



City of Elkins

Regular Council Meeting

June 15, 2023
7:00 PM
401 Davis Avenue
Council Chamber, 2nd Floor

AGENDA

1. Invocation and Pledge of Allegiance

2. Call to order and roll call

3. Public comment

4. Minutes

- a. Proposed minutes for the meeting of June 1, 2023

5. Correspondence and Notifications

- a. Event: Our Town Independence Day Weekend, June 30-July 2

6. Presentation

- a. Elkins Farmers Market

7. Committee Reports

8. Staff reports

- a. Treasurer's report

9. Approval of vendor invoice payments

(Available for public review in the city clerk's office two business days before this meeting, as required by W. Va. Ethics Commission Open Meetings Advisory Opinion 2012-04.)

Vendor invoices presented for approval: May 29-June 9, 2023.

10. New business

- a. Ordinance 316: An Ordinance of the Common Council of Elkins, West Virginia Amending and Re-Enacting City Code, Chapter 90: Animals (first of two readings)
- b. Resolution 1663: Authorizing use of \$50,000 from the Coal Severance Fund for an EFD/EPD training site
- c. Resolution 1664: Intradepartmental budget revisions (FY 2023 General Fund # 18-25, Sanitation Fund #2-3, and EFD Fund #4)
- d. Resolution 1665: Interdepartmental budget revision (FY 2023 General Fund state budget revision #4)
- e. Resolution 1666: Accepting conditions and authorizing execution of an election and release agreement concerning opioid-related settlement with Mylan
- f. Resolution 1667: Accepting conditions and authorizing execution of an election and release agreement concerning opioid-related settlement with Amneal Pharmaceuticals

- g. Resolution 1668: Reappointment of B. Shaffer to the Elkins-Randolph County Library Board
- h. Resolution 1669: Accepting Conditions and Authorizing Execution of Financing Agreement between Truist Financial Corporation and the City of Elkins, for the City Hall HVAC Project
- i. Resolution 1670: Accepting bid for and authorizing execution of agreement general liability and auto insurance for Fiscal Year 2024
- j. Resolution 1671: Accepting bid and authorizing agreement to purchase a sanitation truck
- k. Resolution 1672: Resolution of support for EPRC grant application to DOH RTP program to construct tot track and pump track in Glendale Park
- l. Resolution 1673: Reauthorizing Conditions of Contract between Mitchell Tree Care, LLC and Landscape Consulting, LLC and the City of Elkins , and Authorizing Execution of Contract
- m. Resolution 1674: Reappointing J. Davis to the IPMC Board of Appeals
- n. Proposed purchase of real property

11. Mayor's comments

12. Adjournment



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 15, 2023
Section:	Minutes
Category:	Action Item
Agenda Item Name:	Proposed minutes for the meeting of June 1, 2023
Recommended By:	
Summary:	
Fiscal Impact:	
Recommendation:	
Attachments:	1. city council - 2023_06_01 - minutes_proposed

Proposed Minutes

ELKINS COMMON COUNCIL REGULAR COUNCIL MEETING MINUTES

***401 Davis Avenue
Council Chamber, 2nd Floor
June 1, 2023
7:00 p.m.***

Elkins Common Council met in regular session in the council chamber of city hall. Present were Mayor Jerry A. Marco; Councilpersons N.E. Bross-Fregonara, R.C. Chenoweth, M. D. Cuonzo, C.R. Griggs, J.A. Guye, G.M. Hinchman, C.C. Lowther, D.C. Parker, L.S. Severino, and L.H. Vest; City Treasurer T. Judy; Fire Chief S.D. Himes; Police Chief T. Bennett; Operations Manager M. Kesecker; City Attorney G. S. Roberts; and City Clerk S.R. Stokes.

MINUTES

Cm. Chenoweth, **MOVED APPROVAL OF THE MINUTES OF THE MEETING OF MAY 18, 2023.** The motion carried.

APPROVAL OF VENDOR INVOICE PAYMENTS

Cm. Hinchman **MOVED APPROVAL OF THE INVOICES PRESENTED.** The motion carried.

The invoices in question were as specified on the following list, which is attached and made part of this record:

- Accounts Payable check transactions for the period May 15-May 26, 2023.

NEW BUSINESS

Cm. Chenoweth **MOVED APPROVAL OF RESOLUTION 1661: USDA APHIS COOPERATIVE SERVICE AGREEMENT.** The motion carried.

Cw. Cuonzo **MOVED APPROVAL OF RESOLUTION 1662: CONTRACT FOR MAINTENANCE OF CITY HALL FLOWER BEDS.** The motion carried.

Cw. Bross-Fregonara **MOVED APPROVAL OF ORDINANCE 316: AN ORDINANCE OF THE COMMON COUNCIL OF ELKINS, WEST VIRGINIA AMENDING AND RE-ENACTING CITY CODE, CHAPTER 90: ANIMALS (FIRST OF TWO READINGS).** The motion carried.

The meeting was adjourned at 7:40 p.m.

***Approved by council at the meeting
of MONTH DAY, YEAR***

Proposed Minutes

Jerry A. Marco, Mayor

Attest:

Sutton Stokes, City Clerk



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 15, 2023
Section:	Correspondence and Notifications
Category:	Presentation
Agenda Item Name:	Event: Our Town Independence Day Weekend, June 30-July 2
Recommended By:	
Summary:	
Fiscal Impact:	
Recommendation:	
Attachments:	1. Our Town July 4th Event Request

Date(s) of Event June 30, July 1, 2, 2023 Times From: _____ To: _____

Date of Street Reopening: July 2 Time of Street Reopening: 9PM Fri 10:30 PM SAT 2PM SUN.

Organization Name OUR TOWN INC. dba MSSM Address 316 Railroad Ave.
City/State/Zip Elkins, WV 26241 Fax
Contact Tammy Dolly Telephone 304 940.3158 E-mail ourtownelkins@gmail.com
2nd Contact Bobby Hart Telephone 704-6393 E-mail " " "

Does the applicant have liability insurance that names the City as an additional insured? * _____ Yes _____ No
 (*A Certificate of Insurance may be required of the applicant for this event and must be submitted to the Mayor's Office upon request.)

Explain event or reason for request: Annual 4th of July Car Show & Concerts

Barricade Street	Sidewalk Usage
YES	
YES	
YES	
YES	

1. Railroad Ave	from	Second St.	to	Fourth St.
2. Third St	from	Railroad Ave	to	Henry Ave
3. Fourth St	from	Railroad Ave	to	Kerens Ave
4. Davis Ave	from	Fourth St	to	Second St

Specific assistance needed from City (Parking, Police, Fire, etc.): Barricades needed at all intersections listed above. TRASH Assistance Requested for Saturday evening in the past parks and Rec has supplied assistance. We are expecting record crowds and do not have the means to collect trash from city bins because those cans

Projected number of attendees: (0-99) (100-299) X (>300) have no liners & we do not have a dump trailer.

Signature of Applicant _____ Date _____


 6-12-23 Police Chief Approval
 Initials Date

 6-12-23 Operations Manager Approval
 Initials Date

 / **Parks Director Approval**
Initials / Date (if necessary)

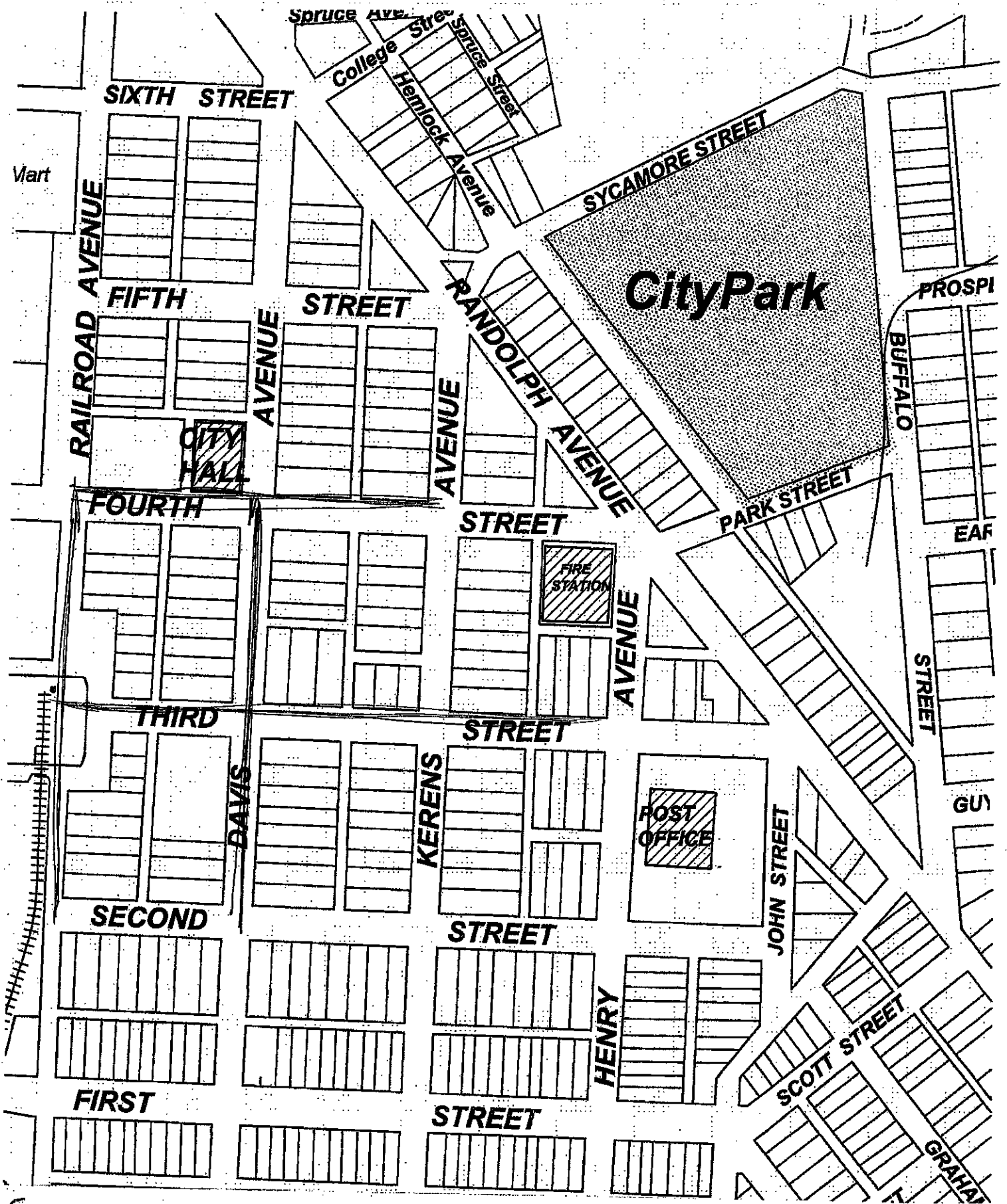
Initials / Date (if necessary)
 Mayor's Signature Date

SDT / 6/12/23 Fire Chief Approval
Initials / Date
JS / 6-12-23 City Clerk Approval
Initials / Date

Contingencies/Restrictions:

File this application at the Mayor's Office at least two months in advance of the requested event date to assure full consideration. Approval is subject to any restrictions or changes required by the City Administration, **or if necessary for public safety reasons.**

cc: Chief Travis Bennett, Police Department
Chief Steve Himes, Fire Department
Operations Manager Melody Himes (Interim)
City Clerk Jessica Sutton
911 Center



Event name :

Streets :

Date / Time :



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 15, 2023
Section:	Presentation
Category:	Presentation
Agenda Item Name:	Elkins Farmers Market
Recommended By:	
Summary:	
Fiscal Impact:	
Recommendation:	
Attachments:	None



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 15, 2023
Section:	Staff reports
Category:	Presentation
Agenda Item Name:	Treasurer's report
Recommended By:	City Treasurer
Summary:	AP Check Report 5/29/23 thru 6/9/23
Fiscal Impact:	
Recommendation:	Approval of Payables
Attachments:	1. Treasurer's Report

General Fund Revenue Detail

	May Revenues	YTD Revenues	Percent of Revenues Collected Per Budget	Percent of Yr. Completed 91.67
Unassigned Fund Balance				270,054.00
County Tax	\$55,840.36	\$1,083,550.17	99.01%	1,094,407.00
B & O Tax	\$106,641.31	\$1,704,080.64	130.58%	1,305,000.00
Hotel/Motel Tax	\$14,836.40	\$203,326.28	127.00%	160,100.00
Gas & Oil Severance Tax	\$0.00	\$40,323.89	336.03%	12,000.00
2% City Utility Tax	\$8,707.06	\$69,737.96	104.09%	67,000.00
Utility Excise Tax	\$24,809.59	\$311,896.16	107.55%	290,000.00
Liquor Tax	\$0.00	\$93,429.26	98.35%	95,000.00
Police	\$1,879.84	\$25,218.13	109.17%	23,100.00
Municipal Court	\$5,013.11	\$76,636.29	160.33%	47,800.00
Code Enforcement	\$1,768.23	\$31,361.81	102.16%	30,700.00
Business License	\$5,455.00	\$17,200.00	59.31%	29,000.00
Intergovernmental	\$28,675.20	\$328,193.18	102.40%	320,503.00
Franchise/IRP Fees	\$7,149.61	\$135,325.12	100.99%	134,000.00
Phil Gainer Community Center	\$3,630.00	\$52,806.25	176.02%	30,000.00
Misc. Revenue	\$16,872.10	\$253,784.66	352.19%	72,060.00
Municipal Sales Tax	\$0.00	\$1,466,879.11	104.78%	1,400,000.00
TOTAL	\$281,277.81	\$5,893,748.91	109.53%	5,380,724.00

Bank Account Name	Balance as of 5/31/2023
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ARPA	\$1,077,478.19
Elkins Building Comm. Sinking Fund	\$0.00
Elkins Municipal Building Comm.	\$0.00
Financial Stabilization	\$1,135,863.26
Fire Pension Fund	\$2,381,782.93
Firemen's Pension & Relief Fund	\$0.00
Landfill Access Escrow	\$1,797,126.17
Landfill Post Closure	\$48,679.15
Payroll	\$145,519.77
Police Forfeitures	\$579.32
Police Pension Fund	\$4,094,462.53
Police Seizures	\$24,094.23
Policemen's Pension & Relief Fund	\$0.00
Pooled Cash-Coal Severance Fund	\$149,294.21
Pooled Cash-Fire Fund	\$496,843.70
Pooled Cash-General Fund	\$1,620,787.22
Pooled Cash-Landfill Fund	\$123,648.94
Pooled Cash-Parks Fund	\$1,000,482.24
Pooled Cash-Sanitation Fund	\$1,275,555.24
Pooled Cash-Sewer Fund	\$191,973.47
Pooled Cash-Water Fund	\$117,459.02
Sewer Depreciation	\$224,798.80
Sewer O&M	\$326,811.56
Sewer Project-Phase II	\$11,635.48
Water Depreciation	\$115,695.63
Water O&M	\$304,387.91

VENDOR SET: 01 Elkins

BANK: ARPA America Rescue Plan Act

DATE RANGE: 5/29/2023 THRU 6/09/2023

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
00772	Witmer Public Safety Group							
I-INV258204	2 ice commander suits	R	5/31/2023	2,359.00		000099		2,359.00
02477	Duncan Parnell							
I-1269727	GIS equipment	R	6/06/2023	6,278.74		000100		6,278.74
00990	Cleveland Brothers							
I-Y8917901	Weiler G65 Grader	R	6/08/2023	139,404.00		000101		139,404.00

* * T O T A L S * *	NO	INVOICE AMOUNT	DISCOUNTS	CHECK AMOUNT
REGULAR CHECKS:	3	148,041.74	0.00	148,041.74
HAND CHECKS:	0	0.00	0.00	0.00
DRAFTS:	0	0.00	0.00	0.00
EFT:	0	0.00	0.00	0.00
NON CHECKS:	0	0.00	0.00	0.00
VOID CHECKS:	0 VOID DEBITS	0.00		
	VOID CREDITS	0.00	0.00	0.00

TOTAL ERRORS: 0

	NO	INVOICE AMOUNT	DISCOUNTS	CHECK AMOUNT
VENDOR SET: 01 BANK: ARPA TOTALS:	3	148,041.74	0.00	148,041.74
BANK: ARPA TOTALS:	3	148,041.74	0.00	148,041.74

VENDOR SET: 01 Elkins
BANK: Pool Pooled Cash
DATE RANGE: 5/29/2023 THRU 6/09/2023

VENDOR I.D.	NAME	STATUS	CHECK	INVOICE	DISCOUNT	CHECK	CHECK	CHECK
			DATE	AMOUNT		NO	STATUS	AMOUNT
00741	Great-West Trust Company LLC							
I-VF 202305301523	Voya	D	5/30/2023	705.00		004786		
I-VF2202305301523	Voya AT	D	5/30/2023	50.00		004786		755.00
00116	Child Support Enforcement							
I-CDS202305301523	Child Support	R	5/30/2023	571.48		013527		571.48
00121	Citizens Bank of WVFP							
I-FP 202305301523	Fire Pension	R	5/30/2023	501.22		013528		501.22
00122	Citizens Bank of WVPp							
I-PP 202305301523	Police Pension	R	5/30/2023	171.25		013529		
I-PPN202305301523	Police Pension-2010 Forward	R	5/30/2023	403.98		013529		575.23
00147	COE Misc							
I-MIS202305301523	Misc Reimbursements	R	5/30/2023	471.00		013530		471.00
00150	COE Payroll							
I-T1 202305301523	Federal Withholding	R	5/30/2023	11,761.76		013531		11,761.76
00151	COE Payroll							
I-T3 202305301523	FICA	R	5/30/2023	12,549.50		013532		
I-T4 202305301523	Medicare	R	5/30/2023	4,364.22		013532		16,913.72
00152	COE Payroll							
I-T2 202305301523	State Withholding	R	5/30/2023	4,915.00		013533		4,915.00
00203	Davis Trust Company							
I-CC 202305301523	Employee Christmas Club	R	5/30/2023	2,470.00		013534		2,470.00
00747	Washington National Insurance							
I-WN 202305301523	Washington National Insurance	R	5/30/2023	438.31		013535		438.31
00837	COE Payroll Reimbursement							
I-001202305301523	Payroll Reimbursement	R	5/30/2023	46,900.22		013536		
I-006202305301523	Payroll Reimbursement	R	5/30/2023	4,790.52		013536		
I-036202305301523	Payroll Reimbursement	R	5/30/2023	16,567.42		013536		
I-400202305301523	Payroll Reimbursement	R	5/30/2023	18,161.79		013536		
I-401202305301523	Payroll Reimbursement	R	5/30/2023	14,261.54		013536		
I-404202305301523	Payroll Reimbursement	R	5/30/2023	9,578.74		013536		110,260.23
01885	Colonial Life							
I-CL 202305301523	Colonial Life-AT	R	5/30/2023	112.10		013537		
I-CLP202305301523	Colonial Life-PT	R	5/30/2023	52.52		013537		164.62

VENDOR SET: 01 Elkins
BANK: Pool Pooled Cash
DATE RANGE: 5/29/2023 THRU 6/09/2023

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
00151	COE Payroll							
I-T3 202305301524	FICA	R	5/30/2023	76.28		013538		
I-T4 202305301524	Medicare	R	5/30/2023	17.84		013538		94.12
00152	COE Payroll							
I-T2 202305301524	State Withholding	R	5/30/2023	15.00		013539		15.00
00837	COE Payroll Reimbursement							
I-400202305301524	Payroll Reimbursement	R	5/30/2023	516.16		013540		516.16
00119	CIT Technology Finance Serv, I							
I-42398483	Kyocera 06/06/2023	R	5/31/2023	52.50		013541		
I-42404572	Konica 06/08/2023	R	5/31/2023	55.00		013541		107.50
00132	Clarksburg Water Board							
I-M90414	Compliance sampling	R	5/31/2023	230.00		013542		230.00
00154	COE Sanitation							
I-202305244310	Hauling Fee RO 10 yd	R	5/31/2023	181.50		013543		181.50
00267	Fastenal Company							
I-173813	5 Nemesis Eyewear	R	5/31/2023	55.58		013544		55.58
00471	Mon Power							
I-LT31Barron 051923	LT31 Barron 041523-051523	R	5/31/2023	11,424.70		013545		
I-RRAVE 051623	RR Ave 0414-051223	R	5/31/2023	42.81		013545		11,467.51
00500	Newlons International Sales, L							
I-01W1704	Repairs 2017 Int'l 7400	R	5/31/2023	10,711.46		013546		10,711.46
00701	Toshiba Financial Services							
I-501636948	LEX M5255/TOSH E4515AC	R	5/31/2023	476.67		013547		
I-501924427	C4150/T-E3005AC	R	5/31/2023	221.37		013547		
I-502127301	Tosh E4515AC	R	5/31/2023	130.24		013547		828.28
00707	Trickett Hardware, Inc.							
I-3825	10 Keys	R	5/31/2023	25.00		013548		
I-4924	Cable/Clamps	R	5/31/2023	9.49		013548		34.49
00786	WV Bureau for Public Health							
I-A CHEV CL III	ACheuvront Class III License	R	5/31/2023	175.00		013549		175.00
01125	Ferguson Ent dba Pollardwater							
I-0237685	Wrenches	R	5/31/2023	258.39		013550		258.39

VENDOR SET: 01 Elkins

BANK: Pool Pooled Cash

DATE RANGE: 5/29/2023 THRU 6/09/2023

VENDOR I.D.	NAME	STATUS	CHECK	INVOICE	DISCOUNT	CHECK	CHECK	CHECK
			DATE	AMOUNT		NO	STATUS	AMOUNT
01220	The Delmonte Market							
I-143594386	City Flowers	R	5/31/2023	4,559.16		013551		4,559.16
01833	P3 Cost Analysts							
I-18491	Merch Acct Savings May 2023	R	5/31/2023	256.62		013552		256.62
02170	Elkins Little League							
I-CKREQ 052423	Little League maintenance proj	R	5/31/2023	15,000.00		013553		15,000.00
02315	Corley Contracting & Plumbing							
I-052523	JD Excavator Woodland Dr	R	5/31/2023	1,500.00		013554		1,500.00
02347	LEAF							
I-14758008	1007161391001 061123	R	5/31/2023	317.44		013555		
I-14763648	1007161391004 Tosh ES4515AC	R	5/31/2023	125.19		013555		442.63
02468	Micronics Engineered Filtratio							
I-2023/F000005768	Back Belt -Press Belt	R	5/31/2023	1,712.19		013556		1,712.19
02469	John Loftis							
I-RFND BJLoftis	RFND Blake Loftis 23CR125	R	5/31/2023	302.00		013557		302.00
1	LAKECREST CONSTRUCTI							
I-000202306021525	BL REFUND	R	6/06/2023	20.00		013558		20.00
1	SMITH, JOHN JR & BAR							
I-000202306021526	US REFUND	R	6/06/2023	175.00		013559		175.00
1	ARBOGAST, DORCUS							
I-000202306061527	US REFUND	R	6/06/2023	86.86		013560		86.86
00047	Truist Governmental Finance							
I-00007 061923	9948000234-07 061923	R	6/07/2023	4,984.55		013561		4,984.55
00143	COE General Fund 2							
I-MO IND 06/2023	Monthly Indirects 06/2023	R	6/07/2023	24,270.24		013562		24,270.24
00149	COE Parks and Recreation							
I-06/2023 Support	Monthly Support 06/2023	R	6/07/2023	25,483.00		013563		25,483.00
00156	COE Sewer Depreciation Account							
I-05/2023 Deposit	Monthly Contribution 053123	R	6/07/2023	4,205.66		013564		4,205.66

VENDOR SET: 01 Elkins

BANK: Pool Pooled Cash

DATE RANGE: 5/29/2023 THRU 6/09/2023

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
00199	Davis & Elkins College							
I-2023-15 Pool	Parks - Pool Rental	R	6/07/2023	80.00		013565		80.00
00202	Davis Trust Company							
I-12755 062223	3113776-12755 062223	R	6/07/2023	4,256.84		013566		4,256.84
00235	Elkins Building Comm.							
I-June 2023	June 2023	R	6/07/2023	3,483.79		013567		3,483.79
00283	Frontier							
I-052023	Landlines 052023	R	6/07/2023	1,181.90		013568		1,181.90
00381	Grover C Jackson Jr							
I-Rent 06/2023	Rent 06/2023	R	6/07/2023	1,800.00		013569		1,800.00
00471	Mon Power							
I-90009099008	Master Inv 051923	R	6/07/2023	44,449.15		013570		44,449.15
00483	Mountain Valley Bank							
I-1202553 22 060723	1202553-22 060723	R	6/07/2023	188.82		013571		
I-1202553-21 062823	1202553-21 062823	R	6/07/2023	2,369.18		013571		2,558.00
00484	Mountaineer Gas Company							
I-Nat'l Gas 053023	Natural Gas 053023	R	6/07/2023	4,947.09		013572		4,947.09
00530	Perfection Plus Turbo-Dry LLC							
I-972760	Water Damage CH 042822	R	6/07/2023	4,500.00		013573		4,500.00
00644	Smith Backhoe & Dozer Service,							
I-104602	Ground Repair at City Park	R	6/07/2023	1,188.46		013574		1,188.46
00688	Terra Flora Landscaping							
I-0229	Install Summer Annuals	R	6/07/2023	215.25		013575		215.25
00701	Toshiba Financial Services							
I-502308463	LEX XM 3250	R	6/07/2023	69.00		013576		69.00
00711	Tygart Valley Transfer, Inc.							
I-00013494	Comm	R	6/07/2023	367.50		013577		
I-00013506	Comm	R	6/07/2023	866.19		013577		
I-00013507	Res	R	6/07/2023	772.36		013577		
I-00013508	Res	R	6/07/2023	878.36		013577		
I-00013523	Comm	R	6/07/2023	215.46		013577		
I-00013532	Res	R	6/07/2023	152.91		013577		
I-00013541	Res	R	6/07/2023	502.17		013577		
I-00013542	Res	R	6/07/2023	480.45		013577		
I-00013543	Res	R	6/07/2023	461.33		013577		
I-00013552	Comm	R	6/07/2023	32.15		013577		

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
I-00013556	Comm	R	6/07/2023	433.53		013577		
I-00013566	Res	R	6/07/2023	551.69		013577		
I-00013567	Res	R	6/07/2023	556.03		013577		
I-00013568	Comm	R	6/07/2023	535.18		013577		
I-00013583	Comm	R	6/07/2023	273.67		013577		
I-00013585	Comm	R	6/07/2023	422.24		013577		
I-00013594	Comm	R	6/07/2023	179.84		013577		
I-00013595	Comm	R	6/07/2023	592.52		013577		
I-00013601	Comm	R	6/07/2023	516.07		013577		
I-00013602	Res	R	6/07/2023	523.89		013577		
I-00013615	Comm	R	6/07/2023	373.58		013577		
I-00013620	Res	R	6/07/2023	105.12		013577		
I-00013623	Res	R	6/07/2023	510.85		013577		
I-00013628	Res	R	6/07/2023	434.40		013577		
I-00013635	Comm	R	6/07/2023	835.79		013577		
I-00013654	Comm	R	6/07/2023	260.64		013577		
I-00013660	Comm	R	6/07/2023	408.34		013577		
I-00013670	Comm	R	6/07/2023	205.04		013577		
I-00013682	Comm	R	6/07/2023	918.32		013577		
I-00013684	Res	R	6/07/2023	910.50		013577		
I-00013685	Res	R	6/07/2023	723.71		013577		
I-00013709	Comm	R	6/07/2023	47.78		013577		
I-00013724	Comm	R	6/07/2023	549.95		013577		
I-00013727	Res	R	6/07/2023	574.28		013577		
I-00013728	Res	R	6/07/2023	673.32		013577		
I-00013744	Tygart Valley Transfer, Inc.	R	6/07/2023	259.77		013577		
I-00013746	Comm	R	6/07/2023	429.19		013577		
I-00013767	Comm	R	6/07/2023	689.83		013577		
I-00013768	Res	R	6/07/2023	646.39		013577		
I-00013770	Res	R	6/07/2023	539.52		013577		
I-00013788	Comm	R	6/07/2023	180.71		013577		
I-00013806	Comm	R	6/07/2023	622.06		013577		
I-00013813	Res	R	6/07/2023	594.26		013577		
I-00013814	Res	R	6/07/2023	694.17		013577		
I-00013831	Comm	R	6/07/2023	255.43		013577		
I-00013835	Comm	R	6/07/2023	291.92		013577		
I-00013839	Comm Final	R	6/07/2023	45.18		013577		
I-00013852	Res	R	6/07/2023	364.03		013577		
I-00013853	Res	R	6/07/2023	574.28		013577		
I-00013854	Comm	R	6/07/2023	799.30		013577		
I-00013876	Comm	R	6/07/2023	329.28		013577		
I-00013880	Comm	R	6/07/2023	229.36		013577		
I-00013885	Comm	R	6/07/2023	118.16		013577		
I-00013892	Comm	R	6/07/2023	250.21		013577		
I-00013895	Comm	R	6/07/2023	167.68		013577		
I-00013906	Res	R	6/07/2023	923.53		013577		
I-00013907	Comm	R	6/07/2023	1,014.76		013577		
I-00013908	Res	R	6/07/2023	748.04		013577		

VENDOR SET: 01 Elkins
BANK: Pool Pooled Cash
DATE RANGE: 5/29/2023 THRU 6/09/2023

VENDOR I.D.	NAME	STATUS	CHECK	INVOICE	DISCOUNT	CHECK	CHECK	CHECK
			DATE			NO	STATUS	AMOUNT
I-00013927	Comm	R	6/07/2023	184.19		013577		
I-00013946	Comm	R	6/07/2023	354.47		013577		
I-00013950	Res	R	6/07/2023	550.82		013577		
I-00013951	Res	R	6/07/2023	428.32		013577		
I-00013952	Comm	R	6/07/2023	471.76		013577		
I-00013963	Comm	R	6/07/2023	278.88		013577		
I-00013980	Comm	R	6/07/2023	184.19		013577		
I-00013987	Res	R	6/07/2023	590.78		013577		
I-00013988	Res	R	6/07/2023	529.97		013577		
I-00013989	Comm	R	6/07/2023	509.12		013577		
I-00014006	Comm	R	6/07/2023	219.81		013577		
I-00014010	Comm Final	R	6/07/2023	66.90		013577		
I-00014017	Comm	R	6/07/2023	192.87		013577		
I-00014031	Comm	R	6/07/2023	492.61		013577		
I-00014033	Res	R	6/07/2023	550.82		013577		
I-00014035	Res	R	6/07/2023	607.29		013577		
I-00014061	Comm	R	6/07/2023	490.00		013577		
I-00014087	Res	R	6/07/2023	403.12		013577		
I-00014091	Res	R	6/07/2023	602.08		013577		
I-00014092	Comm	R	6/07/2023	688.96		013577		
I-00014093	Comm	R	6/07/2023	222.41		013577		
I-00014110	Comm	R	6/07/2023	126.84		013577		
I-00014117	Comm	R	6/07/2023	331.88		013577		
I-00014127	Res	R	6/07/2023	195.48		013577		
I-00014134	Res	R	6/07/2023	819.28		013577		
I-00014135	Comm	R	6/07/2023	838.39		013577		
I-00014137	Res	R	6/07/2023	788.00		013577		
I-00014156	Comm	R	6/07/2023	258.03		013577		
I-00014182	Res	R	6/07/2023	564.72		013577		
I-00014184	Comm	R	6/07/2023	383.14		013577		
I-00014186	Res	R	6/07/2023	383.14		013577		
I-00014208	Comm	R	6/07/2023	162.47		013577		
I-00014218	Comm	R	6/07/2023	161.60		013577		
I-00014228	Comm	R	6/07/2023	229.36		013577		
I-00014230	Res	R	6/07/2023	564.72		013577		
I-00014231	Comm	R	6/07/2023	551.69		013577		
I-00014233	Res	R	6/07/2023	543.87		013577		
I-00014253	Comm	R	6/07/2023	490.00		013577		
I-00014258	Comm	R	6/07/2023	417.02		013577		
I-00014288	Comm	R	6/07/2023	450.91		013577		
I-00014289	Res	R	6/07/2023	566.46		013577		
I-00014290	Res	R	6/07/2023	578.62		013577		
I-00014302	Comm	R	6/07/2023	202.43		013577		
I-00014315	Res	R	6/07/2023	124.24		013577		
I-00014319	Comm	R	6/07/2023	576.01		013577		
I-00014321	Res	R	6/07/2023	516.07		013577		
I-00014327	Res	R	6/07/2023	666.37		013577		
I-00014345	Comm	R	6/07/2023	125.98		013577		

VENDOR SET: 01 Elkins

BANK: Pool Pooled Cash

DATE RANGE: 5/29/2023 THRU 6/09/2023

VENDOR I.D.	NAME	STATUS	CHECK	INVOICE	DISCOUNT	CHECK	CHECK	CHECK
			DATE	AMOUNT		NO	STATUS	AMOUNT
I-00014348	Comm	R	6/07/2023	391.83		013577		
I-00014356	Comm	R	6/07/2023	218.07		013577		
I-00014368	Res	R	6/07/2023	962.63		013577		
I-00014378	Res	R	6/07/2023	661.16		013577		
I-00014379	Comm	R	6/07/2023	1,000.86		013577		
I-00014384	Res	R	6/07/2023	868.80		013577		
I-00014398	Comm	R	6/07/2023	107.73		013577		
I-00014400	Comm	R	6/07/2023	234.58		013577		
I-00014423	Res	R	6/07/2023	830.57		013577		
I-00014427	Res	R	6/07/2023	629.88		013577		
I-000144725	Comm	R	6/07/2023	438.74		013577		54,193.16
00848	Snap-on							
I-05222383254	Tools	R	6/07/2023	884.00		013578		884.00
01125	Ferguson Ent dba Pollardwater							
I-0237688	3ft Measuring Whl	R	6/07/2023	149.75		013579		149.75
01208	Hershey's Welding, LLC							
I-2202	Rplc trap doors @ Logstop bldg	R	6/07/2023	4,698.87		013580		4,698.87
01292	COE Sewer O & M Account							
I-05/2023 Deposit	Monthly Contribution 053123	R	6/07/2023	13,153.88		013581		13,153.88
01427	K&K Collision & Towing							
I-1330371	20 FD Liftgate Repairs	R	6/07/2023	833.30		013582		833.30
01727	Enterprise FM Trust							
I-FBN4770720	Fleet Leases 062023	R	6/07/2023	16,784.17		013583		16,784.17
01942	Elkins Municipal Building Comm							
I-1214756-11 061523	1214756-11 061523	R	6/07/2023	4,833.20		013584		4,833.20
02322	Badger Meter							
I-80128808	MBL Hosting May 2023	R	6/07/2023	3.80		013585		3.80
02347	LEAF							
I-14788900	Tosh E478S	R	6/07/2023	96.74		013586		
I-14788901	Tosh E478S	R	6/07/2023	96.74		013586		193.48
02431	Ferguson Waterworks #527							
I-0820098	Pipe/MtrBox/MtrWell/Coup	R	6/07/2023	3,672.35		013587		3,672.35

VENDOR SET: 01 Elkins

BANK: Pool Pooled Cash

DATE RANGE: 5/29/2023 THRU 6/09/2023

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
00990	Cleveland Brothers							
I-Y8917901A	Weiler G65 Grader	R	6/08/2023	47,996.00		013588		47,996.00

* * T O T A L S * *	NO	INVOICE AMOUNT	DISCOUNTS	CHECK AMOUNT
REGULAR CHECKS:	62	472,840.91	0.00	472,840.91
HAND CHECKS:	0	0.00	0.00	0.00
DRAFTS:	1	755.00	0.00	755.00
EFT:	0	0.00	0.00	0.00
NON CHECKS:	0	0.00	0.00	0.00
VOID CHECKS:	0 VOID DEBITS	0.00		
	VOID CREDITS	0.00	0.00	0.00

TOTAL ERRORS: 0

	NO	INVOICE AMOUNT	DISCOUNTS	CHECK AMOUNT
VENDOR SET: 01 BANK: Pool TOTALS:	63	473,595.91	0.00	473,595.91
BANK: Pool TOTALS:	63	473,595.91	0.00	473,595.91
REPORT TOTALS:	66	621,637.65	0.00	621,637.65

SELECTION CRITERIA

VENDOR SET: 01-Elkins
VENDOR: ALL
BANK CODES: Exclude: PCARD
FUNDS: All

CHECK SELECTION

CHECK RANGE: 000000 THRU 999999
DATE RANGE: 5/29/2023 THRU 6/09/2023
CHECK AMOUNT RANGE: 0.00 THRU 999,999,999.99
INCLUDE ALL VOIDS: YES

PRINT OPTIONS

SEQUENCE: CHECK NUMBER

PRINT TRANSACTIONS: YES
PRINT G/L: NO
UNPOSTED ONLY: NO
EXCLUDE UNPOSTED: NO
MANUAL ONLY: NO
STUB COMMENTS: NO
REPORT FOOTER: NO
CHECK STATUS: NO
PRINT STATUS: * - All



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 15, 2023
Section:	New business
Category:	Ordinance
Agenda Item Name:	Ordinance 316: An Ordinance of the Common Council of Elkins, West Virginia Amending and Re-Enacting City Code, Chapter 90: Animals (first of two readings)
Recommended By:	Rules & Ordinances Committee
Summary:	See attached memo from the city attorney. A version of this ordinance was approved June 1. However, subsequent changes were made that are substantive enough that the ordinance requires two additional readings.
Fiscal Impact:	n/a
Recommendation:	Approve the amended ordinance on the first of two readings.
Attachments:	1. Memo for Chapter 90 Animals 2. Current city code on animals (Chapter 90) 3. Proposed Change: Ordinance 316 Chapter 90 Animals(Final)

MEMO

TO: Mayor Marco and Council

FROM: Geraldine S. Roberts

RE: Ordinance 316-Chapter 90: Animals

DATE: May 31, 2023

The Rules and Ordinances Committee has spent several months working on a complete review of City Code Chapter 90: Animals to determine what if any changes were needed. It all started when the section of this Chapter dealing with barking dogs was amended by passing an ordinance for a revised section in November, 2022. There were sections of this Chapter that were not enforceable as written and that frankly did not fit the reality of what resources the City had available to enforce some sections. I provided the Committee with copies of eight other cities' code provisions which dealt with animals for the Committee's review and consideration. Ordinance 316 is a comprehensive overhaul of Chapter 90 by the Committee with substantial input from Chief Bennett and Tina Vial of the Randolph County Humane Society. Judge Jones was also consulted about the enforcement sections that would be handled by Municipal Court. Ordinance 316 is the culmination of that hard work. I have attached a copy of the current Chapter 90 so that you can see what has been done to make this Chapter enforceable, to amend sections for clarity and to eliminate sections that were unnecessary and/or confusing. As always if you have any questions, please let me know.

cc: Chief Bennett
Sutton Stokes

CHAPTER 90: ANIMALS

Section

General Provisions

- 90.01 Keeping of hogs or pigs
- 90.02 Structures, enclosures and the like where animals or fowl are kept
- 90.03 Certain animals running at large
- 90.04 Hitching and the like
- 90.05 Cruelty
- 90.06 Poisoning
- 90.07 Birds and wild fowl
- 90.08 Fighting gamecocks or keeping cockpits
- 90.09 Disposal of dead animals
- 90.10 Staking cows or other animals on streets or property of another
- 90.11 Exhibiting stallion, jack or bull
- 90.12 Slaughtering
- 90.13 Administration and enforcement of chapter; Humane Officer; state law applicable
- 90.14 Procedure on complaint of an animal that is vicious, dangerous or infected with a potentially harmful communicable disease

Dogs

- 90.25 Definition
- 90.26 Annual head tax; imposed; duty of keepers to report to County Assessor; dog tags
- 90.27 Annual head tax; failure to pay
- 90.28 Running at large
- 90.29 Tethering
- 90.30 Barking, howling or squalling dogs, cats or other animals

Impoundment

- 90.45 Conditions; procedure; alternative procedure
- 90.46 Notice to owners or persons in charge
- 90.47 Redemption; costs
- 90.48 Disposition of unredeemed animals and fowl
- 90.49 Disposition of proceeds of sale
- 90.50 Prosecution of violations
- 90.51 Interference with pound and with release of animals

Waterfowl

- 90.65 Purpose and intent
- 90.66 Definitions
- 90.67 Prohibited acts

- 90.99 Penalty

Cross-reference:

Animals on sidewalks, see § 93.004

Disposition of carcasses generally, see § 91.021

Statutory reference:

Authority of city to regulate or prohibit the keeping of animals and fowl, see W.Va. Code § 8-12-5(26)

Diseases among domestic animals, see W.Va. Code §§ 19-9-1 et seq.

General stock law, see W.Va. Code §§ 19-18-1 et seq.

GENERAL PROVISIONS

§ 90.01 KEEPING OF HOGS OR PIGS.

No person shall keep any hog or pig within the city. This section shall not apply to hogs or pigs kept at commercial stock yards, to be sold at auction.

(1991 Code, § 4-1) (Ord. passed 12-1-1949) Penalty, see § 90.99

§ 90.02 STRUCTURES, ENCLOSURES AND THE LIKE WHERE ANIMALS OR FOWL ARE KEPT.

(A) It shall be unlawful for any person to erect or maintain any poultry house, cowshed or cattle pen within 20 feet of any street in the city, or to erect or maintain such house, shed or pen at any place within the city, although more than 20 feet from any street, if such structure is an annoyance to any person rightfully using his or her property within the city and in no event shall any such structure be erected unless the person responsible therefor has obtained a permit therefor from the Council, and the granting of such permit shall not deprive the Council of the right to require that the structure be removed if it proves to be an annoyance to any person rightfully using his or her own property within the city.

(B) (1) Each stable, shed, pen, coop and other structure, enclosure or place where any animal or fowl is kept shall be so located and of such construction as to have sufficient sanitary drainage to keep it dry at all times.

(2) It shall be the duty of each person owning, harboring or keeping any animal or fowl to maintain such enclosure or other place where such animal or fowl is kept in a clean and sanitary condition at all times, free of any unwholesome or offensive substance, liquid or odor and in such condition as not to constitute a nuisance.

(1991 Code, § 4-2) Penalty, see § 90.99

Statutory reference:

For similar provisions of general state law, see W.Va. Code § 8-12-5(13)

§ 90.03 CERTAIN ANIMALS RUNNING AT LARGE.

It shall be unlawful for any person to permit any horse, pony, mule, jack, jennet, swine, cow, cattle, hog, pig, shoat, goat, livestock, poultry or other fowl which is within his or her custody or under his or her control to run at large within the city; and any such animal or fowl found at large within the city may be taken up and impounded, as provided by this chapter.

(1991 Code, § 4-3) (Ord. passed 3-2-1972) Penalty, see § 90.99

§ 90.04 HITCHING AND THE LIKE.

No person shall leave any horse or other animal standing without being securely hitched or fastened, unless left in the custody of some competent person.

(1991 Code, § 4-4) Penalty, see § 90.99

§ 90.05 CRUELTY.

No person within the city shall cruelly or needlessly beat, torture, mutilate, kill, overload or overdrive any domestic animal or fowl, nor willfully deprive any domestic animal or fowl of necessary sustenance or shelter.

(1991 Code, § 4-5) Penalty, see § 90.99

Statutory reference:

Authority of Council to enact this section, see W.Va. Code § 8-12-5(27)

Malicious killing of, and cruelty to, animals, see W.Va. Code §§ 61-3-27, 61-8-19

§ 90.06 POISONING.

No poisoned meat nor any poisonous substance shall be cast into any of the streets, public places, lots or buildings in the city for the purpose of destroying dogs or other animals.

(1991 Code, § 4-6) Penalty, see § 90.99

Statutory reference:

Malicious killing of animals by poison or otherwise, see W.Va. Code § 61-3-27

§ 90.07 BIRDS AND WILD FOWL.

No person shall, at any time, kill or injure any wild bird of any kind or injure or destroy the nests or eggs of any wild bird or fowl, except, that birds of prey, crows and English sparrows may be killed at any time and their nests and eggs may be destroyed; provided, that if under the law of the state it is at any time lawful to catch or kill any wild fowl or birds, such birds or fowl may, during such time, be caught or killed within the city.

(1991 Code, § 4-7) Penalty, see § 90.99

Statutory reference:

Definitions as to game birds, protected birds and unprotected birds, see W.Va. Code § 20-1-2

Hunting and killing of birds generally, see W.Va. Code §§ 20-2-1 et seq.

§ 90.08 FIGHTING GAMECOCKS OR KEEPING COCKPITS.

No person shall keep any cockpit or cause any gamecocks to fight, or knowingly permit any such act to be done on his or her premises.

(1991 Code, § 4-8) Penalty, see § 90.99

Statutory reference:

For state law prohibiting cockfighting, and penalty for violation, see W.Va. Code § 61-8-19

§ 90.09 DISPOSAL OF DEAD ANIMALS.

Any person knowing of the existence of or finding the carcass of a dead animal within the city shall immediately notify the Mayor, Chief of Police or a police officer thereof and state the location thereof. It shall be the duty of such officer to immediately notify the owner of such animal, if such owner be known. If such owner is not known, it shall be the duty of the Chief of Police to burn or remove such carcass beyond the city as soon as is practicable and to bury it, at least three feet deep, at the expense of the city. If the owner of such animal is thereafter ascertained, the reasonable expense of the removal and burial thereof shall be paid by such owner to the City Collector and Treasurer. It shall be the duty of the Chief of Police, where the owner of such dead animal is known, to make out an itemized statement of the expenses of the removal and burial of such dead animal and deliver such account to the City Collector and Treasurer to be collected by him or her as city taxes are collected. If the owner of such dead animal is not known, the Chief of Police shall report an itemized account of the expenses of the removal and burial of such animal to the Council, to be allowed and paid out of the city treasury.

(1991 Code, § 4-9)

§ 90.10 STAKING COWS OR OTHER ANIMALS ON STREETS OR PROPERTY OF ANOTHER.

It shall be unlawful for any person to stake out any cow or other animal on the property of another without such property owner's consent, or upon any street or public place in the city or upon property belonging to the city and, in all cases, it shall be unlawful to stake any cow or other animal in any place when such placement is to the annoyance of another.

(1991 Code, § 4-10) Penalty, see § 90.99

§ 90.11 EXHIBITING STALLION, JACK OR BULL.

No person shall exhibit any stallion, jack or bull upon any street, public park or in any public square, nor within sight of any residence within the city.

(1991 Code, § 4-11) Penalty, see § 90.99

§ 90.12 SLAUGHTERING.

No person shall, without the consent of the Council, keep any slaughterhouse or slaughter any animals within the city.

(1991 Code, § 4-12) Penalty, see § 90.99

§ 90.13 ADMINISTRATION AND ENFORCEMENT OF CHAPTER; HUMANE OFFICER; STATE LAW APPLICABLE.

The provisions of this chapter shall be administered and enforced by a City Humane Officer, who shall be appointed by the Council. For these purposes, the City Humane Officer shall have and exercise such powers as may be reasonably necessary, including those specified for humane officers of counties in W.Va. Code Ch. 7, Art. 10; and all provisions of W.Va. Code Ch. 7, Art. 10 which are applicable to and within the city are hereby adopted.

(1991 Code, § 4-13) (Ord. passed 3-2-1972)

Statutory reference:

Authority of Council, by ordinance, to determine and prescribe offices which are to be filled by appointment, powers and duties and the like, see W.Va. Code § 8-5-11

§ 90.14 PROCEDURE ON COMPLAINT OF AN ANIMAL THAT IS VICIOUS, DANGEROUS OR INFECTED WITH A

POTENTIALLY HARMFUL COMMUNICABLE DISEASE.

Procedure upon complaint that an animal is vicious, dangerous or infected with a potentially harmful communicable disease shall be as follows.

(A) (1) Upon complaint to the Judge of the Municipal Court of the city, that an animal is vicious or dangerous, as defined in division (B) below, or infected with a potentially harmful communicable disease, it shall be the duty of the Judge to immediately summon the owner or keeper of the animal to answer the complaint.

(2) In the instance of a complaint of an animal infected with a potentially harmful communicable disease, the Judge shall immediately notify the owner or keeper of such allegedly infected animal that such animal is not allowed to run at large, or to be exposed to any public place whereby the health of humans or animal may be affected; nor shall such animal be shipped or removed from the premises of the owner or keeper of such animal except under the supervision of the Animal Control Officer of the city. The Judge may order proper testing be completed on the alleged infected animal, by a licensed veterinarian, to determine if the animal is in fact infected with a potentially harmful communicable disease.

(3) If upon hearing, the Judge finds that such animal is vicious, dangerous or infected with a potentially harmful communicable disease, he or she may order a fine or may order the animal a menace to public safety and order the animal be destroyed to prevent injury and/or death to the public. The destruction of said animal shall occur immediately, absent a stay of such destruction pending appeal.

(B) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DANGEROUS or **VICIOUS**. Refers to and includes any animal:

(a) With a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or other domestic animals; or

(b) Which attacks human beings or other domestic animals without provocation.

(C) Upon finding of the Judge of the Municipal Court that an animal is vicious, dangerous or infected with a potentially harmful communicable disease, and ordered destroyed, the owner or keeper of such animal shall be liable for all costs incurred by the city, associated with said owner's or keeper of the animal's prosecution under this section.

(D) Upon finding of the Judge of the Municipal Court that an animal is vicious, dangerous or infected with a potentially harmful communicable disease, and ordered destroyed, and if the owner or keeper of said animal appeals the Municipal Court Judges' ruling, said animal shall be impounded, at the cost and expense of the animal's owner or keeper, until such appeal hearing is concluded.

(Ord. 104, passed 8-6-2009) Penalty, see § 90.99

DOGS

§ 90.25 DEFINITION.

For the purposes of this subchapter, the term **DOG** shall mean a dog of either sex, unless otherwise specified.

(1991 Code, § 4-14)

Statutory reference:

Authority of city to regulate or prohibit the keeping of dogs, see W.Va. Code § 8-12-5(26)

Dogs generally, see W.Va. Code §§ 19-20-1 et seq.

Required vaccination of dogs for rabies, see W.Va. Code §§ 19-20A-1 et seq.

§ 90.26 ANNUAL HEAD TAX; IMPOSED; DUTY OF KEEPERS TO REPORT TO COUNTY ASSESSOR; DOG TAGS.

(A) There is hereby imposed an annual head tax of an amount set forth by Council from time to time on each dog, male or female, within the city, which tax the County Assessor and his or her deputies, at the time they are making assessment of the personal property within the county, shall assess and collect from the owner, keeper or person having in his or her possession or allowing to remain on any premises under his or her control any dog above the age of six months. It shall be the duty of each owner, keeper or harbinger of any dog above the age of six months to report such dog to the County Assessor at the time the annual assessment of personal property is made.

(B) At the same time as the head tax is assessed, the Assessor and his or her deputies shall, on forms prescribed under W.Va. Code § 19-20-4, take down the age, sex, color, character of hair (long or short) and breed (if known) and the name and address of the owner, keeper or harbinger thereof. When the head tax is paid, the officer to whom payment is made shall issue a certificate of registration and a registration tag for such dog. The person reporting such dog to the County Assessor shall then attach to the collar of each such dog the proper registration tag and retain within his or her possession the certificate of registration for each such dog.

(C) In addition to the assessment and registration above provided for, whenever a dog either is acquired or becomes six months of age after the assessment of the personal property of the owner, keeper or harbinger thereof, the owner, keeper or

harborer of such dog shall, within ten days after the acquisition or maturation, register such dog with the Assessor and pay the head tax thereon unless the prior owner, keeper or harborer paid the head tax.

(D) The annual head tax on dogs imposed under division (A) above shall be for a fiscal year ending June 30.

(E) The Assessor collecting the head tax on dogs shall be allowed a commission of an amount set forth by Council from time to time upon all such taxes collected by him or her, and shall turn over to the City Collector and Treasurer an amount set forth by Council from time to time of the taxes levied hereunder and collected by him or her.

(1991 Code, § 4-15) (Ord. passed 9-3-1981)

Statutory reference:

Authority of city to impose head tax on domestic animals, see W.Va. Code § 8-13-10

Duty of County Assessor to collect municipal head taxes on dogs and turn over proceeds, less commission, to municipal treasuries, and to issue dog registration tags and certificates, see W.Va. Code § 19-20-2

Required anti-rabies vaccination of dogs, see W.Va. Code §§ 19-20A-1 et seq.

§ 90.27 ANNUAL HEAD TAX; FAILURE TO PAY.

Any person owning, keeping or maintaining a dog within the city limits who fails to pay a head tax thereon, whether or not the tax is demanded by the County Assessor, may be arrested and brought before the Municipal Court and fined an amount set forth by Council from time to time for each dog, which fine shall be in payment of the head tax for such dog for the fiscal year in which the fine may be enforced.

(1991 Code, § 4-16)

§ 90.28 RUNNING AT LARGE.

(A) Any person who owns, keeps or harbors a dog within the city shall keep such dog confined to the premises owned or occupied by him or her and shall not permit such dog to run at large; provided, that a dog shall not be deemed to be at large when held on leash by and under the control of a responsible person, and a currently valid registration tag and currently valid vaccination tag displayed on the collar of such dog, as provided by W.Va. Code § 19-20A-4.

(B) It shall be unlawful for any owner or person in control of a dog to:

(1) Knowingly or willfully allow his or her dog to defecate on private property of other persons without their consent or the consent of persons having control of the premises; and

(2) Knowingly or willfully allow his or her dog to defecate on public property; except that defecation by a dog on public property shall not constitute a violation of this section if the owner of the dog immediately removes the material defecated and disposes of it in a safe and sanitary manner.

(1991 Code, § 4-17) (Ord. passed 3-2-1972; Ord. passed 5-5-1994) Penalty, see § 90.99

§ 90.29 TETHERING.

(A) No person shall tether a dog:

(1) When the outside temperature, as measured on site by the Animal Services Officer, is equal to or greater than 90°F or equal to or less than 20°F;

(2) In such a manner as to cause injury, strangulation or entanglement of the dog on fences, trees or other human-made or natural obstacles;

(3) For a continuous period of time, if the dog is under six months of age; or

(4) That is sick or injured.

(B) Dogs may be restrained by means of a trolley system, or a tether attached to a pulley on a cable run, if the following conditions are met.

(1) Only a dog may be tethered to each cable run.

(2) The tether must be attached to a properly fitting collar or harness worn by the dog, with enough room between the collar and the dog's throat through which two fingers may fit. Choke collars and pinch collars are prohibited for purposes of tethering a dog to a cable run. There must be a swivel on at least one end of the tether to minimize tangling of the tether with stoppers on either side of the cable to ensure the dog is not able to entangle himself or herself.

(3) The tether and cable run must be of adequate size and strength to effectively restrain the dog. The size and weight of the tether must not be excessive, as determined by the Animal Services Officer, considering the age, size and health of the dog.

(4) The cable run must be at least ten feet in length and mounted at least four feet and no more than seven feet above ground level, taking into account uneven ground.

(5) The length of the tether from the cable run to the dog's collar should allow access to the maximum available exercise area and should allow continuous access to water and shelter. The trolley system must be of appropriate configuration to confine the dog to the owner's property, to prevent the tether from extending over an object or an edge that could result in injury or strangulation of the dog, and to prevent the tether from becoming tangled with other objects or animals. The tether must be long enough for the animal to move around or be able to urinate or defecate in an area separate from where it must eat, drink or lie down and allows the animal convenient access to food, water, dry ground or shelter. No vegetation or obstacles can restrict the movement of the dog on the tether.

(C) (1) All tethered animals must have a **DOG HOUSE** which is defined as any natural or artificial area which provides protection from the direct sunlight when that sunlight is likely to cause heat exhaustion of a dog tied or kenneled outside. Metal barrels as well as any uninsulated metal structures are prohibited for use as a dog house.

(2) A dog house shall be a wind-proof and moisture-proof structure and shall include four walls, a roof, a door flap for winter and a solid floor raised off the ground, containing a sufficient quantity of suitable dry bedding material.

(3) The containment area of any dog house shall be free of accumulated debris so that the animal shall be free to walk or lie down without coming in contact with any such waste or debris. A suitable method of draining shall be provided to eliminate excess water or moisture inside the dog house.

(4) (a) A dog house shall have an entrance large enough to allow access to the dog, have an area within the dog house to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained. Recommended dog house size specifications are:

Depth = dog's length + 12 inches
Width = dog's length + 18 inches
Height = dog's height at the top of its head + 4 inches

(b) If kenneled, the kennel shall measure a minimum of 100 square feet per dog enclosure with the dog house specifications listed above.

(Ord. 086, passed 12-4-2008) Penalty, see § 90.99

§ 90.30 BARKING, HOWLING OR SQUALLING DOGS, CATS OR OTHER ANIMALS.

No person shall keep or harbor any dog, cat or other animal within the city which, by frequent and habitual barking, howling, yelping, crying or squalling creates unreasonably loud and disturbing noises of such character, intensity and duration as to disturb the peace, quiet and good order of the city. Any person who shall allow any dog, cat or other animal habitually to remain, be lodged or fed within any dwelling, building, yard or enclosure which he or she occupies or owns, shall be considered as harboring such dog, cat or other animal. Any person in violation of this section shall, upon conviction, be fined in accordance with City Code § 90.99(E).

(Ord. 307, passed 11-3-2022)

IMPOUNDMENT

§ 90.45 CONDITIONS; PROCEDURE; ALTERNATIVE PROCEDURE.

Any animal or fowl found at large within the city contrary to any provision of this chapter shall be considered abandoned and may be taken up by the City Humane Officer or, upon his or her request, by any city police officer, and impounded at a place designated for such purpose by the Council or by the Mayor; provided, that if an animal found at large in violation of this chapter is rabid, vicious or otherwise constitutes a danger to human life or limb, the officer may destroy such animal by shooting if it cannot safely be captured and made secure; and provided further, that when the ownership of such animal or fowl is known to the officer and the animal or fowl is not rabid or vicious and does not otherwise constitute a danger to human life or limb, the officer may, in lieu of impounding such animal or fowl, notify the owner thereof to retrieve it promptly and confine it on his or her own premises and, in such case, the officer may cite such owner for violation of this chapter.

(1991 Code, § 4-19)

Statutory reference:

Authority of city to regulate or prohibit the keeping of animals or fowl and to provide for the impounding, sale or destruction of animals or fowl kept contrary to law or found running at large, see W.Va. Code § 8-12-5(26)

Impoundment and disposition of dogs, see W.Va. Code §§ 19-20-6a through 19-20-8a

Impoundment, redemption and sale of animals under the general stock law, see W.Va. Code §§ 19-18-1 through 19-18-3

§ 90.46 NOTICE TO OWNERS OR PERSONS IN CHARGE.

(A) If the owner or person in charge of any animal or fowl impounded under the provisions of this subchapter is known to the impounding officer, the impounding officer shall promptly notify him or her of such impoundment, so as to inform him or her of:

- (1) The animal or fowl impounded, and a description thereof;
- (2) The date of impoundment;
- (3) The place of impoundment;
- (4) The reason for impoundment;
- (5) The procedure for redemption of his or her animal or fowl;
- (6) The costs for redemption; and
- (7) The consequences of failure to redeem the impounded animal or fowl, including sale at auction after ten days, or other authorized disposition.

(B) If the owner or person in charge of any animal or fowl impounded under the provisions of this subchapter is unknown to the impounding officer and cannot be ascertained by reasonable effort within 24 hours, the Animal Warden shall, within two days following such impoundment, post notices on the City Hall bulletin board and at three other public places within the city, each such notice to contain all the information required by divisions (A)(1) through (A)(7) above.

(1991 Code, § 4-20)

§ 90.47 REDEMPTION; COSTS.

The owner or person entitled to possession of any animal or fowl impounded under the provisions of this subchapter may redeem such animal or fowl at any time prior to the sale or other disposition thereof by the city, upon satisfactory proof of his or her right to possession and payment to the city of:

- (A) The expense, if any, incurred in making the impoundment;
- (B) The expense incurred for sustenance, shelter and care of the impounded animal or fowl;
- (C) The expense incurred for giving notice;
- (D) The expense incurred for advertising a sale, retention of an auctioneer and related items; and
- (E) Any other expense actually incurred by the city; provided, that no animal or fowl shall be redeemed for less than an amount set forth by Council from time to time.

(1991 Code, § 4-21) (Ord. O99-06, passed 4-20-1999)

§ 90.48 DISPOSITION OF UNREDEEMED ANIMALS AND FOWL.

(A) Upon giving or posting of notice to the owner or person in charge of an impounded animal or fowl, as provided by § 90.46, the City Humane Officer shall, except as provided by division (C) below, post notices on the City Hall bulletin board and three other public places within the city, to inform the public of a description of the impounded animal or fowl and to state that such animal or fowl will be offered for sale at public auction to the highest bidder, at a designated place within the city, at a designated time at least seven days subsequent to the date of posting such notices, unless it shall have been redeemed prior to the time designated for the sale thereof.

(B) Animals and fowl advertised for sale as provided in division (A) above shall, unless redeemed as provided by this subchapter, be sold by the city at public auction to the highest bidder at the time and place designated by the notice of sale; but if there be no bona fide bid for any animal or fowl so put up for auction, such animal or fowl shall be disposed of as provided by division (D) below.

(C) If, in the judgment of the City Humane Officer, any animal or fowl impounded would not sell at public auction for a price sufficient to cover the costs of such sale, he or she shall notify the Chief of Police. If the Chief of Police shall concur in such judgment, such animal or fowl shall not be advertised for sale, but shall be disposed of as provided by division (D) below.

(D) Impounded animals and fowl not sold at public auction shall be released by the City Humane Officer to responsible persons who want them, upon payment to the city of the expense, if any, incurred in making the impoundment, and the expense incurred for sustenance, shelter and care; provided, that the City Humane Officer may, in the exercise of sound discretion, waive such payment or any part thereof in the case of minors or institutions; and provided further, that any person to whom an animal or fowl is released shall first agree to comply with all provisions of this chapter. Animals and fowl for which there are no responsible applicants shall be destroyed in a humane manner. However, no animal or fowl shall be released or destroyed under this section until it shall have been impounded for at least seven days.

(1991 Code, § 4-22)

§ 90.49 DISPOSITION OF PROCEEDS OF SALE.

The proceeds of each sale of an impounded animal or fowl shall be paid into the city treasury and shall be applied to:

- (A) The expense incident to the sale;
- (B) The expense, if any, incident to apprehension and making the impoundment;

(C) The expense of giving notice;

(D) The expense incurred for sustenance, shelter and care; and

(E) The residue, if any, shall be paid to the owner of the animal or fowl, if known and, if he or she not be known, the residue shall be held in escrow for 90 days and shall be paid within such period upon application by the person entitled thereto, upon satisfactory proof of such entitlement and, if there be no such applicant within such 90-day period, such residue shall be credited to the General Fund of the city.

(1991 Code, § 4-23)

§ 90.50 PROSECUTION OF VIOLATIONS.

Neither the impoundment of an animal or fowl nor the sale thereof nor the payment of any redemption fee shall serve to bar prosecution of any person for the violation of any provision of this chapter which may have resulted in such impoundment.

(1991 Code, § 4-24)

§ 90.51 INTERFERENCE WITH POUND AND WITH RELEASE OF ANIMALS.

It shall be unlawful for any person, without proper authority, to release or cause to be released any animal or fowl impounded pursuant to this subchapter, or to in any way interfere with the operation or maintenance of the place of impoundment designated by the Council or by the Mayor or to molest or injure any animal or fowl therein impounded.

(1991 Code, § 4-25) Penalty, § 90.99

WATERFOWL

§ 90.65 PURPOSE AND INTENT.

It is the purpose and the intent of this subchapter to protect the health, safety and welfare of the community and its waterfowl, both migratory and domestic. It is further the purpose of this subchapter to control the feeding of waterfowl, both migratory and domestic.

(Ord. 121, passed 1-20-2011)

§ 90.66 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FEED or FEEDING. To place, deposit, scatter or distribute any type of food or sustenance with the intention of feeding, attracting or enticing waterfowl, both migratory and domestic.

WATERFOWL.

(1) **DOMESTIC WATERFOWL.** Includes those species of birds which are non-native ducks, geese and swans, not retained in agricultural activities.

(2) **MIGRATORY WATERFOWL.** Includes those species of birds commonly known as ducks, geese, swans and any other waterfowl falling under the jurisdiction of the United States Fish and Wildlife Service.

(Ord. 121, passed 1-20-2011)

§ 90.67 PROHIBITED ACTS.

No person shall feed, cause or permit the feeding of waterfowl within the corporate limits of the city.

(Ord. 121, passed 1-20-2011) Penalty, see § 90.99

§ 90.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Anyone violating the provisions of §90.02 shall be liable to a fine of an amount set forth by Council from time to time or imprisonment for not more than 30 days or both and, further, to have the poultry house, cowshed or cattlepen removed at his or her own expense.

(1991 Code, § 4-2)

(C) Any owner or keeper of an animal who violates §90.14, and whose animal is not ordered destroyed, shall be fined an amount set forth by Council from time to time, and ordered to pay court costs.

(D) (1) Any person caught violating § 90.29 in the first instance shall be given a warning, stating what section of the city code he or she is violating and how to comply with the violated section. The person shall be subject to a follow-up visit by

the Animal Service Officer, at a later time that is adequate to allow the person to correct the violation, to determine if the person is in compliance with said city code section.

(2) Any person caught violating § 90.29 after being given a warning as specified in division (D)(1) above is guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount set forth by Council from time to time or confined in jail not more than 30 days, or both.

(3) Any person convicted of a violation of §90.29 forfeits his or her interests in any animal and all interest in the animal vests in the County Humane Society and is responsible for any costs incurred by the County Humane Society as a result.

(4) The Animal Services Officer may exercise discretion in citing violators pursuant to §90.29. In determining whether to cite under § 90.29, the Animal Services Officer shall consider the overall condition of the dog, and whether the alleged violator is in substantial compliance with § 90.29.

(E) The owner of any dog in violation of §90.30 shall, upon conviction of such violation, be fined an amount set forth by Council from time to time.

(1991 Code, § 4-18)

(F) Any person or persons violating any provision of §§90.65 through 90.67 shall, upon conviction thereof, pay a fine of an amount set forth by Council from time to time per offense, together with the costs of said prosecution. Upon conviction of any subsequent offense under the provisions of §§ 90.65 through 90.67, the person or persons shall pay a fine of an amount set forth by Council from time to time per offense, together with the costs of said prosecution. Each day such violation continues shall constitute a separate offense.

(Ord. passed 11-19-1970; Ord. 086, passed 12-4-2008; Ord. 104, passed 8-6-2009; Ord. 121, passed 1-20-2011)

ORDINANCE 316

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF ELKINS, WEST VIRGINIA, AMENDING AND RE-ENACTING CITY CODE, CHAPTER 90: ANIMALS

WHEREAS, the Common Council of the City of Elkins, West Virginia previously adopted ordinances which are codified and reflected in City Code, Chapter 90: Animals; and

WHEREAS, subsequent to the passages of these ordinances, it has become apparent that certain provisions of the City Code, Chapter 90: Animals needed to be changed and amended to reflect changes in State law and for enforceability issues; and

WHEREAS, the Common Council has determined that by making these amendments to said Chapter it is in the best interests of the citizens of the City.

NOW, THEREFORE, be it Ordained and Enacted by the Common Council that City Code, Chapter 90: Animals be amended and shall read as follows:

CHAPTER 90: ANIMALS

Section

General Provisions

90.01 Definitions

90.02 Keeping of livestock and fowl

90.03 Cruelty

90.04 Birds and wild fowl

90.05 Disposal of dead animals

90.06 Staking cows or other animals on streets or property of another

90.07 Slaughtering

90.08 Animals running at large

90.09 Tethering

90.10 Barking, Howling or Squalling Dogs, Cats or Other Animals

90.11 Procedure on complaint of an animal that is vicious, dangerous or infected with a potentially harmful communicable disease.

Impoundment

90.12 Enforcement and State Law applicable

Waterfowl

90.13 Purpose and intent

90.14 Prohibited acts

90.99 Penalty

Cross-reference:

Animals on sidewalks, see § 93.004

Disposition of carcasses generally, see § 91.021

Statutory reference:

Authority of city to regulate or prohibit the keeping of animals and fowl, see W.Va. Code § 8-12-5(26)

Diseases among domestic animals, see W.Va. Code §§ 19-9-1 et seq.

General stock law, see W.Va. Code §§ 19-18-1 et seq.

GENERAL PROVISIONS

§90.01 DEFINITIONS

1) “Dangerous wild animal” means a mammal, bird, reptile, amphibian or aquatic animal, including a hybrid, that is dangerous to humans, other animals or the environment due to its inherent nature and capability to do significant harm. “Wildlife,” as defined by section two, article one, chapter twenty of this code, “livestock,” as defined in section two, article ten-b, chapter nineteen of this code, and “domestic animals,” as defined in this section, are excluded.

2) "Domestic animal" means an animal which, through extremely long association with humans, has been bred to a degree which has resulted in genetic changes affecting the temperament, color, conformation or other attributes of the species to an extent that makes it unique and distinguishable from a wild individual of its species, and includes an animal that has been bred as a companion animal.

3) "Enforcement Officer" means any person authorized by this Chapter or State Law to enforce the provisions hereof, or of State law and specifically including any officer of the City of Elkins Police Department.

4) "Feed or feeding" means to place or deposit, scatter or distribute any type of food or sustenance with the intention of feeding, attracting or enticing waterfowl, both migrating and domestic.

5) "Fowl" means any chicken, duck, goose, turkey, guinea fowl or pigeon.

6) "Livestock" means any hog, pig, goat, cow, horse, pony, emu, alpaca or other hoofed animal.

7) "Migratory waterfowl" includes those species of birds commonly known as ducks, geese, swans and other waterfowl falling under the jurisdiction of the United States Fish and Wildlife Service.

§ 90.02 KEEPING OF LIVESTOCK AND FOWL AND DANGEROUS WILD ANIMALS

No person shall keep any livestock or dangerous wild animals within the City. This section shall not apply to hogs or pigs kept at commercial stock yards to be sold at auction.

No person shall keep any fowl within the City except as provided for in the zoning ordinance Section 152.180.

§ 90.03 CRUELTY, POISONING AND INJURY TO ANIMALS

No person within the city shall cruelly or needlessly beat, torture, mutilate, kill, overload or overdrive any domestic animal or fowl, nor willfully deprive any domestic animal or fowl of necessary sustenance or shelter. All provisions of the West Virginia Code that are applicable to and within the City are hereby adopted by reference.

(1991 Code, § 4-5) Penalty, see § 90.99

Statutory reference:

Authority of Council to enact this section, see W.Va. Code § 8-12-5(27)

Malicious killing of, and cruelty to, animals, see W.Va. Code §§ 61-3-27, 61-8-19

No poisoned meat nor any poisonous substance shall be cast into any of the streets, public places, lots or buildings in the city for the purpose of destroying dogs or other animals.

(1991 Code, § 4-6) Penalty, see § 90.99

Statutory reference:

Malicious killing of animals by poison or otherwise, see W.Va. Code § 61-3-27

§ 90.04 BIRDS AND WILD FOWL

No person shall, at any time, kill or injure any wild bird or fowl of any kind or destroy the nests or eggs of any wild bird or fowl. This section shall be administered and enforced by the Enforcement Officer in compliance specifically with the provisions of the West Virginia Code Chapter 20, Article 2, Section 5 and all provisions of the West Virginia Code that are applicable. Any action that is taken to catch or kill wild birds or fowl is not prohibited by this section, if such action is taken pursuant to a state or federal sanctioned programs.

(1991 Code, § 4-7) Penalty, see § 90.99

Statutory reference:

Definitions as to game birds, protected birds and unprotected birds, see W.Va. Code § 20-1-2

Hunting and killing of birds generally, see W.Va. Code §§ 20-2-1 et seq.

§ 90.05 DISPOSAL OF DEAD ANIMALS.

The procedure upon finding the carcass of a dead animal within the City shall immediately contact the Enforcement Officer and state the location thereof. If it is a domestic animal, the Enforcement Officer shall attempt to contact the owner. If the owner is not known, or if it is not a domestic animal, the Enforcement Officer shall notify the Operations Department and the dead animal will be removed and disposed of by the Streets Department. If the dead animal is located on the property of the owner, the owner shall be responsible for the removal and disposal of the dead animal in an appropriate manner.

§ 90.06 HITCHING OR STAKING ANIMALS ON STREETS OR PROPERTY OF ANOTHER.

It shall be unlawful for any person to stake out any animal on the property of another without such property owner's consent, or upon any street or public place in the city or upon property belonging to the city.

(1991 Code, § 4-10) Penalty, see § 90.99

§ 90.07 SLAUGHTERING.

No person shall keep any slaughterhouse or slaughter any animals within the City.

(1991 Code, § 4-12) Penalty, see § 90.99

§ 90.08 ANIMALS RUNNING AT LARGE

(A) Any person who owns, keeps or harbors animal within the city shall keep such animal confined to the premises owned or occupied by him or her and shall not permit such animal to run at large; provided, that animal shall not be deemed to be at large when held on leash by and under the control of a responsible person.

(B) It shall be unlawful for any owner or person in control of an animal to:

(1) Knowingly or willfully allow his or her animal to defecate on private property of other persons without their consent or the consent of persons having control of the premises; and

(2) Knowingly or willfully allow his or her animal to defecate on public property; except that defecation by an animal on public property shall not constitute a violation of this section if the owner of the animal immediately removes the material defecated and disposes of it in a safe and sanitary manner.

(3) Knowingly or willfully fail to periodically, properly and completely collect and dispose of any and all animal fecal excrement accumulating upon the premises of such owner. Detection of odor from the animal fecal excrement which constitutes a nuisance as determined by an Enforcement Officer from any neighboring property shall be deemed to be prima facie evidence of such, animal's owner or other persons failure to abide by this section and shall be subject to penalties under this Chapter.

(1991 Code, § 4-17) (Ord. passed 3-2-1972; Ord. passed 5-5-1994) Penalty, see § 90.99

§ 90.09 TETHERING.

(A) No person shall tether an animal

(1) When the outside temperature, as measured on site by the Enforcement Officer, is equal to or greater than 90°F or equal to or less than 20°F;

(2) In such a manner as to cause injury, strangulation or entanglement on fences, trees or other human-made or natural obstacles;

(3) For a continuous period of time; or

(4) That is sick or injured.

(B) Animals may be restrained by means of a trolley system, or a tether attached to a pulley on a cable run, if the following conditions are met.

(1) Only one animal may be tethered to each cable run.

(2) The tether must be attached to a properly fitting collar or harness worn by the animal, with enough room between the collar and the animal's throat through which two fingers may fit. Choke collars and pinch collars are prohibited for purposes of tethering a dog to a cable run. There must be a swivel on at least one end of the tether to minimize tangling of the tether with stoppers on either side of the cable to ensure the animal is not able to entangle himself or herself.

(3) The tether and cable run must be of adequate size and strength to effectively restrain the animal. The size and weight of the tether must not be excessive, as determined by the Enforcement Officer, considering the age, size and health of the animal.

(4) The length of the tether from the cable run to the animal's collar should allow access to the maximum available exercise area and should allow continuous access to water and shelter. The trolley system must be of appropriate configuration to confine the animal to the owner's property, to prevent the tether from extending over an object or an edge that could result in injury or strangulation, and to prevent the tether from becoming tangled with other objects or animals. The tether must be long enough for the animal to move around or be able to urinate or defecate in an area separate from where it must eat, drink or lie down and allows the animal convenient access to food, water, dry ground or shelter. No vegetation or obstacles can restrict the movement of the animal on the tether.

(C) (1) All tethered animals must have access to shelter which is defined as any natural or artificial area which provides protection from the direct sunlight when that sunlight is likely to cause heat exhaustion. Metal barrels as well as any uninsulated metal structures are prohibited for use as shelter.

(2) Animal shelter shall be a wind-proof and moisture-proof structure and shall include four walls, a roof, a door flap for winter and a solid floor raised off the ground, containing a sufficient quantity of suitable dry bedding material.

(3) The containment area of any shelter shall be free of accumulated debris so that the animal shall be free to walk or lie down without coming in contact with any such waste or debris. A suitable method of draining shall be provided to eliminate excess water or moisture inside the shelter.

(Ord. 086, passed 12-4-2008) Penalty, see § 90.99

§ 90.10 BARKING OR HOWLING.

No person shall keep or harbor any dog, cat or other animal within the City which, by frequent and habitual barking, howling, yelping, crying or squalling creates unreasonably loud and disturbing noises of such character, intensity and duration as to disturb the peace, quiet and good order of the City. Any person who shall allow any dog, cat or other animal habitually to remain, be lodged or fed within any dwelling, building, yard or enclosure which he occupies or owns, shall be considered as harboring such dog, cat or other animal. Any person in violation of this section shall, upon conviction, be fined in accordance with City Code §90.99(D).

(1991 Code, § 4-18) (Ord. passed 11-19-1970) (Ord. passed 11-3-2022) Penalty, see § 90.99

§ 90.11 PROCEDURE ON COMPLAINT OF AN ANIMAL THAT IS VICIOUS, DANGEROUS OR INFECTED WITH A POTENTIALLY HARMFUL COMMUNICABLE DISEASE.

Procedure upon complaint that an animal is vicious, dangerous or infected with a potentially harmful communicable disease shall be as follows.

(A) (1) Upon complaint to the Judge of the Municipal Court of the city, that an animal is vicious or dangerous, as defined in division (B) below, or infected with a potentially harmful communicable disease, it shall be the duty of the Judge to immediately summon the owner or keeper of the animal to answer the complaint.

(2) In the instance of a complaint of an animal infected with a potentially harmful communicable disease, the Judge shall immediately notify the owner or keeper of such allegedly infected animal that such animal be exposed to any public place whereby the health of humans or animal may be affected; nor shall such animal be shipped or removed from the premises of the owner or keeper of such animal except under the supervision of the Enforcement Officer of the city. The Judge may order proper testing be completed on the alleged infected animal, by a licensed veterinarian, to determine if the animal is in fact infected with a potentially harmful communicable disease.

(3) If upon hearing, the Judge finds that such animal is vicious, dangerous or infected with a potentially harmful communicable disease, he or she may order a fine or may order the animal a menace to public safety and order the animal be destroyed to prevent injury and/or death to the public, The destruction of said animal shall occur immediately, absent a stay of such destruction pending appeal.

(B) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DANGEROUS or VICIOUS. Refers to and includes any animal:

(a) With a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or other domestic animals; or

(b) Which attacks human beings or other domestic animals without provocation.

(C) Upon finding of the Judge of the Municipal Court that an animal is vicious, dangerous or infected with a potentially harmful communicable disease, and ordered destroyed, the owner or keeper of such animal shall be liable for all costs incurred by the city, associated with said owner's or keeper of the animal's prosecution under this section.

(D) Upon finding of the Judge of the Municipal Court that an animal is vicious, dangerous or infected with a potentially harmful communicable disease, and ordered destroyed, and if the owner or keeper of said animal appeals the Municipal Court Judges' ruling, said animal shall be impounded, at the cost and expense of the animal's owner or keeper, until such appeal hearing is concluded. If the owner or keeper of such animal fails to pay the costs and expenses within ten days, the animal shall be deemed surrendered.

(Ord. 104, passed 8-6-2009) Penalty, see § 90.99

IMPOUNDMENT

§ 90.12 ENFORCEMENT AND STATE LAW APPLICABLE

The provisions of this Chapter shall be administered and enforced by the Enforcement Officer. For these purposes, the Enforcement Officer shall have and exercise such powers as may be reasonably necessary, including those specified for humane officers of counties in West Virginia Code Chapter 7, Article 10 and all provisions of West Virginia Code Chapter 7, Article 10 which are applicable to and within the City are hereby adopted by reference.

WATERFOWL

§ 90.13 PURPOSE AND INTENT.

It is the purpose and the intent of this subchapter to protect the health, safety and welfare of the community and its waterfowl, both migratory and domestic. It is further the purpose of this subchapter to control the feeding of waterfowl, both migratory and domestic.

(Ord. 121, passed 1-20-2011)

§ 90.14 PROHIBITED ACTS.

No person shall feed, cause or permit the feeding of waterfowl, domestic or migratory, within the corporate limits of the City.

(Ord. 121, passed 1-20-2011) Penalty, see § 90.99

§ 90.99 PENALTY.

(A) Any person violating any provision of this Chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(1991 Code, § 4-2)

(B) Any owner or keeper of an animal who violates § 90.11, and whose animal is not ordered destroyed, shall be fined an amount set forth by Council from time to time, and ordered to pay court costs.

(C) (1) Any person caught violating § 90.09 in the first instance shall be given a warning, stating what section of the city code he or she is violating and how to comply with the violated section. The person shall be subject to a follow-up visit by the Enforcement Officer, at a later time that is adequate to allow the person to correct the violation, to determine if the person is in compliance with said City Code section.

(2) Any person caught violating § 90.09 after being given a warning as specified in division (C)(1) above is guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount set forth by Council from time to time or confined in jail not more than 30 days, or both.

(3) Any person convicted of a violation of § 90.09 forfeits his or her interests in any animal and all interest in the animal vests in the Randolph County Humane Society and is responsible for any costs incurred by the Randolph County Humane Society as a result.

(4) The Enforcement Officer may exercise discretion in citing violators pursuant to § 90.09. In determining whether to cite under § 90.09, the Enforcement Officer shall consider the overall condition of the dog, and whether the alleged violator is in substantial compliance with § 90.09.

(D) The owner of any animal in violation of § 90.10 shall, upon conviction of such violation, be fined an amount set forth by Council from time to time.

(1991 Code, § 4-18)

(E) Any person or persons violating any provision of §§ 90.13 through 90.14 shall, upon conviction thereof, pay a fine of an amount set forth by Council from time to time per offense, together with the costs of said prosecution. Upon conviction of any subsequent offense under the provisions of §§ 90.13 through 90.14, the person or persons shall pay a fine of an amount set forth by Council from time to time per offense, together with the costs of said prosecution. Each day such violation continues shall constitute a separate offense.

(Ord. passed 11-19-1970; Ord. 086, passed 12-4-2008; Ord. 104, passed 8-6-2009; Ord. 121, passed 1-20-2011)

This Ordinance shall become effective upon passage.

If any portion of this Ordinance shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof and Common Council determines that it would have adopted this Ordinance without the invalid provision.

PASSED AND APPROVED ON FIRST READING: _____, 2023.

PASSED AND APPROVED ON SECOND AND FINAL READING THE _____ DAY
OF _____, 2023.

CITY OF ELKINS, WEST VIRGINIA

Jerry A. Marco, Mayor

Attest:

Sutton Stokes, City Clerk



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 15, 2023
Section:	New business
Category:	Action Item
Agenda Item Name:	Resolution 1663: Authorizing use of \$50,000 from the Coal Severance Fund for an EFD/EPD training site
Recommended By:	Chief Himes, EFD
Summary:	EFD and EPD propose to construct a training facility using Conex boxes at a location yet to be determined. (A previous proposed site was found to be unsuitable.) See attached information from Chief Himes.
Fiscal Impact:	Authorizes \$50,000 expenditure from the Coal Severance Fund.
Recommendation:	Approve \$50,000 expenditure from the Coal Severance Fund .
Attachments:	1. training center proposal 2. training center 3. R-1663 use of coal severance funds for EFD EPD training site



Elkins Fire Department

216 4th Street Elkins, WV 26241



TRAINING CENTER PROPOSAL

PURPOSE: The purpose of the proposed training center is to provide public safety resources with a location and facility to perform skills based and scenario-based training. No such facility exists on the local level.

STATEMENT OF BENEFIT: When firefighters receive their initial training certification, there are several job performance requirements that must be taught and evaluated. Many times, these skills may or may not be utilized ever again. Some examples of these are standpipe operations, forcible entry, victim rescue, downed firefighter removal, and vertical ventilation. For members of the fire department to keep these skills sharp and honed, some type of facility is necessary. This proposed facility can represent a building or structure that can be filled with non-toxic theatrical smoke and include necessary props to simulate these tasks. It can be used for team-based scenario training. Anytime we have a need for this type of facility, it requires members to travel thus removing them from the area and unavailable for emergency responses.

One gap in our last ISO evaluation was the lack of such a facility. With the addition of it, we can gain points in the next evaluation that will surely work toward lowering to the next protection class, saving every single property owner money in insurance premiums, and improve every member's capability in performance of their duties.

Additionally, we can share use of this facility with the police department for simulation of crime scene investigation and documentation, basic SWAT training, entry and room clearing.

The location is of benefit in that members on duty can respond to calls while using the facility, due to its proximity to the city. The implementation of this project can also be performed with a modular approach over time, making additions and improvements as funding is available to do so.

The non-monetary benefit is the creation of a project for the members of both departments to get involved in and provides a teamwork approach to ensure completion.

BUDGET AND COST BENEFIT: This project can be completed at a fraction of the cost of a purchased building. Many companies use these same proposed containers to construct training buildings for fire departments all over the country. We have the resources at the local level to do much of this work ourselves. There is zero cost in property acquisition. We can work with other entities such as the Mountain School, YouthBuild, or the Randolph County Technical Center for assistance with specific components such as interior walls, roof ventilation prop, bailout windows, etc. This will also encourage and create collaboration opportunities within other city departments.



Elkins Fire Department

216 4th Street Elkins, WV 26241



BUDGET AND COST BENEFIT (cont.)

With a theoretical budget of \$50,000, it is our belief that the following can be accomplished.

Site work and stone-\$5,000

3- 40-foot containers- \$12,000 (\$4,000 each)

Forcible entry door-\$12,000

Roof prop-\$4,000

Standpipe riser - \$500

Safety railing - \$2,500

Material cost can affect the budget, but we have a significant buffer to account for inflation, or to add items not yet identified.

Long-term goals could be to add a second floor.

Respectfully submitted,

Stephen Himes, BS, NRP

Fire Chief



IN THE COMMON COUNCIL OF THE CITY OF ELKINS, WV

A RESOLUTION OF COMMON COUNCIL

(#1663)
June 15, 2023

Authorizing use of \$50,000 from the Coal Severance Fund for an EFD/EPD training site

WHEREAS, pursuant to plenary power and authority granted by West Virginia Code §11-13A-6, Elkins Common Council is entitled to receive a portion of statewide coal revenue funds and to maintain said monies in a special account known as the Coal Severance Fund; and

WHEREAS, the Elkins Fire Department and Elkins Police Department have proposed to construct a training facility for a cost of approximately \$50,000, for which purpose insufficient funds exist in either department's annual budget; and

WHEREAS, council's Finance Committee has recommended that said expenditure be funded with monies from the City's Coal Severance Fund;

NOW, THEREFORE, BE IT RESOLVED, THAT:

The Elkins Common Council hereby authorizes the expenditure of \$50,000 from the Coal Severance Fund to purchase materials and equipment for the proposed training facility.

Jerry A. Marco, Mayor

Attest:

Sutton R. Stokes, City Clerk



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 15, 2023
Section:	New business
Category:	Resolution
Agenda Item Name:	Resolution 1664: Intradepartmental budget revisions (FY 2023 General Fund # 18-25, Sanitation Fund #2-3, and EFD Fund #4)
Recommended By:	City Treasurer
Summary:	Moves funds within departments.
Fiscal Impact:	These revisions move budgeted funds within the given departments but do not increase the overall fiscal year 2023 budget or any departmental budgets specifically.
Recommendation:	Recommend the attached revisions to council for approval
Attachments:	1. R-1664 - Intradepartmental budget revisions FY 2023 General Fund # 18-25 Sanitation Fund #2-3 and EFD Fund #4 2. Sanitation Budget Revision 3. Fire Budget Revision 4. General Fund Budget Revisions

IN THE COMMON COUNCIL OF THE CITY OF ELKINS, WV

A RESOLUTION OF COMMON COUNCIL

(#1664)
June 15, 2023

***Resolution to Approve Intradepartmental Budget Revisions for
FY 2023: General Fund Budget Revisions #18-25, Sanitation Fund Budget
Revisions #2-3, and EFD Fund Budget Revision #4***

WHEREAS, the City of Elkins has previously prepared and submitted its Budget for the Fiscal Year 2023;
and,

WHEREAS, it has become necessary to make a revision to said Budget; and,

WHEREAS, FY 2023 General Fund Budget Revisions #18-25, Sanitation Fund Budget Revisions #2-3, and
EFD Fund Budget Revision #4 (copies attached) transfer funds as shown;

NOW, THEREFORE, BE IT RESOLVED, THAT:

The Common Council of the City of Elkins hereby approves FY 2023 General Fund Budget
Revisions #18-25, Sanitation Fund Budget Revision #2-3, and EFD Fund Budget Revision #4.

Jerry Marco, Mayor

Attest:

Sutton R. Stokes, City Clerk

Agenda Item Report

Meeting Date	June 5, 2023
Agenda Item Name	Intradepartmental Budget Revisions
Recommended by	Operation's Manager M. Kesecker
Summary	Increasing revenues, moving funds within sanitation departments.
Fiscal Impact	\$72,650
Attachments	Fund 404, #2 & #3
Recommendation	Recommend to Council

Sanitation Budget Revision
Revision Number 2

Revenues

Fund	Department	Decrease	Amount
404			
TOTAL			\$0.00

Department	Increase	Amount
000-Revenues	302-0000 Penalties & Interest	\$1,000.00
	350-0003 Hauling fees Roll-off	\$30,000.00
	350-0004 Rental Fees Roll-off	\$4,500.00
	380-0000 Interest Earned	\$11,000.00
	381-0000 Reimbursements	\$1,150.00
	383-0000 Sale of Fixed Asset	\$25,000.00
		\$72,650.00

Expenses

Fund	Department	Transfer From/Description	Amount
404	802-Admin & General	230-0000 Contracted Services	\$64,600.00
TOTAL			\$64,600.00

Department	Transfer To/Description	Amount
800-Sanitation	213-0000 Utilities	\$4,000.00
	217-0000 Maint of Autos & Trucks	\$3,000.00
	341-0000 Supplies & Materials	\$1,500.00
	343-0000 Automotive Supplies	\$29,000.00
	345-0000 Uniforms	\$2,100.00
	459-0000 Capital Outlay Equipment	\$25,000.00
		\$64,600.00

Admin. Signature: Jul 4

Date: 5/30/23

Sanitation Budget Revision

Revision Number 3

Revenues

Fund	Department	Decrease	Amount
404			
TOTAL			\$0.00

Department	Increase	Amount
000-Revenues		
		\$0.00

Expenses

Fund	Department	Transfer From/Description	Amount
404	802-Admin & General	230-0000 Contracted Services	\$2,500.00
TOTAL			\$2,500.00

Department	Transfer To/Description	Amount
801-Utility Billing	103-0000 Salary & Wages	\$900.00
801-Utility Billing	106-0000 Retirement	\$200.00
802-Admin & General	460-0000 Sanitation Garage CIP	\$1,400.00
		\$2,500.00

Admin. Signature: 

Date: 5/30/23

Agenda Item Report

Meeting Date	June 5, 2023
Agenda Item Name	Intradepartmental Budget Revisions
Recommended by	Chief Himes
Summary	Adding revenues, transferring funds from EFVD Salary/Wages & FICA to pay for Fire Instructor 1 & 2 class, new air compressor, retirement, fleet insurance, contracted services.
Fiscal Impact	\$19,429.00
Attachments	Fund 036, #4
Recommendation	Recommend to Council

Interdepartmental Budget Revision

Revision Number 4

Revenues

Fund	Department	Current Budgeted Amount	Amount	Department	Increase Budget	Amount
036	000-Revenues	352-0001 Fire Protection Penalty	\$45,000.00	000-Revenues	352-0001 Fire Protection Penalty	\$8,600.00
		380-0000 Interest Earned	\$0.00		380-0000 Interest Earned	\$10,000.00
		381-0000 Reimbursements	\$0.00		381-0000 Reimbursements	\$485.00
		382-0000 Refunds & Rebates	\$0.00		382-0000 Refunds & Rebates	\$344.00
TOTAL			\$45,000.00			\$19,429.00

Expenses

Fund	Department	Transfer From/Description	Amount	Department	Transfer To/Description	Amount
036	706	103-0001 EVFD Salary & Wages	\$9,677.21	706	106-0000 Retirement	\$1,500.00
		104-0000 FICA Expense	\$4,800.00		221-0000 Training & Education	\$4,515.21
					223-0000 Professional Services	\$1,000.00
					226-0001 Fleet Insurance	\$1,800.00
					230-0000 Contracted Services	\$500.00
					457-0000 Capital Outlay Buildings	\$5,162.00
TOTAL			\$14,477.21			\$14,477.21

Admin. Signature: Stephen Hino

Date: 5/30/23

Agenda Item Report

Meeting Date	June 5, 2023
Agenda Item Name	Intradepartmental Budget Revisions
Recommended by	T. Judy, M. Kesecker, S. Stokes, T. Bennett, and B. Jones
Summary	Transferring funds within each respective department.
Fiscal Impact	\$0.00
Attachments	General Fund Budget Revisions #18 thru #25
Recommendation	Recommend to Council

General Fund Budget Revision

Revision Number 18

Revenues

Fund	Department	Transfer From/Description	Amount
001	000-Revenues		
TOTAL			\$0.00

Department	Transfer To/Description	Amount
000-Revenues		
		\$0.00

Expenses

Fund	Department	Transfer From/Description	Amount
001	416-Municipal Judge	103-0000 Salary & Wages	\$3,000.00
		105-0000 Group Insurance	\$2,700.00
		106-0000 Retirement	\$400.00
		108-0000 Overtime	\$530.00
		212-0000 Printing	\$60.00
		218-0000 Postage	\$500.00
		221-0000 Training & Education	\$850.00
		341-0000 Supplies & Materials	\$620.00
TOTAL			\$8,660.00

Department	Transfer To/Description	Amount
416-Municipal Judge	214-0000 Travel	\$60.00
	223-0000 Professional Services	\$6,000.00
	240-0000 Refunds & Reimbursements	\$2,000.00
	353-0000 Computer Software	\$600.00
		\$8,660.00

Admin. Signature: Bob Jones

Date: 5/31/23

General Fund Budget Revision

Revision Number 19

Revenues

Fund	Department	Transfer From/Description	Amount
001	000-Revenues		
TOTAL			\$0.00

Department	Transfer To/Description	Amount
000-Revenues		
		\$0.00

Expenses

Fund	Department	Transfer From/Description	Amount
001	436-Building Inspector	459-0000 Capital Outlay Equipment	\$1,350.00
TOTAL			\$1,350.00

Department	Transfer To/Description	Amount
436-Building Inspector	211-0000 Telephone	\$350.00
	341-0000 Supplies & Materials	\$1,000.00
		\$1,350.00

Admin. Signature: 

Date: 5/30/23

General Fund Budget Revision

Revision Number 20

Revenues

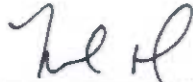
Fund	Department	Transfer From/Description	Amount
001	000-Revenues		
TOTAL			\$0.00

Department	Transfer To/Description	Amount
000-Revenues		
		\$0.00

Expenses

Fund	Department	Transfer From/Description	Amount
001	754-Central Garage	226-0000 G/L Insurance & Bonds	\$1,000.00
		459-0000 Capital Outlay Equipment	\$3,600.00
TOTAL			\$4,600.00

Department	Transfer To/Description	Amount
754-Central Garage	103-0000 Salary & Wages	\$3,100.00
	211-0000 Telephone	\$500.00
	219-Buildings & Equipment & R	\$1,000.00
		\$4,600.00

Admin. Signature: 

Date: 5/30/23

General Fund Budget Revision

Revision Number 21

Revenues

Fund	Department	Transfer From/Description	Amount
001	000-Revenues		
TOTAL			\$0.00

Department	Transfer To/Description	Amount
000-Revenues		
		\$0.00

Expenses

Fund	Department	Transfer From/Description	Amount
001	415-City Clerk	105-0000 Group Insurance	\$200.00
TOTAL			\$200.00

Department	Transfer To/Description	Amount
415-City Clerk	214-0000 Travel	\$200.00
		\$200.00

Admin. Signature: _____

Date: _____

5-30-23

General Fund Budget Revision

Revision Number 22

Revenues

Fund	Department	Transfer From/Description	Amount
001	000-Revenues		
TOTAL			\$0.00

Department	Transfer To/Description	Amount
000-Revenues		
		\$0.00

Expenses

Fund	Department	Transfer From/Description	Amount
001	704-Police Admin	105-0000 Group Insurance	\$1,200.00
		108-0000 Overtime	\$1,500.00
		226-0000 G/L Insurance & Bonds	\$100.00
TOTAL			\$2,800.00

Department	Transfer To/Description	Amount
704-Police Admin	103-0000 Salary & Wages	\$2,650.00
	106-0000 Retirement	\$150.00
		\$2,800.00

Admin. Signature: ZCB

Date: 5/31/23

General Fund Budget Revision

Revision Number 23

Revenues

Fund	Department	Transfer From/Description	Amount
001	000-Revenues		
TOTAL			\$0.00

Department	Transfer To/Description	Amount
000-Revenues		
		\$0.00

Expenses

Fund	Department	Transfer From/Description	Amount
001	700-Police	105-0000 Group Insurance	\$900.00
		107-0000 Pensions Paid	\$3,475.00
		221-0000 Training & Education	\$5,000.00
		230-0000 Contracted Services	\$5,000.00
		345-0000 Uniforms	\$5,125.00
		353-0000 Computer Software	\$6,000.00
TOTAL			\$25,500.00

Department	Transfer To/Description	Amount
700-Police	106-0000 Retirement	\$2,000.00
	108-0000 Overtime	\$10,000.00
	214-0000 Travel	\$1,500.00
	343-0000 Automobile Supplies	\$10,000.00
	459-0000 Capital Outlay Equipment	\$2,000.00
		\$25,500.00

Admin. Signature: *JCR*

Date: 5/31/23

General Fund Budget Revision

Revision Number 24

Revenues

Fund	Department	Transfer From/Description	Amount
001	000-Revenues		
TOTAL			\$0.00

Department	Transfer To/Description	Amount
000-Revenues		
		\$0.00

Expenses

Fund	Department	Transfer From/Description	Amount
001	950-Beautification	341-0000 Supplies & Materials	\$4,000.00
TOTAL			\$4,000.00

Department	Transfer To/Description	Amount
950-Beautificatio	230-0000 Contracted Services	\$4,000.00
		\$4,000.00

Admin. Signature: Tracy Judy

Date: 5/30/23

General Fund Budget Revision

Revision Number 25

Revenues

Fund	Department	Transfer From/Description	Amount
001	000-Revenues		
TOTAL			\$0.00

Department	Transfer To/Description	Amount
000-Revenues		
		\$0.00

Expenses

Fund	Department	Transfer From/Description	Amount
001	440-City Hall	222-0000 Dues & Subscriptions	\$2,000.00
		223-0000 Professional Services	\$50,000.00
TOTAL			\$52,000.00

Department	Transfer To/Description	Amount
440-City Hall	213-0000 Utilities	\$5,000.00
	215-0000 Maint Bldgs/Grounds	\$2,000.00
	218-0000 Postage	\$2,500.00
	226-0000 G/L Insurance & Bonds	\$16,900.00
	230-0000 Contracted Services	\$20,000.00
	341-0000 Supplies & Materials	\$5,600.00
		\$52,000.00

Admin. Signature: *Tracy Rudy*

Date: 5/31/23



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 15, 2023
Section:	New business
Category:	Resolution
Agenda Item Name:	Resolution 1665: Interdepartmental budget revision (FY 2023 General Fund state budget revision #4)
Recommended By:	
Summary:	
Fiscal Impact:	
Recommendation:	
Attachments:	1. R-1665 - approval of budget revision 2023-001-04 (WVSAO) 2. Revised State BR #4

IN THE COMMON COUNCIL OF THE CITY OF ELKINS, WV
A RESOLUTION OF COMMON COUNCIL

(#1665)
June 15, 2023

Resolution to Approve Budget Revisions for Fiscal Year 2023

At a regular session of the Elkins Common Council, held June 15, 2023, the following order was made and entered:

SUBJECT: The revision of the Levy Estimate (Budget) of the City of Elkins. The following resolution was offered:

RESOLVED: That subject to approval of the State Auditor as ex officio chief inspector of public offices the Elkins Common Council does hereby direct the budget be revised PRIOR TO THE EXPENDITURE OR OBLIGATION OF FUNDS FOR WHICH NO APPROPRIATION OR INSUFFICIENT APPROPRIATION CURRENTLY EXISTS, as shown on State Auditor Budget Revision 4, a copy of which is entered as part of this record.

The adoption of the foregoing resolution having been moved by Cm. Hinchman, the vote thereon was as follows:

N. Bross-Fregonara		C. Griggs		L. Severino	
R. Chenoweth		M. Hinchman		L. Vest	
M. Cuonzo		C. Lowther		Mayor J. Marco (in case of tie)	
J. Guye		D. Parker			

WHEREUPON: Mayor Marco declared said resolution duly adopted, and it is therefore ADJUDGED and ORDERED that said resolution be, and the same is, hereby adopted as so stated above, and the Elkins City Clerk is authorized to fix his signature on the attached "Request for Revision to Approved Budget" to be sent to the State Auditor for approval.

Jerry Marco, Mayor

Attest:

Sutton R. Stokes, City Clerk

Ora Ash, Deputy State Auditor
West Virginia State Auditor's Office
200 West Main Street
Clarksburg, WV 26301
Phone: 627-2415 ext. 5114
Fax: **304-340-5090**
Email: **lgs@wvsao.gov**

REQUEST FOR REVISION TO APPROVED BUDGET

Subject to approval of the state auditor, the governing body requests that the budget be revised prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.
(\$ 11-8-26a)

CONTROL NUMBER

Fiscal Year Ending **2023**Fund: **1**Revision Number: **4**Pages: **1 of 1**

Person To Contact Regarding Request:

Name: **Tracy Judy**Phone: **304-636-1414, ext 1317**Fax: **304-635-7135**Email: **tjudy@cityofelkinswv.com**

City of Elkins

GOVERNMENT ENTITY

401 Davis Ave.

STREET OR PO BOX

Elkins

CITY

26241

ZIP CODE

Municipality

Government Type

REVENUES: (net each acct.)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
305	Business and Occupation Tax	1,521,201	110,200		1,631,401
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				

NET INCREASE/(DECREASE) Revenues (ALL PAGES)

110,200

Explanation for Account # 378, Municipal Specific:**Explanation for Account # 369, Contributions from Other Funds:****EXPENDITURES: (net each account category)**

(WV CODE 7-1-9)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
409	Mayor's Office	35,334	5,000		40,334
413	Treasurer's Office	340,595	25,000		365,595
438	Elections	14,300	700		15,000
440	City Hall	600,875	20,000		620,875
566	Public Work	195,050		15,966	179,084
571	Parking	500		500	
700	Police Department	1,409,510	32,000		1,441,510
704	Police-Special Duty	81,669	2,000		83,669
750	Streets and Highways	1,128,930	52,086		1,181,016
751	Street Lights	99,000	5,200		104,200

NET INCREASE/(DECREASE) Expenditures

110,200

APPROVED BY THE STATE AUDITOR

BY:

Deputy State Auditor, Local Government Services Division Date

AUTHORIZED SIGNATURE
OF ENTITYAPPROVAL
DATE

LGSD: BR City of Elkins

CONTROL NUMBER:

2023

1

4

BUDGET REVISION REQUEST-SUPPLEMENT

FY

FUND

REV#

NET INCREASE/(DECREASE) Expenditures (this page)



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 15, 2023
Section:	New business
Category:	Resolution
Agenda Item Name:	Resolution 1666: Accepting conditions and authorizing execution of an election and release agreement concerning opioid-related settlement with Mylan
Recommended By:	
Summary:	
Fiscal Impact:	
Recommendation:	
Attachments:	1. Resolution #1666 (Mylan) 2. Mylan Election and Release Form

IN THE COMMON COUNCIL OF THE CITY OF ELKINS, WV

A RESOLUTION OF COMMON COUNCIL

(# 1666)
June 15, 2023

***Accepting Conditions and Terms of the Mylan Pharmaceuticals, Inc.
("Mylan"))/West Virginia Statewide Settlement Agreement and Authorizing the
Execution of the Settlement Participation Form Provided by the Fitzsimmons
Law Firm***

WHEREAS, the State of West Virginia and its many communities have unfortunately become the epicenter of a national opioid crisis for over the last two decades or more; and

WHEREAS, numerous lawsuits have been filed by local governments and the State against many companies in the opioid supply chain; and

WHEREAS, the City of Elkins, West Virginia has received a request from the Office of the Fitzsimmons Law Firm to consider accepting the conditions and terms of Mylan/West Virginia Statewide Settlement Agreement ("Mylan Settlement") from an opioid supply chain participant which will be allocated between the State and its local governments; and

WHEREAS, as a result of one of the lawsuits filed by the Fitzsimmons Law Firm, this law firm has reached a \$1,995,000.00 statewide settlement with Mylan; and

WHEREAS, under the terms of the Mylan Settlement Agreement 24.5% will go to local governments for assistance in combatting the opioid crisis in their community; and

WHEREAS, under the terms of the Mylan Settlement. the local governments that want to be considered for the distribution of the settlement proceeds are required to approve the terms of the Mylan Settlement and the West Virginia Local Government Settlement Participation Form; and

WHEREAS, approving the terms of the Mylan Settlement and the West Virginia Local Government Settlement Participation Form would be in the best interests of the citizens of the City of Elkins.

NOW, THEREFORE, BE IT RESOLVED, THAT:

The Common Council approves the terms of the Mylan Settlement and the West Virginia Local Government Settlement Participation Form, as set forth in the attached document, authorizes Mayor Marco to execute the West Virginia Local Government Settlement Participation Form on behalf of the City and directs the City Clerk to submit the signed documents along with a copy of this Resolution to the Office of the Fitzsimmons Law Firm.

Jerry A. Marco, Mayor

Attest:

Sutton Stokes, City Clerk

WEST VIRGINIA LOCAL GOVERNMENT
ELECTION AND RELEASE FORM

(Mylan Pharmaceuticals Inc.)

This Election and Release Form for eligible West Virginia Participating Local Governments resolves opioid-related Claims against Mylan Pharmaceuticals Inc. ("Mylan") under the terms and conditions set forth in the May 22, 2023 settlement agreement (the "Agreement"), the provisions of which are hereby incorporated by reference in their entirety. Upon executing this Election and Release Form, the undersigned Local Government becomes a Participating Local Government and a Party to the Agreement. The undersigned Local Government agrees that, in exchange for the consideration described in the Agreement, the Participating Local Government is bound by all the terms and conditions of the Agreement, and hereby releases all Released Claims against all Released Entities. By executing this Election and Release Form, the Participating Local Government submits to the jurisdiction of the panel overseeing the mass litigation proceeding captioned *In re: Opioid Litigation*, Civil Action No. 19-C-9000, in the Circuit Court of Kanawha County, West Virginia.

Dated: _____

BY: _____
PRINTED NAME: _____
TITLE: _____
ADDRESS: _____
TELEPHONE: _____
EMAIL ADDRESS: _____

ON BEHALF OF:

LOCAL GOVERNMENT



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 15, 2023
Section:	New business
Category:	Resolution
Agenda Item Name:	Resolution 1667: Accepting conditions and authorizing execution of an election and release agreement concerning opioid-related settlement with Amneal Pharmaceuticals
Recommended By:	
Summary:	
Fiscal Impact:	
Recommendation:	
Attachments:	1. Resolution #1667 (Amneal) 2. Amneal Election and Release Form

IN THE COMMON COUNCIL OF THE CITY OF ELKINS, WV

A RESOLUTION OF COMMON COUNCIL

(# 1667)
June 15, 2023

***Accepting Conditions and Terms of the Amneal Pharmaceuticals, LLC
("Amneal")/West Virginia Statewide Settlement Agreement and Authorizing the
Execution of the Settlement Participation Form Provided by the Chafin Law
Firm***

WHEREAS, the State of West Virginia and its many communities have unfortunately become the epicenter of a national opioid crisis for over the last two decades or more; and

WHEREAS, numerous lawsuits have been filed by local governments and the State against many companies in the opioid supply chain; and

WHEREAS, the City of Elkins, West Virginia has received a request from the Office of the Chafin Law Firm to consider accepting the conditions and terms of Amneal/West Virginia Statewide Settlement Agreement ("Amneal Settlement") from an opioid supply chain participant which will be allocated between the State and its local governments; and

WHEREAS, as a result of one of the lawsuits filed by the Chafin Law Firm, this law firm has reached a \$1,750,000.00 statewide settlement with Amneal; and

WHEREAS, under the terms of the Amneal Settlement Agreement 24.5% will go to local governments for assistance in combatting the opioid crisis in their community; and

WHEREAS, under the terms of the Amneal Settlement. the local governments that want to be considered for the distribution of the settlement proceeds are required to approve the terms of the Amneal Settlement and the West Virginia Local Government Settlement Participation Form; and

WHEREAS, approving the terms of the Amneal Settlement and the West Virginia Local Government Settlement Participation Form would be in the best interests of the citizens of the City of Elkins.

NOW, THEREFORE, BE IT RESOLVED, THAT:

The Common Council approves the terms of the Amneal Settlement and the West Virginia Local Government Settlement Participation Form, as set forth in the attached document, authorizes Mayor Marco to execute the West Virginia Local Government Settlement Participation Form on behalf of the City and directs the City Clerk to submit the signed documents along with a copy of this Resolution to the Office of the Chafin Law Firm.

Jerry A. Marco, Mayor

Attest:

Sutton Stokes City Clerk

EXHIBIT C

(Amneal)

WEST VIRGINIA LOCAL GOVERNMENT ELECTION AND RELEASE FORM

This Election and Release Form for West Virginia Participating Local Governments (the "Election and Release Form") resolves opioid-related Claims against Amneal under the terms and conditions set forth in the Amneal West Virginia Opioid Settlement Agreement executed on May 25, 2023 (the "Agreement"), the provisions of which are here incorporated by reference in their entirety. Unless otherwise defined below, capitalized terms in this Election and Release Form shall have the same meaning as in the Agreement.

Upon executing this Election and Release Form, a Participating Local Government agrees that, in exchange for the consideration described in the Agreement, the Participating Local Government is bound by all the terms and conditions of the Agreement. By executing this Election and Release Form, the Participating Local Government submits to the jurisdiction of the panel overseeing the mass litigation proceeding captioned *In re: Opioid Litigation*, Civil Action No. 21-C-9000 (W. Va. Cir. Ct. Kanawha County) (the "Court"). To the extent the Participating Local Government has asserted Claims against Amneal in Actions that are pending before the Court, the Participating Local Government hereby grants all necessary right and authority to Letitia Neese Chafin, of The Chafin Law Firm, PLLC, in Williamson, WV and Anthony J. Majestro, of Powell & Majestro P.L.L.C., in Charleston, WV, to seek dismissal of the Participating Local Government's Action through the submission of the Consent Judgment as contemplated in the Agreement. If a Participating Local Government's Action is pending in another court as of the Effective Date, the Participating Local Government hereby agrees to dismiss (or if necessary move to dismiss) with

prejudice that Action as to Amneal and any other Released Entities within seven (7) business days of the Effective Date.

Dated: _____

LOCAL GOVERNMENT

BY: _____

(Signature)

PRINTED NAME: _____

TITLE: _____

ADDRESS: _____

TELEPHONE: _____

EMAIL ADDRESS: _____



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 15, 2023
Section:	New business
Category:	Resolution
Agenda Item Name:	Resolution 1668: Reappointment of B. Shaffer to the Elkins-Randolph County Library Board
Recommended By:	
Summary:	
Fiscal Impact:	
Recommendation:	
Attachments:	1. R-1668 - reappointment of Ben Shaffer to the Library Board

IN THE COMMON COUNCIL OF THE CITY OF ELKINS, WV

A RESOLUTION OF COMMON COUNCIL

(#1668)
June 15, 2023

Reappointment of B. Shaffer to the Elkins-Randolph County Library Board

WHEREAS, B. Shaffer was previously appointed to the Elkins-Randolph County Library Board for a term that expires June 30, 2023; and,

WHEREAS, Mayor J. Marco requests that Ben Shaffer be reappointed to a term that expires June 30, 2028; and

WHEREAS, Ben Shaffer meets the qualifications determined to serve on said Board and has agreed to do so;

NOW, THEREFORE, BE IT RESOLVED, THAT:

The Elkins Common Council hereby appoints Ben Shaffer to the Elkins-Randolph County Library Board for a term that expires on June 30, 2028.

Jerry A. Marco, Mayor

Attest:

Sutton Stokes, City Clerk



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 15, 2023
Section:	New business
Category:	Resolution
Agenda Item Name:	Resolution 1669: Accepting Conditions and Authorizing Execution of Financing Agreement between Truist Financial Corporation and the City of Elkins, for the City Hall HVAC Project
Recommended By:	City Treasurer
Summary:	City Treasurer will present information. This quote is being recommended because of the faster availability of funds, compared to USDA loan.
Fiscal Impact:	Financing of up to \$1.1 million.
Recommendation:	Accept conditions and authorize execution of the agreement.
Attachments:	1. Resolution #1669 Truist for city hall HVAC 2. Truist Quote 3. HVAC Quotes 4. R-1669 Exhibit - Truist for city hall HVAC

IN THE COMMON COUNCIL OF THE CITY OF ELKINS, WV

A RESOLUTION OF COMMON COUNCIL

(#1669)

June 15, 2023

Accepting Proposal for Financing Agreement between Truist Financial Corporation (“Truist”) and the City of Elkins (“City) for the HVAC Project (“Project”) for City Hall

WHEREAS, for several years the Common Council has been pursuing the upgrade of the HVAC system for the City Hall to provide a more efficient central system for City Hall; and

WHEREAS, the City has a design plan provided by Van Nostrand Architects, PLLC for the Project that will be put out for bid for the construction of the Project in compliance with City Code provisions; and

WHEREAS, the Project will require financing and the Treasurer has received a proposal from Truist (see attached Exhibit) with an expiration date of June 30, 2023; and

WHEREAS, it has been determined that part of the payment for the costs of the Project will be financed up to the amount of \$750,000.00 with the remainder to be paid for from the City’s other revenue funds and

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

1. The City hereby determines to finance the Project through Truist up to the amount of \$750,000.00 with the final terms of the financing to be as proposed in the Exhibit and in compliance with West Virginia State Code for financing of the Project.
2. The Treasurer is hereby authorized and directed to inform Truist of this Resolution and to approve the final financing documents upon the review by the City Attorney.

Jerry A. Marco, Mayor

Attest:

Sutton Stokes, City Clerk



Truist Financial Corporation

Governmental Finance

5130 Parkway Plaza Blvd.
Charlotte, North Carolina 28217
Phone (704) 954-1700

April 19, 2023

Tracy Judy
Treasurer
City of Elkins, WV
401 DAVIS AVE RM 102
ELKINS, West Virginia
262413899

Dear Ms. Judy:

Truist Bank ("Lender") is pleased to offer this proposal for the financing requested by the City of Elkins, WV ("Borrower").

PROJECT: HVAC Project for City Hall

AMOUNT: Up to \$1,100,000.00

TERM: a. 15 years
b. 20 years

INTEREST RATE: a. 4.59 %
b. 4.65 %

TAX STATUS: Tax Exempt, Bank Qualified

PAYMENTS: Interest: Monthly
Principal: Monthly

**INTEREST RATE
CALCULATION:** 30/360

SECURITY: HVAC system being financed with the proceeds

**PREPAYMENT
TERMS:** Prepayable in whole at any time with a one percent prepayment penalty. As an alternate redemption provision, the Borrower may elect for the transaction to be non-callable for the first half of the term and callable at par thereafter.

**RATE
EXPIRATION:** June 30, 2023

FUNDING: Proceeds will be deposited into an account held at Lender pending disbursement unless equipment is delivered prior to closing.

DOCUMENTATION: Lender proposes to use its standard form financing contracts and related documents for this installment financing. We shall provide a sample of those documents to you should Lender be the successful proposer.

REPORTING REQUIREMENTS: Lender will require financial statements to be delivered within 270 days after the conclusion of each fiscal year-end throughout the term of the financing.

Should we become the successful proposer, we have attached the form of a resolution that your governing board can use to award the financing to Lender. If your board adopts this resolution, then Lender shall not require any further board action prior to closing the transaction.

Lender shall have the right to cancel this offer by notifying the Borrower of its election to do so (whether this offer has previously been accepted by the Borrower) if at any time prior to the closing there is a material adverse change in the Borrower's financial condition, if we discover adverse circumstances of which we are currently unaware, if we are unable to agree on acceptable documentation with the Borrower or if there is a change in law (or proposed change in law) that changes the economic effect of this financing to Lender.

Costs of counsel for the Borrower and any other costs will be the responsibility of the Borrower.

The stated interest rate assumes that the Borrower expects to borrow no more than \$10,000,000 in the current calendar year and that the financing will qualify as qualified tax-exempt financing under the Internal Revenue Code. Lender reserves the right to terminate this bid or to negotiate a mutually acceptable interest rate if the financing is not qualified tax-exempt financing.

We appreciate the opportunity to offer this financing proposal. Please email me at Ben.Teague@Truist.com with your questions and comments. We look forward to hearing from you.

Sincerely,

Truist Bank

Resolution Approving Financing Terms

WHEREAS: The CITY OF ELKINS WV ("Borrower") has previously determined to undertake a project for the financing of HVAC System (the "Project"), and the Finance Officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The Borrower hereby determines to finance the Project through Truist Bank ("Lender") in accordance with the proposal dated April 19, 2023. The amount financed shall not exceed \$1,100,000.00 the annual interest rate (in the absence of default or change in tax status) shall not exceed _____%, and the financing term shall not exceed _____ (#) years from closing.

2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Borrower are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.

3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Borrower officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The Borrower shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Borrower hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. The Borrower intends that the adoption of this resolution will be a declaration of the Borrower's official intent to reimburse expenditures for the Project that are to be financed from the proceeds of the Lender financing described above. The Borrower intends that funds that have been advanced, or that may be advanced, from the Borrower's general fund or any other Borrower fund related to the Project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of Borrower officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this _____ day of _____, 20__

By: _____

By: _____

Title: _____

Title: _____

SEAL

Governmental Finance

5130 Parkway Plaza Blvd.
Charlotte, North Carolina 28217
Phone (704) 954-1700

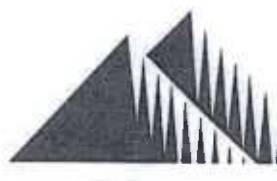
April 19, 2023

Tracy Judy
Treasurer
City of Elkins, WV
401 DAVIS AVE RM 102
ELKINS, West Virginia
262413899

Dear Ms. Judy:

Truist Bank ("Lender") is pleased to offer this proposal for the financing requested by the City of Elkins, WV ("Borrower").

PROJECT:	HVAC Project for City Hall
AMOUNT:	Up to \$1,100,000.00
TERM:	a. 15 years b. 20 years
INTEREST RATE:	a. 4.59 % b. 4.65 %
TAX STATUS:	Tax Exempt, Bank Qualified
PAYMENTS:	<u>Interest:</u> Monthly <u>Principal:</u> Monthly
INTEREST RATE CALCULATION:	30/360
SECURITY:	HVAC system being financed with the proceeds
PREPAYMENT TERMS:	Prepayable in whole at any time with a one percent prepayment penalty. As an alternate redemption provision, the Borrower may elect for the transaction to be non-callable for the first half of the term and callable at par thereafter.
RATE EXPIRATION:	June 30, 2023
FUNDING:	Proceeds will be deposited into an account held at Lender pending disbursement unless equipment is delivered prior to closing.



MOUNTAIN VALLEY BANK, N.A.

317 Davis Avenue, P. O. Box 1969, Elkins, WV 26241 304/637-2265

April 21, 2023

Tracy R. Judy
City Treasurer
City of Elkins
401 Davis Ave.
Elkins, WV 26241

Dear Ms. Judy:

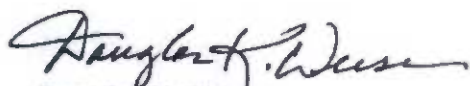
Thank you for your recent inquiry regarding financing for the city's planned improvement of a new HVAC system for city hall. Mountain Valley Bank, N.A. is pleased offer you the following rates and terms:

<u>Financed Amount</u>	<u>Term</u>	<u>Interest Rate</u>
\$1,100,000	15 years	5.74%
\$1,100,000	20 years	5.99%
\$ 750,000	15 years	5.74%
\$ 750,000	20 years	5.99%

These rates would be fixed for the full term of the loan. We would accept as collateral the offer to pledge the Elkins City Hall building. Estimated loan closing costs would approximate \$5,000, which would include the cost of an appraisal, title search fee, title insurance, and applicable recording fees.

We thank you for doing business with Mountain Valley Bank, N.A., and very much appreciate your inquiry regarding this financing need. We look forward to continue serving your banking needs. Please don't hesitate to contact me at any time should you have questions or need any additional information.

Sincerely,



Douglas K. Weese
President and CEO

ELKINS OFFICE
1955 Beverly Pike
P.O. Box 1969
Elkins, WV 26241
304-636-7801

PARSONS OFFICE
401 First Street
P.O. Box 383
Parsons, WV 26287
304/478-2461

MILL CREEK OFFICE
9896 Seneca Trail
P.O. Box 10
Mill Creek, WV 26280
304/335-2222

Tracy Judy

From: Hoy Ferguson <hferguson@davistrust.com>
Sent: Friday, April 21, 2023 9:12 AM
To: Tracy Judy
Subject: Rates

Tracy,

We will go 6.74% on both the \$1,100,000 and \$750,000 amounts at a fixed rate for 15 years. We are not going to submit a 20 year proposal due to the life of equipment.

Hoy

Hoy A. Ferguson
President &
Chief Lending Officer
Davis Trust Company
227 Davis Avenue
P.O. Box 1429
Elkins, WV 26241
P-304.636.0991 ext 276
F-304.636.8428

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Privacy Notice: When sending email to us, never include any confidential or personal information such as your password, account number or Social Security number. You cannot be assured that your connection is a secure one.

Tracy Judy

From: Frank Hinzman <hinzman@citizenswv.com>
Sent: Tuesday, April 25, 2023 9:16 AM
To: Tracy Judy
Subject: RE: Loan Quote

CAUTION: This email originated from outside the organization. Do not click links or open attachments or reply unless you recognize the sender and know the content is safe. Contact Help Desk for assistance.

Tracy,

Sorrow for the time lapse. I have quoted pricing below. My only thought about this is questioning why you would want to finance HVAC equipment for 15 or 20 years? We normally see this termed over 5 to 7 years....

Thanks for the opportunity!

Frank



Frank Hinzman
Senior Vice President & Chief Lending Officer
o: 304.637.2169 | f: 304.637.2018
w: citizenswv.com
211 Third Street | Elkins, WV 26241

From: Tracy Judy <tjudy@cityofelkinswv.com>
Sent: Friday, April 14, 2023 9:54 AM
To: Frank Hinzman <hinzman@citizenswv.com>
Subject: Loan Quote

WARNING: This email is from an external source. Do not click links or attachments unless you recognize the sender and know the content is safe.

Good morning Frank,

The city is in the process of a HVAC project for city hall at a cost up to \$1,100,000.00. Please quote the following:

Financed Amount	Term	Interest Rate
\$1,100,000.00	15y	8.50% fixed or 6.50% (prime minus 1.50%) for a 5/5 adjustable
\$1,100,000.00	20yr	9.25% fixed or 6.50% (prime minus 1.50%) for a 5/5 adjustable
\$ 750,000.00	15yr	same as above
\$ 750,000.00	20yr	same as above

Respectfully,

Tracy R. Judy
City Treasurer
City of Elkins
401 Davis Ave.
Elkins, WV 26241



Truist Financial Corporation

Governmental Finance

5130 Parkway Plaza Blvd.
Charlotte, North Carolina 28217
Phone (704) 954-1700

April 19, 2023

Tracy Judy
Treasurer
City of Elkins, WV
401 DAVIS AVE RM 102
ELKINS, West Virginia
262413899

Dear Ms. Judy:

Truist Bank ("Lender") is pleased to offer this proposal for the financing requested by the City of Elkins, WV ("Borrower").

PROJECT:	HVAC Project for City Hall
AMOUNT:	Up to \$1,100,000.00
TERM:	a. 15 years b. 20 years
INTEREST RATE:	a. 4.59 % b. 4.65 %
TAX STATUS:	Tax Exempt, Bank Qualified
PAYMENTS:	<u>Interest:</u> Monthly <u>Principal:</u> Monthly
INTEREST RATE CALCULATION:	30/360
SECURITY:	HVAC system being financed with the proceeds
PREPAYMENT TERMS:	Prepayable in whole at any time with a one percent prepayment penalty. As an alternate redemption provision, the Borrower may elect for the transaction to be non-callable for the first half of the term and callable at par thereafter.
RATE EXPIRATION:	June 30, 2023
FUNDING:	Proceeds will be deposited into an account held at Lender pending disbursement unless equipment is delivered prior to closing.



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 15, 2023
Section:	New business
Category:	Resolution
Agenda Item Name:	Resolution 1670: Accepting bid for and authorizing execution of agreement general liability and auto insurance for Fiscal Year 2024
Recommended By:	City Treasurer, Finance Committee
Summary:	The City Treasurer and the Finance Committee recommend approval of the attached agreement for FY 24 liability and auto insurance through Assured Partners.
Fiscal Impact:	See attached.
Recommendation:	Approve the attached agreement for FY 24 liability and auto insurance through Assured Partners.
Attachments:	1. R-1670 Accept bid for Liability Insurance from WVcorp 2. Insurance Proposal

IN THE COMMON COUNCIL OF THE CITY OF ELKINS, WV

A RESOLUTION OF COMMON COUNCIL

(#1670)
June 15, 2023

***Accepting Bid from and Authorizing Execution of Insurance
Agreement with Assured Partners of West Virginia, LLC***

WHEREAS, Elkins City Code §30.05 authorizes the contracting and expenditure of public funds for the purpose of providing public liability insurance; and,

WHEREAS, the Finance Committee, on the advice of the City Treasurer and City Attorney, recommends the City accept the terms for liability, automobile, workers compensation, and other insurance with/through Assured Partners of West Virginia, LLC for the upcoming fiscal year shown in the attached quote; and,

WHEREAS, it appears that securing insurance with/through Assured Partners of West Virginia, LLC on the basis of these terms is in the best interests of the citizens of the City of Elkins;

NOW, THEREFORE, BE IT RESOLVED, THAT:

The Elkins Common Council hereby accepts the proposed terms and authorizes the Treasurer to secure liability, automobile, workers compensation, and other insurance under the terms shown in the attached quote through Assured Partners of West Virginia, LCC, beginning July 1, 2023.

Jerry A. Marco Mayor

Attest:

Sutton Stokes, City Clerk

AN INSURANCE PROPOSAL

Designed Especially For

**City of Elkins
401 Davis Avenue
Elkins, WV 26241**

Presented By:

**Samuel L. Trip King III, CLCS, CWCC
Executive Vice President, Commercial Lines Consultant
AssuredPartners of West Virginia**

**340 MacCorkle Avenue, S. E.
Charleston, WV 25314
(304) 345-8000
AssuredPartnersWV.com**

**James Powell
President
Loudin Insurance Agency**

**207 South Kanawha Street
Buckhannon, WV 26201
(304) 472-1532**

Policy Term:

07/01/23 - 07/01/24

DISCLAIMER: The abbreviated outlines of coverages used throughout this proposal are not intended to express any legal opinion as to the nature of coverage. They are only visuals to a basic understanding of coverages. Please read your policy for specific details of coverages. If there is any conflict between the coverage statements within this proposal and the actual insurance policy, the policy provisions will prevail.

Any reference to "broker" should be disregarded as West Virginia is an agency state and AssuredPartners of WV is an independent insurance agency.

About Your Carrier(s)

Financial Strength

Independent Financial Ratings

Carrier	A.M. Best Rating	As Of:
WVcorp	A	05/30/23
Encova Insurance Company	A	05/30/23

'A' and 'A-' (Excellent)

Assigned to companies that have, in the opinion of A.M. Best, an excellent ability to meet their ongoing obligations to policyholders.

Premium Comparison

Insured: City of Elkins
Policy Term: 07/01/23 - 07/01/24
Carrier: WVcorp

Coverage	Expiring Premium	Renewal Premium
Commercial Package		
Property	\$172,175.00	\$164,339.00
Business Income	Included	Included
Inland Marine	Included	Included
Commercial Crime	Included	Included
Equipment Breakdown	Included	Included
General Liability	Included	Included
Law Enforcement Liability	Included	Included
Public Officials E & O Liability	\$16,723.00	\$16,364.00
Employment Practices Liability	Included	Included
Business Auto	Included	Included
Excess Liability	\$13,035.00	\$18,525.00
Cyber Liability	Included	Included
West Virginia Surcharge	\$1,101.36	Included
Risk Management Fee	\$250.00	N/A
TOTAL	\$203,284.36	\$199,228.00

Premium Comparison

WORKERS' COMPENSATION

Insured: City of Elkins
Policy Term: 07/01/23 – 07/01/24
Carrier: Encova Insurance Company

Coverage	Expiring Premium	Renewal Premium
Workers' Compensation	\$70,366.00	\$77,269.00
TOTAL	\$70,366.00	\$77,269.00

Note: Premiums shown include all Taxes and Surcharges.

Total Premium Comparison

PACKAGE / WORKERS' COMPENSATION

Insured: City of Elkins
Policy Term: 07/01/19 – 07/01/20
Carriers: Atlantic Specialty Insurance Company

Coverage	Expiring Premium	Renewal Premium
Commercial Package	\$203,284.36	\$199,228.00
Workers' Compensation	\$70,366.00	\$77,629.00
TOTAL	\$273,650.36	\$276,857.00

Note: Premiums shown include all Taxes and Surcharges.

Premium Payment Summary

Total Annual Package Premium

\$199,228.00

PAYMENT OPTIONS

☐ Paid in Full

☐ Quarterly Pay Plan of 25% Down Payment with 3 installments of 25% each is available.

Total Annual Workers' Compensation Premium

\$77,629.00

PAYMENT OPTIONS

☐ Paid in Full

☐ Payment Terms _____

Minimum Earned Premium: Yes ☐ No ☐

Note:

Premium shown includes Annual Premium and .55% West Virginia Surcharge.

INSURED: City of Elkins
401 Davis Avenue
Elkins, WV 26241

INSURED SIGNATURE: _____

DATED: ____ / ____ / ____.

05/30/23

Marketing Summary

Company	Quoted / Declined	Notes
WVcorp (Rated 'A' by A.M. Best)	Quoted	See Proposal for Details.

A.M. Best Rating

A and A- (Excellent)

Proposal Information / Disclaimers

- All coverage quotes are for the July 1, 2023 effective date.
- This proposal is based upon the values and information you provided. Please review it for accuracy and adequacy. If you believe there is unprotected property, other operations, or any other exposure to loss not listed, please advise us so we can discuss the implications and possible alternatives to protect your financial interests.
- Higher limits of liability may be available. Please advise us of your interest in pursuing a quote for this additional coverage.
- **Important Notice:** Most insurance policies exclude losses due to flood and earthquake. **Flood is not covered under your policy, unless you have applied for and received Federal Flood Insurance.** Many people in West Virginia need the coverage. Please don't find out that you need it, when you have an uncovered claim. Ask your Sales Executive or Account Executive to talk to you about this coverage.
- This proposal is subject to an exclusion with respect to Asbestos Liability and Pollution Liability.
- Any losses as a result of any Computer Software, Hardware and Embedded Software Chips failure, malfunction or inability to recognize, distinguish or interpret the year 2000 and beyond are not covered under your insurance policies.
- **Important Notice:** A War, Military Action, or Terrorism Exclusion may be attached to your policies. Please refer to all of your policy terms and conditions for specifications.
- **Important Notice:** A Mold, Fungus, Yeast, Mildew, Microbe, or Bacteria Exclusion Endorsement may be attached to your policies. Please refer to all of your policy terms and conditions for specifications.
- We suggest all contracts be reviewed by an attorney prior to signing since the contract requirements may not match the insurance policy. AssuredPartners of WV would be happy to review any contract as it pertains solely to the insurance provisions but will not negotiate any contract provision since our role is an independent insurance agency, not a law firm.
- Please understand that no insurance has yet been procured. All coverage summaries are for proposal purposes only. Coverage is subject to the declarations, conditions, insuring agreements and exclusions of carrier policy forms. Please read your policy for specific details of coverages.
- AssuredPartners agencies are licensed as insurance producers by the various states where we are transacting insurance, which includes the sale, solicitation, and servicing of insurance business, as well as advising on the relative benefits of certain insurance policies and risk management programs. Our agencies typically receive compensation from insurers in the form of commissions paid as a percentage of the premiums due the applicable insurance companies. Commissions can vary by insurance company, by volume of business placed with that company or the profitability thereof, and other factors. In other cases and depending on various state laws and the capacity in which our agency is acting, our agencies may receive other forms of compensation from insurers, insurance intermediaries, premium finance companies, and other vendors; such as contingents, overrides, profit-sharing, premium finance fees, expense reimbursements, producer subsidies, award trips, meetings, and other incentives. We also earn interest on premiums we hold until it is time to pay the applicable insurance companies. Our overriding desire is to provide great customer service, having you, the customer, believe we have earned our compensation. We believe in full disclosure of our compensation. Accordingly, if you have any questions about the compensation we receive from your policies (including policies we propose to you), please just ask your account representative, who will gladly provide you a summary of our compensation arising from your policies (some estimation may be necessary, for example where contingents are involved). We thank you for the opportunity to service and appreciate your interest.
- Any reference to "broker" should be disregarded as West Virginia is an agency state and AssuredPartners of WV is an independent insurance agency.

Workers' Compensation Policy Outline

Coverage Detail

Description	Limits
Employers Liability: Each Accident*	\$500,000
Employers Liability: Disease – Policy Limit*	\$500,000
Employers Liability: Disease – Each Employee*	\$500,000
Broad Form (Mandolidis Coverage**)	Included
Federal Black Lung	Excluded
USL&H	Excluded
Foreign Coverage	Excluded
Deductible Plan	
Deductible	N/A
Collateral	N/A

*Increased Limits may be available upon request.

**** Employers Liability – Broad Form West Virginia Code § 23-4-2 (“Mandolidis Coverage”)**

In 1978 the West Virginia Supreme Court of Appeals issued its *Mandolidis vs. Elkins Industries, Inc.* decision. This case greatly expanded the opportunity for injured workers to sue their employers for damages in addition to benefits provided by the Workers' Compensation system. In 1983 the West Virginia Legislature, in House Bill 1201, redefined the situations in which an employee may sue his employer for additional benefits. There are two general situations where an employee may obtain more than normal Workers' Compensation benefits: (1) where the employer deliberately intends to cause injury or death to his employee; or (2) when the employer intentionally exposes an employee to an unsafe working condition that is a violation of state or federal safety requirements or industry safety standards and the employee's injury is caused by the unsafe working condition.

EXPIRING INFORMATION – TOTAL PAYROLL = \$3,721,391

State	Code	Description	Estimated Annual Payroll	Base Rate
Loc #:1		401 Davis Ave. • Elkins, WV 26241		
WV	9102	Park NOC	\$170,964	\$1.75
WV	9402	Street Cleaning & Drivers	\$286,862	\$2.86
WV	9403	Garbage, Ashes or Refuse Collection & Drivers	\$278,008	\$5.96
WV	9410	Municipal, Town, County or State Employee	\$52,981	\$2.03
WV	7520	Waterworks Operation & Drivers	\$427,783	\$1.93
WV	7580	Sewage Disposal Plant & Drivers	\$483,191	\$1.81
WV	7710	Firefighters & Drivers	\$496,742	\$2.05
WV	7711	Volunteer Firefighters & Drivers	\$13,000	\$7.73
WV	7720	Police Officers & Drivers	\$716,958	\$1.83
WV	8380	Automobile Service or Repair Center & Drivers	\$78,464	\$1.41
WV	8810	Clerical Office Employees	\$653,513	\$0.13
WV	9015	Buildings or Property Management	\$62,925	\$2.12
WV	6217	Excavation & Drivers	\$0	\$2.40
West Virginia				
EXPERIENCE MODIFICATION FACTOR			0.89	

RENEWAL INFORMATION – TOTAL PAYROLL = \$4,438,759

State	Code	Description	Estimated Annual Payroll	Base Rate
Loc #: 1		401 Davis Ave. • Elkins, WV 26241		
WV	9102	Park NOC	\$210,811	\$1.35
WV	9402	Street Cleaning & Drivers	\$318,846	\$2.00
WV	9403	Garbage, Ashes or Refuse Collection & Drivers	\$310,788	\$4.60
WV	9410	Municipal, Town, County or State Employee	\$80,748	\$1.59
WV	7520	Waterworks Operation & Drivers	\$798,287	\$1.50
WV	7580	Sewage Disposal Plant & Drivers	\$500,456	\$1.47
WV	7710	Firefighters & Drivers	\$575,230	\$1.58
WV	7711	Volunteer Firefighters & Drivers	\$12,000	\$6.41
WV	7720	Police Officers & Drivers	\$813,371	\$1.34
WV	8380	Automobile Service or Repair Center & Drivers	\$73,482	\$1.09
WV	8810	Clerical Office Employees	\$672,373	\$0.09
WV	9015	Buildings or Property Management	\$72,367	\$1.58
WV	6217	Excavation & Drivers	\$0	\$1.73
West Virginia				
EXPERIENCE MODIFICATION FACTOR			1.08	

Billing / Audit Information

Description	Selection
Billing Plan	11 Installments
Down Payment Percentage	15%
Audit Interval	Annually - At Expiration

Included / Excluded Individuals

Name	Included / Excluded
David Parker	Excluded
Marilynn Cuonzo	Excluded
Robert Chenoweth	Excluded
Christopher Lowther	Excluded
Randall Biller	Excluded
Linda Vest	Excluded
George Hinchman	Excluded
Judith Guye	Excluded
Clint Higgins	Excluded
Victor White	Excluded
Nanci Bross-Fregonara	Excluded
Carol Bush	Excluded
Chuck Preusch	Excluded
Mitchum Marstillier	Excluded
Shawn Bennett	Excluded

Please note that this quote is an indication of what is covered under Workers' Compensation Coverage. For details and full disclosure of coverage, please refer to your policy.

Workers' Compensation Definitions

Workers' Compensation Insurance

This coverage agreement obligates the insurer to pay all compensation and other benefits required of the insured by the workers' compensation law or occupational disease law of any state listed in the policy. The coverage applies to bodily injury by accident and by disease.

Coverage (A) shows no dollar limit for the benefits provided since any applicable limits would be those established within the law. Benefits under coverage (A) are paid to the employee without regard to fault.

Other States Insurance

This provides workers' compensation coverages if the insured expands operations into other states not declared at the time the policy is issued or renewed. If the insured elects this coverage and operations begin in a state listed under other states, the insurer provides the same coverage as if the state was declared in the policy at the time of policy issuance.

Voluntary Compensation Endorsement

Workers' compensation laws of most states exempt some types of employment from workers' compensation benefits. This endorsement amends the standard policy to provide coverage for employees with exempted occupations from the workers' compensation act. When the endorsement is added it does not make employees subject to the workers' compensation law, but it obligates the insurance company to pay on behalf of the insured, an amount equal to the compensation benefits that would be payable to those employees if they were subject to the workers' compensation law of that state.

United States Longshore & Harbor Workers' Endorsement (USL&HW)

This is a federal act which is similar to the state workers' compensation act. The federal act was designed to provide workers' compensation benefits to employees who work in maritime employment upon the navigable waters of the United States and who are usually considered outside the scope of state workers' compensation laws. When the USL&HWA endorsement is added to the standard policy it applies to work done in the states scheduled on the policy and extends the definition of the workers' compensation law to include the USL&HWCA.

Executive Officers, Partners Exclusion Endorsement

In some states, workers' compensation law allows an insured to include or exclude Executive Officers and Partners, or both, from coverage. Adding this endorsement can designate the individuals not covered under the policy.

Experience Modification

This is a factor that deals with the rating of the policy. The Experience Modification figure is based on the insured's loss experience. The factor is used to increase or decrease the manual rates of insurance.

Monopolistic States

There are four states that require all workers' compensation insurance to be placed with their state fund. No private insurer is allowed to write Workers' Compensation Coverage in the four states. The states are North Dakota, Ohio, Washington, and Wyoming.



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 15, 2023
Section:	New business
Category:	Resolution
Agenda Item Name:	Resolution 1671: Accepting bid and authorizing agreement to purchase a sanitation truck
Recommended By:	Mike Kesecker
Summary:	See memo attached and summary of monies available in the Sanitation Fund.
Fiscal Impact:	\$220,294.
Recommendation:	Accept bid and approve purchase.
Attachments:	1. Sanitation truck purchase memo - 2023_06_09 2. R-1671 Accepting Bid and Authorizing agreement for sanitation truck 3. R-1671 exhibit - sanitation truck bid record and winning bid from Newlons 4. Sanitation Account

Memo

To: Elkins City Council

From: Mike Kesecker, Operations Manager

Date: 06/08/2023

Re: Sanitation truck purchase

With this memo, I am requesting council approval to purchase a new sanitation truck chassis and packer in the amount of \$220,294 from Newlons International Sales.

In accordance with Elkins City Code § 30.20:

- This contract was selected as a result of the stipulated competitive bidding process
- The selected vendor was the lowest qualified bidder
- The selected vendor is not resident in the City of Elkins but no qualified bid was received from a resident vendor

##

IN THE COMMON COUNCIL OF THE CITY OF ELKINS, WV

A RESOLUTION OF COMMON COUNCIL

(#1671)
June 15, 2023

Accepting Bid and Authorizing Execution of Agreement for purchase of a Sanitation Truck

WHEREAS, The City of Elkins, West Virginia (“City”) has previously determined to purchase a new sanitation truck; and,

WHEREAS, the City has advertised for and received bids from companies qualified to and interested in providing such equipment (see attached bid record sheet); and,

WHEREAS, the Operations Manager recommends acceptance of the bid from Newlons International Sales; and;

WHEREAS, it appears that purchasing this equipment is in the best interest of the citizens of the City of Elkins;

NOW, THEREFORE, BE IT RESOLVED, THAT:

The Elkins Common Council hereby accepts the bid for a new sanitation truck chassis and packer in the amount of \$220,294 from Newlons International Sales as shown on the attached bid record sheet and authorizes execution of the agreement under the terms of the bid.

Jerry A. Marco, Mayor

Attest:

Sutton Stokes, City Clerk

BID RECORD SHEETProject: Garbage Truck Proposal 2022Date: November 7, 2022 12:00PMLocation: City Hall Operations Office

<u>Bidder</u>	<u>Base Bid Amount</u>	<u>Bid Alternate # 1</u>
<u>Newlons Truck chassis</u>	<u>\$ 111,000</u>	<u>\$</u>
<u>total Equipment Solutions</u>	<u>\$ 109,294</u>	<u>\$</u>
<u>(Packer only)</u>	<u>\$</u>	<u>\$</u>
<u>Newlons truck chassis</u>	<u>\$ 110,650.00</u>	<u>\$</u>
<u>West Virginia tractor Co.</u>	<u>\$ 99,900.00</u>	<u>\$</u>
<u>(Packer only)</u>	<u>\$</u>	<u>\$</u>
<u>Newlons truck chassis</u>	<u>\$ 110,650.00</u>	<u>\$</u>
<u>total Equipment Solutions</u>	<u>\$ 108,313.00</u>	<u>\$</u>
<u>(Packer only)</u>	<u>\$</u>	<u>\$</u>
	<u>\$</u>	<u>\$</u>

Recorded this 7 day of November, 2022By Shanna Poe of City of Elkins

Prepared For:
CITY OF ELKINS
MAYOR CITY COUNCIL
401 Davis Ave.
Elkins, WV 26241-3899
(304)636 - 1844
Reference ID: N/A

Presented By:
NEWLONS INTL SALES LLC
Beau Newlon
RT 250 S BEVERLY PIKE
PO BOX 134
ELKINS WV 26241 -
(304)636-4561

Thank you for the opportunity to provide you with the following quotation on a new International truck. I am sure the following detailed specification will meet your operational requirements, and I look forward to serving your business needs.

Model Profile
2024 HV607 SBA (HV607)

AXLE CONFIG:	6X4
APPLICATION:	Rear Loader
MISSION:	Requested GVWR: 62000. Calc. GVWR: 62000. Calc. GCWR: 80000 Calc. Start / Grade Ability: 17.89% / 1.75% @ 55 MPH Calc. Geared Speed: 76.9 MPH
DIMENSION:	Wheelbase: 224.00, CA: 156.90, Axle to Frame: 75.00
ENGINE, DIESEL:	{Cummins L9 350} EPA 2021, 350HP @ 2200 RPM, 1050 lb-ft Torque @ 1200 RPM, 2200 RPM Governed Speed, 350 Peak HP (Max)
TRANSMISSION, AUTOMATIC:	{Allison 3000 RDS} 6th Generation Controls, Close Ratio, 6-Speed with Double Overdrive, with PTO Provision, Less Retarder, Includes Oil Level Sensor, with 62,000-lb GVW Max, Refuse/Mixer Omit Item (Clutch & Control)
CLUTCH:	{Meritor MFS-18-133A} Wide Track, I-Beam Type, 18,000-lb Capacity
AXLE, FRONT NON-DRIVING:	{Meritor RT-46-160} Single Reduction, 46,000-lb Capacity, Driver Controlled Locking Differential in Forward-Rear and Rear-Rear Axle, 200 Wheel Ends Gear Ratio: 5.38
AXLE, REAR, TANDEM:	Conventional, Day Cab
CAB:	(2) 385/65R22.5 Load Range L HAC 3 (CONTINENTAL), 479 rev/mile, 68 MPH, All-Position
TIRE, FRONT:	(8) 11R22.5 Load Range H HDR2+ (CONTINENTAL), 491 rev/mile, 75 MPH, Drive
TIRE, REAR:	{Hendrickson PRIMAX EX} 46,000-lb Capacity, 56" Axle Spacing, 9.0" Ride Height, with Shock Absorbers
SUSPENSION, REAR, AIR, TANDEM:	Full Outer C-Channel, Heat Treated Alloy Steel (120,000 PSI Yield), 10.813" x 3.892" x 0.312" (274.6mm x 98.8mm x 7.9mm), 480.0" (12192mm) OAL
FRAME REINFORCEMENT:	Cab schematic 100WL Location 1: 9219, Winter White (Std)
PAINT:	Chassis schematic N/A

TAKE BRAKE

Description

Base Chassis, Model HV607 SBA with 224.00 Wheelbase, 156.90 CA, and 75.00 Axle to Frame.

AXLE CONFIGURATION

AXLE CONFIGURATION {Navistar} 6x4

Notes

: Pricing may change if axle configuration is changed.

ENGINE

ENGINE, DIESEL {Cummins L9 350} EPA 2021, 350HP @ 2200 RPM, 1050 lb-ft Torque @ 1200 RPM, 2200 RPM Governed Speed, 350 Peak HP (Max)

CARB EMISSION WARR COMPLIANCE Federal, Does Not Comply with CARB Emission Warranty

CARB IDLE COMPLIANCE Federal, Does Not Comply with California Clean Air Idle Regulations

EMISSION, CALENDAR YEAR {Cummins L9} EPA, OBD and GHG Certified for Calendar Year 2023

RADIATOR Aluminum, Cross Flow, Front to Back System, 1228 SqIn, with 1167 SqIn Charge Air Cooler, Includes In-Tank Oil Cooler

Includes

: DEAERATION SYSTEM with Surge Tank

: HOSE CLAMPS, RADIATOR HOSES Gates Shrink Band Type; Thermoplastic Coolant Hose Clamps

: RADIATOR HOSES Premium, Rubber

FAN DRIVE {Horton Drivemaster} Two-Speed Type, Direct Drive, with Residual Torque Device for Disengaged Fan Speed

Includes

: FAN Nylon

AIR CLEANER Dual Element

ANTI-FREEZE Red, Extended Life Coolant; To -40 Degrees F/ -40 Degrees C, Freeze Protection

BLOCK HEATER, ENGINE 120V/1000W, for Cummins ISB/B6.7/ISL/L9 Engines

Includes

: BLOCK HEATER SOCKET Receptacle Type; Mounted below Drivers Door

ENGINE CONTROL, REMOTE MOUNTED Provision for; Includes Wiring for Body Builder Installation of PTO Controls and Starter Lockout, with Ignition Switch Control, for Cummins B6.7 and L9 Engines

THROTTLE, HAND CONTROL Engine Speed Control for PTO; Electronic, Stationary Pre-Set, Two Speed Settings; Mounted on Steering Wheel

TRANSMISSION

TRANSMISSION, AUTOMATIC {Allison 3000 RDS} 6th Generation Controls, Close Ratio, 6-Speed with Double Overdrive, with PTO Provision, Less Retarder, Includes Oil Level Sensor, with 62,000-lb GVW Max, Refuse/Mixer

ALLISON SPARE INPUT/OUTPUT for Rugged Duty Series (RDS), Front Loaders, Rear Loaders, Recycling/Packer Trucks, Package Number 142

AUTOMATIC NEUTRAL Allison 3000 & 4000 Series Transmission Shifts to Neutral When Parking Brake is Engaged

NEUTRAL AT STOP Allison Transmission Shifts to Neutral When Service Brake is Depressed and Vehicle is at Stop; Remains in Neutral Until Service Brake is Released

PTO CONTROL, DASH MOUNTED For Customer Provided PTO; Includes Switch, Electric/Air Solenoid, Piping and Wiring

PTO LOCATION Dual, Customer Intends to Install PTO at Left and/or Right Side of Transmission

SHIFT CONTROL PARAMETERS {Allison} 3000 or 4000 Series Transmissions, Performance Programming

Description

TRANSMISSION OIL Synthetic; 29 thru 42 Pints

TRANSMISSION SHIFT CONTROL Column Mounted Stalk Shifter, Not for Use with Allison 1000 & 2000 Series Transmission

CLUTCH

CLUTCH Omit Item (Clutch & Control)

REAR AXLES, SUSPENSIONS

AXLE, REAR, TANDEM {Meritor RT-46-160} Single Reduction, 46,000-lb Capacity, Driver Controlled Locking Differential in Forward-Rear and Rear-Rear Axle, 200 Wheel Ends . Gear Ratio: 5.38

SUSPENSION, REAR, AIR, TANDEM {Hendrickson PRIMAAX EX} 46,000-lb Capacity, 56" Axle Spacing, 9.0" Ride Height, with Shock Absorbers

SUSPENSION AIR CONTROL VALVE Pressure Release Control In Cab

SUSPENSION LEVELING VALVE Dual Height; One Additional, for Air Ride Suspension

FRONT AXLES

AXLE, FRONT NON-DRIVING {Meritor MFS-18-133A} Wide Track, I-Beam Type, 18,000-lb Capacity

FRONT SUSPENSIONS

SUSPENSION, FRONT, SPRING Parabolic Taper Leaf, Shackle Type, 18,000-lb Capacity, with Shock Absorbers

SPRINGS, FRONT AUXILIARY Rubber

CABS, COWLS, BODIES

CAB Conventional, Day Cab

ACCESS, CAB Steel, Driver & Passenger Sides, Two Steps per Door, for use with Day Cab and Extended Cab

AIR CONDITIONER with Integral Heater and Defroster

CAB INTERIOR TRIM Classic, for Day Cab

Includes

: CONSOLE, OVERHEAD Molded Plastic with Dual Storage Pockets, Retainer Nets and CB Radio Pocket; Located Above Driver and Passenger

: DOME LIGHT, CAB Door Activated and Push On-Off at Light Lens, Timed Theater Dimming, Integral to Overhead Console, Center Mounted

: SUN VISOR (2) Padded Vinyl; 2 Moveable (Front-to-Side) Primary Visors, Driver Side with Toll Ticket Strap

CAB REAR SUSPENSION Air Bag Type

GAUGE CLUSTER Base Level; English with English Electronic Speedometer

Includes

: GAUGE CLUSTER DISPLAY: Base Level (3" Monochromatic Display), Premium Level (5" LCD Color Display); Odometer, Voltmeter, Diagnostic Messages, Gear Indicator, Trip Odometer, Total Engine Hours, Trip Hours, MPG, Distance to Empty/Refill for

: GAUGE CLUSTER Speedometer, Tachometer, Engine Coolant Temp, Fuel Gauge, DEF Gauge, Oil Pressure Gauge, Primary and Secondary Air Pressure

: WARNING SYSTEM Low Fuel, Low DEF, Low Oil Pressure, High Engine Coolant Temp, Low Battery Voltage (Visual and Audible), Low Air Pressure (Primary and Secondary)

GAUGE, AIR CLEANER RESTRICTION {Filter-Minder} with Black Bezel, Mounted in Instrument Panel

GAUGE, OIL TEMP, AUTO TRANS for Allison Transmission

Description

GAUGE, TEMPERATURE, AMBIENT Sensor Wiring with Display Unit Mounted in Cluster

GRAB HANDLE, EXTERIOR (2) Chrome, for Cab Entry, (1) Towel Bar Type, with Anti-Slip Rubber Inserts Mounted Left Side at B-Pillar, (1) Towel Bar Type Mounted Right Side on Vertical Exhaust

INSTRUMENT PANEL Flat Panel

IP CLUSTER DISPLAY On Board Diagnostics Display of Fault Codes in Gauge Cluster

MIRRORS (2) C-Loop, Power Adjust, Heated, LED Clearance Lights, Bright Heads and Arms, 7.5" x 14" Flat Glass, Includes 7.5" x 7" Convex Mirrors, for 102" Load Width

Notes

: Mirror Dimensions are Rounded to the Nearest 0.5"

MONITOR, TIRE PRESSURE Omit

SEAT, DRIVER {National 2000} Air Suspension, High Back with Integral Headrest, Vinyl, Isolator, 1 Chamber Lumbar, with 2 Position Front Cushion Adjust, -3 to +14 Degree Angle Back Adjust

SEAT, TWO-MAN PASSENGER {National} Fixed Back, Integrated Headrest in Both Occupant Positions, Vinyl, Less Under Seat Storage Compartment

WINDOW, POWER (2) and Power Door Locks, Left and Right Doors, Includes Express Down Feature

FRAMES

FRAME RAILS Heat Treated Alloy Steel (120,000 PSI Yield); 10.125" x 3.580" x 0.312" (257.2mm x 90.9mm x 8.0mm); 480.0" (12192) Maximum OAL

FRAME REINFORCEMENT Full Outer C-Channel, Heat Treated Alloy Steel (120,000 PSI Yield), 10.813" x 3.892" x 0.312" (274.6mm x 98.8mm x 7.9mm), 480.0" (12192mm) OAL

BUMPER, FRONT Swept Back, Steel, Heavy Duty

TOW HOOK, FRONT (2) Frame Mounted

WHEELBASE RANGE 221" (560cm) Through and Including 262" (665cm)

BRAKES

BRAKE SYSTEM, AIR Dual System for Straight Truck Applications

Includes

: BRAKE LINES Color and Size Coded Nylon

: DRAIN VALVE Twist-Type

: GAUGE, AIR PRESSURE (2) Air 1 and Air 2 Gauges; Located in Instrument Cluster

: PARKING BRAKE CONTROL Yellow Knob, Located on Instrument Panel

: PARKING BRAKE VALVE For Truck

: QUICK RELEASE VALVE On Rear Axle for Spring Brake Release: 1 for 4x2, 2 for 6x4

: SPRING BRAKE MODULATOR VALVE R-7 for 4x2, SR-7 with relay valve for 6x4/8x6

BRAKE, PARKING Manual Push-Pull Pneumatic Parking Brake

AIR BRAKE ABS {Bendix AntiLock Brake System} 4-Channel (4 Sensor/4 Modulator) Full Vehicle Wheel Control System

BRAKES, FRONT {Meritor 16.5X6 Q-PLUS CAST} Air S-Cam Type, Cast Spider, Fabricated Shoe, Double Anchor Pin, Size 16.5" X 6", 23,000-lb Capacity

BRAKE CHAMBERS, FRONT AXLE {Bendix} 24 Sqn

SLACK ADJUSTERS, FRONT {Gunite} Automatic

DUST SHIELDS, FRONT BRAKE for Air Cam Brakes

Description

BRAKES, REAR {Meritor 16.5X7 Q-PLUS CAST} Air S-Cam Type, Cast Spider, Fabricated Shoe, Double Anchor Pin, Size 16.5" X 7", 23,000-lb Capacity per Axle

BRAKE CHAMBERS, REAR AXLE {Bendix EverSure} 30/30 Sqn Spring Brake

SLACK ADJUSTERS, REAR {Gunitex} Automatic

PARK BRAKE CHAMBERS, ADDITIONAL (2) Spring Brake Type

DUST SHIELDS, REAR BRAKE for Air Cam Brakes

AIR COMPRESSOR {Cummins} 18.7 CFM

AIR DRYER {Bendix AD-9} with Heater

AIR DRYER LOCATION Mounted Inside Left Rail, Back of Cab

AIR TANK LOCATION (2) Mounted Under Battery Box, Outside Right Rail, Back of Cab, Perpendicular to Rail

DRAIN VALVE (3) Petcocks, for Air Tanks

STEERING

STEERING GEAR (2) {Sheppard M100/M80} Dual Power

STEERING COLUMN Tilting

STEERING WHEEL 4-Spoke; 18" Dia., Black

DRIVELINES

DRIVELINE SYSTEM {Dana Spicer} 1710 Main Driveline with 1710 Interaxle Shaft, for 6x4

EXHAUST SYSTEMS

EXHAUST SYSTEM Horizontal Aftertreatment System, Frame Mounted Right Side Under Cab, for Single Vertical Tail Pipe, Frame Mounted Right Side Back of Cab

AFTERTREATMENT COVER Steel, Black

ENGINE COMPRESSION BRAKE {Jacobs} for Cummins ISL/L9 Engines; with Selector Switch and On/Off Switch

EXHAUST HEIGHT 8' 10"

MUFFLER/TAIL PIPE GUARD (1) Aluminum

TAIL PIPE (1) Turnback Type

ELECTRICAL SYSTEMS

ELECTRICAL SYSTEM 12-Volt, Standard Equipment

Includes

- : DATA LINK CONNECTOR For Vehicle Programming and Diagnostics In Cab
- : HAZARD SWITCH Push On/Push Off, Located on Instrument Panel to Right of Steering Wheel
- : HEADLIGHT DIMMER SWITCH Integral with Turn Signal Lever
- : PARKING LIGHT Integral with Front Turn Signal and Rear Tail Light
- : STARTER SWITCH Electric, Key Operated
- : STOP, TURN, TAIL & B/U LIGHTS Dual, Rear, Combination with Reflector
- : TURN SIGNAL SWITCH Self-Cancelling for Trucks, Manual Cancelling for Tractors, with Lane Change Feature
- : WINDSHIELD WIPER SWITCH 2-Speed with Wash and Intermittent Feature (5 Pre-Set Delays), Integral with Turn Signal Lever
- : WINDSHIELD WIPERS Single Motor, Electric, Cowl Mounted
- : WIRING, CHASSIS Color Coded and Continuously Numbered

Description

ALARM, PARKING BRAKE Electric Horn Sounds in Repetitive Manner When Vehicle Park Brake is "NOT" Set, with Ignition "OFF" and any Door Opened

ALTERNATOR {Leece-Neville AVI160P2013} Brush Type, 12 Volt, 160 Amp Capacity, Pad Mount, with Remote Sense

ANTENNA Shark Fin, Roof Mounted

BATTERY BOX Steel, with Plastic Cover, 18" Wide, 2-4 Battery Capacity, Mounted Right Side Back of Cab

BATTERY SYSTEM {Fleetrite} Maintenance-Free, (2) 12-Volt 1900CCA Total, Top Threaded Stud

BODY BUILDER WIRING Back of Day Cab at Left Frame or Under Sleeper, Extended or Crew Cab at Left Frame; Includes Sealed Connectors for Tail/Amber Turn/Marker/ Backup/Accessory Power/Ground and Sealed Connector for Stop/Turn

CIRCUIT BREAKERS Manual-Reset (Main Panel) SAE Type III with Trip Indicators, Replaces All Fuses

CIGAR LIGHTER Includes Ash Cup

CLEARANCE/MARKER LIGHTS (5) {Truck Lite} Amber LED Lights, Flush Mounted on Cab or Sunshade

FOG LIGHTS Prewire; Includes Auxiliary Switch and Wiring to Front Bumper, for Driving Lights or Fog Lights Mounted by Customer

HEADLIGHTS Halogen

HORN, AIR Single Trumpet, Black, with Lanyard Pull Cord

HORN, ELECTRIC Disc Style

INDICATOR, LOW COOLANT LEVEL with Audible Alarm

POWER SOURCE Cigar Type Receptacle without Plug and Cord

RADIO AM/FM/WB/Clock/USB Input/Auxiliary Input

SPEAKERS (2) 6.5" Dual Cone Mounted in Doors

STARTING MOTOR {Mitsubishi Electric Automotive America 105P} 12-Volt, with Soft-Start

TURN SIGNALS, FRONT Includes LED Side Turn Lights Mounted on Fender

FRONT END

FRONT END Tilting, Fiberglass, with Three Piece Construction, for WorkStar/HV

BUG SCREEN Mounted Behind Grille

FENDER EXTENSIONS Rubber

GRILLE Stationary, Chrome

LOGOS EXTERIOR Model Badges

LOGOS EXTERIOR, ENGINE Badges

SPEEDOMETER, TOOLS, MISC

COMMUNICATIONS MODULE Telematics Device with Over the Air Programming; Includes Five Year Data Plan and International 360

DUAL DRIVE Customer Does Not Intend to Convert to In-Cab Dual Drive Positions

PAINT SCHEMATIC, PT-1 Single Color, Design 100

Includes

: PAINT SCHEMATIC ID LETTERS "WL"

PAINT TYPE Base Coat/Clear Coat, 1-2 Tone

Description
FUEL TANKS

FUEL TANK Top Draw, Non-Polished Aluminum, 26" Dia, 70 US Gal (265L), Mounted Left Side, Under Cab

DEF TANK 9.5 US Gal (36L) Capacity, Frame Mounted Outside Left Rail, Under Cab

FUEL/WATER SEPARATOR {Racor 400 Series} with Primer Pump, Includes Water-in-Fuel Sensor, Mounted on Engine

WHEELS, TIRES - FRONT

WHEELS, FRONT DISC; 22.5x12.25 Rims, Non-Polished Aluminum, 10-Stud, 285.75mm BC, Hub-Piloted, Flanged Nut, with Steel Hubs

(2) TIRE, FRONT 385/65R22.5 Load Range L HAC 3 (CONTINENTAL), 479 rev/mile, 68 MPH, All-Position

WHEELS, TIRES - REAR

WHEELS, REAR {Accuride 43644} DUAL DISC; 22.5x8.25 Rims, Standard Polish Aluminum, 10-Stud, 285.75mm BC, Hub-Piloted, Flanged Nut, with Steel Hubs

(8) TIRE, REAR 11R22.5 Load Range H HDR2+ (CONTINENTAL), 491 rev/mile, 75 MPH, Drive

WHEELS MISC OPTIONS

TIRE VALVE CAP Flo-Thru Design

Services Section:**WARRANTY**

WARRANTY Standard for HV507, HV50B, HV607 Models, Effective with Vehicles Built July 1, 2017 or Later, CTS-2025A

Body/Allied EquipmentDescription

LED STROBE LIGHTS IN GRILLE

Goods PurchasedDescription

<u>Description</u>	(US DOLLAR)	<u>Price</u>
Factory List Prices:		
Product Items	\$174,391.00	
Service Items	\$0.00	
Total Factory List Price Including Options:		\$174,391.00
Freight	\$6,350.00	
Total Freight:		\$6,350.00
Total Factory List Price Including Freight:		\$180,741.00
Less Customer Allowance:		(\$70,091.00)
Total Vehicle Price:		\$110,650.00
Total Body/Allied Equipment:		\$350.00
Total Sale Price:		\$111,000.00
Total Per Vehicle Sales Price:		\$111,000.00
Net Sales Price:		\$111,000.00

Please feel free to contact me regarding these specifications should your interests or needs change. I am confident you will be pleased with the quality and service of an International vehicle.

Approved by Seller:

Accepted by Purchaser:

Official Title and Date

Firm or Business Name

Authorized Signature

Authorized Signature and Date

This proposal is not binding upon the seller without
Seller's Authorized Signature

Official Title and Date

The TOPS FET calculation is an estimate for reference purposes only. The seller or retailer is responsible for calculating and reporting/paying appropriate FET to the IRS.

The limited warranties applicable to the vehicles described herein are Navistar, Inc.'s standard printed warranties which are incorporated herein by reference and to which you have been provided a copy and hereby agree to their terms and conditions.

** TRUCK CHASSIS BUILD MARCH-MAY TIMEFRAME*

TOTAL EQUIPMENT SOLUTIONS

13181 STATE ROUTE 45
LISBON, OH 44432
(330) 424-0367

511 HARKER AVENUE
NEWELL WV 26050
(304) 387-9400



11/7/2022

TO:
CITY OF ELKINS
TIM HARPER
401 DAVIS AVENUE
ELKINS, WV 26241

Body & Model

Brand: EZ-Pack

Model: G-400 25 Yard Heavy Duty Rear Loader

**Options & Upgrades**

4 Cubic Yard Hopper
Side Door with Interlock
14,000lb Reeving Cylinder with Guides and Latches
Kickbar for 1-3Yard Containers
Dual Work Lights on Rear of Truck
Dual Hopper Work Lights
Peterson Strobe Light System(Upper & Lower Tailgate panels)Qty 4 Lights
Two Flush Mounted Oval Strobes(Front Top Corners of Body)
Shut Off Valve for Hydraulic Tank Along with Sight Glass
Mudflaps Ahead of Tandems
Zone Defense Backup Camera System(Audio and Night Vision) Included
Automatic Throttle Advance
Dual Driver Signaling Buzzers on Tailgate
Bolt On Rear Riding Steps
Minimizer Fenders Over Tandems
LED Lights
Container Stop with Rubber Bumpers
Side Door Steps with Grab Handle
5lb Fire Extinguisher
Painted to Match the City of Elkins Garbage Trucks
Unit Lettered to the City of Elkins Specifications
Delivery to Elkins WV with Driver Training: One year Warranty

220,294

TOTAL SALE PRICE INCLUDING FREIGHT

\$109,294.00

Delivery(45 to 60 Days after Receipt of Chassis)

Our offer Includes Onsite Warranty Repair and/or Free Transportation

Authorization to Order:

By signing below, I authorize Total Equipment Solutions to order on my behalf the above quoted equipment.

City of Elkins / Title

PO

DATE

Total Equipment Solutions Rep/ Title

DATE

POOLED CASH REPORT (FUND 998)

AS OF: MAY 31ST, 2023

FUND ACCOUNT#	ACCOUNT NAME	BEGINNING BALANCE	CURRENT ACTIVITY	CURRENT BALANCE	(PROTECTED)
<u>CLAIM ON CASH</u>					
001-000-101-0098	Cash in Bank	1,791,252.87 (	177,428.43)	1,613,824.44	P
002-000-101-0098	Cash in Bank	148,693.65	0.00	148,693.65	P
006-000-101-0098	Cash in Bank	1,009,804.80 (	13,326.27)	996,478.53	P
036-000-101-0098	Cash In Bank	518,412.56 (	26,993.21)	491,419.35	
400-000-101-0098	Cash in Bank	108,965.26	5,642.13	114,607.39	P
401-000-101-0098	Cash in Bank	259,940.85 (	70,037.94)	189,902.91	P
404-000-101-0098	Cash in Bank	1,222,642.56	47,086.48	1,269,729.04	P
684-000-101-0098	Cash in Bank	123,234.63	13.94	123,248.57	P
TOTAL CLAIM ON CASH		5,182,947.18 (	235,043.30)	4,947,903.88	

CASH IN BANK - POOLED CASH

998-000-101-0098	Pooled Cash in Bank	5,182,657.98 (	235,043.30)	4,947,614.68	
SUBTOTAL CASH IN BANK - POOLED CASH		5,182,657.98 (	235,043.30)	4,947,614.68	

PCARD PAYABLE

998-000-022-0001	Purchasing Card Liability	(289.20)	0.00 (	289.20)	
SUBTOTAL PCARD PAYABLE		(289.20)	0.00 (	289.20)	

TOTAL CASH IN BANK - POOLED CASH		5,182,947.18 (	235,043.30)	4,947,903.88	
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DUE TO OTHER FUNDS - POOLED CASH

998-000-215-0001	Due to Other Funds - Pool	5,182,947.18 (	235,043.30)	4,947,903.88	
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TOTAL DUE TO OTHER FUNDS		5,182,947.18 (	235,043.30)	4,947,903.88	
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New garbage truck - \$220,294
 "Pay total from Sanitation Fund"
 No Lease



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 15, 2023
Section:	New business
Category:	Resolution
Agenda Item Name:	Resolution 1672: Resolution of support for EPRC grant application to DOH RTP program to construct tot track and pump track in Glendale Park
Recommended By:	
Summary:	On May 17, the EPRC, by unanimous vote, agreed to the use of land and to be the sponsor agency for a DOH RTP grant for the design and build of a tot track and pump track at Glendale Park. EAST is doing all the leg work now for the submission of the grant which is due June 16. The grant application asks for a resolution of support for the project from city council.
Fiscal Impact:	
Recommendation:	
Attachments:	1. R-1672 EPRC pump and tot track grant

IN THE COMMON COUNCIL OF THE CITY OF ELKINS, WV

A RESOLUTION OF COMMON COUNCIL

(#1672)
June 15, 2023

***Announcing Support for the Elkins Parks and Recreation Commission's
Glendale Park Bike Skills Area Project***

WHEREAS, the City of Elkins, West Virginia ("City") has, per Resolution #1154, adopted the 2018 – 2023 Strategic Plan, including milestones and deadlines to serve as a guide in decision-making and resource assignment for the City; and,

WHEREAS, Strategic Focus Area #1, Section B, directs the investigation of opportunities to improve and/or expand greenspace in the City; and,

WHEREAS, the West Virginia Department of Transportation ("WVDOT") has made available funding to assist in the enhancement of recreational trail programs; and,

WHEREAS, the Elkins Parks and Recreation Commission ("EPRC") in partnership with Elkins Area Shared Trails ("EAST") is submitting a proposal for design and construction of a bike skills area, including a tot track, pump track and skills development trail in Glendale Park; and,

WHEREAS, funding may be available for this project from WVDOT through a grant program providing reimbursement of 80 percent of actual project expenditures, not to exceed \$300,000; and,

WHEREAS, EPRC has committed to fund any non-reimbursed project costs; and,

WHEREAS, upon the recommendation of the EPRC, the Common Council believes it is in the best interest of the citizens of Elkins to express support for EPRC's application for this WVDOT grant;

NOW, THEREFORE, BE IT RESOLVED THAT:

The Common Council hereby endorses and supports the Elkins Parks and Recreation Commission's application for West Virginia Department of Transportation funds for the design and construction of a bike skills area, including a tot track, pump track and skills development trail, in Glendale Park, and hereby authorizes Mayor Jerry A. Marco, or his designee, to enter into a contractual agreement with the WVDOF to receive and administer grant funds pursuant to provisions of the grant.

Jerry A. Marco, Mayor

Attest: Sutton Stokes, City Clerk



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 15, 2023
Section:	New business
Category:	Resolution
Agenda Item Name:	Resolution 1673: Reauthorizing Conditions of Contract between Mitchell Tree Care, LLC and Landscape Consulting, LLC and the City of Elkins , and Authorizing Execution of Contract
Recommended By:	
Summary:	
Fiscal Impact:	
Recommendation:	
Attachments:	1. R-1673 reauthorizing Contract between Mitchell Trees and COE 2. ARBORIST SERVICE CONTRACT 2023(Mitchell Tree Care)

IN THE COMMON COUNCIL OF THE CITY OF ELKINS, WV

A RESOLUTION OF COMMON COUNCIL

(#1673)
June 15, 2023

Reauthorizing Conditions of Contract between Mitchell Tree Care and Landscape Consulting and the City of Elkins, and Authorizing Execution of Contract

WHEREAS, the City of Elkins, West Virginia (“City”) has, per Resolution #1154, adopted the 2018 – 2023 Strategic Plan, including milestones and deadlines to serve as a guide in decision-making and resource assignment for the City; and,

WHEREAS, Strategic Focus Area #1, Section B, identifies public landscaping and education as a goal; and,

WHEREAS, the City, per Resolution 1326 adopted June 18, 2020, authorized, and executed a contract with Mitchell Tree Care, LLC and Landscape Consulting, LLC for the provision of such services to assist in this area; and,

WHEREAS, the City has renewed its contract with Mitchell Tree Care, LLC and Landscape Consulting, LLC from time to time; and,

WHEREAS, the City has now received a proposed renewal of contract with Mitchell Tree Care, LLC and Landscape Consulting, LLC (copy attached and included with record) to continue such services for Fiscal Year 2024; and,

WHEREAS, it appears that contracting for these goods and services is in the best interests of the citizens of the City of Elkins;

NOW, THEREFORE, BE IT RESOLVED, THAT:

The Elkins Common Council hereby accepts the terms of and reauthorizes execution of this Contract with Mitchell Tree Care, LLC and Landscape Consulting, LLC, by the Mayor on behalf of the City of Elkins.

Jerry A. Marco, Mayor

Attest:

Sutton Stokes, City Clerk

ARBORIST SERVICE CONTRACT

This Contract is made this 1st day of July 2023, by and between CITY OF ELKINS, WEST VIRGINIA (hereinafter “City”), and MITCHELL TREE CARE, LLC and LANDSCAPE CONSULTING, LLC (hereinafter “Contractor”).

Recitals

A. Contractor is engaged in the tree care business and maintains an office in Maidsville, in the County of Monongalia, State of West Virginia.

B. Contractor is willing to provide a service to City and City is willing to accept this service, on the terms, covenants, and conditions set forth in this Contract.

In consideration of the mutual covenants and promises of the parties, City and Contractor covenant and agree as follows:

Section I.

Nature of and Place of Work

Contractor shall provide tree care service for the City and Contractor does accept this obligation as set forth below:

1. Contractor shall provide consultation services on the proper care and maintenance of trees within the City. Contractor shall also respond, on a case-by-case basis, determined by the City or the Elkins Tree Board, to concerns involving trees located on private property or in the public rights-of-way within City limits. Depending on the situation, City or the Contractor may utilize digital images to communicate with City or the Elkins Tree Board rather than an on-site analysis. Contractor would then decide if an on-site inspection is necessary to determine a tree’s structural stability or make other determinations about the tree(s) in question. Based on Contractor’s judgment of a tree’s structural stability and/or risk of failure, the Contractor may make recommendations to said party for proper care or removal. All recommended work would be contracted for separately with a contractor of choice.

2. Contractor shall maintain and document with a certificate of insurance the required levels of insurance coverage at all times during the term of this Contract. Contractor is required to carry a \$1,000,000 general liability policy with the City being listed as additional insured on all policies. Contractor shall also provide proof of Workers Compensation insurance as required by law.
3. Contractor shall be a certified arborist or employ a certified arborist.
4. Contractor shall observe all policies, procedures, rules and regulations of the City.
5. At all times while performing services under this Contract, Contractor's employees shall wear appropriate clothing. Contractor's employees shall utilize all appropriate safety equipment and conform to the Occupation Safety and Health Administration (OSHA) standards for the products being used.
6. Contractor will be required to provide all necessary labor, supervision and equipment including fuel, to complete the necessary work described herein.
7. All work shall comply with all applicable state and federal safety and health requirements. When conflicts between applicable regulations occur, the most stringent regulation shall apply.

Section II.

Manner of Performance of Contractor's Duties

Contractor agrees that Contractor will at all times faithfully, industriously, and to the best of its ability, perform all of the duties that may be required of and from it pursuant to the express and implicit terms of this Contract to the reasonable satisfaction of City. The duties shall be rendered in the City of Elkins, West Virginia. Contractor shall indemnify, defend, and hold harmless City from and against all claims, causes of action, damages, or injuries of any sort arising out of or in connection with Contractor's performance of services hereunder.

Section III.
Duration of Contract

The term of this Contract shall be for a period of one year, commencing on the date of this Contract. The Contract may also be terminated upon mutual agreement of parties. At all times hereunder, Contractor shall be considered an independent contractor and not an employee of the City.

Section IV.
Payment and Reimbursement

City shall pay Contractor and Contractor agrees to accept from City, in full payment for Contractor's services under this Contract as a consultant, compensation at the rate of \$1,500.00 per year, which includes all machinery and crew for the year term . The Contractor shall submit an invoice, per quarter, for the portion of the yearly compensation for the consulting services under the Contract.

Section V.
Contract Terms to be Exclusive

This written Contract contains the sole and entire agreement between the parties and shall supersede any and all other agreements between the parties. The parties acknowledge and agree that neither of them has made any representation with respect to the subject matter of this Contract or any representation inducing the execution and delivery of this instrument except such representations as are specifically set forth and each of the parties acknowledges that they have relied on their own judgement in entering the same. The parties further acknowledge that any statements or representations that may have been made by either of them to the other are void and of no effect and that neither of them has relied on them in connection with their dealing with the other.

Section VI.
Waiver or Modification Ineffective
Unless in Writing

No waiver or modification of this Contract or of any covenant, condition, or limitation contained in this Contract shall be valid unless in writing and executed by the party to be charged with it, and that no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the parties arising out of or affecting this Contract,

or the rights or obligations of any party, unless such waiver or modification is in writing, duly executed as stated above, and the parties further agree that the provisions of this paragraph may not be waived except as set forth in this Contract.

Section VII.
Contract Governed by Law of
State of West Virginia

The parties agree that it is their intention that this Contract and its performance, and all suits and special proceedings pursuant to this Contract be construed in accordance with the laws of the State of West Virginia.

Mitchell Tree Care and Landscaping Consulting, LLC

By: _____
Member

Date: _____

City of Elkins

By: _____
Mayor

Date: _____



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 15, 2023
Section:	New business
Category:	Resolution
Agenda Item Name:	Resolution 1674: Reappointing J. Davis to the IPMC Board of Appeals
Recommended By:	
Summary:	
Fiscal Impact:	
Recommendation:	
Attachments:	1. R-1674 reappointment of J. Davis to IPMC Appeals Board

IN THE COMMON COUNCIL OF THE CITY OF ELKINS, WV

A RESOLUTION OF COMMON COUNCIL

(#1674)
June 15, 2023

***Reappointment of J. Davis to the
International Property Maintenance Code (IPMC) Board of Appeals***

WHEREAS, the Common Council of the City of Elkins (“Council”) has adopted the State Building Code which includes the International Property Maintenance Code (“IPMC”); and

WHEREAS, the IMPC requires the establishment and maintenance of a Board of Appeals whose members are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the City; and

WHEREAS, the Board of Appeals shall be appointed by Council and shall serve staggered and overlapping terms; and

WHEREAS, J. Davis has been a member of the Board of Appeals since July 21, 2016; and,

WHEREAS, council finds that it is in the best interest of the City of Elkins to reappoint Mr. Davis for a term of five (5) years;

NOW THEREFORE, BE IT RESOLVED, THAT:

The Elkins Common Council reappoints Jeri Pastine as a member of the Board of Appeals for a term expiring June 30, 2028.

Jerry A. Marco, Mayor

Attest:

Sutton Stokes, City Clerk



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 15, 2023
Section:	New business
Category:	Resolution
Agenda Item Name:	Proposed purchase of real property
Recommended By:	Mayor, Finance Committee
Summary:	The city has an opportunity to purchase a piece of real property. A price must be negotiated.
Fiscal Impact:	TBD
Recommendation:	Authorize the mayor to negotiate a price with the property owner.
Attachments:	None