

**2016 AMENDMENT  
PROGRAM APPLICATION  
MUNICIPAL HOME RULE PILOT**

West Virginia

**City of Clarksburg**

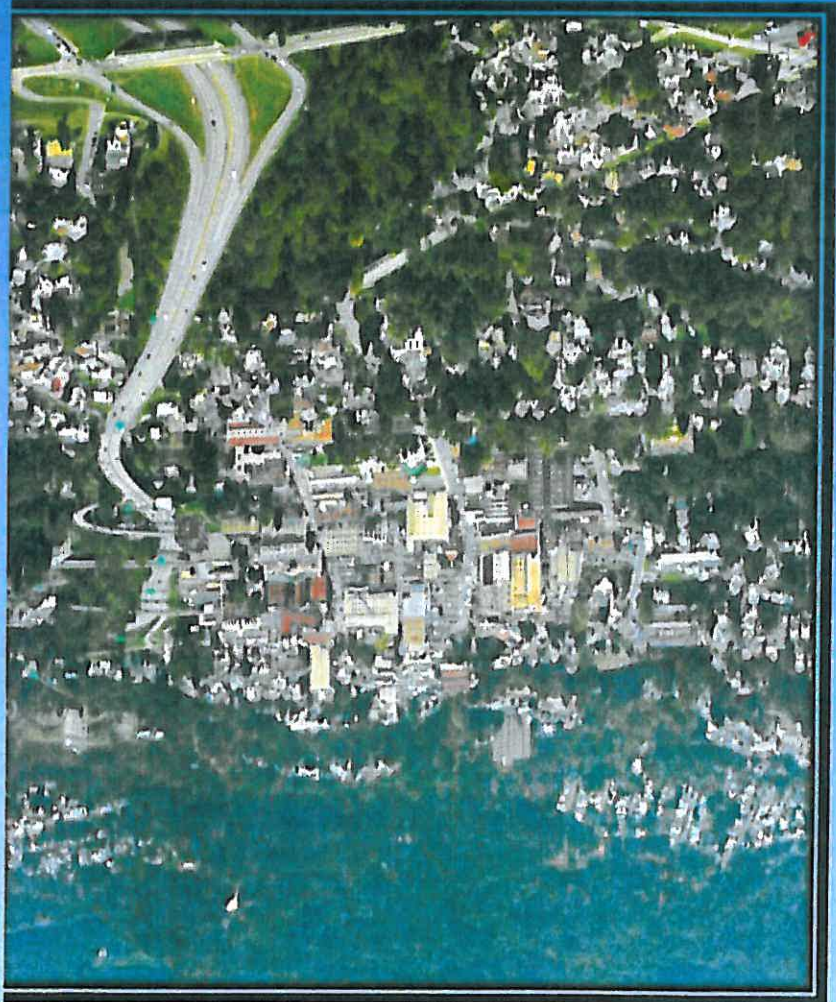


TABLE OF CONTENTS

A. EXECUTIVE SUMMARY.....3

B. APPLICATION, SECTION I: APPLICANT INFORMATION.....5

C. APPLICATION, SECTION II: NARRATIVE.....6

D. APPLICATION, SECTION III: AFFIDAVITS.....10

PUBLISHER'S CERTIFICATE PUBLIC HEARING.....10

CITY COUNCIL AGENDA 1<sup>ST</sup> READING.....11

CITY COUNCIL APPROVED MINUTES .....13

CITY COUNCIL AGENDA 2<sup>ND</sup> READING/PUBLIC HEARING .....17

CITY COUNCIL MINUTES (UNAPPROVED) .....19

ORDINANCE AUTHORIZING SUBMISSION OF PLAN.....25

PUBLISHER'S CERTIFICATE PUBLIC HEARING.....27

ATTORNEY OPINION.....29

STATE OF WEST VIRGINIA FEES STATEMENT (NONE OUTSTANDING).....30



OFFICE OF THE MAYOR

June 6, 2016

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

CITY OF CLARKSBURG

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

Re: Home Rule Second Amendment

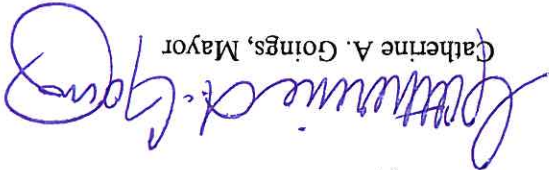
Dear Home Rule Program Committee:

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 to the people, Home Rule has provided novel ideas and afforded municipalities the opportunity to better serve its constituents.

At this time, we are submitting a second 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, second 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

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

June 6, 2016

Re: Home Rule Second Amendment

Dear Members of the Home Rule Program Committee:

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

The City of Clarksville is submitting a second amendment to our Home Rule Plan. This 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 and our economy. Our residents have had the opportunity to review what the City of Clarksville proposes in addition to discussing these changes with various members of City Council and myself. We are proud to present our second amendment in the hopes of ultimately having the ability to improve the quality of life for the Clarksville residents and its visitors.

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@cityofclarksvillwv.com](mailto:mhowe@cityofclarksvillwv.com).

Sincerely,

Martin Howe, ICMA-CM  
City Manager

cc: Honorable Mayor and Council Members

## 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 contained seven (7) 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
- APPROPRIATE ADEQUATE FUNDING FOR ADVERTISING THE CITY
- IMPOSE SALES AND USE TAX

The City of Clarksburg has enacted the provision relief from party affiliation requirement for Municipal Non-Partisan Election and Board Commissioners, Procurement of Architect – Engineering Services, the Appropriate Adequate Funding for Advertising the City and also the 1% Sales & Use Tax. The collection of clean-up costs has been resolved by the Legislature and therefore the City has not enacted.

The City has previously amended its' plan on Thursday, December 17, 2015. That amendment, To Permit Local Certification of Supervision of Code Enforcement Officials and Inspectors was proposed, along with the City of Bridgeport, to the Home Rule Board in January, 2016, at which time both cities attempted to work with the WV Fire Commission and the State Legislators to draft and approve legislation. Consequently, the City of Clarksburg along with Bridgeport returned to the Home Rule Board on Monday, April 4<sup>th</sup> at which time the City of Bridgeport was approved and City of Clarksburg was tabled due to not having a full compliance of Board Members as well as awaiting for a ruling from Kanawha County Circuit Court.

This is the second 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 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 \_\_\_\_\_ X \_\_\_\_\_ Organization \_\_\_\_\_ Administrative \_\_\_\_\_ Personnel \_\_\_\_\_

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

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

## SECTION II: NARRATIVE

### PERMIT SALE OF ALCOHOL BEFORE 1:00 P.M. ON SUNDAYS

**Introduction:** Clarkburg 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. Clarkburg 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.

Under WV State Code Section 8-1-5a(k), municipalities participating in the Municipal Home Rule Pilot Program may amend their written plans. For the reasons set forth herein, Clarkburg is now requesting that the Board authorize the following amendment to Clarkburg's approved plan.

**Specific State Laws, Policies, Rules or Regulations:** WV State Code Section 60-7-12(a)(5); 60-8-34; 11-16-18(a)(1), attached as Exhibit A hereto.

**Problem:** *West Virginia State Code Restrains Restaurants and Hotels During Brunch Hours by Prohibiting the Service of Alcohol Before the Hour of One O'Clock P.M. on Sundays.*

### A Short History of Brunch

According to the Smithsonian, Sunday brunch was popularized in the 1930's by hotels as a dining option for travelers on a day when many restaurants were closed. Combining two services (breakfast and lunch) into one provided staffing and kitchen economies for the establishment. Restaurants soon also began offering brunch service and began popularizing the inclusion of morning cocktails such as Bloody Marys, Bellinis, or Mimosas. The popularity of brunch extended as women entered the post-World War II workforce and began looking for an option to preserve the tradition of a Sunday meal with family and friends, but without the time spent in the kitchen preparing that meal. More and more, weekend mornings became the preferred time for groups of friends with career and family obligations to get together. Brunch also offered a form of celebration on holidays like Mother's Day and Easter, and in the last decade has given rise to new traditions like the bridal brunch.



## West Virginia Liquor Laws

Since the repeal of prohibition, West Virginia has maintained various laws regulating the sale of alcohol, including the current prohibition on the sale of alcohol before one o'clock p.m. on Sundays. As the popularity of brunch grew, some restaurants and hotels in Clarksburg and other West Virginia municipalities began offering brunch service, but have indicated that the inability to serve the traditional brunch cocktails until the afternoon has stifled attendance and resulted in limited revenue. On behalf of its membership, the West Virginia Hospitality and Travel Association has advocated for a relaxation of the state's liquor laws to allow alcohol to be served before one o'clock on Sundays so that establishments can capitalize on the popularity of brunch and maximize their revenue from brunch service.

### *Proposed Solution: The City of Clarksburg Desires to Authorize Certain Class "A" ABCA License Holders to Serve Alcohol Beginning at Ten O'Clock A.M. on Sundays.*

Cities that have been approved as Home Rule cities are permitted to modify the time at which alcohol may be served on Sundays within their cities, and such a modification is the type of innovative solution that was intended by the Legislature when it enacted the Home Rule Statute. See 8-1-5(a)(a) intent; see also 8-1-5a(i) (modification of time for sale of alcohol within a Home Rule City is not contrary to the provisions of the Home Rule Statute). The Legislature has acknowledged the value of the Home Rule Program as an incubator for municipalities to try new ideas and solutions to overcome administrative and economic restraints and has enacted several state laws that began as one City's idea in the Home Rule Program. With regard to this issue, Shepherdstown has already successfully enacted its own rules regarding Sunday alcohol sales through Home Rule and if authorized to do the same, Clarksburg's enactment will provide citizens with the opportunity to witness and experience an unrestricted, traditional brunch service in the City of Clarksburg.

Although Counties do not currently have home rule powers, the Legislature did recently address the issue of relaxing restrictions on Sunday alcohol sales on a countywide basis. During the 2016 regular session, the Legislature enacted law that provides a mechanism for interested counties to place that issue on the ballot. Notwithstanding, counties and cities often serve a very different population. A survey of Google search interests in "brunch" published in the

Washington Post indicates that brunch is much more popular in urban areas than in rural areas. Given that the interests of Clarksburg and those of the rest of the county may be varied, restaurant and hotel owners and operators in Clarksburg and the Clarksburg Visitor's Bureau ("CVB") have requested that the City pursue this issue now. The City remains supportive of any action the county may take to make earlier alcohol service available countywide. Successful enactment by Clarksburg now will also benefit the county and any other city or county that may be considering Home Rule enactment or countywide election by demonstrating the benefits of relaxing Sunday alcohol restrictions prior to the time in which that issue could be placed on a countywide ballot.

There is good reason to believe that enactment of this power by Clarksburg will benefit its citizens and result in an economic enhancement to businesses within the City. One of the larger hotels within our corporate City limits would have the opportunity to market for champagne brunch events on which they have heretofore been unable to fully capitalize. The expanded window for alcohol service may also facilitate more events on Sundays benefiting caterers and event venues. Festivals which carryover in Sunday would also have the ability to add increase sales by allowing for the sale of wine and beer before 1:00 p.m., if they so choose. All of this increased revenue for both small and large hospitality business will result in additional business and occupation tax for the City and increased sales tax revenue for both the City and the state. There may also be additional benefits to the City, state, and its citizens from increased working hours and/or tips for servers and other hospitality workers.

The CVB and its Board of Directors, which is composed of civic leaders and people involved in the City's hospitality and tourism industries, fully support the City's use of Home Rule to allow earlier Sunday alcohol service in Clarksburg. Aside from the potential direct financial benefit, relaxing Sunday liquor laws and allowing restaurants in the City to be fully operational on Sunday enhance the City's image in the eyes of business and leisure travelers thereby enriching their travel experience in Clarksburg and promoting Clarksburg as a hip, historic destination. The City's envisions the reinforcement of Clarksburg's position as the region's entertainment and cultural destination with the recently announced revitalization and renovation of the Robinson Grand Performing Arts Center, and active promotion of Clarksburg as a city that offers

a range of lifestyle choices. These goals are instrumental in attracting new residents to the City

and retaining its current residents. The establishment of earlier Sunday alcohol service is another way for the City to meet these goals and strengthen its social vitality.

**Conclusion:** The City of Clarksburg respectfully requests that it be granted the power under WV State Code Section 8-1-5a to amend its approved Home Rule Plan to permit the City to allow certain Alcohol Beverage Control Administration Class "A" license holders to begin serving alcohol at ten o'clock a.m. on Sundays.

# PUBLISHER'S CERTIFICATE

I, Wendy Greathouse, Classified 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

was published in THE EXPONENT-TELEGRAM 2 time(s) commencing on 06/07/2016 and ending on 06/14/2016 at the request of

## CITY OF CLARKSBURG.

Given under my hand this 06/23/16.

The publisher's fee for said publication is: \$39.28.

South West Virginia  
Classified Manager of The Exponent-Telegram

Subscribed to and sworn to before me this 06/23/16

Sarah E. Hurst  
Notary Public in and for Harrison County, WV

My commission expires on

The 23<sup>rd</sup> day of August 2017



**PUBLIC HEARING**  
Notice is hereby given that a Public Hearing will be held at the regular meeting of Clarksburg City Council on Thursday, July 7, 2016, at 7:00 p.m., in the Council Chamber, 2nd Floor, City Hall, Clarksburg, West Virginia, authorizing an amendment to the City's Home Rule Plan to allow the sale of alcoholic beverages by certain Alcohol Beverage Control Administration Class "A" license holders beginning at 10:00 a.m. on Sundays. Interested parties may appear at the Public Hearing and be heard with respect to the proposed amendment to the City's Home Rule Plan. A copy of the proposed amendment to the City's Home Rule Plan may be inspected in the City Manager's Office beginning, June 7, 2016, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday as well as online at [cityofclarksburgwv.com](http://cityofclarksburgwv.com).

# AGENDA

## CITY OF CLARKSBURG

AGENDA FOR REGULAR MEETING OF COUNCIL OF THE CITY OF CLARKSBURG TO BE HELD THURSDAY, JUNE 16, 2016 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

### ORDER OF BUSINESS

1. ROLL CALL
2. PRAYER (*to be given by Councilmember Kennedy*) & PLEDGE
3. APPROVAL OF MINUTES:
  - REGULAR SESSION - JUNE 2, 2016
4. PETITIONS, COMMUNICATIONS AND PUBLIC HEARINGS
5. CITY MANAGER'S REPORT/UPDATE
6. CITY CLERK'S INFORMATION:

A. ZONING FORM IN CONNECTION WITH AN APPLICATION TO OPERATE A PRIVATE CLUB, PRIVATE WINE RESTAURANT OR TAVERN FILED BY HIGHTIME LLC, dba CHUNKI'S PIZZA & HIGHTIME LOUNGE II, 341 E. PIKE STREET - RETURNED TO APPLICANT ON JUNE 7, 2016

B. ZONING FORM IN CONNECTION WITH AN APPLICATION TO OPERATE A PRIVATE CLUB, PRIVATE WINE RESTAURANT OR TAVERN FILED BY MARSHALL COX, dba JOURNEY'S END 2, 1401 WEST VIRGINIA AVENUE- RETURNED TO APPLICANT ON JUNE 13, 2016

C. ZONING FORM IN CONNECTION WITH AN APPLICATION TO OPERATE A PRIVATE CLUB, PRIVATE WINE RESTAURANT OR TAVERN FILED BY MINARD'S SPAGHETTI INN, INC., dba MINARD'S SPAGHETTI INN, 813 E. PIKE STREET - RETURNED TO APPLICANT ON JUNE 13, 2016

7. UNFINISHED BUSINESS

8. NEW BUSINESS:

A. CONSIDERATION OF FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLARKSBURG, WEST VIRGINIA, TO SUBMIT TO THE MUNICIPAL HOME RULE BOARD A PROPOSED AMENDMENT, ATTACHED HERETO AS EXHIBIT A, TO THE CITY OF CLARKSBURG'S MUNICIPAL HOME RULE PLAN CONSISTENT WITH WEST VIRGINIA STATE CODE SECTION 8-1-5a, REQUESTING APPROVAL TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES BY CERTAIN ALCOHOL BEVERAGE CONTROL ADMINISTRATION CLASS "A" LICENSE HOLDERS BEGINNING AT 10:00 A.M. ON SUNDAYS

B. CONSIDERATION OF WAIVING COMPETITIVE BIDDING AND AWARDING INTERIOR DEMOLITION CONTRACT FOR ROBINSON GRAND PERFORMING ARTS CENTER PROJECT

C. CONSIDERATION TO AUTHORIZE THE USE OF THE TIF FUNDS FOR DEMOLITION OF STRUCTURES AS STATED WITHIN THE TIF PLAN

D. CONSIDERATION TO AUTHORIZE THE CITY MANAGER TO EXECUTE AN AGENT OF RECORD FOR WORKER'S COMPENSATION

E. CONSIDERATION OF APPOINTMENT TO THE BOARD OF ZONING APPEALS

F. CONSIDERATION OF CONFIRMATION OF CITY MANAGER'S APPOINTMENT TO THE CODE APPEALS BOARD

9. COUNCIL COMMENTS

10. ADJOURNMENT

The Clarkburg City Council met in REGULAR SESSION on Thursday, June 16, 2016 at 7:00 P.M. at the Clarkburg Municipal Building – Council Chambers, 222 West Main Street, Clarkburg, West Virginia, with Mayor Goings presiding.

**COUNCIL MEMBERS PRESENT:**

Gary Bowden  
Robert Caplan  
Ryan Kennedy  
Sam Lopez  
Chad Stigmon  
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 and the pledge led by Councilmember Kennedy.

At this time, Council deviated from the agenda for the following presentations:

Certificates of Recognition were presented to the Harrison County Girls Lacrosse Team and their coaches by Mayor Goings, with the assistance of Vice Mayor Malfregeot and Councilmember Caplan, for a memorable season wherein said team advanced to the quarter-finals. Members of the county team are comprised of students who attend schools throughout the county. Coach A.J. Curran thanked the City for this recognition and apprised that this was only the second year that the girls' team has been in place.

Councilmember Bowden, on behalf of the Mayor and Council, presented former Mayor and Councilmember Margaret Bailey with a proclamation proclaiming June as "World Elder Abuse Awareness Month" in the City.

Councilmember Kennedy, on behalf of the Mayor and Council, presented Christina Beck of the WV Chapter of Alzheimer's Association, with a proclamation proclaiming June as "Alzheimer's Awareness Month" in the City. Ms. Beck extended an invitation to all to attend a fundraiser event on June 20<sup>th</sup> in Bridgeport and urged all to wear purple on June 20<sup>th</sup> to show support. Ms. Beck also advised of a walk to be held on September 25<sup>th</sup> at the Clarksburg Amphitheater.

**MOTION** by Vice Mayor Malfregeot, **SECONDED** by Councilmember Caplan for approval of the minutes of the Regular session of Council held on June 2, 2016. **MOTION APPROVED UNANIMOUSLY.**

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

**Joe Folio**, E. Main Street – appeared before Council to request a meeting with the City Manager, Assistant City Manager, Police Chief and Councilmembers interested in attending, to discuss various concerns as a major owner of property located in the Central Business District. Mr. Howe advised Mr. Folio that he would be contact with him to schedule said meeting.

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

June 16, 2016  
Submitted by Martin G. Howe

**General Updates**

1. Jackson Square Restroom Renovation – The rough-in sanitary sewer is approximately 95% complete and we anticipate it to be completed by the end of the week. The carpentry around the perimeter of the exterior walls will commence the week of June 20<sup>th</sup>. The door frames will also be installed next week. The ramp installation will be completed within the next three (3) weeks.

2. Glen Avenue (Glenwood Hills section) – Mine Drainage Reclamation Project – DEP - The pre-construction meeting was held on-site on Wednesday, June 8<sup>th</sup>, with the contractor, Williams Excavations (Bloomingsdale, OH) whom has a satellite office in Belington, WV.

- 1. Saturday, June 18<sup>th</sup> – Greater Clarksburg 10K – will take place in downtown, as well as the two mile run and Kids K events. The 10K Race begins at 8:30 a.m.

**Events**

Received a FOIA request from Jon Cavendish on Friday, June 10<sup>th</sup>. This request is to review construction documents relating to the remodeling of a former pizza restaurant, then an Asian restaurant, into what is now Primanti Brothers. The information will be made available for inspection on Wednesday, June 29<sup>th</sup>.

**FOIA**

- 3. Home Rule – Our Amended Home Rule Plan “The Brunch Bill” allowing for the sale of alcoholic beverages by ABCA Class “A” License holders beginning at 10:00 a.m. on Sundays has been advertised. The ordinance authorizing submission of such amendment is under “New Business.” I recommend Council approve. The Amendment would be presented to the Home Rule Board at the July 1<sup>st</sup> meeting.
- 2. Robinson Grand Performing Arts Center – The City contacted five (5) contractors to provide quotes to do interior demolition work within the Ball Room, as well as in the former Liberty Tax Service Building. This work is to assist in finalizing the design documents. I recommend Council waive competitive bidding and, based upon the lowest quote, authorize a contract to be executed with Ventas Contracting, LLC in the amount of \$27,708. The Administration will contract for asbestos abatement in the very near future.
- 1. Chestnut Street – The contractor, Marks Drilling, will resume work shortly. The DOH anticipates Phase II being completed by the end of July. Upon completion of this phase, the DOH plans on reopening roadway until Phase III is awarded. The bidding of Phase III is to be in early 2017 and awarded in the Spring (April of 2017). This would be the final phase which will include the construction of sidewalks, curbs, sanitary sewer/storm drains and final paving.

**Economic Development**

- 2. Sewer Flusher Truck – The Sanitary Board will be accepting bids for purchase of a truck-mounted pressurized sewer flusher for the Public Works Department until Wednesday, July 6<sup>th</sup> at 2:00 p.m.
- 1. Waste Water Treatment Plant – The Sanitary Board is accepting sealed bids for “WTP Operations Building Additions.” This addition will consist of new offices at the front entrance of the plant. The Sanitary Board will renew and consider awarding bid. Bid opening for office addition will be Wednesday, June 29<sup>th</sup> at 2:00 p.m.

**Sanitary Board**

- 4. Demolition – Recommendation – Council authorize expenditure from TIF Fund. The TIF Fund currently has \$706,508.48 within the account. A portion of these funds will be utilized for fourteen (14) structures.
  - b) The proposed timeline is as follows:
    - i. Advertising – Wednesday, June 29<sup>th</sup> and Wednesday, July 6<sup>th</sup>
    - ii. Pre-bid meeting – Wednesday, July 13<sup>th</sup>
    - iii. Bid opening – Wednesday, July 20<sup>th</sup>
    - iv. Council consider awarding bids – Thursday, July 21<sup>st</sup>
- 3. Dozer – The Public Works Department contacted four (4) of the major equipment vendors within the region to provide the City a cost of a new dozer and a quote for a new model, year-end 2014 or 2015 dozer. Upon receiving the quotes, we will be recommending to Council to waive competitive bidding and award based upon the recommendation of City Administration. This is based upon urgent need to prepare final closure of C & D Landfill #2 and to open C & D Landfill #3 and lastly to participate with the future demolition programs.



2. Broadway Community Garden – Dedication Ceremony is scheduled for Saturday, June 25<sup>th</sup> at 11:00 a.m.

**AGENDA ITEM NO. 6: CITY CLERK'S INFORMATION:**

A. ZONING FORM IN CONNECTION WITH AN APPLICATION TO OPERATE A PRIVATE WINE RESTAURANT OR TAVERN FILED BY HIGHTIME LLC, dba CHUNKI'S PIZZA & HIGHTIME LOUNGE II, 341 E. PIKE STREET – RETURNED TO APPLICANT ON JUNE 7, 2016

B. ZONING FORM IN CONNECTION WITH AN APPLICATION TO OPERATE A PRIVATE CLUB, PRIVATE WINE RESTAURANT OR TAVERN FILED BY MARSHALL COX, dba JOURNEY'S END 2, 1401 WEST VIRGINIA AVENUE – RETURNED TO APPLICANT ON JUNE 13, 2016

C. ZONING FORM IN CONNECTION WITH AN APPLICATION TO OPERATE A PRIVATE CLUB, PRIVATE WINE RESTAURANT OR TAVERN FILED BY MINARD'S SPAGHETTI INN, INC. dba MINARD'S SPAGHETTI INN, 813 E. PIKE STREET – RETURNED TO APPLICANT ON JUNE 13, 2016

UNFINISHED BUSINESS: None.

NEW BUSINESS:

A. CONSIDERATION OF FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLARKSBURG, WEST VIRGINIA, TO SUBMIT TO THE MUNICIPAL HOME RULE BOARD A PROPOSED AMENDMENT, ATTACHED HERETO AS EXHIBIT A, TO THE CITY OF CLARKSBURG'S MUNICIPAL HOME RULE PLAN CONSISTENT WITH WEST VIRGINIA STATE CODE SECTION 8-1-5a, REQUESTING APPROVAL TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES BY CERTAIN ALCOHOL BEVERAGE CONTROL ADMINISTRATION CLASS "A" LICENSE HOLDERS BEGINNING AT 10:00 A.M. ON SUNDAYS

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

B. CONSIDERATION OF WAIVING COMPETITIVE BIDDING AND AWARDDING INTERIOR DEMOLITION CONTRACT FOR ROBINSON GRAND PERFORMING ARTS CENTER PROJECT

MOTION by Vice Mayor Malfregeot, **SECONDED** by Councilmember Lopez to waive competitive bidding for the interior demolition contract for the referenced project and award said contract to Veritas Contracting, LLC in the amount of \$27,708. **MOTION APPROVED UNANIMOUSLY.**

C. CONSIDERATION TO AUTHORIZE THE USE OF THE TIF FUNDS FOR DEMOLITION OF STRUCTURES AS STATED WITHIN THE TIF PLAN

MOTION by Councilmember Caplan, **SECONDED** by Vice Mayor Malfregeot for approval of the above-captioned matter. Under discussion, Mr. Howe apprised that he would send out a copy of said structures located within the TIF District to Council. **MOTION CARRIED 6-0** with Councilmember Kennedy abstaining due to client representation.

D. CONSIDERATION TO AUTHORIZE THE CITY MANAGER TO EXECUTE AN AGENT OF RECORD FOR WORKER'S COMPENSATION

MOTION by Vice Mayor Malfregeot, **SECONDED** by Councilmember Lopez to execute an agent of record contract for worker's compensation with Commercial Insurance for Insurance America. Under discussion, Councilmember Kennedy referenced Councilmember Caplan's earlier

comment wherein Councilmember Caplan expressed his support of Dyer Insurance Agency and inquired of Councilmember Caplan as to the same with Councilmember Caplan responding that Dyer Insurance Agency is a Clarkburg business that has provided services to the City in the past and he did not see much difference from what the other agencies offered. Councilmember Sigmon opined that the Administration should make such decisions and not Council. Councilmember Lopez opined that this matter should not have been on the agenda as it was not Council's job to consider the same and that the matter should be within the City Manager's control. Mayor Goings commented that it was a learning process for those councilmembers who sit on the committee as said councilmembers did not have a vote thereon and that everyone was comfortable with the City Manager and Finance Director doing what they were hired to do. **MOTION APPROVED UNANIMOUSLY.**

**E. CONSIDERATION OF APPOINTMENT TO THE BOARD OF ZONING APPEALS**

**MOTION** by Vice Mayor Malfregeot, **SECONDED** by Councilmember Lopez to reappoint Frank Robinette to the Board of Zoning Appeals. **MOTION APPROVED UNANIMOUSLY.**

**F. CONSIDERATION OF CONFIRMATION OF CITY MANAGER'S APPOINTMENT TO THE CODE APPEALS BOARD**

**MOTION** by Vice Mayor Malfregeot, **SECONDED** by Councilmember Lopez to confirm the City Manager's reappointment of Tom Corathers to the Code Appeals Board. **MOTION APPROVED UNANIMOUSLY.**

**COUNCIL COMMENTS:**

Mayor Goings: Read a letter from Morgantown Fire Chief Mark Caravassos expressing appreciation to the Clarkburg Fire Department for their assistance and support during a tragic event that claimed the life of a Morgantown firefighter.

Vice Mayor Malfregeot: Noted the CAPE Credit Union's digital sign as a nice addition thereto; encouraged attendance at the 10K Race.

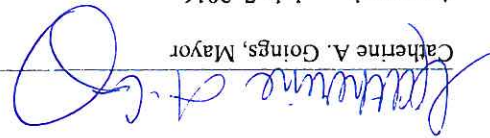
Councilmember Sigmon: Expressed sadness with the heroine epidemic that claimed another young life; wished new hire Officer Lane a speedy recovery from an injury sustained at the Academy.

Councilmember Caplan: Expressed appreciation to the City Manager for the various committees that have been implemented.

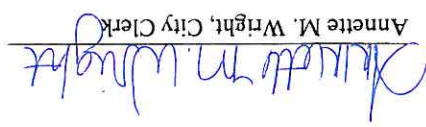
Councilmember Bowden: Commended the Police Department for their services in keeping citizens safe during the 10K Race; commended the Fire Department for their assistance to Morgantown Fire Department; expressed appreciation to Public Works for the street cleaning and pothole patching for the 10K Race; noted that the Wheeling Symphony would be performing at the Clarkburg Amphitheater on July 2<sup>nd</sup>.

Councilmember Kennedy: Wished all fathers a Happy Father's Day and wished all a Happy West Virginia Day.

There being no further business to come before Council at this time, **MOTION** by Vice Mayor Malfregeot, **SECONDED** by Councilmember Lopez and **APPROVED UNANIMOUSLY** for adjournment.

  
Catherine A. Goings, Mayor

Approved: July 7, 2016

  
Annette M. Wright, City Clerk

# AGENDA

## CITY OF CLARKSBURG

AGENDA FOR REGULAR MEETING OF COUNCIL OF THE CITY OF CLARKSBURG TO BE HELD THURSDAY, JULY 7, 2016 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

### ORDER OF BUSINESS

1. ROLL CALL
2. PRAYER (*to be given by Councilmember Lopez*) & PLEDGE
3. APPROVAL OF MINUTES:  
REGULAR SESSION - JUNE 16, 2016
4. PETITIONS, COMMUNICATIONS AND PUBLIC HEARINGS
5. PUBLIC HEARING ON AMENDMENT TO THE CITY'S HOME RULE PLAN (TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES BY CERTAIN ALCOHOL BEVERAGE CONTROL ADMINISTRATION CLASS "A" LICENSE HOLDERS BEGINNING AT 10:00 A.M. ON SUNDAYS)
6. CITY MANAGER'S REPORT/UPDATE
7. MAYOR'S INFORMATION:
- A. APPOINTMENT TO HARRISON COUNTY SENIOR CITIZENS BOARD - UPON TERM EXPIRATION OF CURRENT APPOINTMENT
8. UNFINISHED BUSINESS:
- A. CONSIDERATION OF SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLARKSBURG, WEST VIRGINIA, TO SUBMIT TO THE MUNICIPAL HOME RULE BOARD A PROPOSED AMENDMENT, ATTACHED HERETO AS EXHIBIT A, TO THE CITY OF CLARKSBURG'S MUNICIPAL HOME RULE

PLAN CONSISTENT WITH WEST VIRGINIA STATE CODE SECTION 8-1-5a,  
REQUESTING APPROVAL TO ALLOW THE SALE OF ALCOHOLIC  
BEVERAGES BY CERTAIN ALCOHOL BEVERAGE CONTROL  
ADMINISTRATION CLASS "A" LICENSE HOLDERS BEGINNING AT 10:00  
A.M. ON SUNDAYS

9. NEW BUSINESS:

A. CONSIDERATION TO WAIVE COMPETITIVE BIDDING REQUIREMENTS  
AND AUTHORIZE THE PURCHASE OF A 44,000 LB. CLASS 2014 CASE  
MODEL DOZER FROM STATE EQUIPMENT COMPANY FOR THE AMOUNT  
OF \$225,956

B. CONSIDERATION OF A FINANCIAL CONTRIBUTION TO THE PONY  
BASEBALL LEAGUE FOR THE CONSTRUCTION OF AN INDOOR BATTING  
FACILITY

C. CONSIDERATION TO WAIVE COMPETITIVE BIDDING REQUIREMENTS  
AND AUTHORIZE THE ASBESTOS ABATEMENT OF THE ROBINSON  
GRAND PERFORMING ARTS CENTER

D. CONSIDERATION OF A REQUEST FOR AN ABANDONMENT OF AN  
UNIMPROVED/UNOPENED PORTION OF HAYES AVENUE

E. CONSIDERATION OF APPOINTMENT TO THE SANITARY BOARD

10. COUNCIL COMMENTS

11. ADJOURNMENT

**UNAPPROVED**

JULY 7, 2016

The Clarksville City Council met in REGULAR SESSION on Thursday, July 7, 2016 at 7:00 P.M. at the Clarksville Municipal Building – Council Chambers, 222 West Main Street, Clarksville, 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

The prayer was given and the pledge led by Vice Mayor Malfregeot.

At this time, Council deviated from the agenda for the following recognition: Mr. Tyler Terango of the WVIHF, advised of the winners of this year's poster contest. Receiving first place was Mariah Vu with Maralisa Marra being the honorary winner. The winning posters were shown with Mayor Goings congratulating the contestants.

**MOTION** by Vice Mayor Malfregeot, **SECONDED** by Councilmember Caplan for approval of the minutes of the Regular session of Council held on June 16, 2016. **MOTION APPROVED UNANIMOUSLY.**

Mayor Goings called for petitions, communications and public hearings with the following individuals appearing therefor:

**Melissa Boyles**, 303 Clay Street – appeared before Council to inform of drug and gun-related concerns. Ms. Boyles commented that many of the neighbors are afraid to come forward with their concerns of an individual from Pittsburgh now residing in the apartment complex dealing drugs and discharging a gun. Ms. Boyles stated that she is concerned for the safety and well-being of her family members and others. Mr. Bellotte informed Ms. Boyles that he would meet with Detective Jason Snider tomorrow and someone would be in touch with her very soon.

**Mark Cottrell**, 1633 Hoffman Avenue – appeared before Council concerning a house he would like to save. Mr. Cottrell provided Council with pictures of structures located at 151 Washington Avenue, 226 Sumner Street, 425 Hornor Avenue and 222 Chestnut Street, all properties that had been condemned which he had repaired. Mr. Cottrell stated that he recently purchased the property located at 130 Millford Street from Mr. Runner and that he obtained an application from the Code Enforcement Department to appeal the demolition order on said property. Mr. Cottrell opined that the structure was sound and that he could rehabilitate the same. Mr. Cottrell requested that Council remove this structure from the demolition of properties going out to bid until he could appeal this matter to the Code Appeals Board. Mr. Cottrell remarked that this rehabilitation of the property would result in a savings to the City as well as get the property back on the tax rolls.

1. Jackson Square Restroom Renovation – HVAC unit has been installed outside of the building, interior framing is complete, proceeding on handicap ramp installation, floor installation scheduled for the week of July 18<sup>th</sup>, project still scheduled to be completed by July 30<sup>th</sup> with the exception of temporary ramp railings.
2. Dozer – The Administration recommends authorizing the purchase of a 2014 Case Model Dozer from State Equipment Company for the amount of \$225,956.
3. Waldomere –
  - a) Mountain State Electrical is expected to complete their portion of work by mid-July.
  - b) The plaster contractor, J&J Drywall, is anticipated to be completed by the end of August.
  - c) A change order has been approved to replace two (2) additional doors as well as some flooring.
  - d) The remaining flooring and painting is scheduled to be completed during September.

**General Updates**

July 7, 2016  
Submitted by Martin G. Howe  
(Presented by Anthony Bellotte)

**AGENDA ITEM NO. 6: CITY MANAGER'S REPORT/UPDATE**

City Clerk Wright announced that notices regarding the above-captioned public hearing appeared in *The Exponent Telegram* on June 7, 2016 and June 14, 2016. Mayor Goings declared the public hearing open. With no one appearing therefor, the public hearing was closed.

**AGENDA ITEM NO. 5: PUBLIC HEARING ON AMENDMENT TO THE CITY'S HOME RULE PLAN (TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES BY CERTAIN ALCOHOL BEVERAGE CONTROL ADMINISTRATION CLASS "A" LICENSE HOLDERS BEGINNING AT 10:00 A.M. ON SUNDAYS)**

Mayor Goings asked Mr. Morgan to discuss this matter with the City Manager upon his return and contact Mr. Cottrell regarding the same.

Mr. Morgan informed that said structure was put on the demolition list many years ago and noted that there is a difference between condemnation order and demolition order. Mr. Morgan explained that a demolition order results when the determination is made that the cost of repair exceeds the value of the property wherein it is not feasible to repair. Mr. Morgan stated that said property was purchased for taxes by Mr. Runner who appealed to the Code Appeals Board with said Board upholding the demolition order and, further, the Circuit Court upholding the demolition order. Mr. Morgan noted the final judicial order and commented that there is no method to re-open said case. Mr. Morgan added that pursuant to the records in the Courthouse, the property still belongs to Mr. Runner.

**CONSIDERATION OF SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLARKSBURG, WEST VIRGINIA, TO SUBMIT TO THE MUNICIPAL HOME RULE BOARD A PROPOSED AMENDMENT, ATTACHED HERETO AS EXHIBIT A, TO THE CITY OF CLARKSBURG'S MUNICIPAL HOME RULE PLAN CONSISTENT WITH WEST VIRGINIA STATE CODE SECTION 8-1-5a, REQUESTING APPROVAL TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES BY CERTAIN ALCOHOL BEVERAGE CONTROL ADMINISTRATION CLASS "A" LICENSE HOLDERS BEGINNING AT 10:00 A.M. ON SUNDAYS**

**UNFINISHED BUSINESS:**

**MOTION** by Councilmember Sigmon, **SECONDED** by Councilmember Lopez to **TABLE** this matter. Mayor Goings informed that she would be recommending Councilmember Kennedy for this appointment at the appropriate time and explained that there has been some confusion as to the Board terms pursuant to the Bylaws.

A. APPOINTMENT TO HARRISON COUNTY SENIOR CITIZENS BOARD – UPON TERM EXPIRATION OF CURRENT APPOINTMENT

**AGENDA ITEM NO. 7: MAYOR'S INFORMATION:**

1. The 5k Glow Run benefiting the West Virginia Italian Heritage Festival will be Saturday, July 16<sup>th</sup> at 9:00 p.m. Following the Glow Run, there will be a celebration held in Jackson Square "Glow in the Square."
2. Ribbon Cutting – Harrison County YMCA Whole Kids Foundation Community Garden – Monday, July 11<sup>th</sup> at Noon.
3. Dedication – "Brothers of Hope Playground" at Clarksburg City Park on Friday, July 8<sup>th</sup> at 11 a.m.

**Events**

Robinson Grand Performing Arts Center – The Administration solicited quotes from seven (7) abatement companies, three (3) submitted quotes. The Administration recommends that Council authorize Citra and Associates Consulting. The contract is in the amount of \$9,832.

**Economic Development**

4. Demolition – As a reminder, the timeline for the TIF Demolition is as follows:
  - a) Pre-bid meeting – Wednesday, July 13<sup>th</sup>
  - b) Bid opening – Wednesday, July 20<sup>th</sup>
  - c) Council consider awarding bids – Thursday, July 21<sup>st</sup>

City Clerk Wright announced that notices regarding the above-captioned public hearing appeared in *The Exponent Telegram* on June 21, 2016 and June 28, 2016. Mayor Goings declared the public hearing open. With no one appearing therefor, the public hearing was closed. **MOTION** by Vice Mayor Malfregeot, **SECONDED** by Councilmember Lopez for approval of the above-captioned ordinance on second and final reading. Under discussion, Mayor Goings apprised that the other cities have submitted such amendment to the Home Rule Board. **MOTION APPROVED UNANIMOUSLY.**

**NEW BUSINESS:**

**A. CONSIDERATION TO WAIVE COMPETITIVE BIDDING REQUIREMENTS AND AUTHORIZE THE PURCHASE OF A 44,000 LB. CLASS 2014 CASE MODEL DOZER FROM STATE EQUIPMENT COMPANY FOR THE AMOUNT OF \$225,956**

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

**B. CONSIDERATION OF A FINANCIAL CONTRIBUTION TO THE PONY BASEBALL LEAGUE FOR THE CONSTRUCTION OF AN INDOOR BATTING FACILITY**

**MOTION** by Vice Mayor Malfregeot, **SECONDED** by Councilmember Caplan to authorize the City Manager to donate a sum of up to \$15,000 in the 2016-2017 fiscal year to the Pony Baseball League to be used in the construction of an indoor batting facility to be built at Clarksburg City Park subject to the approval of the form of appropriate agreement(s) between the City and the Pony League to be approved by the City Attorney. Under discussion, Councilmember Bowden commented that although he voted to support this project in the past, he has since learned that Bridgeport has plans for a major in-door facility and questioned the need for two facilities in such close proximity. Councilmember Bowden stated that he would like to have additional information, as well as possibly hearing from Park Superintendent John Cooper. Councilmember Sigmon expressed support of the project commenting that it may be difficult to obtain transportation to the Bridgeport facility. With regard to earlier discussion concerning the \$15,000 appropriated amount, Councilmember Lopez remarked that the budget could be revised should Council wish to increase the contribution. **MOTION CARRIED 6-1 with Councilmember Bowden casting the dissenting vote.**

**C. CONSIDERATION TO WAIVE COMPETITIVE BIDDING REQUIREMENTS AND AUTHORIZE THE ASBESTOS ABATEMENT OF THE ROBINSON GRAND PERFORMING ARTS CENTER**

**MOTION** by Vice Mayor Malfregeot, **SECONDED** by Councilmember Lopez to waive competitive bidding requirements and authorize the asbestos abatement of the Robinson Grand Performing Arts Center to Cira and Associates Consulting, LLC in the amount of \$9,832. Under



Expressed concern with the Class C fireworks being let off in the City noting that although State law now allows for the sale of the same, the City's ordinances does not allow for the emission thereof and noted the need to enforce the noise ordinance as the continuation of such is startling and fearful to many people and pets. Also,

Councilmember Sigmon:

Apprised that he spoke to the City Manager about allocating additional funding (\$15,000 to \$20,000) for the sidewalk project with Council appearing to have no objections thereto.

Councilmember Lopez:

Advised that the unveiling of the "Welcome sign/Home of Jimbo Fisher" would be unveiled on Monday (July 1<sup>st</sup>) at 1:00 p.m. at Jackson Square.

Vice Mayor Malfregeot:

With regard to Clarkburg Uptown, Councilmember Sigmon inquired as to the monies for the mural with Mayor Goings stating that she did not believe Clarkburg Uptown has any money for the project; however, he could come to a meeting to discuss the same.

Advised that she and Assistant City Manager Bellotte met with a landscaper who will be providing quotes and options to spruce up the 2<sup>nd</sup> Street entrance to the City and the triangle/area at West end. Mayor Goings informed that the information would be brought to Council and noted the project to be in conjunction with Clarkburg Uptown.

Mayor Goings:

**COUNCIL COMMENTS:**

**MOTION** by Councilmember Lopez, **SECONDED** by Vice Mayor Malfregeot for the reappointment of Mark Linville to the Sanitary Board. **MOTION APPROVED UNANIMOUSLY.**

**E. CONSIDERATION OF APPOINTMENT TO THE SANITARY BOARD**

the above-captioned petition for abandonment to the Planning & Zoning Commission. **MOTION** by Councilmember Kennedy, **SECONDED** by Councilmember Bowden to refer **APPROVED UNANIMOUSLY.**

**D. CONSIDERATION OF A REQUEST FOR AN ABANDONMENT OF AN UNIMPROVED/UNOPENED PORTION OF HAYES AVENUE**

discussion, Councilmember Bowden inquired as to the work entailed noting the diverse quotes received with Assistant City Manager Bellotte explaining that upon limited review of the quotes received, it appears that the quote submitted by Cira and Associates identified all the quantities. **MOTION APPROVED UNANIMOUSLY.**

Councilmember Sigmon suggested looking into the possibility of a holding cell (and reaching out to Highland Hospital therefor) for intoxicated or drug-impaired individuals which would alleviate public concerns associated therewith.

Councilmember Caplan: Remarked on the flood devastations that have occurred in the southern part of the state noting our thoughts and prayers are with these individuals.

Councilmember Bowden: Advised that he has asked the City Manager to work with the Finance Director to see if there was a way to put the additional \$5,000 for the Senior Citizens Center back in the budget which would result in a \$25,000 contribution thereto; noted the successful Wheeling Symphony performance on Saturday night and informed of concerns as to the need for additional lighting for such evening events and to relay such concerns to the Park Board.

Councilmember Kennedy: Suggested that the venue be reconsidered for next year's Wheeling Symphony event opining that the Amphitheater is not a conducive venue for families; opined that the City of Clarksburg should have been more of a leader in the flood relief efforts noting the many area organizations that participated. Mayor Goings remarked that a lot of people in our community stepped up to the plate to assist in such efforts and that the same may have gone unnoticed.

There being no further business to come before Council at this time, **MOTION** by Councilmember Lopez, **SECONDED** by Vice Mayor Malfregeot and **APPROVED UNANIMOUSLY** for adjournment.

Catherine A. Goings, Mayor

Approved: July 21, 2016

Annette M. Wright, City Clerk



That, on behalf of the City of Clarksburg, the Mayor, the City Attorney, the City Administration are hereby authorized and requested to submit to the Municipal Home Rule Board, in accordance with the requirements of W. Va. Code § 8-1-5a and application guidelines

**SECTION 1. Amendment of the City's Home Rule Plan:**

**CITY OF CLARKSBURG, WEST VIRGINIA:  
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE**

**WHEREAS**, the Council believes that the City can enhance its position as one of the region's principal entertainment and cultural destinations, and the active promotion of Clarksburg as a city that offers a range of lifestyle choices in order to attract new residents to the City and retain its current residents; the establishment of an earlier Sunday alcohol service is another way for the city to meet these goals and strengthen its social vitality.

**WHEREAS**, the Council has determined that slowing alcohol sales at Sunday morning brunch service within the City will produce more revenue and strengthen City businesses, increase City business and occupation tax revenues and City/state sales tax revenues, and increase earnings for servers and other employees working in the hotels and restaurants in the City; and

**WHEREAS**, the Clarksburg Convention and Visitor's Bureau and its Board of Directors, which is composed of civic leaders and people involved in the City's hospitality and tourism industries, fully support the City's use of Home Rule to allow earlier Sunday alcohol service in Charleston thereby enabling restaurants and hotels in the City to be fully operational on Sunday to enhance the City's image in the eyes of business and leisure travelers and enrich the experiences of visitors to Clarksburg; and

**WHEREAS**, the owners of restaurants and hotels in the City have indicated that there is a market for brunch service on Sundays, and that current restrictions on hours of Sunday alcohol service imposed by state law stifle Sunday morning brunch attendance; and

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLARKSBURG, WEST VIRGINIA, TO SUBMIT TO THE MUNICIPAL HOME RULE BOARD A PROPOSED AMENDMENT, ATTACHED HERETO AS EXHIBIT A, TO THE CITY OF CLARKSBURG'S MUNICIPAL HOME RULE PLAN CONSISTENT WITH WEST VIRGINIA STATE CODE SECTION 8-1-5a, REQUESTING APPROVAL TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES BY CERTAIN ALCOHOL BEVERAGE CONTROL ADMINISTRATION CLASS "A" LICENSE HOLDERS BEGINNING AT 10:00 A. M. ON SUNDAYS**

of the Municipal Home Rule Board, an application to the Municipal Home Rule Pilot Program, and to request approval by the Board of the City of Clarksburg Home Rule Plan; thereby allowing the City of Clarksburg to be considered for participation in the West Virginia Home Rule Pilot Program. The Mayor and the Administration are further authorized to do all things reasonably necessary to obtain approval by the Board of this application.

**SECTION 1. Effective Date**

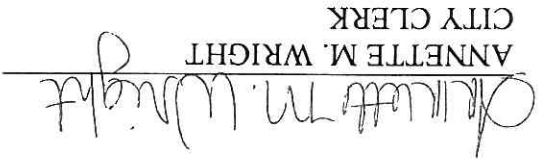
This Ordinance shall be effective upon passage.

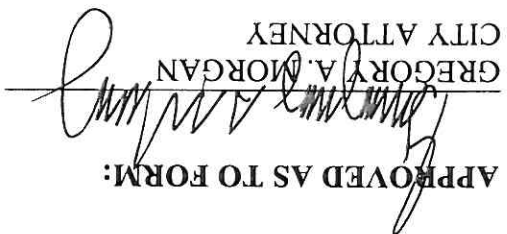
Passed by Council of the City of Clarksburg on this 16<sup>th</sup> day of June, 2016.

Passed by Council of the City of Clarksburg on SECOND AND FINAL READING on this 7<sup>th</sup> day of July, 2016.

  
CATHERINE A. GOINGS, MAYOR

ATTEST:

  
ANNETTE M. WRIGHT  
CITY CLERK

APPROVED AS TO FORM:  
  
GREGORY A. MORGAN  
CITY ATTORNEY



27

The 30th day of August 2017  
My commission expires on

Notary Public in and for Harrison County, WV

*[Handwritten signature]*

Subscribed to and sworn to before me this  
06/29/16

Classified Manager of The Exponent-Telegram

*[Handwritten signature]*

The publisher's fee for said publication is:  
\$83.06.

Given under my hand this 06/29/16.

CITY OF CLARKSBURG.

was published in THE EXPONENT-TELEGRAM  
2 time(s) commencing on 06/21/2016 and  
ending on 06/28/2016 at the request of

**PUBLIC HEARING**

that the annexed:  
County and state aforesaid, do hereby certify  
circulation published in the city of Clarksburg,  
TELEGRAM, a newspaper of general

Classified Manager of THE EXPONENT

1. *[Handwritten signature]*  
**PUBLISHER'S CERTIFICATE**

PUBLIC HEARING  
A PUBLIC HEARING WILL BE  
HELD PRIOR TO FINAL VOTE  
ON ADOPTION OF THE FOL-  
LOWING ORDINANCE DURING  
A REGULAR MEETING  
OF CLARKSBURG, TO BE  
HELD ON THURSDAY, JULY  
7, 2016 AT 7:00 P.M. AT THE  
CLARKSBURG MUNICIPAL  
BUILDING, 222 WEST MAIN  
STREET, CLARKSBURG, AT  
WHICH TIME ANY INTERES-  
TED PARTIES MAY APPEAR  
AT SAID MEETING AND BE  
HEARD WITH RESPECT TO  
THIS PROPOSED ORDI-  
NANCE. COPIES OF THIS  
PROPOSED ORDINANCE  
ARE AVAILABLE FOR PUBLIC  
INSPECTION IN THE OFFICE  
OF THE CLERK AT SAID  
MUNICIPAL BUILDING DUR-  
ING 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 OF THE  
CITY COUNCIL OF THE CITY  
OF CLARKSBURG, WEST  
VIRGINIA, TO SUBMIT TO  
THE MUNICIPAL HOME  
RULE BOARD A PROPOSED  
AMENDMENT, ATTACHED  
HEREIN AS EXHIBIT A, TO  
THE CITY OF CLARKS-  
BURG'S MUNICIPAL HOME  
RULE PLAN CONSISTENT  
WITH WEST VIRGINIA STATE  
CODE SECTION 8-1-5a, RE-  
QUESTING APPROVAL TO  
ALLOW THE SALE OF ALCO-  
HOLIC BEVERAGES BY  
CERTAIN ALCOHOL BEVER-  
AGE CONTROL ADMINIS-  
TRATION CLASS "A" LI-  
CENSE HOLDERS BEGIN-  
NING AT 10:00 A.M. ON  
SUNDAYS  
PASSED BY THE CITY  
COUNCIL OF THE CITY OF  
CLARKSBURG ON FIRST  
READING ON THE 16TH DAY  
OF JUNE 2016.  
CATHERINE A. GOINGS,  
MAYOR  
ATTEST: ANNETTE M.  
WRIGHT, CITY CLERK

## **Permit Sale of Alcohol Before 1:00 P.M. on Sundays**

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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

CARLINE J. CANN

JAMES V. CANN

GREGORY A. MORGAN

(304) 624-5687

FAX (304) 624-4006

ROGER J. MORGAN (2011)

JAMES CANN (1970)

LLOYD H. YOUNG (1978)

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;

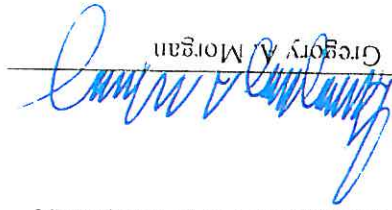
2. The Plan does not contain any proposed changes to ordinances, acts, resolutions, rules, or regulations that would create a defined contribution employee pension or retirement plan for its employees currently covered by a defined benefit pensions plan.

The Municipal Home Rule Board may rely upon this opinion.

Very truly yours,

YOUNG MORGAN & CANN, PLLC

By:

  
Gregory A. Morgan



OFFICE OF  
CITY MANAGER

CITY OF CLARKSBURG  
WEST VIRGINIA

June 6, 2016

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, 8:00 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, ICMA-CM  
City Manager