

**City Of Martinsburg
Special City Council Meeting
Thursday, December 18, 2014
5:00 P.M.**

- 1. Call to Order**
- 2. Roll Call**
- 3. Presentations**
- 4. Petitions From Citizens**
- 5. Receive And File Reports—Minutes—Correspondence Of The Following:**
 - a. Martinsburg/Berkeley County Convention and Visitors Bureau October 22, 2014 Minutes and Financial Report
 - b. Berkeley County Animal Control June 2014 Incident Report
- 6. Reports Of Chairpersons Of Council Standing Committees**
- 7. Report Of Mayor**
- 8. Report Of City Attorney**
- 9. Report Of City Manager**
- 10. Unfinished Business**
 - a. Third and Final Reading of Ordinance 2014-20: *An Ordinance to Amend the Codified Ordinances of the City of Martinsburg and Enact Part Seventeen: Building and Housing Code, Article 1717, Sections 1717.01-1717.08, Relating to the Grant of Authority to City Code Enforcement Officials to Immediately Issue Citations for External Sanitation Violations and Common Nuisances*
 - b. Third and Final Reading of Ordinance 2014-21: *An Ordinance to Amend the Ordinances of the City of Martinsburg and Enact Part Seventeen: Building and Housing Code, Article 1716, Section 1716.01, Relating to the Authority to File Liens on Real Property for Cost Incurred in Abating Exterior Sanitation and Common Nuisance Violations*
 - c. Third and Final Reading of Ordinance 2014-22: *An Ordinance to Amend the Codified Ordinances of the City of Martinsburg and Enact Part One: Administrative Code, Chapter Three: Legislative, Article 114, Sections 114.01-114.04, Relating to the Disposition of City Property Without Auction*
 - d. Third and Final Reading of Ordinance 2014-23: *An Ordinance to Amend the Codified Ordinances of the City of Martinsburg and Enact Part One—Administrative Code, Chapter Three: Legislative, Article 115, Section 115.01, Relating to the Entry into Contracts with Other Jurisdictions by Resolution*
 - e. Third and Final Reading of Ordinance 2014-24: *An Ordinance to Amend the Codified Ordinances of the City of Martinsburg and Enact Part Seven: Business and Taxation Code,*

Chapter Three: Taxation and Service Charges, Article 768, Section 768.01, Relating to the Issuance of Liens for Delinquent City Fees

- f. *Third and Final Reading of Ordinance 2014-25: An Ordinance to Amend the Codified Ordinances of the City of Martinsburg to Enact Part Seven: Business and Taxation Code, Chapter Three: Taxation and Service Charges, Article 756: Municipal Sales Tax, Sections 756.01-756.15, Implementing a Municipal Sales Tax*
- g. *Third and Final Reading of Ordinance 2014-26: An Ordinance to Amend and Reenact the Codified Ordinances of the City of Martinsburg to Amend Part Seven: Business and Taxation Code, Chapter Three: Taxation and Service Charges, Article 755, Section 755.02 Reducing the Rate of Taxes Imposed Under Said Article*
- h. *Third and Final Reading of Ordinance 2014-27: An Ordinance to Reenact Part Fifteen of the Codified Ordinances of the City of Martinsburg by Amending and Reenacting Section 1501.04 Relating to the Inspection and Citation Powers of Municipal Deputy Fire Marshals*

11. New Business

- a. Approve/deny City of Martinsburg FY 2014 CDBG Recommended Street Repaving list
- b. Authorize Mayor to sign Title Transfer Letter between City of Martinsburg and Infilco Degremont, Inc. in the amount of \$1,714,852 relating to Contract #1 for the WWTP Upgrade Project—MBBR System

12. Executive Session

- a. Discuss pending legal matters with Counsel (if necessary)
- b. Discuss personnel matters (if necessary)
- c. Discuss real estate matters involving competitive bids (if necessary)

13. Adjournment



AGENDA
BOARD OF DIRECTORS' MEETING
Martinsburg Berkeley County Convention and Visitors Bureau
Thursday, December 4, 2014
10:00 am



- | | | |
|-------------|---|---------------|
| I | CALL TO ORDER
<ul style="list-style-type: none"> • Approval of Agenda | Larry Hines |
| II | APPROVAL OF PREVIOUS BOARD MINUTES | Larry Hines |
| III | FINANCIAL REPORTS
<ul style="list-style-type: none"> • Monthly Reports (Balance Sheet and P&L) | Laura Gassler |
| IV | REPORTS
<ul style="list-style-type: none"> • Community Events/Programs • Executive Directors Report • Executive Assistant Report | Laura Gassler |
| V | NEW BUSINESS
<ul style="list-style-type: none"> • As needed | Larry Hines |
| VI | OLD BUSINESS
<ul style="list-style-type: none"> • As needed | Various |
| VII. | ONGOING BUSINESS
<ul style="list-style-type: none"> • As needed | Laura Gassler |
| VIII | ADJOURNMENT | Larry Hines |

MARTINSBURG-BERKELEY COUNTY CONVENTION AND VISITOR'S BUREAU

Minutes from October 22, 2014 meeting

On October 22, 2014, the Board held a meeting at the Visitor's Center. Present were Larry Hines, Jared Adams, Bill Yearout, Bill Lucht, and Kristina Arntz. Larry Hines called the meeting to order.

Bill Yearout made a **motion** to approve the minutes from the previous meeting, Bill Lucht seconded, and the motion passed unanimously. Laura Gassler presented the monthly financial reports. Bill Lucht made a **motion** to approve the financial reports, Jared Adams seconded, and the motion passed unanimously.

Laura Gassler updated the board on the status of the CVB's involvement in community events and programs. Laura Gassler presented the Executive Director's Report. Laura Gassler updated the Board on the status of planning OddFest 2014, including a list of vendors and activities that are already scheduled for the event. There is still more work to do on planning the event, and the list of vendors and activities will get larger. The CVB hired two new employees to work on weekends at the Visitor's Center.

Laura Gassler updated the Board on the status of filming in Berkeley County. There are currently two film crews in Berkeley County, and this has led to a significant amount of hotel room revenue and other revenue to other businesses in Berkeley County. The CVB has worked with the State film office, and has received good feedback from the film crews, State film office, and the State tourism office.

The CVB has worked to promote and create activities for visitors, including scheduling ghost tours at the Visitor's Center, creating a Haunted Martinsburg brochure, and promoting holiday events in November and December. Laura Gassler updated the Board on the CVB's continued placement of advertisements. Laura Gassler updated the Board on the CVB's recent attendance at the Governor's Conference on tourism and the State MAPP grant meeting. Laura Gassler also updated the Board on speaking engagements which she has participated in around Berkeley County.

Mark Jordan presented the Executive Assistant's Report. Mark Jordan updated the Board on his activities in coordinating tours with outside groups, providing visitor's with information and marketing materials, planning for OddFest 2014, assisting the two welcome centers in Berkeley County, development of rack cards, developing ghost tours, assisting with the Valley Chef Showdown at the McFarland house, the development of a Berkeley County Civil War brochure, and other activities.

The Board reviewed a mini-grant request from Trails and Trees. Bill Yearout made a **motion** to award the grant in the amount of \$1,500, Kristina Arntz seconded, and the motion passed unanimously. Laura Gassler presented information from a vendor regarding an application for smart phones and tablets. The "app" would promote Berkeley County, and would allow visitor's to learn more about the different attractions and assets in Berkeley County. Bill Yearout made a **motion** to have Laura Gassler present more information to the Board regarding

Martinsburg-Berkeley County CVB Profit & Loss

October 2014

	Oct 14
Ordinary Income/Expense	
Income	
Hotel/motel occupancy taxes	
City-hotel occupancy tax	15,448.68
Total Hotel/motel occupancy taxes	15,448.68
Total Income	15,448.68
Gross Profit	15,448.68
Expense	
Docent Program	648.00
Event expenses	
Travel	
Mileage	62.72
Total Travel	62.72
Total Event expenses	62.72
Mini-Grant Disbursements	2,400.00
Advertising expense	
Magazine Ads	6,275.58
Regional newspapers	175.00
Printing	180.00
Miscellaneous	315.00
Total Advertising expense	6,945.58
Promotional items	
Gift shop	45.03
Total Promotional items	45.03
Operating expenses	
Electricity	6.11
Gas	41.34
Office supplies	17.97
Rent	500.00
Copier	252.27
Professional fees	2,500.00
Postage	782.52
Total Operating expenses	4,100.21
Seminars & travel	
Lodging	432.70
Mileage	210.00
Meals	139.01
Total Seminars & travel	781.71
Payroll	
Salaries and wages	12,045.00
FICA tax - employer	921.44
State unemployment tax expense	29.36
Total Payroll	12,995.80
Miscellaneous expenses	650.00
Total Expense	28,629.05
Net Ordinary Income	-13,180.37
Net Income	-13,180.37

14,294.57 August
 1,154.11 July

Martinsburg-Berkeley County CVB Profit & Loss

November 2014

Nov 14

Ordinary Income/Expense	
Income	
Hotel/motel occupancy taxes	42,352.41
County-hotel occupancy tax	28,186.02
City-hotel occupancy tax	28,186.02
Total Hotel/motel occupancy taxes	70,538.43
Membership dues	100.00
Total Income	70,638.43
Gross Profit	70,638.43
Expense	
Rack Card Grant	200.00
Community Sponsorships	500.00
Docent Program	360.00
Advertising expense	
Magazine Ads	750.00
Broadcast	
Radio	-2,250.00
Total Broadcast	-2,250.00
Printing	342.00
Total Advertising expense	-1,158.00
Promotional items	
Gift shop	419.57
Total Promotional items	419.57
Operating expenses	
Electricity	73.69
Copier	252.27
Total Operating expenses	325.96
Payroll	
Salaries and wages	7,835.50
FICA tax - employer	599.41
State unemployment tax expense	15.87
Total Payroll	8,450.78
Total Expense	9,098.31
Net Ordinary Income	61,540.12
Net Income	61,540.12

22502.17 Sept
 19850.24 Oct.
 12783.71 Sept
 15402.31 Oct.

Berkeley County Animal Control

Incident count/time Summary 06-01-2014 to 06-30

Run Date: 12-11-2014 09:22:57 by Donna McMahon
 No data limits were specified for this report

Group E
 Order By Reason(s)
 Page Number: 1 of 2

Reason	Count	Average Cycle Time - Logged to Assigned	Average Cycle Time - Logged to Arrival	Average Cycle Time - Logged to Completion	Average Cycle Time - Assigned to Complete
24 hour notice issued	6	59 S	23 M	30 M	29 M
Welfare Check	31	04 M	06 M	5 H 00 M	4 H 56 M
Animal Danted	1	01 M	Data Missing	01 M	04 S
Animal DOA	1	00 S	1 H 30 M	2 H 05 M	2 H 05 M
Citation issued	2	00 S	47 M	1 H 20 M	1 H 20 M
Court/Board hearing	1	00 S	1 H 30 M	2 H 05 M	2 H 05 M
Vicious	5	07 M	21 M	42 M	35 M
Animal GOA	8	04 M	06 M	14 M	10 M
Animal Seized	3	00 S	41 M	1 H 05 M	1 H 05 M
Animal picked up	11	51 S	09 M	17 M	17 M
Follow up	1	00 S	30 M	35 M	35 M
Report Filed	3	8 H 01 M	11 M	8 H 25 M	23 M
Running at large	30	02 M	08 M	16 M	14 M
Seizure notice issued	5	48 S	25 M	40 M	39 M
Assist BCSD	1	04 M	Data Missing	04 M	03 S
Sick Animal	1	00 S	20 M	25 M	25 M
Assist EMS	1	00 S	05 M	35 M	35 M
Assist MCPD	2	42 S	02 M	05 M	05 M
Investigation	3	28 S	05 M	17 M	16 M
Barking dog	2	58 S	1 H 10 M	1 H 13 M	1 H 12 M
Bite Case	4	6 H 01 M	01 M	6 H 10 M	08 M
Injured Animal	1	03 M	Data Missing	04 M	53 S
Warning issued	17	02 M	11 M	5 H 59 M	5 H 57 M

CITY

Berkeley County Animal Control

Record count on this entire report: 70

Run Date: 12-11-2014 09:21:09 by Donna McMahan

Case Intake Register 06-01-2014 to 06-30-2014

Group By Precinct

Order By Reason

Page Number: 1 of 3

Case ID	Intake Date	Reason and Transport	ACO	Owner at Intake	Animal	Incident
06-29-2014 1	06-29-2014	Other/Other			#6947/F/Cat/American Shorthair	13404
06-01-2014 2	06-01-2014	Running At Large/Aco Pickup	Scully, Mary		#6829/M/Dog/Miniature Pinscher	13161
06-01-2014 3	06-01-2014	Running At Large/Aco Pickup	Scully, Mary		#6830/F/Dog/Hound	13161
06-11-2014 1	06-11-2014	Running At Large/Citizen Turn-in			#6854/F/Dog/Hound	06-11-2014-1
06-13-2014 2	06-13-2014	Running At Large/Aco Pickup	Murphy, Theresa		#6860/F/Dog/Chihuahua	13261
06-15-2014 1	06-15-2014	Running At Large/Aco Pickup	Scully, Mary		#6868/M/Dog/Newfoundland	13277
06-18-2014 1	06-18-2014	Running At Large/Citizen Turn-in			#6874/M/Dog/Mixed Breed	
06-21-2014 1	06-21-2014	Running At Large/Aco Pickup	Scully, Mary	Warren Martin	#6904/M/Dog/Papillon	13329
06-21-2014 2	06-21-2014	Running At Large/Aco Pickup	Scully, Mary		#6905/F/Dog/Spitz	13328
06-24-2014 1	06-24-2014	Running At Large/Aco Pickup	Jones, Kevin T		#6918/M/Dog/Lebrador Retriever	13354
06-26-2014 1	06-26-2014	Running At Large/Aco Pickup	Newcome, Paul		#6924/F/Dog/Presa Canario	13369
06-26-2014 3	06-26-2014	Running At Large/Aco Pickup	Jones, Kevin T		#6931/F/Dog/American Pit Bull Terrier	13383
06-19-2014 11	06-19-2014	Running At Large/Aco Pickup	Newcome, Paul	Tyler Amick	#6892/F/Dog/Shiba Inu	13321
06-02-2014 1	06-02-2014	Safe-keeping/Aco Pickup	McMahan, Donna		#6831/M/Dog/Terrier	13163
06-22-2014 1	06-22-2014	Safe-keeping/Aco Pickup	Jones, Kevin T		#6908/U/Cat/Domestic Short Hair	13337
06-22-2014 2	06-22-2014	Safe-keeping/Aco Pickup	Jones, Kevin T		#6909/U/Cat/Domestic Short Hair	13337
06-22-2014 3	06-22-2014	Safe-keeping/Aco Pickup	Jones, Kevin T		#6910/U/Cat/Domestic Short Hair	13337
06-22-2014 4	06-22-2014	Safe-keeping/Aco Pickup	Jones, Kevin T		#6911/U/Cat/Domestic Short Hair	13337
06-30-2014 2	06-30-2014	Sick/injured/Aco Pickup	Scully, Mary		#6950/U/Cat/Tabby	13411
06-05-2014 1	06-05-2014	Victious/Owner Turn-in		Carly Renee Hall	#6838/M/Dog/American Pit Bull Terrier	13198
06-23-2014 3	06-23-2014	Victious/Owner Turn-in		Demetry Gaston Steel	#6915/M/Dog/American Pit Bull Terrier	13345
End of Group	Group count:	21				

Berkeley County Animal Control

Record count on this entire report: 70

Run Date: 12-11-2014 09:21:09 by Donna McMahan

Case Intake Register 06-01-2014 to 06-30-2014

Group By Precinct

Order By Reason

Page Number: 2 of 3

Case ID	Intake Date	Reason and Transport	ACO	Owner at Intake	Animal	Incident
06-19-2014 2	06-19-2014	Cruelty/Acc Pickup	Squires, Eric	Samantha Viola Cooper	#6880/U/Cat/American Shorthair	13310
06-25-2014 1	06-25-2014	Cruelty/Acc Pickup	Jones, Kevin T	Anthony Anderson	#5137/M/Dog/Mixed Breed	13365
06-25-2014 2	06-25-2014	Cruelty/Acc Pickup	Jones, Kevin T	Anthony Anderson	#6920/M/Dog/American Pit Bull Terrier	13365
06-19-2014 3	06-19-2014	Cruelty/Acc Pickup	McMahan, Donna	Samantha Viola Cooper	#6881/U/Cat/American Shorthair	13310
06-19-2014 4	06-19-2014	Cruelty/Acc Pickup	McMahan, Donna	Samantha Viola Cooper	#6882/U/Cat/American Shorthair	13310
06-19-2014 5	06-19-2014	Cruelty/Acc Pickup	McMahan, Donna	Samantha Viola Cooper	#6883/U/Cat/American Shorthair	13310
06-19-2014 6	06-19-2014	Cruelty/Acc Pickup	McMahan, Donna	Samantha Viola Cooper	#6884/U/Cat/American Shorthair	13310
06-27-2014 6	06-27-2014	Other/Other		Samantha Viola Cooper	#6884/U/Cat/American Shorthair	13310
06-26-2014 2	06-26-2014	Quarantine/Citizen Turn-in			#6941/M/Dog/Cocker Spaniel	
06-01-2014 1	06-01-2014	Running At Large/Acc Pickup	Carper, Tanya		#6929/U/Cat/American Shorthair	13378
06-06-2014 3	06-06-2014	Running At Large/Acc Pickup	Scully, Mary		#6828/M/Dog/American Pit Bull Terrier	13160
06-06-2014 4	06-06-2014	Running At Large/Acc Pickup	Scully, Mary		#6844/M/Dog/Mixed Breed	13214
06-08-2014 1	06-08-2014	Running At Large/Acc Pickup	Squires, Eric		#6845/F/Dog/Labrador Retriever	13215
06-10-2014 1	06-10-2014	Running At Large/Acc Pickup	Squires, Eric		#6847/M/Dog/Mixed Breed	13232
06-10-2014 2	06-10-2014	Running At Large/Acc Pickup			#6850/M/Dog/American Pit Bull Terrier	13242
06-11-2014 2	06-11-2014	Running At Large/Citizen-Holding		Mary Veazay	#6852/F/Dog/Chesapeake Bay Retriever	06-10-2014 2
06-14-2014 1	06-14-2014	Running At Large/Acc Pickup	Jones, Kevin T		#6855/M/Dog/Bernese Mountain Dog	13252
06-16-2014 1	06-16-2014	Running At Large/Acc Pickup	Carper, Tanya	Tammy Drake	#6867/F/Dog/Blue tick Coonhound	13275
06-16-2014 2	06-16-2014	Running At Large/Acc Pickup	Squires, Eric		#6870/M/Dog/Mixed Breed	13285
06-19-2014 1	06-05-2014	Running At Large/Acc Pickup	Carper, Tanya		#6872/M/Dog/Mixed Breed	13293
06-20-2014 10	06-20-2014	Running At Large/Acc Pickup	Carper, Tanya		#6875/F/Dog/Mixed Breed	11111
06-23-2014 2	06-23-2014	Running At Large/Acc Pickup	Scully, Mary		#6903/M/Dog/American Pit Bull Terrier	13326
06-26-2014 4	06-26-2014	Running At Large/Acc Pickup	Carper, Tanya		#6914/F/Dog/Mixed Breed	13346
06-26-2014 5	06-26-2014	Running At Large/Acc Pickup	Jones, Kevin T		#6932/M/Dog/American Pit Bull Terrier	13384
06-26-2014 6	06-26-2014	Running At Large/Acc Pickup	Newcome, Paul		#6933/F/Dog/American Pit Bull Terrier	13384
06-26-2014 7	06-26-2014	Running At Large/Acc Pickup	Newcome, Paul		#6934/F/Dog/American Pit Bull Terrier	13384
06-27-2014 1	06-27-2014	Running At Large/Acc Pickup	Jones, Kevin T		#6935/F/Dog/American Pit Bull Terrier	13384
06-27-2014 2	06-27-2014	Running At Large/Acc Pickup	McMahan, Donna		#6936/M/Dog/Beagle(Purebred)	13386
06-27-2014 3	06-27-2014	Running At Large/Acc Pickup	McMahan, Donna		#6937/M/Dog/Mixed Breed	13386
06-27-2014 4	06-27-2014	Running At Large/Acc Pickup	Murphy, Theresa		#6938/F/Dog/American Pit Bull Terrier	13388
06-27-2014 5	06-27-2014	Running At Large/Acc Pickup	Murphy, Theresa		#6939/M/Dog/Mixed Breed	13389
06-27-2014 7	06-23-2014	Running At Large/Acc Pickup	McMahan, Donna		#6940/M/Dog/Mixed Breed	13341
06-30-2014 1	06-27-2014	Running At Large/Acc Pickup	Carper, Tanya		#6942/M/Dog/Anatolian Shepherd	13390
06-30-2014 3	06-30-2014	Running At Large/Acc Pickup	Scully, Mary		#6949/F/Dog/American Pit Bull Terrier	13410
06-19-2014 9	06-30-2014	Running At Large/Acc Pickup	Scully, Mary		#6951/M/Dog/German Shepherd	13413
06-19-2014 10	06-19-2014	Running At Large/Acc Pickup	Jones, Kevin T		#6889/F/Dog/Labrador Retriever	13319
	06-19-2014	Running At Large/Acc Pickup	Jones, Kevin T		#6890/F/Dog/Labrador Retriever	13319

Berkeley County Animal Control

Record count on this entire report: 70

Run Date: 12-11-2014 09:21:09 by Donna McMahan

Case Intake Register 06-01-2014 to 06-30-2014

Group By Precinct

Order By Reason

Page Number: 3 of 3

Case ID	Intake Date	Reason and Transport	ACO	Owner at Intake	Animal	Incident
06-20-2014 4	06-20-2014	Running At Large/Aco Pickup	Murphy, Theresa	Aaron Wabber	#6897/M/Dog/American Pit Bull Terrier...	13323
06-12-2014 2	06-12-2014	Safe-keeping/Citizen Turn-in		Greg Daan	#6858/F/Dog/Husky/Purebred)	
06-20-2014 9	06-20-2014	Safe-keeping/Aco Pickup	McMahan, Donna	Carrie Barr	#6902/F/Dog/Mixed Breed	13324
06-19-2014 7	06-19-2014	Safe-keeping/Aco Pickup	Murphy, Theresa	Jim Lewis	#6887/U/Cat/Domestic Short Hair	13311
06-19-2014 8	06-19-2014	Safe-keeping/Aco Pickup	Jones, Kevin T	Carol Wakefield	#6888/M/Dog/Collie	13316
06-20-2014 5	06-20-2014	Safe-keeping/Aco Pickup	Murphy, Theresa		#5184/M/Cat/American Shorthair	13324
06-20-2014 8	06-20-2014	Safe-keeping/Aco Pickup	Murphy, Theresa	Carrie Barr	#6901/F/Dog/American Pit Bull Terrier	13324
06-04-2014 2	06-04-2014	Sick/Injured/Aco Pickup	Squires, Eric		#6833/M/Dog/Beagle	13185
06-09-2014 2	06-09-2014	Stray/Aco Pickup	Squires, Eric		#6849/M/Dog/American Pit Bull Terrier...	13233
06-09-2014 1	06-09-2014	Stray/Citizen Turn-in			#6848/M/Dog/Beagle	06072014
06-13-2014 1	06-13-2014	Stray/Aco Pickup	Murphy, Theresa		#6859/U/Cat/American Shorthair	13258
06-28-2014 1	06-28-2014	To Be Tested/Citizen Turn-in			#6944/U/Cat/Domestic Short Hair	13396
06-05-2014 2	06-05-2014	Vicious/Owner Turn-in		Howard & Angela Lester	#81/M/Dog/German Shepherd	13189
End of Group	Group count:	49				
End of Report	Count:	70				

Berkeley County Animal Control

Record count on this entire report: 59
Run Date: 12-11-2014 09:21:02 by Donna McMahon

Disposition Register 06-01-2014 to 06-30-2014

Group By Precinct:
Order By Reason
Page Number: 1 of 3

Precinct: CITY

Case ID	Disposition Method	Intake Date	Disposition Date	Days In Shelter	Kennel/ID	Pet Name	Animal
05-30-2014 1	Euthanized	05-30-2014	06-11-2014	13		Unknown	#6823/M/Cat/Domestic Short Hair(Purebred)
05-08-2014 1	Return To Owner	05-08-2014	06-19-2014	43		Chico	#6713/M/Dog/American Pit Bull Terrier
06-01-2014 2	Return To Owner	06-01-2014	06-02-2014	2		Tiny	#6829/M/Dog/Miniature Pinscher
06-01-2014 3	Return To Owner	06-01-2014	06-02-2014	2		Daisy	#6830/F/Dog/Hound
06-13-2014 2	Adopted	06-13-2014	06-21-2014	9		Unknown	#6860/F/Dog/Chihuahua
06-15-2014 1	Return To Owner	06-15-2014	06-15-2014	1		Samson	#6868/M/Dog/Newfoundland
06-21-2014 2	Return To Owner	06-21-2014	06-21-2014	1		Russia	#6905/F/Dog/Spitz
06-24-2014 1	Return To Owner	06-24-2014	06-24-2014	1		Biggs	#6918/M/Dog/Labrador Retriever
06-26-2014 1	Return To Owner	06-26-2014	06-26-2014	1		Unknown	#6924/F/Dog/Presa Canario
06-26-2014 3	Return To Owner	06-26-2014	06-26-2014	1		Roxy	#6931/F/Dog/American Pit Bull Terrier
04-14-2014 3	Euthanized	04-14-2014	06-16-2014	64		Unknown	#6614/M/Dog/Mixed Breed
06-19-2014 11	Return To Owner	06-19-2014	06-20-2014	2		Unknown	#6892/F/Dog/Shiba Inu
06-02-2014 1	Adopted	06-02-2014	06-05-2014	4		Unknown	#6831/M/Dog/Terrier
06-22-2014 1	Died	06-22-2014	06-23-2014	2		Unknown	#6908/U/Cat/Domestic Short Hair
06-22-2014 2	Died	06-22-2014	06-23-2014	2		Unknown	#6909/U/Cat/Domestic Short Hair
06-22-2014 3	Died	06-22-2014	06-23-2014	2		Unknown	#6910/U/Cat/Domestic Short Hair
06-22-2014 4	Died	06-22-2014	06-23-2014	2		Unknown	#6911/U/Cat/Domestic Short Hair
03-29-2014 2	Adoption/no Charge	03-29-2014	06-12-2014	76		Hazel	#6542/F/Dog/American Pit Bull Terrier
06-30-2014 2	Euthanized	06-30-2014	06-30-2014	1		Unknown	#6950/U/Cat/Tabby
05-01-2014 6	Adopted	05-01-2014	06-19-2014	50		Unknown	#6678/F/Dog/Mixed Breed
06-05-2014 1	Euthanized	06-05-2014	06-16-2014	12		Duece	#6838/M/Dog/American Pit Bull Terrier
End of Group	Group count:	21		291			

Berkeley County Animal Control

Record count on this entire report: 59

Run Date: 12-11-2014 09:21:02 by Donna Mcmahon

Disposition Register 06-01-2014 to 06-30-2014

Group By Precinct

Order By Reason

Page Number: 2 of 3

Precinct: COUNTY

Case ID	Disposition Method	Intake Date	Disposition Date	Days In Shelter	Kennel/ID	Pet Name	Animal
05-28-2014 1	Return To Owner	05-29-2014	06-04-2014	7		Ruthie	#6815/F/Dog/Pug
05-16-2014 4	Adoption/no Charge	05-16-2014	06-24-2014	40		Unknown	#6752/M/Dog/American Pit Bull Terrier
05-16-2014 6	Fostered	05-16-2014	06-14-2014	30		Reba	#6754/F/Dog/American Pit Bull Terrier
05-12-2014 1	Euthanized	05-12-2014	06-11-2014	31		Unknown	#6736/M/Dog/Mixed Breed
05-02-2014 5	Adoption/no Charge	05-02-2014	06-21-2014	51		Missy	#6688/F/Dog/Jack Russell Terrier
05-14-2014 2	Euthanized	05-14-2014	06-16-2014	34		Unknown	#6741/M/Dog/German Shepherd
05-16-2014 8	Adopted	05-16-2014	06-14-2014	30		Fifa	#6758/F/Dog/Mixed Breed(Purebred)
05-16-2014 9	Adopted	05-16-2014	06-15-2014	31		Lola	#6759/F/Dog/Mixed Breed
05-17-2014 9	Return To Owner	05-17-2014	06-05-2014	20		Jay	#6770/M/Dog/Mixed Breed
05-18-2014 6	Return To Owner	05-18-2014	06-19-2014	33		Jack	#6776/M/Dog/Mixed Breed
05-22-2014 1	Euthanized	05-22-2014	06-11-2014	21		Tux	#6796/M/Dog/Mixed Breed
05-31-2014 1	Return To Owner	05-31-2014	06-02-2014	3		Casey	#6826/M/Dog/Mixed Breed
06-01-2014 1	Return To Owner	06-01-2014	06-01-2014	1		Shrimp	#6828/M/Dog/American Pit Bull Terrier
06-06-2014 3	Return To Owner	06-06-2014	06-07-2014	2		Unknown	#6844/M/Dog/Mixed Breed
06-06-2014 4	Return To Owner	06-06-2014	06-07-2014	2		Coco	#6845/F/Dog/Labrador Retriever
06-08-2014 1	Return To Owner	06-08-2014	06-09-2014	2		Georgie	#6847/M/Dog/Mixed Breed
06-10-2014 1	Euthanized	06-10-2014	06-16-2014	7		Unknown	#6950/M/Dog/American Pit Bull Terrier
06-11-2014 2	Return To Owner	06-11-2014	06-12-2014	2		Bear	#6955/M/Dog/Bernese Mountain Dog
06-14-2014 1	Return To Owner	06-14-2014	06-15-2014	2		Jada Mae	#6967/F/Dog/Bluetick Coonhound
06-16-2014 1	Return To Owner	06-16-2014	06-17-2014	2		Cotton	#6870/M/Dog/Mixed Breed
06-19-2014 1	Hedgesville Hounds	06-05-2014	06-21-2014	17		Kia	#6875/F/Dog/Mixed Breed
06-20-2014 10	Return To Owner	06-20-2014	06-20-2014	1		Freckles	#6903/M/Dog/American Pit Bull Terrier
06-27-2014 1	Return To Owner	06-27-2014	06-28-2014	2		Tucker	#6935/M/Dog/Beagle(Purebred)
06-27-2014 2	Return To Owner	06-27-2014	06-28-2014	2		Peyton	#6937/M/Dog/Mixed Breed
06-27-2014 3	Return To Owner	06-27-2014	06-27-2014	1		Sapphire	#6938/F/Dog/American Pit Bull Terrier
06-27-2014 7	Return To Owner	06-27-2014	06-30-2014	4		Karma	#6942/M/Dog/Anatolian Shepherd
02-07-2014 8	Euthanized	02-07-2014	06-11-2014	125		Unknown	#6310/M/Dog/Mixed Breed
04-20-2014 1	Fostered	04-20-2014	06-02-2014	44		Unknown	#6636/F/Dog/Labrador Retriever
06-20-2014 4	Return To Owner	06-20-2014	06-20-2014	1		Titan	#6897/M/Dog/American Pit Bull Terrier(Purebred)
06-12-2014 2	Return To Owner	06-12-2014	06-14-2014	3		Ball	#6856/F/Dog/Husky(Purebred)
06-20-2014 9	Return To Owner	06-20-2014	06-26-2014	7		Daisy	#6902/F/Dog/Mixed Breed
06-19-2014 8	Return To Owner	06-19-2014	06-20-2014	2		Teddy	#6888/M/Dog/Collie
06-04-2014 2	Euthanized	06-04-2014	06-04-2014	1	FREZER	Unknown	#6833/M/Dog/Beagle
06-09-2014 2	Return To Owner	06-09-2014	06-09-2014	1		Jet	#6849/M/Dog/American Pit Bull Terrier(Purebred)
06-09-2014 1	Adopted	06-09-2014	06-21-2014	13		Unknown	#6848/M/Dog/Beagle
06-13-2014 1	Adoption/no Charge	06-13-2014	06-24-2014	12		Unknown	#6859/U/Cat/American Shorthair

Records on this page: 36

Berkeley County Animal Control

Record count on this entire report: 59

Run Date: 12-11-2014 09:21:02 by Donna McMahon

Disposition Register 06-01-2014 to 06-30-2014

Group By Precinct

Order By Reason

Page Number: 3 of 3

Precinct: COUNTY

Case ID	Disposition Method	Intake Date	Disposition Date	Days in Shelter	Kennel/ID	Pet Name	Animal
02-06-2014 12	Euthanized	02-06-2014	06-11-2014	126		Unknown	#6298/F/Dog/American Pit Bull Terrier
05-30-2014 2	Euthanized	05-30-2014	06-16-2014	18		Cherokee	#6825/F/Dog/German Shepherd
End of Group	Group count:	38		731			
End of Report	Count:	58		1022			

Ordinance 2014-20

AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF THE CITY OF MARTINSBURG AND ENACT PART SEVENTEEN-BUILDING AND HOUSING CODE, ARTICLE 1717, SECTION 1717.01 THROUGH 1717.08, RELATING TO THE GRANT OF AUTHORITY TO CITY CODE ENFORCEMENT OFFICIALS TO IMMEDIATELY ISSUE CITATIONS FOR EXTERNAL SANITATION VIOLATIONS AND COMMON NUISANCES

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MARTINSBURG, WEST VIRGINIA:

1717.01 Purpose and applicability.

(a) The purpose of this section is to provide additional and alternative methods and processes to enforce the municipal code provisions regarding exterior sanitation and common nuisances related to property located within the city in a fair, speedy and inexpensive manner, and to improve compliance with such provisions.

(b) This section shall be in addition to those methods and processes otherwise contained in the Municipal Code of the City of Martinsburg and shall be applied at the discretion of the enforcement official enforcing the provisions of this section.

(c) This section shall apply to exterior sanitation and common nuisance violations contained in the Health and Sanitation Code codified into Part 11, the Zoning Ordinance codified into Part 13, and the Building and Housing Code, incorporated by reference into Part 17, of the Municipal Code of the City of Martinsburg, including, but not limited to:

1. Nuisances affecting health or safety;
2. Sanitation;
3. Drainage;
4. Sidewalks in disrepair;
5. High weeds/grass;
6. Graffiti;
7. Exterior garbage accumulation; and
8. Open storage in residential districts;

(d) All planning, zoning, building, and law enforcement officers shall have authority to enforce the provisions of this section and shall be referred to herein collectively as "enforcement officials."

1717.02 Investigations. Upon receipt of information or observation of circumstances indicating the likelihood of a violation of any provision of the Municipal Code of the City of Martinsburg regarding external sanitation or common nuisance, the enforcement official shall investigate the facts and may, to the extent permitted by law, make an inspection of the premises.

1717.03 Notice of violation.

(a) If an enforcement official determines that a code violation exists, the enforcement official may issue such violation to the person having either ownership or control of any land, building, structure, sign, property, licensed or permitted business or operation which is in violation, and shall order that the violation be corrected. Nothing within this section shall prohibit the enforcement officer in his or her discretion from issuing a warning prior to issuing a citation.

(b) The citation shall be in writing and shall contain the following:

1. The date the citation is issued;
2. The name and address of the person(s) charged with the violation;
3. The section of the ordinance that has been violated;
4. The nature of the violation;
5. The place and time the violation occurred;
6. The date the notice of violation was given;
7. The amount of the fine imposed for the violation;
8. The name, address, and telephone number of the enforcement official issuing the citation; and
9. The name, address and telephone number of the office of the municipal court clerk, where fines are to be paid, and of the municipal court, where citations may be appealed.

(c) A citation may be served by personal or substituted service in accordance with the West Virginia Rules of Civil Procedure, by either delivering the citation to the person in violation personally or by delivering the citation to a member of that person's family who is above the age of sixteen years and by advising that person of the purpose of the citation. Proof of personal service shall be made at the time of service by a written declaration executed by the enforcement official effecting service and shall declare the time, date and manner by which service was made. If personal service cannot be effectuated, the enforcement official may send the citation to the person via certified mail, return receipt requested, delivery restricted to the addressee, to the person's last known address. If delivery of the certified mail is refused by the addressee, a citation shall be conclusively presumed to have been served. If the return receipt is not returned for any reason other than refusal of delivery by the addressee, a citation shall be

presumed to have been served if it is also sent by regular mail, postage prepaid, which is not returned as undeliverable by the postal service.

1717.04 Penalties. Any person issued a citation pursuant to subsection 1717.03(a) shall be punished by a fine as follows: within any 12-month period, \$100.00 for the first citation, \$200.00 for the second citation, \$300.00 for the third citation, and \$500.00 for the fourth citation and each citation thereafter.

1717.05 Nonpayment of fines. All fines imposed by citations under this section shall be due within ten days of service of the citation except as otherwise set forth herein. The failure to pay when due any fine imposed under this section shall constitute a failure to appear or otherwise respond under W.Va. Code § 8-10-2b(c) and shall result in notification to the West Virginia Department of Transportation Division of Motor Vehicles.

1717.06 Appeal.

(a) Any person who is issued a citation shall pay the fine indicated for the violation, as set forth in 1717.04, in full to the office of the municipal court clerk within ten days of service of the citation. Any person alleging he or she was improperly issued such citation may, within ten days of service of such citation, file a petition for appeal of the citation, along with the required bond, with the municipal court clerk in accordance with the following:

1. In order to properly and timely appeal his or her citation, within ten days of service of the citation, the recipient of the citation shall pay the required amount of the applicable fine in full to the municipal court clerk, which amount will be held by the municipal court as bond pending hearing and resolution of the case by the municipal court and the municipal court clerk shall issue a receipt to the recipient of the citation showing the amount of the bond paid. In addition to the bond, the recipient of the citation shall file with the municipal court clerk a petition for appeal of the citation. If any petition for appeal filed in accordance with this section is not timely filed or is not accompanied with the required bond, the recipient of the citation shall be deemed to have waived his or her right to appeal the citation, and such petition shall be summarily denied as untimely filed; provided, however, that nothing set forth hereinabove shall prevent the municipal court judge from finding, upon a proper application and showing, that the recipient of the citation suffers from financial hardship, and, as a result, waiving the requirement that the bond be posted.

2. Any petition for appeal filed with the municipal court clerk must be in writing, on the form to be provided by the municipal court clerk, and must be signed by the recipient of the citation affirming that the contents of the petition are true and accurate to the best of the recipient of the citation's knowledge at that time. Such petition for appeal shall state the facts and reasons in support of the petition. Upon filing any such petition for appeal with the municipal court clerk, the recipient of the citation shall serve a copy of the petition and receipt showing proof of bond, or application for waiver thereof, upon the city attorney.

(b) Upon filing of a petition for appeal with the municipal court clerk, the clerk or his or her designee shall place the case on the municipal court docket, set the case for hearing within 30 days from the date of the filing of the petition for appeal, provide a notice of hearing to the

recipient of the citation, and forward a copy of the petition to the enforcement official who issued the citation. Upon receipt of the petition, the enforcement official shall cause a copy of the citation at issue to be forwarded to the municipal court clerk who shall file it as the original complaint alleging the violation indicated therein.

(c) The municipal court shall treat the citation itself as the original complaint before the court. At the close of all of the evidence presented at the hearing on the petition for appeal, should the municipal judge find against the recipient of the citation, the bond posted by the recipient of the citation shall be applied as payment for the fine imposed for the violation. In the event the municipal court judge finds that the recipient of the citation suffers from financial hardship, the applicable fine from subsection 1717.04, above, shall be imposed, and the municipal court judge shall have the ability to grant the recipient of the citation a certain amount of time to pay the fine, at the municipal court judge's discretion. Should the court find in favor of the recipient of the citation, the bond, if applicable, shall be refunded to the recipient of the citation by the municipal court clerk, and the citation shall be dismissed.

1717.07 Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

This Ordinance shall take effect upon passage.

Introduced: December 11, 2014

Adopted: December 18, 2014

George Karos, Mayor

Attest:

Gena Long, City Recorder

Ordinance 2014-21

AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF THE CITY OF MARTINSBURG AND ENACT PART SEVENTEEN-BUILDING AND HOUSING CODE, ARTICLE 1716, SECTION 1716.01, RELATING TO THE AUTHORITY TO FILE LIENS ON REAL PROPERTY FOR COSTS INCURRED IN ABATING EXTERIOR SANITATION AND COMMON NUISANCE VIOLATIONS

WHEREAS, West Virginia Code § 8-12-16 governs the adoption of ordinances regulating the repair, closing, demolition, etc., of dwellings or buildings unfit for human habitation, and allows a municipality to file liens against real property for costs incurred in such repair, closing, or demolition upon the filing of a lawsuit;

WHEREAS, West Virginia Code § 8-12-5(23) vests municipalities with the authority to provide for the elimination of hazards to public health and safety and abate or cause to be abated anything which a majority of the governing body finds to be a public nuisance, but does not provide any authority for filing liens against property for fees incurred in removing such hazards or nuisances; and

WHEREAS, pursuant to authority granted to the Martinsburg City Council by its admission to Phase II of the West Virginia Municipal Home Rule Pilot Program under West Virginia Code § 8-1-5a, the Martinsburg City Council shall provide the ability to file liens against property without court approval for amounts expended by the City in taking actions to repair, alter, or demolish property, mow overgrown grass, or collect unlawful accumulations of garbage and rubbish.

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

1716.01 Authority of city to file liens on real property for costs incurred in abating exterior sanitation and common nuisance violations and for costs incurred in repairing, relaying, or constructing sidewalks.

(a) The city may file a lien on real property for costs incurred in abating exterior sanitation and common nuisance violations, which include, but are not limited to, those violations set forth in section 1717 when the following occurs:

(1) A property owner, after receiving lawful notice pursuant to section 1717 or pursuant to any other applicable provision of the Municipal Code, fails to abate the violation; and

(2) The enforcement official lawfully enters said property and performs the work necessary to abate the violation; and

(3) A notice of the costs of abatement is sent to the property owner and those costs are not remitted within a time satisfactory to the city.

(b) The city may file a lien on real property for costs incurred in repairing, relaying, or constructing sidewalks in accordance with Articles 11 and 17 of the Municipal Code of the City of Martinsburg.

This Ordinance shall take effect upon passage.

Introduced: December 11, 2014

Adopted: December 18, 2014

George Karos, Mayor

Attest:

Gena Long, City Recorder

Ordinance 2014-22

AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF THE CITY OF MARTINSBURG AND ENACT PART ONE - ADMINISTRATIVE CODE, CHAPTER THREE - LEGISLATIVE, ARTICLE 114, SECTIONS 114.01 THROUGH 114.04 , RELATING TO THE DISPOSITION OF CITY PROPERTY WITHOUT AUCTION

WHEREAS, West Virginia Code § 8-12-18(b) permits municipalities to sell real or personal municipal property for fair and adequate consideration, only at public auction;

WHEREAS, West Virginia Code § 8-12-18(c) permits municipalities to lease real or personal municipal property for fair and adequate consideration, for a term not exceeding fifty years;

WHEREAS, the City wishes to sell or lease real or personal property without auction and, in some cases, for less than fair market value, subject to certain restrictions; and

WHEREAS, pursuant to the authority granted to the City by its acceptance into the Municipal Home Rule Pilot Program, Phase II, the City enacts the following ordinance in order to be exempt from the above-stated requirements set forth in West Virginia Code §§ 8-12-18(b)-(c).

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

114.01. Authorization to convey property to private purchasers without auction at fair market value.

(a) The City of Martinsburg may sell its real or personal property valued in excess of \$1,000.00 for fair market value to private purchasers, without public auction, provided that city council has made a factual determination that the property is to be used to facilitate specific economic development projects and/or to provide a specific necessary and convenient resource for the benefit of the citizenry.

(b) Prior to the approval by city council of any conveyance of city property pursuant to this section, city council shall be provided with documentation evidencing that all project plans have been approved by all necessary and relevant state and/or municipal committees and departments, all necessary and relevant state and/or municipal permits are in place or are approved subject to purchase of the property, and funding for the project has been secured.

(c) Any proposed conveyance of city property pursuant to this section shall be published as a Class II legal advertisement in compliance with the provisions of W. Va. Code § 59-3-1 et seq., and the publication area for the publication shall be the City of Martinsburg.

114.02. Authorization to lease property to private lessees for less than fair market value.

(a) The City of Martinsburg may lease its real or personal property to private lessees for less than fair and adequate consideration provided that city council has made, by resolution authorizing the lease and containing terms and conditions therefor, a factual determination that the property is to be used to facilitate specific economic development projects and/or to provide a specific necessary and convenient resource for the benefit of the citizenry.

(b) In the event the private lessee ceases to use the leased property in the facilitation of economic development projects or to provide a specific necessary and convenient resource for the benefit of the citizenry, the lease shall terminate and such private lessee shall thereafter have no right, title, or interest therein or thereto.

(c) Any lease executed pursuant to this subsection 114.02 shall contain the reversion wording in subsection 114.02(b).

114.03. Authorization to convey property to nonprofit organizations for less than fair market value.

(a) The City of Martinsburg may convey real or personal city property to nonprofit organizations for less than fair market value, and without public auction, when the nonprofit organization is providing services that benefit the public and are services that the city could lawfully provide; provided that city council has made a factual determination that:

1. There is a lack of need for such property by the city in comparison to the benefit to the city if property is conveyed; and

2. There is a demonstrable need for such property by the nonprofit organization to be able to perform the services benefiting the public.

(b) In the event the nonprofit organization should cease to provide such services to the public, the property shall by operation of law, revert to and vest in the city, and such nonprofit organization shall thereafter have no right, title, or interest therein or thereto.

(c) Any deed or other instrument of property transfer executed pursuant to this subsection 114.03 shall contain the reversion wording in subsection 114.03(b).

114.04. Authorization to lease property to nonprofit organizations for less than fair market value.

(a) The City of Martinsburg may lease its real or personal property to nonprofit organizations for less than fair and adequate consideration when the nonprofit organization is providing services that benefit the public and are services that the city could lawfully provide; provided that city council has made, by resolution authorizing the lease and containing terms and conditions therefor, factual determinations that:

1. There is a lack of need for such property by the city in comparison to the benefit to the city if property is leased; and

2. There is a demonstrable need for such property by the nonprofit organization to be able to perform the services benefiting the public.

(b) In the event the nonprofit organization ceases to use the leased property to benefit the public, the lease shall terminate and such nonprofit organization shall thereafter have no right, title, or interest therein or thereto.

(c) Any lease executed pursuant to this subsection 114.04 shall contain the reversion wording in subsection 114.04(b).

This Ordinance shall take effect upon passage.

Introduced: December 11, 2014

Adopted: December 18, 2014

George Karos, Mayor

Attest:

Gena Long, City Recorder

Ordinance 2014-23

AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF THE CITY OF MARTINSBURG AND ENACT PART ONE - ADMINISTRATIVE CODE, CHAPTER THREE - LEGISLATIVE, ARTICLE 115, SECTION 115.01, RELATING TO THE ENTRY INTO CONTRACTS WITH OTHER JURISDICTIONS BY RESOLUTION

WHEREAS, pursuant to authority granted to the Martinsburg City Council by its admission to Phase II of the West Virginia Municipal Home Rule Pilot Program under West Virginia Code § 8-1-5a, the Martinsburg City Council shall provide the ability to enter into contracts with other jurisdictions by passage of resolution; and

WHEREAS, by provision of the ability to enter into contracts with other jurisdictions by passage of resolution, the City of Martinsburg shall be exempt from the provisions of West Virginia Code § 8-11-3(10).

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

For any action providing for a contractual or other agreement with another jurisdiction, the City of Martinsburg may enter into such agreement by passage of a resolution by city council.

This Ordinance shall take effect upon passage.

Introduced: December 11, 2014

Adopted: December 18, 2014

George Karos, Mayor

Attest:

Gena Long, City Recorder

Ordinance 2014-24

AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF THE CITY OF MARTINSBURG AND ENACT PART SEVEN – BUSINESS AND TAXATION CODE, CHAPTER THREE – TAXATION AND SERVICE CHARGES, ARTICLE 768, SECTION 768.01, RELATING TO THE ISSUANCE OF LIENS FOR DELINQUENT CITY FEES

WHEREAS, pursuant to W.Va. Code § 8-13-13, cities may not file liens to collect unpaid fees for services provided other than those fees arising out of fire, police, or street services;

WHEREAS, by the authority granted to the City of Martinsburg by its participation in the West Virginia Home Rule Pilot Program, Phase II, under W.Va. Code § 8-1-5a, the City of Martinsburg shall now have the ability to assess liens against real property for any delinquent municipal fee, interest, or penalties due under the City Code.

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

768.01 City service fees—Notice of lien; hearing procedure; administrative decision; right of appeal; lien creation.

(a) Any municipal fee, interest or penalties due and payable under this City Code shall be a debt due the city. It shall be a personal obligation of the city service customer chargeable therefor and shall be a lien upon the real and personal property of the city service customer until paid.

(b) If the finance director desires to file a notice of lien with the Clerk of the Berkeley County Council regarding one or more delinquencies in payment of any municipal fee, penalties or interest, the finance director shall give the delinquent fee payer written notice via certified U.S. Mail, return receipt requested to such fee payer's last known address, of intent to file the notice of lien setting forth the amounts due and status of delinquency. Unless the fee payer to whom the notice is given, or his duly authorized agent, shall within 30 days after service thereof, either personally or by certified mail, file with the finance director a petition for hearing, setting forth with particular items objected to, together with the reasons for objections, the finance director may at any time thereafter file the notice of lien.

(c) When a petition for hearing as prescribed in subsection 768.01(b) is filed within the time prescribed, the finance director shall assign a time and a place for a hearing thereon and shall notify the petitioner of such hearing by written notice at least 20 days in advance thereof. Such hearing shall be held within 90 days from the date of filing the petition, unless continued by agreement of the parties or by the finance director for sufficient cause. The hearing shall be informal and shall be conducted in an impartial manner by the finance director or a hearing examiner designated by the finance director. The burden of proof shall be upon the petitioner to show that the notice of lien is improper, in whole or in part. After such hearing, the finance director or hearing examiner designated by the finance director shall, within a reasonable time, give notice in writing of his decision.

(d) If aggrieved by the decision of the hearing examiner or finance director, the fee payer may appeal the decision of the hearing examiner or finance director to the Circuit Court of Berkeley County within 30 days after service of the hearing examiner's or finance director's decision.

1. The appeal shall be taken by the filing of a petition and notice, which petition and notice shall be served upon or accepted by the finance director as an original notice. When the petition and notice is so served it shall, with the return or acceptance thereon, be filed in the Office of the Clerk of the Berkeley County Circuit Court and docketed as other cases, with the fee payer as plaintiff and the finance director as defendant.

2. The filing of the appeal shall not stay the collection of the fee unless the fee payer shall file with such clerk a bond for the use of the defendant, with sureties approved by the Clerk of the Circuit Court of Berkeley County, the penalty of the bond to be not less than the total amount of the fee, and accumulated penalties and interest to the date of the appeal, and conditioned that the plaintiff shall perform the orders of the Berkeley County Circuit Court; provided, that the judge of the Berkeley County Circuit Court may stay the collection of the fee, and accumulated penalties without the requirement of a bond, upon a proper showing by the plaintiff that the properties of the plaintiff are sufficient to secure performance of the Berkeley County Circuit Court's orders or that the ends of justice will be served thereby.

3. The Berkeley County Circuit Court shall hear the appeal and determine anew all questions submitted to it on appeal from the decision of the finance director.

(e) The administrative remedies set forth in this section are exclusive. Failure to timely file a petition in accordance with this section shall preclude any challenge to the filing of the notice of lien. If no appeal is taken pursuant to this section within 30 days after service of the finance director's decision, said decision shall become final and conclusive and not subject to administrative or judicial review.

(f) The lien created by this section shall continue until the fee delinquency is satisfied or becomes unenforceable by reason of lapse of time. The finance director shall issue a certificate of release of any lien imposed pursuant to this section upon finding that the delinquency has been satisfied or the lien has become legally unenforceable. The lien created by this section shall be entitled to all of the rights of and subject to the restrictions and conditions which apply to municipal tax liens under W. Va. Code Chapter 38, Article 10c.

This Ordinance shall take effect upon passage.

Introduced: December 11, 2014

Adopted: December 18, 2014

George Karos, Mayor

Attest:

Gena Long, City Recorder

ORDINANCE 2014-25

AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF THE CITY OF MARTINSBURG TO ENACT PART SEVEN – BUSINESS AND TAXATION CODE, CHAPTER THREE – TAXATION AND SERVICE CHARGES – ARTICLE 756 MUNICIPAL SALES TAX – SECTIONS 756.01 THROUGH 756.15 IMPLEMENTING A MUNICIPAL SALES TAX

WHEREAS, by the authority granted to the City of Martinsburg by its participation in the West Virginia Home Rule Pilot Program, Phase II, under W.Va. Code § 8-1-5a, the City of Martinsburg shall now have the ability to implement a Municipal Sales Tax.

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

Sec. 756.01 Definitions.

- (a) Terms used in this article or in the administration, collection and enforcement of the taxes imposed by this article and not otherwise defined in this article shall have the meanings ascribed to them in articles nine, ten, fifteen, fifteen-a and fifteen-b, chapter eleven of the Code of West Virginia, 1931, as amended. In the event of any conflict between the definitions set forth herein and those definitions set forth in articles nine, ten, fifteen, fifteen-a and fifteen-b, chapter eleven of the Code of West Virginia, 1931, as amended, the definitions set forth in articles nine, ten, fifteen, fifteen-a and fifteen-b, chapter eleven of the Code of West Virginia, 1931, as amended shall supersede those set forth herein.
- (b) As used in this section:
- (1) "Business" includes all activities engaged in or caused to be engaged in with the object of gain or economic benefit, direct or indirect, and all activities of the State and its political subdivisions which involve sales of tangible personal property or the rendering of services when those service activities compete with or may compete with the activities of other persons.
 - (2) "City" or "this City" means the City of Martinsburg, West Virginia.
 - (3) "Code of West Virginia" means the Code of West Virginia, 1931, as amended.
 - (4) "Person" means an individual, trust, estate, fiduciary, partnership, Limited Liability Company, limited liability partnership, corporation, or any other legal entity.
 - (5) "Purchase" means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration;
 - (6) "Purchase price" means the measure subject to the tax imposed by this article and has the same meaning as sales price;
 - (7) "Purchaser" means a person to whom a sale of personal property is made or to whom a service is furnished.

- (8) "Sale," "sales" or "selling" includes any transfer of the possession or ownership of tangible personal property or custom software for a consideration, including a lease or rental, when the transfer or delivery is made in the ordinary course of the transferor's business and is made to the transferee or his or her agent for consumption or use or any other purpose. "Sale" also includes the furnishing of a service for consideration. "Sale" also includes the furnishing or prepaid wireless calling service for consideration.
- (9) "Sales price" has the meaning ascribed to that term in article fifteen-b, chapter eleven of the Code of West Virginia.
- (10) "Sales tax" means the tax levied under Section 756.02 of this article.
- (11) "Service" or "selected service" have the meaning ascribed to those terms in article fifteen-b, chapter eleven of the Code of West Virginia.
- (12) "State sales tax" means the tax levied by article fifteen, chapter eleven of the Code of West Virginia.
- (13) "State use tax" means the tax levied by article fifteen-a, chapter eleven of the Code of West Virginia.
- (14) "Tax" means the taxes imposed by this article and includes additions to tax, interest and penalties levied under article ten, chapter eleven of the Code of West Virginia, 1931, as amended.
- (15) "Tax Commissioner" means the chief executive officer of the Tax Division of the Department of Revenue of this State, as provided in W.Va. Code § 11-1-1.
- (16) "Ultimate consumer" or "consumer" means a person who uses or consumes services or personal property.
- (17) "Use" for purposes of the tax imposed by Section 756.03 of this article means and includes:
 - a. The exercise by any person of any right or power over tangible personal property or custom software incident to the ownership, possession or enjoyment of the property, or by any transaction in which possession of or the exercise of any right or power over tangible personal property, custom software or the result of a taxable service is acquired for a consideration, including any lease, rental or conditional sale of tangible personal property or custom software; or
 - b. The use or enjoyment in this State of the result of a taxable service. As used in this definition, "enjoyment" includes a purchaser's right to direct the disposition of the property or the use of the taxable service, whether or not the purchaser has possession of the property.

The term "use" does not include the keeping, retaining or exercising any right or power over tangible personal property, custom software or the result of a

taxable service for the purpose of subsequently transporting it outside the City for use thereafter solely outside this City.

(18) "Use tax" means the tax imposed by Section 756.03 of this article.

(19) "Vendor" means any person engaged in this City in furnishing services taxed by this article or making sales of tangible personal property or custom software. "Vendor" and "seller" are used interchangeably in this article.

Sec. 756.02 Imposition of Consumer Sales and Service Tax.

For the privilege of selling tangible personal property or customer software and for the privilege of furnishing certain selected services, a vendor doing business in this City shall collect from the purchaser the taxes imposed by this section and pay the amount of taxes collected to the Tax Commissioner at the same time and in the same manner as the consumers sales and service tax imposed by article fifteen, chapter eleven of the Code of West Virginia, 1931, as amended, in accordance with procedures and processes prescribed by the Tax Commissioner. The rate of tax shall be one percent of the sales price, as defined in section two, article fifteen b, chapter eleven of the Code of West Virginia, 1931, as amended, of the tangible personal property, custom software or taxable service purchased.

Sec. 756.03 Imposition of Use Tax.

An excise tax is hereby levied and imposed on the use in this City of tangible personal property, custom software and the results of taxable services, to be collected and paid to the Tax Commissioner as agent for the City in the same manner that state use tax is collected under article fifteen-a and article fifteen-b, chapter eleven of the Code of West Virginia, 1931, as amended. The rate of tax shall be one percent of the purchase price, as defined in article fifteen-b, chapter eleven of the Code of West Virginia, of the tangible personal property, custom software or taxable service used within the City.

Sec. 756.04 Calculation of Tax on Fractional Parts of a Dollar.

The tax computation under Section 756.02 and 756.03 shall be carried to the third decimal place and the tax rounded up to the next whole cent whenever the third decimal place is greater than four and rounded down to the lower whole cent whenever the third decimal place is four or less. The vendor may elect to compute the tax due on a transaction on a per item basis or on an invoice basis provided the method used is consistently used during the reporting period but the method used shall be the same as that used for purposes of computing the state sale or use tax.

Sec. 756.05 State and Local Sales and Use Tax Bases.

The taxable base of the taxes imposed by Section 756.02 and 756.03 of this article shall be identical to the sales and use tax base of this State except as provided in Section 756.06 of this article unless otherwise prohibited by federal law as required by W.Va. Code§ 11-15B-34.

Sec. 756.06 Exceptions.

The taxes imposed by this article do not apply to:

- (a) The sale or use of motor fuel, as defined in article fourteen-c, chapter eleven of the Code of West Virginia, 1931, as amended, upon which the tax imposed by that article is collected.
- (b) The sale or use of motor vehicles upon which the tax imposed by section three-c, article fifteen, chapter eleven of the Code of West Virginia, 1931, as amended, is paid
- (c) The purchase or use of any tangible personal property, custom software or service that the City is prohibited from taxing under the laws of this State.
- (d) The tax imposed by Section 756.02 does not apply to any transaction that is exempt from the tax imposed by article fifteen, chapter eleven of the Code of West Virginia.
- (e) The tax imposed by Section 756.03 does not apply to any purchase upon which the tax imposed by Section 756.02 has been paid, nor to any transaction that is exempt from the tax imposed by article fifteen-a, chapter eleven of the Code of West Virginia.

Sec. 756.07 Credit for Local Sales Tax Lawfully Paid to Another Municipality.

- (a) A person is entitled to a credit against the use tax imposed by Section 756.03 of this article on the use of a particular item of tangible personal property, custom software or results of a taxable service equal to the amount, if any, of sales tax lawfully paid to another municipality for the acquisition of that property, custom software or service: Provided, That the amount of credit allowed may not exceed the amount of use tax imposed by Section 756.03 on the use of the tangible personal property, custom software or results of the taxable service in this City.
- (b) For purposes of this section
 - 1. "Sales tax" includes a sales tax or compensating use tax imposed on the sale or use of tangible personal property, custom software or the results of a taxable service by the municipality in which the sale occurred; and
 - 2. "Municipality" includes municipalities of this state or of any other state of the United States.
- (c) No credit is allowed under this section for payment of any sales or use taxes imposed by this state or any other state. For purposes of this paragraph, "state" includes the fifty states of the United States and the District of Columbia but does not include any of the several territories organized by Congress.

Sec. 756.08 Local Rate and Boundary Changes.

- (a) The Tax Commissioner is required by W.Va. Code§ 11-15B-35 to maintain a database for all jurisdictions levying a sales or use tax in this State. The City shall furnish the Tax Commissioner with information the Tax Commissioner requires for that database that will allow the Tax Commissioner to maintain a database that assigns each five-

digit and nine-digit zip code within the city to the proper rate of tax. If any nine-digit zip code area includes area outside this City, the single state and local rate assigned to that area in the Tax Commissioner's database will be the lowest rate applicable to that area: Provided, That, when sales occur at and are sourced to a physical location of the seller located in the City in that nine digit zip code area, the seller shall collect the tax imposed by Section 756.02 of this article.

- (b) Whenever boundaries of the City change, whether by annexation or de-annexation, the City Collector shall promptly notify the Tax Commissioner in writing of the change in boundaries and provide the Tax Commissioner with the nine-digit zip code or codes for the area annexed or de-annexed any other information the Tax Commissioner may require to maintain the database.

Sec. 756.09 State Level Administration.

- (a) The Tax Commissioner is responsible for administering, collecting and enforcing the taxes imposed by this article as provided in W. Va. Code § 8-1-5a, § 8-13C-6 and § 11-15B-33. The City may enter into an agreement with the Tax Commissioner that will allow employees of the City auditing a vendor with a physical location in the City for compliance with the City's business and occupation tax to also audit that location for compliance with the sales and use tax laws of this State and this City and to share that information with the Tax Commissioner.
- (b) The Tax Commissioner may retain from collections of the taxes imposed by this article a fee of up to one percent of the amount of the taxes collected by the Tax Commissioner prior to the effective date of the legislative rule setting the fee pursuant to W. Va. Code § 11-10-11c. The fee retained from taxes collected on and after that date shall be the fee allowed by W.Va. Code § 11-10-11c or by any other state law or legislative rule.
- (c) The Tax Commissioner shall deposit all the proceeds from collection of the taxes imposed by this article, minus any fee for collecting, enforcing and administering taxes retained under this section, in the sub-account for this city established in Municipal Sales and Service Tax and Use Tax Fund, an interest bearing account created in the State Treasury pursuant to W. Va. Code § 8-13C-7. All moneys collected and deposited in the sub-account for the city shall be remitted at least quarterly by the State Treasurer to the City Treasurer, as provided W. Va. Code § 8-13C-7.

Sec. 756.10 Administrative Procedures.

Each and every provision of the West Virginia Tax Procedure and Administration Act set forth in article ten, chapter eleven of the Code of West Virginia applies to the administration, collection and enforcement of the sales and use taxes imposed pursuant to this article, except as

otherwise expressly provided in article thirteen-c, chapter eight of the Code of West Virginia, with like effect as if that act were applicable only to the taxes imposed by this article and were set forth in this article, as provided in W.Va. Code§ 8-13C-6.

Sec. 756.11 Criminal Penalties.

Each and every provision of the West Virginia Tax Crimes and Penalties Act set forth in article nine, chapter eleven of the Code of West Virginia applies to the administration, collection and enforcement of the sales and use taxes imposed pursuant to this article with like effect as if that act were applicable only to the taxes imposed pursuant to this article and were set forth in in this article, as provided in W.Va. Code§ 8-13C-6: Provided, That the criminal penalties imposed upon conviction for a criminal violation of this article may not exceed the maximum penalties allowed by law for that violation.

Sec. 756.12 Automatic Updating.

Any amendments to articles nine, ten, fifteen, fifteen-a and fifteen-b, chapter eleven of the Code of West Virginia shall automatically apply to a sales or use tax imposed pursuant to this article, to the extent applicable, as provided in W. Va. Code § 8-13C-6.

Sec. 756.13 Deposit of Taxes Collected and Received in a Special Revenue Fund.

- (a) There is hereby established a special revenue fund in the City Treasury which shall be designated and known as the City Sales and Use Tax Fund. The City Sales and Use Tax Fund shall consist of:
- a. All revenues received from collection of the City’s sales and use taxes, including any interest, additions to tax and penalties deposited with the City Treasurer;
 - b. All appropriations to the fund;
 - c. All interest earned from investment of the fund; and
 - d. Any gifts, grants or contributions received and placed by the City into the City Sales and Use Tax Account.

Revenues in the City Sales and Use Tax Fund shall not be treated by any person to be a general revenue of the City. Revenues in the City Sales and Use Tax Fund shall be disbursed in the manner and consistent with the priorities set forth for in subsection (b) below.

- (b) Revenues in the City Sales and Use Tax Fund shall be used:
- a. First, to satisfy the debt service requirements each fiscal year on any bonds issued by, or other obligations incurred by, the City, from time to time, allocated or tied to such dedicated revenue account including any refunding bonds; to finance municipal civic and convention center improvement projects; as well as City-wide infrastructure and economic development projects; and, for any other economic development or public safety projects, including the funding of any reserve funds

relating to any such bonds or other obligations, and/or to make lease payments which secure bonds issued to finance improvements to such projects; and

- b. Second, after providing for payment of first priority items, any unencumbered revenue in the City Sales and Use Tax Fund may periodically be transferred as necessary or convenient to the City's General Revenue Account.

Sec. 756.14 Severability and Savings Clause.

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced. .

Sec. 756.15 Effective Date.

This Ordinance shall be forwarded to the West Virginia State Tax Department immediately upon adoption and sales tax shall be effective pursuant to the provisions of W.Va. Code § 11-15B-35 and W.Va. Legislative Rule 110 C.S.R.

Introduced: December 11, 2014

Adopted: December 18, 2014

George Karos, Mayor

Attest:

Gena Long, City Recorder

Ordinance 2014-26

AN ORDINANCE TO AMEND AND REENACT THE CODIFIED ORDINANCES OF THE CITY OF MARTINSBURG TO AMEND PART SEVEN – BUSINESS AND TAXATION CODE, CHAPTER THREE – TAXATION AND SERVICE CHARGES – ARTICLE 755 – SECTION .755.02 REDUCING THE RATE OF TAXES IMPOSED UNDER SAID ARTICLE

WHEREAS, by the authority granted to the City of Martinsburg by its participation in the West Virginia Home Rule Pilot Program, Phase II, under W.Va. Code § 8-1-5a, the City of Martinsburg shall now have the ability to implement a Municipal Sales and Use Tax, and

WHEREAS, City of Martinsburg will reduce its Business and Occupation Tax rates as follows:

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

755.02 IMPOSITION OF PRIVILEGE TAX.

There is hereby levied and shall be collected annual privilege taxes for the period beginning July first and ending June thirtieth of each year against the persons, on account of the business and other activities, and in the amounts to be determined by the application of rates against values or gross income as follows:

(a) Natural Resource Products. Upon every person engaging or continuing within this City in the business of producing for sale, profit or commercial use any natural resources products, the amount of tax to be equal to the value of the articles produced as shown by the gross proceeds derived from the sale thereof by the producer multiplied by the following rates:

Coal	1.00%
Limestone or Sandstone, quarried or mined	1.50%
Oil	3.00%
Natural Gas	6.00%
Blast Furnace Slag	3.00%
Sand, gravel or other mineral product not quarried or mined	3.00%
Timber	1.50%
Other natural resource products	2.00%

(b) Manufacturing, Compounding. or Preparing Products. Upon every person engaged or continuing within the City in the business of manufacturing, compounding or preparing for sale, profit, or commercial use, either directly or through the activity of others in whole or in part, any article or articles, substance or substances, commodity or commodities or newspaper publishing (including all gross income or proceeds of sale from circulation and advertising), except electric

power produced by public utilities or others, the amount of the tax to be equal to the value of the article, substance, commodity or newspaper, manufactured, compounded or prepared for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding or preparing the same, except as otherwise provided, multiplied by a rate of thirty hundredths of one percent (0.30%). The measure of this tax is the value of the entire product manufactured, compounded or prepared in the City for sale, profit or commercial use, regardless of the place of sale or the fact that deliveries may be made to points outside the City. The value of electricity generated by persons taxed under the provisions of this section, which electricity is directly used by such persons in the business of manufacturing and not sold or therewith transferred or transmitted to others, shall be exempt from the imposition of any tax under this article. With respect to the manufacturing, compounding or preparing for sale of timber or timber products, the measure of this tax is the value of the entire timber product manufactured, compounded or prepared in the City for sale, profit or commercial use, regardless of the place of sale or the fact that deliveries may be made to points outside the City but such value shall not include the value of any timber or timber products used as ingredients, components, or elements of such timber products. The dressing and processing of food by a person, firm or corporation, which food is to be sold on a wholesale basis by such person, firm or corporation shall not be considered as manufacturing or compounding, but the sale of these products on a wholesale basis shall be subject to the same tax as is imposed on the business of selling at wholesale. It is further provided, however, that in those instances in which the same person partially manufactures, compounds or prepares products within the City and partially manufactures, compounds or prepares such products outside of this City, the measure of this tax under this section shall be that proportion of the sale price of the product that the payroll cost of manufacturing within the City bears to the entire payroll cost of manufacturing the product; or at the option of the taxpayer, the measure of his tax under this section shall be the proportion of the sales value of the products that the cost of operations in the City bears to the full cost of manufacturing the products.

(c) Business of Selling Tangible Property; Exceptions. Upon every person engaging or continuing within this City in the business of selling at retail any tangible property whatsoever, real or personal, including the sale of food, and the services incident to the sale of food in hotels, restaurants, cafeterias, confectioneries, and other public eating houses, except horticulture, or selling stocks, bonds or other evidences of indebtedness, a tax equivalent to forty-five hundredths of one percent (0.45%) of the gross income of the business except that in the business of selling at wholesale the tax shall be equal to one hundred thirty-five thousandths of one percent (0.135%) of the gross income of the business.

(1) For the purposes of this section, gross income shall include income from the sale of any tangible property outside the City which is taxed by any other municipality of the State to the fullest extent allowable pursuant to West Virginia Code 8-13-5.

(2) A person exercising any privilege taxable under Section 755.02(b), and engaging in the business of selling his manufactured product in the City, shall be required to make returns of the gross proceeds of such wholesale sales and pay the tax imposed by this section at the rate of fifteen hundredths of one percent (0.15%) for the privilege of engaging in the business of selling such manufactured products in the City.

(d) Public Service or Utility Business. Upon any person engaging or continuing within this City in any public service or utility business, except railroad, railroad car, express, pipeline, telephone and telegraph companies, water carriers by steamboat or steamship and motor carriers, the

amount of tax to be equal to the gross income of the business multiplied by the following rates: Street and interurban and electric railways, one percent (1.00%); electric light and power companies, four percent (4.00%) on sales and demand charges for domestic and commercial lighting and three percent (3.00%) on sales and demand charges for all other purposes; natural gas companies, three percent (3.00%); and upon all other public service or utility business, two percent (2.00%). The measure of this tax shall not include gross income derived from commerce between the State and other states of the United States. The measure of the tax under this section shall include only gross income received from the supplying of public service. The gross income of the taxpayer from any other activity shall be included in the measure of the tax imposed upon such other activity by the appropriate section of this article.

(e) Business of Contracting. Upon every person engaging or continuing within this City in the business of contracting the tax shall be equal to two percent (2%) of the gross income of the business provided that contracts entered into prior to the effective date of the ordinance from which this section is derived shall be excluded from payment of this tax.

(f) Business of Operating Amusements. None.

(g) Service Business or Calling not Otherwise Specifically Taxed. Upon every person engaging or continuing within this City in any service business or calling or not otherwise specifically taxed under this article, there is likewise levied and shall be collected a tax equal to one percent (1%) of the gross income of any such business. For the purpose of this subsection, gross income shall include income from services rendered to persons outside the City, which is not taxed by any other municipality of this State to the fullest extent allowable pursuant to West Virginia Code 8-13-5.

(h) Business of Furnishing Property for Hire. Upon every person engaging or continuing within this City in the business of furnishing any real or tangible personal property or any interest therein for hire, loan, lease or otherwise whether the return be in the form of rentals, royalties, fees or otherwise the tax shall be one percent (1%) of the gross income of any such activity.

(i) Small Loan and Industrial Loan Business. Upon every person engaging or continuing within the City in the business of making loans of money, credit goods, or things in action, who because of such activity is required under the provisions of West Virginia Code Chapter 47, Article 7A to obtain a license from the Commissioner of Banking of the State of West Virginia and upon each and every industrial loan company the tax shall be one percent (1%) of the gross income of such activity. Persons subject to the provisions of this section shall, on and after the first day of July 1971, be subject to the provisions of Section 755.02(j).

(j) Commercial Banking Institutions. Upon every person engaging or continuing within the City in the business of banking or financial business the tax shall be equal to one percent (1%) of the gross income received from interest, premiums, discounts, dividends, service fees or charges, commissions, fines, rents from real or tangible property, however denominated, royalties, charges or fees and receipts from the sale of tangible personal property; provided however that gross income shall not include:

(1) Interest received on the obligations of the United States, its agencies and instrumentalities.

(2) Interest received on the obligations of this or any other state, territory or possession of the United States, or any political subdivision of any of the foregoing or of the District of Columbia.

(3) Interest received on investments or loans primarily secured by the first mortgages or deeds of trust on residential property occupied by nontransients; provided, however, that all interest derived on activities exempt under this subparagraph (3) shall be reported, as to amounts on the return of a person taxable under the provisions of this section.

This Ordinance shall take effect July 1, 2014.

Introduced: December 11, 2014

Adopted: December 18, 2014

George Karos, Mayor

Attest:

Gena Long, City Recorder

Ordinance 2014-27

AN ORDINANCE TO AMEND AND REENACT PART FIFTEEN OF THE CODIFIED ORDINANCES OF THE CITY OF MARTINSBURG BY AMENDING AND REENACTING SECTION 1501.04, RELATING TO THE INSPECTION AND CITATION POWERS OF MUNICIPAL DEPUTY FIRE MARSHALS

WHEREAS, W. Va. Code R. § 87-6-3.2.e allows for members of a recognized local fire department to be deputized by the State Fire Marshal under the provisions of W.Va. Code § 29-3-12(j);

WHEREAS, W.Va. Code § 29-3-12(j) provides the State Fire Marshal with the power to deputize members of fire departments in the state to make inspections and investigations of property and enforce the rules promulgated by the State Fire Commission;

WHEREAS, W. Va. Code R. § 87-6-3.4 provides that recognition of a local fire department is not a grant or delegation of any of the powers of the West Virginia State Fire Commission or the State Fire Marshal unless those powers are specifically imposed by state law or expressly delegated by the Commission or State Fire Marshal;

WHEREAS, the West Virginia State Fire Marshal is not, presently, training and deputizing Deputy Fire Marshals to grant inspection and citation powers; and

WHEREAS, pursuant to the authority granted to the City by its acceptance into the Municipal Home Rule Pilot Program, the City shall provide for inspection and citation powers for its deputy fire marshals, independent of any grant of authority by the West Virginia State Fire Marshal.

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

Section 1501.04 of the Martinsburg City Code shall read as follows:

(a) The Fire Chief for the City of Martinsburg, or any person deputized as set out herein below, and who is properly qualified and authorized by the Fire Chief, may issue citations for violations of the Fire Code for fire and life safety violations of the City Code, and as provided by the Rules and Regulations as set out by the City for the fire and life safety. A summary report shall be issued by the Fire Chief, and by all deputies as appointed by the Fire Chief, to the City Manager, containing such information that the City Manager may require, including, but not limited to, the violation for which the citation was issued, the date of issuance, the name of the person issuing the citation and the person to whom the citation was issued. Such report shall be submitted annually. The Fire Chief may appoint as a deputy any person within the Fire Department. The deputy shall be appointed for the purpose of making inspections and such investigations as may be directed by the Fire Chief, and the carrying out of such orders as may be prescribed by the Fire Chief to enforce and make effective the provisions of the Fire Code and any and all regulations promulgated by the City for fire and life safety. The Fire Chief or any deputy appointed by him shall have the authority to enter any area accessible by the public for the purpose of fire safety inspection and may at all reasonable hours enter any

building or premises, other than dwelling houses, for the purpose of making an inspection, which he may deem necessary to be made under the provisions of this article. Any person appointed as a deputy to issue citations shall have satisfactorily completed a training course on the State Fire Code and approved by the Fire Chief. ~~The course shall be approved by the law enforcement training subcommittee of the Governor's committee on Criminal Justice and Highway Safety and the State Fire Commission.~~ In addition, no person appointed as a deputy may be authorized to issue a citation until evidence of liability coverage of such person has been provided by the City. Any person so appointed as deputy, may at any time have such designation as Deputy Fire Marshall for the City revoked by the Fire Chief, if in the opinion of the Fire Chief, the exercise of such authority by such person is inappropriate.

(b) Violations for which citations may be issued, include, but are not limited to:

- (1) Overcrowding places of public assembly;
- (2) Locked or blocked exits in public areas;
- (3) Failure to abate a fire hazard;
- (4) Blocking of fire lanes or Fire Department connections; and

(5) Tampering with or rendering inoperable except during necessary maintenance or repairs, on-premise firefighting equipment, fire detection equipment and fire alarm systems.

(c) A Municipal Deputy Fire Marshal shall have the same inspection and citation powers as any member of a fire department deputized by the State Fire Marshal pursuant to W.Va. Code § 29-3-12(j).

(d) Penalties for Violations. Any person who violates any fire and life safety regulations of the City Fire Prevention Code, or any Fire Code for the City shall be guilty of a criminal violation and shall be fined not more than one hundred dollars (\$100.00) per violation. Each and every day during which any illegal erection, construction, reconstruction, alteration, maintenance or use continues after knowledge or official notice the same is illegal, shall be deemed a separate offense.

This Ordinance shall take effect upon passage.

Introduced: December 11, 2014

Adopted: December 18, 2014

George Karos, Mayor

Attest:

Gena Long, City Recorder

December 8, 2014

CITY OF MARTINSBURG 2014 CDBG RECOMMENDED STREET REPAVING

1. Bowers Street – From New York Avenue to Raleigh Street
2. Jefferson Street – From Texas Street to Virginia Avenue
3. Beth Street – From Vicky Bullett Street to the End
4. Beth Street – From Vicky Bullett Street to Teneno Street

The Environmental Review Process (HUD Requirement) has been completed. These streets will be put out to bid for late spring/early summer paving. Paving is to be completed by June 30, 2015.

INFILCO DEGREMONT INC.

8007 DISCOVERY DRIVE, RICHMOND, VA 23229 USA
P.O. BOX 71390, RICHMOND, VA 23255-1390 USA
TEL 804 756-7600 | FAX 804 756-7643

11B



12/01/2014

City of Martinsburg WV
232 North Queen Street
Martinsburg, WV 25401

Infilco Degremont, INC., a New York Corporation, having a principal place of business at **8007 Discovery Drive Richmond, VA 23229**, hereby transfers and conveys to City of Martinsburg WV title to the following material delivered and stored at the designated storage area 1528 cu/m media at Profile Plastics 1226 Prospect Ave SW Canton OH 44706. Title transfers on dated signed. IDI shall maintain adequate insurance on the material until the date of delivery and will provide the City of Martinsburg with an insurance certificate that names the City of Martinsburg an additional insured on said insurance. IDI will provide the City of Martinsburg with proof of the existence and location of the material.

We sold you an [MBBR system] on [10/19/2012] for [\$ 3,989,000.00] pursuant to your purchase order dated [12/05/2012]. There has been no written amendments to that purchase order beyond Change Order #1, nor any oral understanding different from the purchase order. You have asked us to delay shipment of the [MBBR System] because [of a delay in the start of construction].

We have agreed on the following delivery schedule [begin delivery of Media on or about January 15th 2015. The product has been sold per payment terms set forth in our invoice (see attached).

Therefore, upon receipt of (\$ 1,714,852.00) **Infilco Degremont, INC.** waives all of its statutory lien rights regarding the above mentioned material. The storage, protection, and shipment to jobsite of this material remain the responsibility of **Infilco Degremont, INC.**

Infilco Degremont

By: *William M. ...*

Date: 12/8/14

The information as stipulated above is correct except as noted below.

Signed: _____ Date: _____

Title: _____

Infilco Degremont Inc.
P.O. Box 71390
Richmond, Virginia 23255-1390
Telephone (804)756-7600
Fax (804)756-7643
Dun's Number 06-313-6592
FED ID #22-2023093



Invoice	
Number	1112803-408957
Date:	December 08, 2014
BP-Code:	701062
Buyer:	
Entry By:	BODEMANT

Remit Check Payments To:

Infilco Degremont Inc.
P.O. Box 758758
Ballimore, MD 21275-8758

Sold City of Martinsburg, WV
To: 232 North Queen Street
Martinsburg WV 25401

Ship East John Street
To: Martinsburg WV

Reference:		Payment Terms:		Shipping Terms:				
IJDC Project No. 2011S-1293		TSD - See Details						
Pos.	Item No.	Barcode	Description	Quantity	Delivery Date	Unit Price	Amount	
1	4108000006		Storage /Delivery of equipment Payment Due March 15, 2015	1		1,788,117.00	1,788,117.00	
2	4108000023		Change Order - #1	-1		73,265.00	-73,265.00	
Subtotal before taxes						USD	1,714,852.00	
plus tax with code West Virginia - Exempt						0.0000 % from	1,714,852.00	0.00
Total taxes							0.00	
Amount due						USD	1,714,852.00	

CC: B. Trobaugh, J. Inforzato

Please Note: A service charge of 1.5% of total invoice amount will be added to your account for each month invoice is delinquent after 15 days past due.

Remit Wire Payments To:
Beneficiary: Infilco Degremont Inc.
Beneficiary Bank: Wells Fargo
Richmond, VA 23219
ABA/Routing #: 121000248
Account #: 2055 2767 14490



EVIDENCE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)
11/19/2014

THIS EVIDENCE OF PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

AGENCY Marsh USA, Inc. 1166 Avenue of the Americas New York, NY 10036		PHONE (A/C, No, Ext):	COMPANY HDI-Geiling America Insurance Company	
100957--PROP-14-15				
FAX (A/C, No):	E-MAIL ADDRESS:			
CODE:	SUB CODE:			
AGENCY CUSTOMER ID #: INSURED INFILCO DEGREMONT, INC. PO BOX 71390 800/ DISCOVERY DRIVE RICHMOND, VA 23229-8605		LOAN NUMBER	POLICY NUMBER CPD12018-02	
		EFFECTIVE DATE 01/01/2014	EXPIRATION DATE 01/01/2015	<input type="checkbox"/> CONTINUED UNTIL TERMINATED IF CHECKED
THIS REPLACES PRIOR EVIDENCE DATED:				

PROPERTY INFORMATION

LOCATION/DESCRIPTION
 Re: Stored Goods (See Attached) for City of Martinsburg WWTP Upgrade Project, Contract No. 1 - Moving Bed Biofilm Reactor Equipment Procurement, Infilco Degremont Project No. 1112803, Total Value: \$1,788,117.00

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE INFORMATION

COVERAGE / PERILS / FORMS	AMOUNT OF INSURANCE	DEDUCTIBLE
DIRECT PHYSICAL LOSS OR DAMAGE TO REAL & PERSONAL PROPERTY AT INSURED'S LOCATION SPECIAL COVERAGE PERILS SUBJECT TO POLICY TERMS, CONDITIONS, EXCLUSIONS	1,788,117	
POLICY CONTAINS PHYSICAL DAMAGE DEDUCTIBLE OF \$25,000. ADDITIONAL DEDUCTIBLES, SUBJECT TO POLICY TERMS, CONDITIONS, AND EXCLUSIONS		

REMARKS (Including Special Conditions)

Certificate Holder is included as Loss Payee as its interest may appear where required by written contract.

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

ADDITIONAL INTEREST

NYC-006787431-04

NAME AND ADDRESS City of Martinsburg 232 North Queen Street Martinsburg, WV 25401	<input type="checkbox"/> MORTGAGEE	<input type="checkbox"/> ADDITIONAL INSURED
	<input checked="" type="checkbox"/> LOSS PAYEE	
	LOAN #	
AUTHORIZED REPRESENTATIVE of Marsh USA Inc. Manashi Mukherjee <i>Manashi Mukherjee</i>		