We have a good store down
8 here, Mrs. Light.

9 MRS. LIGHT: I know, but I still see
10 people from West Virginia buying groceries --

11 MR. RILEY: Without a doubt.

12 MRS. LIGHT: And they don't seem to care
13 and they still go down to Bluefield, Virginia and eat.
14 They don't seem to mind paying that large, prepared
15 meal tax.

16 MR. DILLOW: I think it's simpler, if we
17 don't become more B&O friendly, we're not going to have
18 many businesses for our people to shop at. So if we
19 become more B&O friendly, it will attract more
20 business, and then you're going to have more shoppers.

21 MRS. LIGHT: You cut taxes, Art, it's
22 proven. I heard it today. Every state that has cut
23 taxes has seen a major decline in unemployment and a
24 major --

25 MAYOR COLE: He's saying we're adding

1 taxes. I mean, we're adding; we're taking it away. I
2 mean, it's kind of a little bit of a wash, but the more
3 businesses we can attract, the better this community
4 will be.

5 MR. RILEY: Oh, absolutely. I agree with
6 you, Mr. Mayor. But my biggest concern, I guess, is if
7 you have all these businesses, and nobody to shop.

8 MR. DILLOW: Here would be my opinion: I
9 live here in the city limits of Bluefield. I would
10 much rather shop here in Bluefield to get what I need
11 than I would, obviously, to drive to Princeton or
12 Bluefield, Virginia, but if you don't become more B&O
13 friendly to bring these businesses in, it's not going
14 to happen. I am going to continue to drive to these
15 other places, as everyone else in this city does. So
16 if we don't do something to curb the B&O, I would much
17 rather pay a 1-percent sales tax --

18 MAYOR COLE: Half a percent.

19 MR. DILLOW: -- or half a percent sales
20 tax throughout the city, to buy what I need here than
21 to spend the extra fuel to drive somewhere else to do
22 it, but we can't do that with the current B&O situation
23 that's outdated. So it has to be brought up to date,
24 perhaps done away with, the best that we can, and bring
25 business in that is more friendly to a newer, updated

1 situation.

2 MR. RILEY: In line with that, Mr.
3 Dillow, our B&O tax, in the last three years, has gone
4 up by about \$600,000 a year. So, quite obviously,
5 somebody is shopping here. The B&O tax is not a tax
6 that people see. In other words, it's not 1 percent.
7 The B&O tax, the shoppers don't ever see.

8 MAYOR COLE: Yes, they do. They just
9 don't know it.

10 MR. DILLOW: It's not only that, I think
11 it's more that it has gone up is because we have forced
12 some to pay the fees that they should be paying that
13 they haven't been paying. That's why you've seen some
14 increase in the B&O fees that's been collected.

15 MRS. LIGHT: And prices have gone up.
16 Inflation has gone rampant.

17 MR. RILEY: And all of this is very, very
18 true, but you're not going to see a reduction in what
19 you pay at the store because we take out the B&O tax on
20 retail. That's what I'm saying.

21 MRS. LIGHT: Well, Art, how many new
22 businesses have you seen in town compared to how many
23 we've lost? What's been our net increase in business?

24 MR. RILEY: How many did we have three
25 years ago?

1 MAYOR COLE: Art, we don't know. We will
2 have plenty of time to argue about this. We really
3 need to move on. There are other people that need to
4 talk.

5 MR. RILEY: I don't mean to argue. I'm
6 just trying to get the facts on the table.

7 MAYOR COLE: We could debate all night.
8 I don't believe that you would argue with me that the
9 B&O tax is antiquated. It does prohibit new businesses
10 from coming to town. That's what we want to try and
11 fix.

12 We will have a specific ordinance at the time
13 that will be passed, and certainly, we will be better
14 prepared to discuss the finer points of that with you
15 at that time. But at this point, we want to get our
16 application in. It doesn't mean it's law.

17 MR. RILEY: Thank you, Mr. Mayor. Thank
18 all of you.

19 MAYOR COLE: Thank you, Art.

20 Pete?

21 MR. STERNLOFF: I won't be long. I don't
22 want to disparage my good friend Mr. Riley, but I want
23 to say something that he may or may not agree with.
24 Having been a businessman for many years and been
25 subject to B&O tax in other jurisdictions, B&O tax is

1 the most regressive tax that you can have on a business
2 because it taxes your sales, and not your profits.
3 That is a significant part of this whole thing that we
4 have to look at. And I don't know for sure how the
5 people of Bluefield would react to a 1-percent sales
6 tax and having to see the motion from a B&O tax that
7 they don't really presume is there, going to a sales
8 tax. They will know that the prices have gone up 1
9 percent.

10 If I look at the City of Bluefield and a lot
11 the folks who are living here, there is going to be
12 some consternation in that regard. I would certainly
13 ask that the people of Bluefield, in addition to those
14 of us who have shown up tonight, make a point of coming
15 to the next public hearing to let the City Board know
16 how they feel about it, because a lot of this was
17 developed by -- I guess it was all developed by the
18 city administration, and there have not been any real
19 public discussions on this other than until we got here
20 today. So I would say that there is more work to be
21 done.

22 I think the thing a lot of people forget is
23 the City of Bluefield had the opportunity a number of
24 years ago to have Home Rule. They were actually going
25 to do five cities at that time. They did four, because

1 the City of Bluefield failed to submit a request for
2 Home Rule to the Home Rule Board.

3 And I have to commend this board for going
4 ahead and going through this, because everybody at
5 Municipal League has talked a good game. They all want
6 to participate, but when it comes down to doing the
7 work that is necessary, to put these kinds of numbers
8 together, to lay a plan out, most of them are just not
9 going to do it.

10 I would ask that the City Board, and the folks
11 who are putting this together, go back and scrutinize
12 the numbers that are here, and double-check, to please
13 make sure these numbers are more than just a good faith
14 estimate, because I heard the comment made that these
15 numbers were put together under a previous city manager
16 and with the treasurer. I would ask that you take a
17 good, hard look to make sure that these numbers are
18 good, solid numbers.

19 I also noticed that the B&O tax on
20 manufacturing, which is a small portion of what we do
21 here, but we have been getting almost twenty-one-five a
22 year for manufacturing that, all of a sudden, that
23 area, we're not going to have a B&O tax on.

24 Then I note, there must be a reason for it,
25 and I'd love to have an explanation of why we would cut

1 the B&O tax on contracting in half from where it is
2 now. Other than that, I think Home Rule is really an
3 important part of the future of Bluefield.

4 MAYOR COLE: Two things, I would say:
5 No. 1, with regard to manufacturing, it's very unlikely
6 to have manufacturing, of a large scale, to locate
7 within the city limits of Bluefield, No. 1.
8 Geographically, it does not suit, but there is nothing
9 more desirable than to have somebody to build something
10 because that creates revenue from outside of our
11 market.

12 You build something and you ship it, and then
13 money comes here. Retail is, you sell something.
14 Somebody buys something. You really have not created
15 anything, but manufacturing -- as I stated with regard
16 to the bulk of this, these numbers were put together,
17 as we've stated, by a previous city manager and our
18 current treasurer.

19 The bulk of contracting, it's a direct
20 pass-through. When I have DCI build something for me,
21 everything the City charges the contractor, the
22 contractor marks up 20 percent, and sends the bill back
23 to me.

24 Like I'm having work done at Cole Chevrolet
25 now. All of that stuff is a direct pass-through to the

1 person who is having the work done. It just makes
2 construction more expensive than potentially maybe it
3 should be. Beyond that, I don't know that I have an --

4 MR. STERNLOFF: So, basically, what
5 you're saying is you have a potential 1 percent
6 reduction in the cost of building something in
7 Bluefield, West Virginia than what it was before, is
8 what you're saying. That is if the contractor decides
9 not to pass that on because he traditionally has.

10 MAYOR COLE: Correct. Most contractors
11 do, whether it's bid or a cost-plus basis. Most of
12 what I do with Robert is cost-plus, and he just sends
13 me the bill. I remember arguing with him. I said,
14 "Well, that's your responsibility."

15 He says, "No. I pass that directly on to you.
16 This is cost-plus."

17 MR. STERNLOFF: The only other thing I'll
18 say about B&O is, having been part of understanding
19 city government, one of these days, I'm sure the City
20 Board will find a way to get the treasurer to go out
21 and start auditing some businesses to make sure that
22 they're doing what they should be doing with regard to
23 paying B&O tax.

24 Thank you very much for the opportunity to
25 comment. I would like to see a little bit more work

1 done on the numbers.

2 MAYOR COLE: We intend to.

3 MR. STERNLOFF: One other quick question:
4 You made it clear that if you submit these proposals
5 that are being made, that once the plan -- or the City
6 of Bluefield is accepted into the Home Rule project,
7 that you can change some of these proposals. Would you
8 have to go back to the Home Rule folks if you changed
9 what you've initially proposed to get their approval?

10 MR. CLINE: Those changes, we would put a
11 proposal together. And those proposals would go to the
12 Home Rule Board. They would vote, up and down, whether
13 or not to approve the change or not.

14 MR. STERNLOFF: There still is that
15 outside supervision that --

16 MR. CLINE: Yes. We'll have annual
17 reports that we'll also turn in.

18 MAYOR COLE: Then we'll come back and
19 have a public hearing for that ordinance.

20 MR. STERNLOFF: I know the City of
21 Huntington, when they did this same concept, there was
22 a lot of concern that people would go elsewhere to
23 shop, and it didn't happen. People stayed home and
24 shopped. And I would hope that that would happen here.

25 But I do agree with Mr. Riley, that there is

1 the potential for changing where the money is coming
2 from even though we can say that people are aware of
3 it, that there is a B&O tax, that they're going to be
4 even more aware of it when the 1 percent comes up. But
5 I will be stating as well that I don't like the B&O tax
6 at all. I think if they can do away with that as a way
7 of having revenue for cities, it would be wonderful.

8 Thank you very much.

9 MAYOR COLE: Rich?

10 MR. BEZJAK: I don't have any comment.

11 I just signed up.

12 MAYOR COLE: Anne, did you have a
13 comment? Marie? Cy? Mike? Mr. Meachum?

14 MR. MEACHUM: Sorry I didn't get here in
15 time to sign up. As I understand, this is an outline
16 of what we would like to do to govern ourselves. This
17 is the greatest opportunity we have at this point to do
18 that. We know the challenges that we have that
19 Charleston doesn't have, Wheeling doesn't have,
20 Princeton doesn't have, Beckley doesn't have. I don't
21 care about those folks. I care about Bluefield and the
22 opportunity we have here.

23 It's an outline that these ladies and
24 gentlemen can work with. When the time comes, the
25 public, as I understand it, will have plenty more

1 opportunities to respond to the ordinances, as each one
2 would have to be written.

3 I agree with the chief/acting city
4 manager/whatever hat you have on. I believe that if
5 you reduce B&O taxes, more business will come into the
6 city, and there will be more taxes collected through
7 the retail sales tax. I don't think the public will
8 mind that. Whether they're paying it now, B&O tax or
9 not, is not relevant. Let's get business going. This
10 is the best opportunity to do that. Thank you.

11 MAYOR COLE: Any other comments?
12 Anything else we need to do? Is there a motion to
13 adjourn?

14 MRS. SMITH: I so move.

15 MRS. LIGHT: Second.

16 MAYOR COLE: We have a motion to adjourn.
17 All those in favor signify by saying "Aye."

18 (Chorus of Ayes.)

19 MAYOR COLE: Opposed, same sign?

20 (No response)

21 MAYOR COLE: Thank you all for being
22 here. Meeting adjourned.

23 (Whereupon, at 6:38 p.m., EDST. the
24 foregoing hearing was concluded.)

25

REPORTER'S CERTIFICATE

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I, Sandra Scott Tyson, a Stenotype Reporter within and for the State of West Virginia, do hereby certify that I did appear at the time and place and for the purpose specified in the caption hereof:

That the forgoing is a true and correct transcript of the proceedings had herein;

That the foregoing matters were taken down by me personally in Stenotype Characters and transcribed into the English language by Computer Aided Transcription;

That I am neither Counsel for nor related to any of the parties hereto and have no interest in the matter whatsoever.

Sandra Scott Tyson

Sandra Scott Tyson

April 14, 2014

Home Rule - Public Hearing
April 1, 2014

5:30 p.m.

Mayor Thomas Cole
Vice Mayor, Barbara Thompson Smith
Directors: Chuck Mc Donagle
Ellen Light
Michael Gibson

Redevelopment & Planning - Josh Cline

Interim City Manager - Dennis Dillow

City Clerk - Bobbi Kewey

City Attorney - Brian Cochran

Chief (Fireman) - Jeff Warden

Public

Art Riley

Sandy Tyson

Lili Stanoff

Ann Elgin - ^{Blfd} Daily Tel

Dan Shortridge

Mark Sanders - ^{Blfd} State

Marie Blackwell

Cy Dadd

Mike McClanahan

Marc Meachum - ^{Blfd} Seats Bluefield Chamber
of Commerce

Municipal Home Rule Pilot Program Phase II
Application
City of Bluefield

Section I: Applicant Information

A: General Information

Name of Municipality: City of Bluefield, West Virginia	2010 Census Population: 10,447 residents
Certifying Official and Title: Thomas J. Cole, Mayor	Contact Person and Title: Joshua D. Cline, Assistant City Manager
Address: 200 Rogers Street Bluefield, WV 24701	Telephone Number: 304.327.5568
Email Address: joshua.cline@cityofbluefield.com	Fax Number: 304.327.8670

B. Municipal Classification

The City of Bluefield, West Virginia is a Class II municipality as defined in West Virginia State Code §8-1-3.

C. Category of Issues to be Addressed

The City of Bluefield will be addressing the following categories of issues in its Municipal Home Rule Pilot Program Phase II Application:

- 1) B&O Tax Reduction and Retail Sales Tax Implementation (Tax)
- 2) Disposition of City Property (Administration)
- 3) On-Spot Citations (Administration)
- 4) Contracts with Other Jurisdictions Via Resolution (Administrative)
- 5) Procurement of Architect-Engineering Services (Administrative)

Section II: Narrative

Proposal #1: B&O Tax Reduction and Retail Sales Tax Implementation

Specific state laws, policy rule, or regulation in question:
West Virginia Code §8-13-5

Specific Problem:

The current Business and Occupation (B&O) Tax set by West Virginia Code §8-13-5 and related laws in tax classifications, exemptions and maximum rates restrict the City of Bluefield's ability to generate necessary financial resources in a manner that is consistent with current economic conditions. The B&O tax itself was rejected as an anti-business tax and a hindrance to economic growth when the State of West Virginia repealed it in the 1980s. Current maximum rates were set by the State of West Virginia in 1959 are outdated. Current mandatory classifications and

exemptions under state law were adopted and modified by the state between approximately 1921 and 1987. These classifications and exemptions are antiquated.

In studies conducted on the business climate within the state, it has been shown that local B&O taxes are a major reason why many businesses locate just outside the city limits. Evidence of this is seen in the many vacant and abandoned buildings in downtowns and business districts not just in Bluefield, but in municipalities across West Virginia. Furthermore, a B&O tax is an "on your honor" tax. This can prove to be difficult if businesses are not accurately reporting to the municipality. While an audit of a business can be conducted, the time and cost is not always feasible for a municipality. Nor is the potentially negative public perception this process can generate. A municipal sales/use tax would improve equality in reporting and give the weight of the State Department of Taxation behind it for enforcement.

West Virginia Code allows cities to use a municipal retail sales/use tax. However, this use is restricted to municipalities that do not use a B&O tax or the power is granted through a Home Rule Pilot Program application that is approved. The current tax structure for the municipality makes it difficult for the City of Bluefield to compete as a boarder city with Virginia, often awarded the distinction as the most "business-friendly" state in nation. The use of the municipal sales/use tax would allow the City of Bluefield to work towards tax reform, which includes the reduction of the B&O tax, to build a more competitive business climate.

Proposed Solution:

The City of Bluefield proposes the implementation of an ordinance allowing the city the authority to impose a municipal retail sales/use tax. This would remove part of the tax burden from local businesses to consumers, creating a fairer way for the City of Bluefield to raise revenue. A good faith reduction in the current B&O tax rates would occur during the implementation of this tax.

Category of Issues to be Addressed:

Tax

Fiscal Impact:

Please see Attachment: "City of Bluefield Proposed B&O Tax Reduction and Sales Tax Implementation Worksheet"

Proposal #2: Disposition of City Property

Specific state laws, policy rule, or regulation in question:

West Virginia Code § 8-12-18

Specific Problem:

To sell a piece of property, either real or personal, the City of Bluefield must hold a public auction. State Code requires this for all real and personal property with a value of more than one thousand dollars (\$1,000.00). These auctions must also be announced in a Class II legal advertisement. There are problems that can transpire with this process. First, a property may not meet an acceptable price during the auction process. Other times, the property may be purchased for personal storage. This can have a negative effect when the property is located in a business district and economic development is hindered. Another negative effect on economic development can occur when a property is bought cheap at auction and the new owner expects

to make a significant return on his/her investment, causing the property to be under utilized or undeveloped for some time. Properties are also purchased by owners with good intentions of developing the property to positively impact the economy of the City of Bluefield. However, they are falling short due to resources and a number of other situations, leaving the property in no better condition than when it was purchased.

For many non-profits, purchasing a property can be a hindrance. Many of these organizations complete work considered advantageous to the citizens of Bluefield and save the City of Bluefield from the cost of offering another service or program. Currently, the city must convey or lease a property for a "fair and adequate consideration." What is considered "fair and adequate" can equal a cost greater than the organization can incur creating a stumbling block in the organization's operations.

Proposed Solution:

The City of Bluefield proposes the implementation of an ordinance allowing the city to convey real and/or personal property with a value more than one thousand dollars (\$1,000.00) for fair market value without having to follow the auction procedures outlined in West Virginia Code § 8-12-18. The City of Bluefield would be allowed to directly sell property to an individual or group. This can only be done when the primary purpose is to facilitate economic development within the City of Bluefield and/or to improve the availability of necessary or convenient resources for the benefit of its residents.

The City of Bluefield also proposes that it be allowed to lease or convey (without auction) for less than fair market value buildings and land to non-profit organizations who are providing services to the public, that, in their absence, the City itself might have to finance or administer; provided that a test similar to that imposed by West Virginia Code § 1-5-3 is met and that ownership of the land or building would revert to the City in the event the non-profit ceased to provide such services to the public.

Category of Issues to be Addressed:
Administrative

Proposal #3: On-Spot Citations

Specific state laws, policy rule, or regulation in question:
West Virginia Code § 8-12-16

Specific Problem:

The current process allowed by state law to address code enforcement issues is lengthy, taking a month or more. Unfortunately, this can lead to recidivism in some cases. At this time, West Virginia Code § 8-12-16, only allows municipalities the authority to "adopt ordinances regulating the repair, alteration, or the vacating and closing or removal or demolition... of any dwellings or other buildings unfit for human habitation due to dilapidation, defects increasing the hazard of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities or any other conditions... which would cause such dwellings or other buildings to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare." This does not allow municipalities to address problems with property maintenance that detract from the neighborhood or constitute eyesores yet at the time do not constitute a threat to public safety.

Proposed Solutions:

The City of Bluefield proposes the implementation of an ordinance to address the issue. The ordinance will be modeled after the successful City of Charleston and City of Huntington "On-Spot Citation" ordinances passed. The ordinance will give the authority to the City of Bluefield, its building and zoning administrators, and/or city law enforcement officers to issue citations for reoccurring exterior sanitation/common nuisance violations (including, but not limited to, trash/rubbish, overgrown weeds/grass, junked or otherwise unlawfully situated motor vehicles, maintenance of vacant structures, broken windows or glass, failure to maintain sidewalks and driveways) at the site of the violation and at the time the violation is recognized, similar to the manner in which traffic citations are issued.

Category of Issues to be Addressed:

Administrative

Proposal #4: Contracts with Other Jurisdictions via Resolution

Specific state laws, policy rule, or regulation in question:

West Virginia Code § 8-11-3(10)

Specific Problem:

Currently, the City of Bluefield cannot enter into a contractual agreement or any other agreement with another governmental entity/jurisdiction until the City Board of Directors approves the agreement by ordinance as required by West Virginia Code § 8-11-3(10). This process requires two readings for the ordinance to be passed. In a majority of cases this is not detrimental to city functions. However, it does present a time-period hurdle for the municipality to go through in its day-to-day functions, particularly in mutual aid agreements for emergency services.

Proposed Solutions:

In an effort to build goodwill and to expedite the process of entering into a contractual agreement or any other agreement with another governmental entity, the City of Bluefield proposes that it be allowed to approve these contracts or other agreements by resolution in the same manner as it does when presented similar contracts or agreements with non-governmental entities.

Category of Issues to be Addressed:

Administrative

Proposal #5: Procurement of Architect-Engineering Services

Specific state laws, policy rule, or regulation in question:

West Virginia Code § 5G-1-3

Specific Problem:

The City of Bluefield is hindered by West Virginia State Code § 5G-1-3 to utilize a selection process that does not necessarily provide the "best value" when selecting a firm for a project. Following state code, the city must advertise and then select three firms that are best qualified to perform the desired service. A negotiation for cost begins only after the three firms are selected. A selection committee will first negotiate with the most qualified firm. If negotiations do not end

in a contract for services being signed, the second most qualified firm is then brought in for negotiations, and so on and so forth. This can present multiple problems. First, if no firm can be decided upon the process must be repeated. Second, if the most qualified firm has the best presentation and price, but is not immediately decided on first, the process may need to be repeated or a less attractive offer must be accepted. Ultimately both problems lead to a waste of administrative time diverting attention away from necessary work or by delays in the project, and dollars if new advertisements must be issued.

Proposed Solutions:

The City of Bluefield seeks to streamline this process and allow for the true "best value" to be selected by issuing a Request for Proposal for architect-engineering services. A selection committee would then select the proposal that provides the best value by taking into consideration the price, qualifications, and all other pertinent factors related to the project.

Category of Issues to be Addressed:

Administrative

Conclusion

Over the last century, a city built for over 30,000 residents has been reduced to just over 10,000. Much of this has come in part to a deterioration of economic conditions and the lack of power the municipality has had to work against those forces. The City of Bluefield is a boarder city that daily competes against our neighbor, Virginia. Often, Virginia ranks high in business attractiveness, but also in many quality-of-life categories.

Locally, this has translated into a number of issues. Businesses tend to locate across the state line in Bluefield, Virginia due to out-dated and business-unfriendly tax structures. For decades, this has hindered potential revenue streams for the City of Bluefield. In turn, that lack of revenue has limited the services that can be offered. A decline in services often leads to a lack of pride in property ownership and to the necessary ownership and maintenance by the city of many properties within Bluefield. The decline in the demand for housing due to population loss and lack of pride in upkeep has left many blighted and unkempt properties. Added to that are costly procedures to procure services for major projects. This hinders important public projects from being implemented as quickly as they should be.

The Municipal Home Rule Pilot Program Phase II is a vitally important first step towards city officials having the power to improve the prospects of City of Bluefield. Having more localized authority over tax systems, architectural and engineering services, agreements, the sale of city-owned properties, in addition to presenting the city as a clean, inviting place to live and work will allow the City of Bluefield begin building a better future.



City of Bluefield Proposed B&O Tax Reduction and Sales Tax Implementation Worksheet

B&O Before Change

Category	Gross Sales	Rate	Tax
Manufacturing	\$ 7,164,915.85	0.30%	\$ 21,494.75
Retail	\$ 77,000,861.37	0.50%	\$ 385,004.31
Wholesale	\$ 49,351,895.31	0.15%	\$ 74,027.84
Water	\$ 3,006,429.75	4.00%	\$ 120,257.19
Electric Light & Power Company Sales	\$ 8,093,769.55	4.00%	\$ 323,750.78
Electric Light & Power - Other	\$ 2,874,474.45	3.00%	\$ 86,234.23
Gas	\$ 4,273,859.40	3.00%	\$ 128,215.78
Contracting	\$ 7,310,058.69	2.00%	\$ 146,201.17
Amusement	\$ 1,237,531.93	0.50%	\$ 6,187.66
Rents	\$ 15,317,167.17	1.00%	\$ 153,171.67
Service	\$ 118,446,143.43	1.00%	\$ 1,184,461.43
Banking and Loans	\$ 16,009,790.32	1.00%	\$ 160,097.90
	<u>\$ 310,086,897.22</u>		<u>\$ 2,789,104.73</u>

B&O After Change

Category	Gross Sales	Rate	Tax
Manufacturing	\$ 7,164,915.85	0.00%	\$ -
Retail	\$ 77,000,861.37	0.00%	\$ -
Wholesale	\$ 49,351,895.31	0.15%	\$ 74,027.84
Water	\$ 3,006,429.75	4.00%	\$ 120,257.19
Electric Light & Power Company Sales	\$ 8,093,769.55	4.00%	\$ 323,750.78
Electric Light & Power - Other	\$ 2,874,474.45	3.00%	\$ 86,234.23
Gas	\$ 4,273,859.40	3.00%	\$ 128,215.78
Contracting	\$ 7,310,058.69	1.00%	\$ 73,100.59
Amusement	\$ 1,237,531.93	0.50%	\$ 6,187.66
Rents	\$ 15,317,167.17	1.00%	\$ 153,171.67
Service	\$ 118,446,143.43	1.00%	\$ 1,184,461.43
Banking and Loans	\$ 16,009,790.32	1.00%	\$ 160,097.90
	<u>\$ 310,086,897.22</u>		<u>\$ 2,309,505.09</u>

Estimate Exempted Sales			\$ 14,401,781.35
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New Sales Tax After Change				
Category	Gross Sales	Rate	Tax	Change
Manufacturing	0	0%	\$ -	\$ (21,494.75)
Retail	\$ 62,599,080.02	1%	\$ 625,990.80	\$ 240,986.49
Wholesale	0	0%	\$ -	\$ -
Water	0	0%	\$ -	\$ -
Electric Light & Power Company Sales	0	0%	\$ -	\$ -
Electric Light & Power - Other	0	0%	\$ -	\$ -
Gas	0	0%	\$ -	\$ -
Contracting	0	0%	\$ -	\$ (73,100.59)
Amusement	0	0%	\$ -	\$ -
Rents	0	0%	\$ -	\$ -
Service	0	0%	\$ -	\$ -
Banking and Loans	0	0%	\$ -	\$ -
			\$ 625,990.80	\$ 146,391.16

B&O Before Sales Tax	\$ 2,789,104.73
Combined B&O and Sales Tax (After Change)	\$ 2,935,495.89
State Collection Fee (estimated 5% of Sales Tax)	\$ 31,299.54

Estimated B&O Tax After Collection Fee	\$ 2,904,196.35
Estimated Increase in Revenue	\$ 115,091.62

Good Faith Reduction in B&O	1.80%
-----------------------------	-------

NOTICE

Notice is hereby given that a Public Hearing will be held on Tuesday, April 1, 2014 at 5:30 p.m., in the Board Room at City Hall, 200 Rogers Street, Bluefield, West Virginia, on the proposed City of Bluefield Municipal Home Rule Pilot Program Phase II written plan pursuant to W.Va. Code §8-1-5a.

Interested parties may appear at the Public Hearing and be heard with respect to the proposed written plan. A copy of the proposed written plan may be inspected in the City Clerk's Office beginning Friday, February 28, 2014 between the hours of 8:00 a.m. and 4:30 p.m., daily, Monday through Friday.

Given under my hand this 24 day of February 2014

Bobbi Kersey
City Clerk

CERTIFICATE OF PUBLICATION

State of West Virginia,

To-wit:-

County of Mercer,

I, Jeremy Basham of the Bluefield Daily Telegraph, a daily newspaper published in the City of Bluefield, Mercer County, West Virginia, do certify that the notice attached hereto under the caption;

was published in the said Bluefield Daily Telegraph

2 (Two) Time(s)

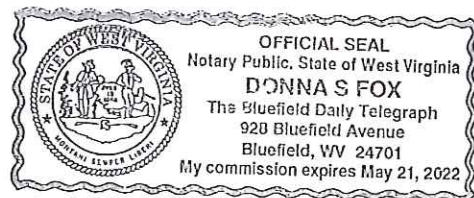
on the following day(s), namely February 28th & March 14th in the year 2014.

Publication Fee: \$38.02



Subscribed and sworn to before me this 14th day of March 2014.

My Commission expires May 21 2022.



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ORDINANCE AUTHORIZING THE CITY OF BLUEFIELD TO SUBMIT ITS WRITTEN PLAN TO THE WEST VIRGINIA MUNICIPAL HOME RULE BOARD.

WHEREAS, the City of Bluefield is a Class II City as defined by West Virginia Code section 8-1-3(2); and

WHEREAS, Bluefield, West Virginia is a border city that competes daily with the Commonwealth of Virginia; and

WHEREAS, the City of Bluefield is sometimes restrained by state statutes, policies, and rules that challenge its ability to effectively carry out its duties; and

WHEREAS, the Municipal Home Rule Pilot Program, Phase II, is an extremely vital first step towards Bluefield officials having the necessary tools to improve the quality of life in Bluefield, West Virginia; and

WHEREAS, a Public Hearing was held on this written plan on April 1, 2014, in compliance with West Virginia Code section 8-1-5a(g)(1); and

WHEREAS, the duly elected governing authority of the City of Bluefield is the Board of Directors thereof.

NOW, THEREFORE, WITNESS THE FOLLOWING ORDINANCE:

Pursuant to West Virginia Code section 8-1-5a(g)(4), the Board of Directors of City of Bluefield hereby Ordains that the City is authorized to submit its written plan to the Municipal Home Rule Board for consideration.

First Reading: April 22, 2014

Second Reading and Passage: April 29, 2014

Thomas J. Cole, Mayor

Attest:

Bobbi Kersey, Clerk



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Manufacturing	\$ 7,164,915.85	0.30%	\$ 21,494.75
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Good Faith Reduction in B&O 1.80%

BREWSTER, MORHOUS, CAMERON, CARUTH,
MOORE, KERSEY & STAFFORD, PLLC

ATTORNEYS AT LAW

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www.brewstermorhous.com

DONALD T. CARUTH
(1950-2010)

*ALSO ADMITTED IN VA

May 19, 2014

Applicant: CITY OF BLUEFIELD, WEST VIRGINIA

Re: City of Bluefield Municipal Home Rule Application

Ladies and Gentlemen,

As City Attorney for the City of Bluefield, I have reviewed West Virginia Code § 8-1-5a, Municipal Home Rule Pilot Program, the Application of the City of Bluefield to participate in the Municipal Home Rule Pilot Program, Phase II, (Written Plan), and other documents related thereto as I have deemed necessary for the purposes of this opinion.

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

A. The Plan does not contain any proposed changes to ordinances, acts, resolutions, rules or regulations that are contrary to current law pertaining to:

- (1) Environmental law;
- (2) Bidding on government construction and other contracts;
- (3) The Freedom of Information Act;
- (4) The Open Governmental Proceedings Act;
- (5) Wages for construction of public improvements;
- (6) West Virginia Code § 8-1-5a;

- (7) West Virginia Code § 8-12-5a; and
- (8) The City of Bluefield's written plan.

B. The Plan does not contain any proposed changes to ordinances, acts, resolutions, rules or regulations pertaining to:

- (1) The Constitution of the United States or West Virginia;
- (2) Federal law or crimes and punishment;
- (3) Chapters sixty-a, sixty-one and sixty-two of this code or state crimes and punishment;
- (4) Pensions or retirement plans;
- (5) Annexation;
- (6) Taxation: *Provided*, that the City of Bluefield may seek approval to enact a municipal sales tax up to one percent, and reduce its municipal business and occupation tax, in compliance with West Virginia Code § 8-1-5a (k)(6).
- (7) Tax increment financing;
- (8) Extraction of natural resources;
- (9) Persons or property outside the boundaries of the municipality;
- (10) Marriage and divorce laws; or
- (11) An occupation tax, fee or assessment payable by a nonresident of a municipality.

C. The City of Bluefield held a properly noticed Public Hearing on April 1, 2014 on the proposed plan, which was made available to the public for inspection thirty days prior to the Public Hearing.

D. On April 29, 2014, the City of Bluefield properly passed an ordinance adopting the proposed plan.

The Municipal Home Rule Board may rely on this opinion.

Sincerely,

A handwritten signature in blue ink that reads "Brian K Cochran". The signature is written in a cursive style and is positioned above a horizontal line.

Brian K. Cochran
Counsel for the City of Bluefield



CITY OF BLUEFIELD

Nature's Air Conditioned City

Mrs. Nancy Bailey
Acting Treasury Department Head
City of Bluefield
200 Rogers Street
Bluefield, WV 24701

May 27, 2014

Municipal Home Rule Board
c/o Debbie Browning
West Virginia Development Office
West Virginia Home Rule Pilot Program
State Capitol Complex, Building 6, Room 553
Charleston, WV 25305-0311

Dear Members of the Municipal Home Rule Board,

Please accept this letter as the State of West Virginia Fees Statement for the City of Bluefield, West Virginia's Municipal Home Rule Pilot Program Phase Two application. The City of Bluefield is in good standing with the State of West Virginia with no outstanding fees. Should you require more information, please do not hesitate to contact me at nancy.bailey@cityofbluefield.com or by calling 304.327.2421.

Sincerely,

Nancy Bailey
Acting Treasury Department Head
City of Bluefield

Requirements Concerning Firearms, Ammunition and Firearm Accessories

Definitions: As used in this subsection:

- (A) Ammunition means fixed cartridge ammunition, shotgun shells, the individual components of fixed cartridge ammunition and shotgun shells, projectiles for muzzle-loading firearms and any propellant used in firearms or ammunition.
- (B) Firearm accessory means a device specifically designed or adapted to enable the wearing or carrying about one's person, or the storage or mounting in or a conveyance, of a firearm, or an attachment or device specifically designed or adapted to be inserted into or affixed onto a firearm to enable, alter or improve the functioning or capabilities of the firearm.
- (C) Firearm has the same meaning as in W. Va. § 61-7-2.

General Rule:

- (A) Municipalities participating in the Municipal Home Rule Pilot Program may not restrict in any manner the right of any person to purchase, possess, transfer, own, carry, transport, sell or store any revolver, pistol, rifle, or shotgun, or indirectly prohibit the ownership of the ammunition, or, to restrict in any manner the right of any person to purchase, possess, transfer, own, carry, transport, sell or store any other firearm accessory or accouterment, under any order, ordinance or rule promulgated or enforced by the municipality. This rule may not be construed to prevent any law enforcement official with appropriate authority from enforcing any statute enacted by the state.
- (B) The authority of a municipality to regulate firearms, ammunition, or firearm accessories may not be inferred from its proprietary authority, home rule status or any other inherent or general power.
- (C) Any existing or future orders, ordinances, or rules promulgated or enforced in violation of this subsection are null and void.
- (D) A municipality may regulate the carrying of a firearm in municipal buildings dedicated to government operations, other than parking buildings or garages.

Applicability and Effective Dates:

Ninety days after a new municipality has been selected by the Board to participate in the pilot program, or a previously participating municipality has chosen to continue to participate in the pilot program, any municipal gun ordinances previously authorized by the provisions of section five-a, article twelve, chapter eight of this code shall no longer be of any force or effect for any municipality participating in this program, to the extent they are in conflict with the provisions of this subsection: Provided, that no provision in this subsection may be construed to limit the authority of a municipality to restrict the commercial use of real estate in designated areas through planning or zoning ordinances.

Certifying Official Signature (Mayor or designee):

