

AGENDA FOR THE REGULAR MEETING OF PARKERSBURG  
CITY COUNCIL FOR TUESDAY, OCTOBER 12, 2010, 7:30 PM  
SECOND FLOOR, COUNCIL CHAMBERS, MUNICIPAL BUILDING

- I. CALL TO ORDER – Council President, John W. Rockhold III
- II. PRAYER
- IV. PLEDGE OF ALLEGIANCE
- V. ROLL CALL – City Clerk
- V. MINUTES – Council meeting held September 28, 2010
- VI. REPORTS FROM STANDING OR SPECIAL COMMITTEES
- VII. MESSAGE FROM THE EXECUTIVE
- VIII. PUBLIC FORUM
- IX. RESOLUTIONS

1. Resolution that Council meetings for the month of November shall be November 9, 2010 and November 16, 2010. (Sponsored by Councilmen Reed, Rockhold, and Kimes.)

2. Resolution and agreement authorizing the City of Parkersburg to participate in the Consolidated Fund and electronic Commerce Program with the State of West Virginia State Treasurer's Office. (Sponsored by Councilmen Kimes, Rockhold, Joyce, and Reed.) (33 page Project Design, Plan, and Agreement may be reviewed or obtained from the City Clerk.)

3. Resolution applying to the Wood County Commission for permission to annex lots 25, 26, and lot 40A in the Southmoor Heights Subdivision, and portions of right of way including Division Street, near 27<sup>th</sup> Avenue. (Planning Commission)

X. ORDINANCE, FIRST READING

4. An ordinance adopting Article 780, City Service User Fee, of Chapter Three, Taxation and Service Charges of Part Seven, Business and Taxation Code, of the Codified Ordinances of the City of Parkersburg. (proposed \$3.00 per week for all employees within the City limits of Parkersburg.) (Sponsored by the Revenue Enhancement Committee of City Council.)

XI. ADJOURNMENT

# JOURNAL OF THE CITY COUNCIL, NO. 53

PARKERSBURG, W. VA., September 28, 2010

The Council of the City of Parkersburg met Tuesday, September 28, 2010, at 7:30 PM in the Council Chambers on the second floor of the Municipal Building at One Government Square, Parkersburg, WV 26101.

The meeting was called to order by Council President John Rockhold III, who presided over the meeting. Councilman Tom Joyce led the Lord's Prayer and Pledge of Allegiance and the Clerk noted the attendance, and those present included Councilmen Nancy Wilcox, Sharon Lynch, Brad Kimes, John Sandy, Sharyn Tallman, Mike Reynolds, Tom Joyce, Jim Reed, and John Rockhold.

MINUTES – Mr. Kimes moved, seconded by Mr. Sandy, to approve the minutes from the meeting held September 14, 2010, and the motion was adopted by unanimous vote.

REPORTS FROM STANDING OR SPECIAL COMMITTEES – Councilman Reed announced that the Revenue Enhance Committee of City Council would meet September 29, 2010, at 5:00 PM on the second floor of the Municipal Building.

Councilwoman Tallman reported that she attended a Community and Economic Development Committee of the National League of Cities meeting in Friscoe, Texas last week. Friscoe is the fastest growing city in the United States, according to the Census, growing from 30,000 people to 120,000 over the past 10-12 years. She said it was amazing to see how the city was built.

MESSAGE FROM THE EXECUTIVE – There was no message from the executive this evening.

PUBLIC FORUM – Mr. R. C. Sims, 2916 Fairview Avenue, spoke to Council at length about the deer problem in his neighborhood, and the danger to drivers and also disease from the deer. He asked them to reconsider an urban deer hunt ordinance.

Mr. Tony Lautar, 2416 Lincoln Avenue, also asked Council to adopt an urban deer hunt ordinance.

Mr. Doug Hess, 813 Walnut Street, Belpre, Ohio, told Council he hoped the maintenance on the traffic signals would be better on the proposed light at 33<sup>rd</sup> and Murdoch Avenue, which is on the agenda this evening. He said he drives through that area every day and suggested flashing yellow late at night or very early in the morning.

Mr. Sam Henry, 4207 16<sup>th</sup> Avenue, told Council he agreed with individual rights, and was speaking concerning the ordinance on the agenda this evening to not allow citizens to grow bamboo in Parkersburg

## RESOLUTION

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that Mr. Charles Harris, 1226 Juliana Street, be appointed as a member of the Mid Ohio Valley Transit Authority for a three year term to expire September 14, 2013.

MOTION – Mr. Reynolds moved, seconded by Mr. Reed, to adopt the resolution, and the motion was adopted by unanimous vote.

## RESOLUTION OF THE COUNCIL OF THE CITY OF PARKERSBURG, WEST VIRGINIA, AUTHORIZING EXECUTION OF AN AGREEMENT WITH THE WEST VIRGINIA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, WITH REGARD TO ESTABLISHMENT AND MAINTENANCE OF A TRAFFIC SIGNAL SYSTEM WITHIN THE MUNICIPAL LIMITS OF THE CITY OF PARKERSBURG, WEST VIRGINIA.

BE IT RESOLVED BY THE CITY OF PARKERSBURG, WOOD COUNTY, WEST VIRGINIA, AS FOLLOWS:

1. That the Mayor of the City of Parkersburg, West Virginia, a municipal corporation, be and is duly and legally authorized to execute, to have acknowledged and to have delivered on behalf of said City an agreement a copy of which is attached hereto and made a part hereof, with the West Virginia Department of Transportation, Division of Highways, with regard to establishment and maintenance of two traffic signal systems within the corporate limits of said City, and;
2. That the City Clerk or recorder do properly attest the signature of said official and affix the seal of the City to said agreement.

On motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_, the City Council of Parkersburg, West Virginia does hereby approve and authorize the adoption of said resolution.

THIS AGREEMENT, made this \_\_ day of \_\_\_\_\_, 20 \_\_, by and between the WEST VIRGINIA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, a State Agency, hereinafter referred to as "Division"; and the CITY 01 PARKERSBURG, a municipal corporation, hereinafter referred to as "City".

THAT WHEREAS, Division and City mutually agree with respect to the installation of c: computerized traffic signal system for the intersection of Murdoch Avenue (WV 14) at 33rd Street.

WHEREAS, by resolution bearing date of day of \_\_\_\_\_, 20 \_\_, the Council of the City of Parkersburg has authorized and directed proper authorities to execute, acknowledge and deliver an agreement on behalf of said City, setting out terms and conditions thereof, a copy of which resolution is affixed to this agreement and made a part hereof, and

WHEREAS, Division and City are desirous of cooperating in adoption of said rules, regulations, stipulations and obligations with regard to the future maintenance and operation of said traffic signal system.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH, that for and in consideration of the mutual covenants herein entered into and mutual benefits to be derived by parties hereto, said Division and City do hereby agree that the following will be the duties and responsibilities of Division and City, respectively:

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PARKERSBURG, W. VA., September 28, 2010

CASTO & HARRIS, INC., SPENCER, WV Re-Order No. 1035-08

## Duties and Responsibilities of the Division

### THE DIVISION AGREES:

1. To prepare plans and specifications necessary for the construction of the proposed traffic signal system.
2. To let a contract for construction of the proposed traffic signal system.
3. To pay one hundred percent (100%) of the total cost of the installation of the traffic signal system.
4. To pay one hundred percent (100%) of the total cost for installation of an interconnecting system to the existing on-street master computer.
5. To pay for the cost for contract inspection and administration by its own forces.
6. To provide a fire priority control system and receivers at selected signalized approaches based upon agreed fire routes.
7. To program all intersection controllers and the on-street master computer.
8. To perform all maintenance of the traffic signal system, on-street master computer, and interconnecting system one priority control system and highway lighting.

## Duties and Responsibilities of the City:

### THE CITY AGREES:

1. To perform properly all minor maintenance of the traffic signal systems, including cleaning and/or replacement of LED signal indications, and relamping of highway lighting fixtures at City's sole expense.
2. To pay for continuing power costs of the traffic signal and highway lighting systems.
3. Not to alter in any way and not to remove any part of the traffic signal system without prior approval by the Division.
4. To permit placing on City property of any pole, signal and sign support or any other appurtenance necessary for the completion of the project.
5. To enact appropriate legislation and/or ordinances, resolutions or regulations necessary to accomplish the purposes of this agreement and to enforce such ordinances, resolutions and/or regulations.
6. To provide transmitters for a fire priority control system on emergency vehicles selected for access to said system.

It is further understood and agreed between the parties that the traffic signal, and all appurtenances thereto, including but not limited to equipment, are and shall remain the property of the Division.

This agreement may be modified with the mutual duly authorized written consent of all parties.

IN WITNESS WHEREOF, the parties hereto have caused their respective names to be signed by their duly authorized officers:

(see signature page in file)

MOTION – Ms. Tallman moved, seconded by Ms. Lynch, to adopt the resolution.

Mayor Robert Newell stated that the installation of this light will solve a problem. The study was done and the plan is to eliminate one side of the light at 31<sup>st</sup> Street. Traffic and congestion should be eliminated at Lakeview Drive.

VOTE – The motion was adopted by unanimous vote.

## RESOLUTION

WHEREAS, the City of Parkersburg recognizes that there are properties in the City that were once used for industrial, manufacturing or commercial uses that are lying abandoned or underused due to the suspicion of contamination; and

WHEREAS, unknown environmental liabilities are preventing the city, developers and investors from restoring these properties to productive use and revitalize impacted neighborhoods; and

WHEREAS, the EPA Brownfields Assessment Grant Program allows communities to inventory, characterize, assess and conduct cleanup and redevelopment planning and community involvement related to Brownfield sites.

WHEREAS, the City of Parkersburg has been awarded a \$200,000 Community-wide hazardous substance Brownfield Assessment grant from the U.S. Environmental Protection Agency.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PARKERSBURG THAT the City of Parkersburg accepts the award and all of its terms and conditions and authorizes Mayor Robert D. Newell to sign the cooperative agreement.

MOTION – Mr. Reed moved, seconded by Ms. Tallman, to adopt the resolution.

MOTION TO AMEND – Mr. Reed moved, seconded by Mr. Reynolds, to amend the resolution to allow the Finance Director to make the proper budget adjustments, and the amendment was adopted by unanimous vote.

The motion, as amended, was adopted by unanimous vote.

## ORDINANCE, FINAL READING:

AN ORDINANCE PROHIBITING THE PLANTING

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PARKERSBURG, W. VA., September 28, 2010

MOTION – Ms. Tallman moved, seconded by Ms. Lynch, to adopt the ordinance on final reading. The motion failed with all members voting "no" with the exception of Ms. Lynch, Mr. Kimes, and Ms. Tallman, who voted "yes".

The meeting adjourned at 8:05 PM.

*Christina Shannon*  
City Clerk

\_\_\_\_\_  
Council President

RESOLUTION



BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that Council meetings in November shall be held November 9, 2010, and November 16, 2010.

Sponsored by Councilmen Reed, Rockhold, and Kimes.

**RESOLUTION AUTHORIZING PARTICIPATION IN CONSOLIDATED FUND AND ELECTRONIC COMMERCE PROGRAM**

WHEREAS, *West Virginia Code §12-6C-6* authorizes spending units and political subdivisions of the State of West Virginia to participate and invest in the Consolidated Fund, which is administered and managed by the Board of Treasury Investments and used to purchase securities and other investments authorized by law; and

WHEREAS, Pursuant to the provisions of *W.Va. Code §12-3A-6*, the West Virginia State Treasurer has developed electronic commerce projects, namely, the *E-Government Program* and the *L-Government Program*, both of which provide spending units and political subdivisions with the low-cost ability to use secure methods of electronic funds transfer systems and lockbox services for the collection of revenues; and

WHEREAS, The revenues collected through the selected electronic commerce programs are deposited into individual Investment Accounts within the Consolidated Fund, resulting in interest accrued and paid to the participating entities; and

WHEREAS, the Council of the City of Parkersburg,  
Name of Governing Body  
 the Governing Body of the City of Parkersburg,  
Name of Spending Unit/Political Subdivision

a spending unit or political subdivision of the State of West Virginia, has reviewed the applicable *E-Government* or *L-Government Project Design, Plan and Agreement* and all Attachments thereto; the *Confidentiality & Non-Disclosure Agreement* with the State Treasurer's Office; the *Investment Policy* of the West Virginia Board of Investments, and the provisions of all applicable state and local laws, policies, rules or ordinances; and

WHEREAS, the Governing Body has made an independent determination that participation in the programs selected below is in the best interests of the spending unit or political subdivision and is within the scope of activities and investments for which it is authorized by law; **NOW, THEREFORE, BE IT**

**RESOLVED:** By The Council Of The City Of Parkersburg  
that the City of Parkersburg be and it

Name of Spending Unit/Political Subdivision  
 is hereby authorized to participate in the following programs:

**Consolidated Investment Fund:** The treasurer or designated financial officer is hereby authorized to do all things necessary in order to establish one or more Investment Accounts with the Board of Treasury Investments, and to deposit funds into said Investment Accounts for participation through the Consolidated Fund in the investment pools selected below:

- |                            |                                         |                                        |
|----------------------------|-----------------------------------------|----------------------------------------|
| WV Money Market            | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |
| WV Government Money Market | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |
| WV Short Term Bond Pool    | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |

**Electronic Commerce:** The spending unit or political subdivision is hereby authorized to apply for and participate in the applicable electronic commerce

program offered by the West Virginia State Treasurer; to enter into all required agreements; and to permit revenues collected on its behalf through the electronic commerce program to be deposited into its Investment Account(s) maintained by the Board of Treasury Investments for investment through the Consolidated Fund and the investment pools selected above. The treasurer or designated financial officer is further authorized to pay all fees and costs, if any, associated with such participation and to do all things necessary in order to participate in the activities selected below:

- Accepting credit card, debit card and other payment methods for electronic commerce purchases,*
- Making electronic funds transfers;*
- Utilizing lockbox services for the collection of revenues.*

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, by the

\_\_\_\_\_  
Name of Governing Body

SIGNED: \_\_\_\_\_

TITLE: \_\_\_\_\_

ATTEST: \_\_\_\_\_

TITLE: \_\_\_\_\_

West Virginia State Treasurer



## L-GOVERNMENT PROJECT DESIGN, PLAN AND AGREEMENT

**THIS PROJECT DESIGN, PLAN AND AGREEMENT**, Made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2007, by and between the West Virginia State Treasurer's Office ("STO"), party of the first part, and \_\_\_\_\_, ("Local Government"), party of the second part, WITNESSETH:

### I. PARTIES

West Virginia State Treasurer's Office ("STO")  
Lella J. Miller, Director of Treasury Operations  
One Players Club  
Charleston, WV 25311  
Telephone: 304-340-1575  
Fax: 304-558-5132  
Email: [lella.miller@wvsto.com](mailto:lella.miller@wvsto.com)

Local Government:  
Address:

Telephone:  
Fax:  
E-mail or website:

## II. PROJECT OVERVIEW

The West Virginia State Treasurer's Office is authorized by *W. Va. Code* §12-3A-6 and by Legislative Rule 112 CSR §13, *et seq.*, to offer electronic commerce payment processing services to political subdivisions of the State of West Virginia, including local governments, agencies and municipalities.

The West Virginia State Treasurer's L-Government Program is an electronic commerce payment processing program for Local Governments. The L-Government Program includes securing credit card payments and Automated Clearing House (ACH) debits over the Internet, making electronic funds transfers (EFT) and providing lockbox services for collection of revenues.

Revenues collected for the Local Government may be deposited into the Local Government's Investment Account established with the Consolidated Fund pursuant to Section V of this Agreement. The Board of Treasury Investments ("BTI") manages the Consolidated Fund and uses it to make investments as authorized by law. The investments made through the BTI generate interest on the money deposited into the Local Government's Investment Account. The Local Government may access funds held in its Investment Account and withdraw or transfer them to its regular business account at any time, provided that funds are available and the request for transfer or withdrawal is made within the processing timelines established by the STO under this Agreement.

The Local Government engages in activities that generate revenue received through cash, checks and/or credit or debit card transactions made via Internet transfers. In order to expedite the processing of these revenue receipts, decrease processing costs and realize interest on revenue received, Local Government has requested the opportunity to utilize the services of the STO L-Government Program, including participation in the Consolidated Fund administered and managed by the Board of Treasury Investments. See, Attachment A, "Local Government Service Description & Selection" and Attachment B, "Resolution Authorizing Participation In L-Government Program."

Therefore, for and in consideration of the terms and conditions included herein, the STO and the Local Government do hereby agree as follows:

## III. DEFINITIONS AND TERMS:

**Automated Clearing House (ACH):** A national EFT network which enables participating financial institutions to distribute electronic credit and debit entries to bank accounts and to settle the entries.

**Board of Treasury Investments (BTI):** A board created by *W. Va. Code* §12-6C-4 to provide prudent fiscal administration, investment and management for the Consolidated Fund.

The primary contacts for each party are as follows:

**Local Government Team:**

\*

_____ Name	_____ Telephone
_____ E-mail Address	
_____ Name	_____ Telephone
_____ E-mail Address	
_____ Name	_____ Telephone
_____ E-mail Address	

**State Treasurer's Team:**

*Lella Miller, Director of Treasury Operations <u>Lella.Miller@wvsto.com</u>	340-1575
Michael Buchanan, Asst. Dir of Receipts Processing <u>Michael.Buchanan@wvsto.com</u>	341-0717
Michelle Painter, Director of EFT Services <u>Michelle.Painter@wvsto.com</u>	340-1565
Matt Ellison, Deputy Treasurer of ITS <u>Matt.Ellison@wvsto.com</u>	341-0768

\* Primary Contact

**D. PROBLEM RESOLUTION**

During regular business hours (Monday through Friday, 8:00 a.m. to 4:00 p.m.) the STO will provide a help desk telephone number for timely resolution of any problems dealing with technical, accounting or deposit issues related to the L-Government Program. Direct customer service will be the responsibility of the Local Government. Any direct customer inquiries to the STO will be referred to the designated office at Local Government. Routine maintenance may be required by the STO and will be planned during off peak times, if possible.

For Help Desk Assistance: Telephone (866) 243-9010

For after-hours assistance, send an email to STO at [eftgroup@wvsto.com](mailto:eftgroup@wvsto.com).

S/g

**ATTACHMENT D**

**West Virginia State Treasurer's Office  
L-Government Services**

**SCHEDULE OF FEES**

<b>Credit Cards</b>	<b>2.25% of total transaction amount</b>
<b>Lockbox</b>	<b>\$0.10 - matched items \$0.10 – amount entry keyed</b>
<b>ACH (Automatic Clearing House)</b>	<b>\$0.05 per transaction</b>
<b>Wire Transfer to/from Investment Account</b>	<b>\$10.00 per wire</b>
<b>Returned Check or ACH</b>	<b>\$4.00 per item</b>

The West Virginia State Treasurer's Office reserves the right to waive or modify fees as may be required.

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## ATTACHMENT F

### West Virginia State Treasurer's Office L-Government Services

#### ACH Debit and Credit Card Processing – Web Activity

**Description of Service:** The STO processes debit and credit card transactions on behalf of the Local Government through links embedded on the Local Government's website. Unless otherwise designated in writing, all funds received on behalf of the Local Government are deposited into the Local Government's Investment Account with the Consolidated Fund. The Local Government may request a transfer of funds from its Investment Account to another Local Government account at any time, provided that funds are available for withdrawal or transfer and the request for transfer or withdrawal is made within the processing timelines established by the STO.

#### Sequence of Events

1. The Local Government completes all the relevant forms and provides all requested information to the STO.
2. Websites and payment pages are developed.
3. The Local Government links their website to the STO payment pages.
4. The L-Government program system is set up to coordinate with the Local Government website and links.
5. The users access the Local Government's website.
6. The users enter their bank information or credit card number on the online form.
7. Credit card numbers are transmitted to the issuing banks for verification and approval.
8. The user gets a "Thank You" or "Sorry Page."
9. The bank account data for the ACH debit activity is transmitted to the STO's EFT division each morning for the activity collected the day before.
10. The EFT Division creates an output file that is sent through the ACH system to settle in the participants' accounts.
11. The items settle in the bank accounts of the participants on the next business day at the time their bank posts that day's activity – usually 3:00PM.
12. The STO monitors the bank account deposits and identifies the items that are received.
13. The STO generates an investment account deposit that includes all the deposit activity that is received for the Local Government.
14. The STO deducts the processing costs from the investment account deposit.
15. The STO enters the investment account deposit reference number in the L-Gov program system.
16. The Local Government logs on to the STO's L-Gov program system and views the detailed accounting report of all payment transactions.
17. The Local Government verifies that the information on the report matches the information supplied by their website.

#### For Refunds or Voids

1. All contact with the website users will be referred to the Local Government. The Local Government will make all determinations on refunds or voids.
2. A REFUND will be issued after the original transaction has been batched and transmitted.
3. A VOID will be issued when the transaction has not been transmitted by the STO.
4. The Local Government will logon to the L-Government program system and mark the transaction to be voided or refunded
5. Credit card voids and refunds will process automatically

#### ACH Returns

1. Returns - There are many reasons that an ACH item may be returned to the STO. The account information may be invalid, the account may be closed, the authorization to debit the account may be revoked, the account may have insufficient funds, and many others.
2. Resends- Some returned ACH items may be resent once to the bank at the discretion of the Local Government. The STO can only resend an ACH item when it was returned for insufficient funds or the reason for the return has been corrected.
3. The STO will notify the Local Government within 24 hours of any returns received for the Local Government. The STO may request the removal of a participant from repetitive EFT activity who has numerous returned entries.
4. 48 to 72 hours after the original settlement date, a return for insufficient funds may be received by the STO for the ACH items.
5. The EFT Division will notify the Local Government within 24 hours of the existence of the return by e-mail to the designated Local Government contact.
6. The STO will deduct the cost of the return(s) from the Local Government's Designated Account.

#### Credit Card Returns

1. Most refunds will be generated by the Local Government. Local Government personnel will be trained by the STO to perform their own refunds on the L-Gov system.
2. Some refunds may be generated by the issuing bank without the prior knowledge of the STO. In these situations, the STO will go online and mark the transaction as refunded, notify the Local Government of the return, and charge the investment account for the return.

## ACH Debit and Credit Card Processing – Batch Activity

### Sequence of Events

1. The Local Government completes all the relevant forms and provides all requested information to the STO.
2. Authorization forms are developed and distributed.
3. The users complete the authorization forms and return them to the Local Government.
4. The Local Government forwards the original forms to the STO.
5. The STO enters the bank information into the ACH processing database.
6. At a specified time, the Local Government transmits a file that lists the participant numbers, names and dollar amounts to be transmitted for debit or credit to the Local Government's investment account.
7. For credits to participants, the STO will deduct the amount of the transmission from the Designated Account the day of the transmission.
8. For debits to participants- the STO generates an investment account deposit when the funds settle.
9. The EFT Division creates an output file that is sent through the ACH system to settle in the participants' accounts.
10. For debits, the items settle in the bank accounts of the participants on the next business day at the time their bank posts that day's activity – usually 3:00PM.
11. For credits, the funds are available for withdrawal from the bank accounts of the participants on the second business day at the opening of business – usually 9:00AM.
12. The STO deducts the processing costs from the investment account deposit.
13. The STO enters the investment account deposit reference number in the L-Gov system.
14. The Local Government logs on to the STO's L-Gov program system and views their report.
15. The Local Government verifies that the information on the report matches the information supplied by their website.
16. The STO will provide technical representation within twenty-four (24) hours of a problem.
17. The STO will notify Local Government in advance of planned downtime.

## ACH Debit and Credit Card Processing - Refund-Void Schedule for Web Activity

<u>Type of Activity</u>	<u>Deadline</u>	<u>Day of Delivery</u>
ACH Void	12:00 A.M.	Items submitted the current day before 12:00 midnight.
ACH or Credit Card Refund	90 days after charge	Items submitted earlier than the previous day.

Since ACH items are not transmitted until the day after they are entered, it may be possible to stop the initial transmission of the debit. The Local Government must notify the EFT Division before noon the day after the transaction was entered in order to stop the transmission.

EFT Division Telephone: 304-558-3599

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September 28, 2010

RE: Resolution and agreement authorizing participation in Consolidated Fund and electronic Commerce Program with the West Virginia State Treasurer's Office and the City of Parkersburg, **for agenda October 12, 2010**

An overview of the proposed program, as well as attachments D (Schedule of Fees, page 28) and Schedule F (Web and batch activity, page 30 and 31) are attached.

The entire Project Design, Plan, and Agreement may be obtained from the City Clerk.

Joe Santer

Sponsored by Councilmen Kimes, Rockhold, Joyce, and Reed

## RESOLUTION

**WHEREAS**, the City of Parkersburg desires to increase its boundaries by way of minor boundary adjustment so as to adequately reflect and encourage the fiscal and physical growth of the City; and

**WHEREAS**, the area to be annexed by said method includes portions of right-of-way known as Division Street Extension and Southmoor Drive Avenue; and

**WHEREAS**, Steven Mercer and Clyde E. Rowe Jr., the owners of the remainder real estate to be annexed do not object to this annexation; and

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG** that the City of Parkersburg, by and through its governing body, under and by virtue of the provision of Chapter 8, Article 6, Section 5 of the Code of West Virginia, as amended, apply to the County Commission of Wood County, West Virginia, for permission to annex to the City of Parkersburg that certain territory situated in the Tygart District, Wood County, West Virginia, bounded and described on the legal description and plat, which attached hereto and incorporated herein by reference as Exhibit "A."

**BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG** that the portion of said property to be annexed consists of portions of right-of-way of Division Street, from the existing corporation limits to a point perpendicular to the northeasterly corner of Parcel 27, and portions of the Southmoor Drive, from Division Street Extension to the westerly line of Parcel 25, and Parcel 25 (0.267 acres), Parcel 26 (0.267 acres) and Parcel 40/A (0.248 acres), making a total of 1.30 acres; and

**BE IT FURTHER RESOLVED** that in conjunction with the foregoing, Mayor Robert D. Newell, be and is hereby, authorized to execute a proper application and do all other acts necessary in connection with said annexation procedure.

SPONSORED BY: Parkersburg Municipal Planning Commission

## EXHIBIT A

The territory proposed to be annexed is located in the Magisterial District of Tygart District, Wood County, West Virginia, more particularly described as follows:

Beginning at a point on the existing corporation line of the City of Parkersburg, said point being at the intersection of the easterly right-of-way line of Division Street, and the center line of 27<sup>th</sup> Avenue, (now vacated); thence with the said easterly line of Division Street, in a southwesterly direction, crossing said 27<sup>th</sup> Avenue, and with the westerly lines of Lots 24, 25, and 26 of Southmoor Addition, as shown in Plat Book 14, Page 36, recorded in the Office of the Clerk Of the County Commission of Wood County, West Virginia, and a portion of the westerly line of Lot 30 of Southmoor Heights Addition, as shown in Plat Book 15 Page 30, recorded in the aforesaid Clerk's Office, to a point that is at right angles, to the northeasterly corner of lot 27, of the aforesaid Southmoor Heights Addition; there crossing said Division Street in a westerly direction, to the northeasterly corner of the aforesaid Lot 27; thence with the southerly line of Southmoor Drive, and the northerly line of aforesaid Lot 27, in a westerly direction, to the northeasterly corner of Lot 26 of the aforesaid Southmoor Heights Addition; thence leaving Southmoor Drive, with the easterly line of aforesaid Lot 26, in a southerly direction, to the southeasterly corner of aforesaid Lot 26; thence with the southerly line of Lots 26 and 25 of the aforesaid Southmoor Heights Addition, in a westerly direction to the southwesterly corner of aforesaid Lot 25; thence with the westerly line of aforesaid Lot 25, and its northerly extension, in a northerly direction crossing Southmoor Drive, to a point on the southerly line of Lot 38, of the aforesaid Southmoor Heights Addition; thence with the northerly line of Southmoor Drive, in a easterly direction, to the southwesterly corner of Lot 40 of the aforesaid Southmoor Heights Addition; thence leaving Southmoor Drive in a northerly direction, to the northwesterly corner of aforesaid Lot 40; thence with the northerly line of said Lot 40 in a southeasterly direction to the northeasterly corner of the parcel of land conveyed to Steven L. Mercer in Deed Book 1076, Page 311; thence with the easterly line of the aforesaid Steven L. Mercer parcel, in a southerly direction, to the southeasterly corner of the original aforesaid Lot 40; thence with the northerly line of Southmoor Drive in a easterly direction, to the northeasterly corner of Lot 41 of the aforesaid Southmoor Heights Addition; thence with the westerly line of Division Street, in a northeasterly direction, with the easterly lines of Lots 8 and 7 of the aforesaid Southmoor Addition, and 27<sup>th</sup> Avenue, (now vacated), to the existing corporation line of the City of Parkersburg; thence with the said existing corporation line, crossing Division Street, in a easterly direction, to the place of beginning, containing 1.30 acres more or less, as shown on the plat attached here to and make part of this description.

This description was written by Randy A. Sheppard, LLS No. 860, and is based on instruments of record.

Mayor Robert D. Newell



CITY OF PARKERSBURG  
ONE GOVERNMENT SQUARE  
P.O. BOX 1627  
PARKERSBURG, WV 26102

October 4<sup>th</sup> 2010

The Honorable Robert D. Newell, Mayor  
Members of City Council  
City of Parkersburg  
One Government Square  
Parkersburg, WV 26102

Re: Proposed annexation of Tax Map 94 (Tygart District), Parcels 25, 26 and 40A in the Southmoor Heights Addition, and portions of right of way including Division Street Extension, from the existing corporation limit to a point perpendicular to the northeasterly corner of parcel 27, and Southmoor Drive, from Division Street Extension to the westerly line of Parcel 25.

To The Honorable Mayor and City Council:

On September 17<sup>th</sup> 2010 the Municipal Planning Commission met to consider the aforementioned petition for annexation. Prior to the public hearing, residents (not already in the corporation limits) along Division Street Extension and Southmoor Drive were notified of the impending petition and given an opportunity to join the application. One additional property owner joined the initial application and another expressed interest in joining the City. Unfortunately, that resident did not get their application submitted in time for the public hearing.

After hearing from all interested parties, the Commission unanimously voted (8-0) to recommend that the proposed annexation (described above) be approved. Please find the attached resolution, application, and minutes of the meeting for your review.

Should you have any questions, please contact Rickie Yeager, Planning Administrator at (304) 424.8558 or by email at [rmyeager@parkersburg-wv.com](mailto:rmyeager@parkersburg-wv.com). He would be happy to assist you.

Sincerely,

Eric D. Gumm, President  
Municipal Planning Commission

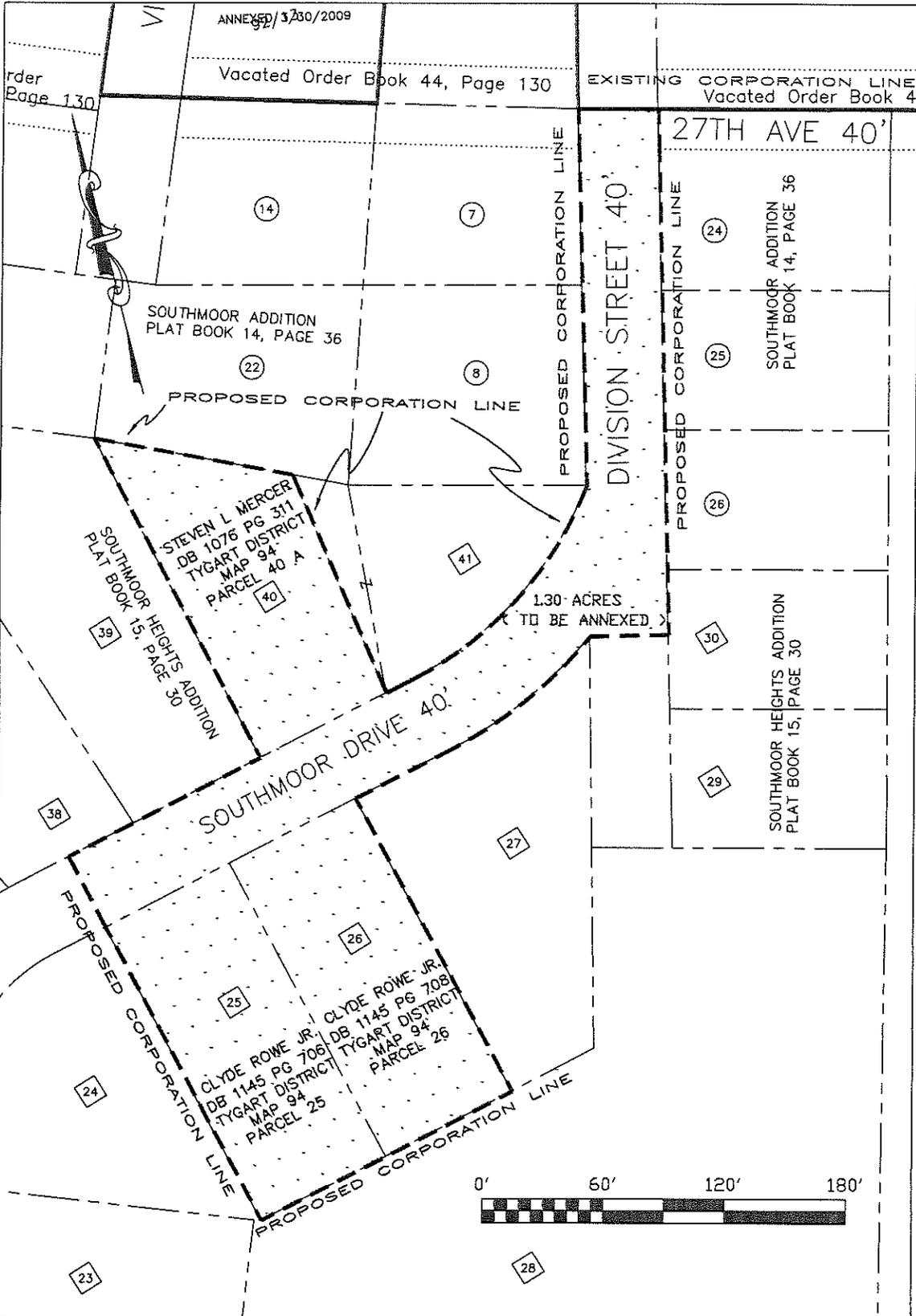
Attachments

**LEGAL DESCRIPTION OF LAND TO BE ANNEXED**  
**DIVISION STREET AND SOUTHMOOR DRIVE**

A parcel of land in Tygart District, Wood County, West Virginia, more particularly described as follows:

Beginning at a point on the existing corporation line of the City of Parkersburg, said point being at the intersection of the easterly right-of-way line of Division Street, and the center line of 27<sup>th</sup> Avenue, (now vacated); thence with the said easterly line of Division Street, in a southwesterly direction, crossing said 27<sup>th</sup> Avenue, and with the westerly lines of Lots 24, 25, and 26 of Southmoor Addition, as shown in Plat Book 14, Page 36, recorded in the Office of the Clerk Of the County Commission of Wood County, West Virginia, and a portion of the westerly line of Lot 30 of Southmoor Heights Addition, as shown in Plat Book 15 Page 30, recorded in the aforesaid Clerk's Office, to a point that is at right angles, to the northeasterly corner of lot 27, of the aforesaid Southmoor Heights Addition; there crossing said Division Street in a westerly direction, to the northeasterly corner of the aforesaid Lot 27; thence with the southerly line of Southmoor Drive, and the northerly line of aforesaid Lot 27, in a westerly direction, to the northeasterly corner of Lot 26 of the aforesaid Southmoor Heights Addition; thence leaving Southmoor Drive, with the easterly line of aforesaid Lot 26, in a southerly direction, to the southeasterly corner of aforesaid Lot 26; thence with the southerly line of Lots 26 and 25 of the aforesaid Southmoor Heights Addition, in a westerly direction to the southwestly corner of aforesaid Lot 25; thence with the westerly line of aforesaid Lot 25, and its northerly extension, in a northerly direction crossing Southmoor Drive, to a point on the southerly line of Lot 38, of the aforesaid Southmoor Heights Addition; thence with the northerly line of Southmoor Drive, in a easterly direction, to the southwestly corner of Lot 40 of the aforesaid Southmoor Heights Addition; thence leaving Southmoor Drive in a northerly direction, to the northwestly corner of aforesaid Lot 40; thence with the northerly line of said Lot 40 in a southeasterly direction to the northeasterly corner of the parcel of land conveyed to Steven L. Mercer in Deed Book 1076, Page 311; thence with the easterly line of the aforesaid Steven L. Mercer parcel, in a southerly direction, to the southeasterly corner of the original aforesaid Lot 40; thence with the northerly line of Southmoor Drive in a easterly direction, to the northeasterly corner of Lot 41 of the aforesaid Southmoor Heights Addition; thence with the westerly line of Division Street, in a northeasterly direction, with the easterly lines of Lots 8 and 7 of the aforesaid Southmoor Addition, and 27<sup>th</sup> Avenue, (now vacated), to the existing corporation line of the City of Parkersburg; thence with the said existing corporation line, crossing Division Street, in a easterly direction, to the place of beginning, containing 1.30 acres more or less, as shown on the plat attached here to and make part of this description.

This description was written by Randy A. Sheppard, LLS No. 860, and is based on instruments of record



SCALE = 1 INCH = 60 FEET

DATE: 09/23/10

DRAWN BY: R.S.

CHECKED BY:

LOTS 25, 26, & P/O 40 OF  
SOUTHMOOR HEIGHTS ADDITION  
PLATBOOK 15, PAGE 30  
& P/O DIVISION STREET  
& SOUTHMOOR DRIVE  
TYGART DISTRICT MAP 94

CITY OF PARKERSBURG, W.V.

DEPARTMENT OF PUBLIC WORKS

DIVISION OF ENGINEERING

PLAT OF PROPOSED ANNEXATION

**MUNICIPAL PLANNING COMMISSION**

**Sept. 17, 2010**

\*\*\*\*\*

A regular meeting of the Municipal Planning Commission was held on Friday, Sept. 17, 2010, in the Executive Chambers, Municipal Building, Parkersburg, West Virginia, at 12:30 p.m. with Mr. Eric Gumm, presiding.

**MEMBERS PRESENT:**

Mr. Francis Angelos	Mrs. Sherry Dugan	Mr. Charlie Matthews
Mr. Eric Gumm	Mr. Jim Ritchea	Mrs. Sharon Lynch
Mrs. Ann Conageski	Mrs. Pat Vincent	

**MEMBERS ABSENT:**

Mr. Sel Wigal	Mrs. Kim Wilson	Mr. Greg Herrick
Mr. Steve Gainer	Mr. Jim Greene	Mr. Eddie Staat

**STAFF PRESENT:**

Mr. Rickie Yeager, Planning Administrator  
Mr. Rob Tebay, Assist. City Attorney  
Ms. Andrea Farrell, Development Secretary

**OTHERS PRESENT:**

See attached list.

**ROLL CALL:**

Andrea Farrell noted the roll call with 8 voting members.

**MINUTES**

Mr. Francis Angelos moved to accept the minutes with Mrs. Duggan seconding the Motion. The Motion passed unanimously.

**PRESIDENT'S REPORT**

There was no report from the President.

**PLANNING ADMINISTRATOR'S REPORT**

- A. Mr. Yeager reported he and Mrs. Conageski had been to a Brownsfield Conference and that Parkersburg was one of 4 communities to receive a \$12,000 grant. This will be used on the form coat site at East & Depot Street. This will be used after the ERA Grant, Phases 1 & 2 to do additional site planning.

- B. There will be a public hearing in November about the Comprehensive Plan. The planning consultants will provide hard copies before the hearing.**
- C. The Downtown Task Force will change to the On-Track Steering Committee and will work toward downtown redevelopment. There will be four new committees formed under the Steering Committee.**
- D. There was a pre-construction meeting held for the Neighborhood Stabilization Program. Work should begin within a few weeks.**

**NEW BUSINESS**

- A. Proposed annexation of lots 25, 26, and lot 40A in the Southmoor Heights Subdivision, and portions of right of way including Division Street Extension, from the existing corporation limit to a point on lot 30 perpendicular to the southerly line of Southmoor Drive, and Southmoor Drive, from Division Street Extension to the westerly line of lot 25. Applicant: Mr. Steve Mercer & Mr. Clyde Rowe, Jr.**

**Mr. Steve Mercer was present.**

**Mr. Yeager corrected his agenda to read "part of lot 40A".**

**Mr. Yeager read the staff report. (see attached)**

**The public hearing began at 12:40 pm.**

**IN FAVOR**

**Mr. Steve Mercer, 2716 Southmoor Drive said he tried before to get into the City. He wants to have the benefits the City offers such as the fire and police protection, snow removal and the lower insurance rates by being in the City. He is not interested in getting the street fixed at this time.**

**IN OPPOSITION**

**There was no one to speak in opposition of the proposal.**

**The public hearing closed at 12:44 pm.**

**Mrs. Sharon Lynch said she supported the proposal. She felt by annexing one house at a time, that the City may be able to get the whole area into the City.**

**Mr. Justin Smith, City Engineer, said when Mr. Mercer asked to come into the City in 2000, the cost for road repair and drainage was estimated at \$300,000. The Engineering Department is not against the annexation, but is concerned about the infrastructure and the cost of fixing the road.**

**Mr. Gumm mentioned that there was an area of the road that had a slab repaired.**

**Mr. Mercer said the neighbors had paid to have the road repaired.**

#### **MOTION**

**Mrs. Lynch moved to accept the proposed annexation of lots 25, 26, and lot 40A in the Southmoor Heights Subdivision, and portions of right of way including Division Street Extension, from the existing corporation limit to a point on lot 30 perpendicular to the southerly line of Southmoor Drive and Southmoor Drive, from Division Street Extension to the westerly line of lot 25. Mr. Ritchea seconded the Motion and it passed 8-0-0.**

- B. Proposed zoning of the proposed Tygart District Map 94, lots 25, 26 and lot 40A in the Southmoor Heights Subdivision, commonly known as 5 and 2716 Southmoor Drive as a Residential (R-2) District.**

**The Public Hearing began at 12:51 PM.**

#### **IN FAVOR**

**Mr. Mercer asked if Mr. Holt, his neighbor, was going to be included in this proposal. Mr. Yeager told him that it was too late to include him in this proposal, but he could be added to next month's meeting so they could meet the legally advertised time limit.**

**IN OPPOSITION**

No one spoke in opposition of the proposal.

The Public Hearing was closed at 12:53 PM.

**MOTION**

Mrs. Conageski moved to accept the proposed zoning of the proposed Tygart District Map 94, lots 25, 26 and lot 40A in the Southmoor Heights Subdivision, commonly known as 5 and 2716 Southmoor Drive as a Residential (R-2) District. Mr. Angelos seconded the Motion and it passed 8-0-0.

**OTHER BUSINESS**

Mrs. Pat Vincent moved that Municipal Planning Commission do a resolution approving the pending merger plans for St. Joseph's Hospital and Camden-Clark Memorial Hospital with The West Virginia United Health Systems . Mr. Ritchea seconded the Motion and the Ayes had it.

**ADJOURNMENT**

The meeting adjourned at 1:04 P.M.

SUBMITTED BY:



**ANDREA O. FARRELL**  
Development Department Secretary

USER FEE ORDINANCE

NEXT NINE PAGES

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↑

**An Ordinance Adopting Article 780, City Service User Fee,  
Of Chapter Three, Taxation and Service Charges  
Of Part Seven, Business and Taxation Code of the Codified  
Ordinances of the City of Parkersburg**

Be It Ordained By The Council Of The City of Parkersburg That Article 780, City Service User Fee of Chapter Three of Part Seven, Business and Taxation Code of The Codified Ordinances of the City of Parkersburg be adopted as follows:

**ARTICLE 780**

**CITY SERVICE USER FEE.**

**780.01 STATEMENT OF POLICY AND FINDINGS.**

Council finds that the City of Parkersburg provides to all person in its borders certain services, whether they be residents employed within the City, or persons living outside the City and employed within the corporate boundaries of the City or persons visiting within the City. Such services include police and fire protection and traffic and street maintenance and other valuable services associated with the police and fire departments and public works department. Such services are within the authority and are the responsibility of the municipal government as provided under the general laws of the State of West Virginia and, since such services are essential to the creation and maintenance of those jobs which provide livelihood to all person employed within the City as well as to the property interests of residents and visitors to the City, it is therefore, reasonable to derive a portion of the cost of providing and maintaining such services from said individuals. Additionally, the Council finds that an individual who is a resident and employed within the City has a greater interest and direct benefit from such municipal services. West Virginia Code Section 8-13-13 provides that every municipality has the plenary power and authority to provide by ordinance for the installation, continuance, maintenance or improvement of such services, to make reasonable regulations with respect thereto, and to impose by ordinance upon the users of such services reasonable rates, fees and charges to be collected in the manner specified in the ordinance.

Council further finds that all of those who actually use, enjoy and benefit from these services should bear an equitable share of the cost thereof. Council acknowledges that the Supreme Court of Appeals of West Virginia has recognized that

PAGE 1 OF 9

no system of assessing the cost to all users will be absolutely perfect, and that municipalities are only required to install a reasonable system of distributing the costs to all of the users that it can reach through a reasonable and prudent means and legislation.

Council further acknowledges that the Legislature of the State of West Virginia has conferred upon municipalities that plenary power to enact reasonable administrative provisions to ensure the efficient, orderly and equitable, implementation and collection of the service fees from all possible users.

Council further finds that it has determined that it is in the best interests of the citizens of the City of Parkersburg and the users of all City services to enact this Article to impose a city service user fee.

Council further finds that there are thousands of person who use and benefit from municipal services who are not owners of property or residents of the City of Parkersburg, but who are employed within the City.

Council further finds that employers located within the City of Parkersburg possess important employment information necessary to properly enforce certain aspects and provisions of the Article. Therefore, reasonable regulations concerning obtaining certain information from such employers shall be a necessary and important part of the administration of the City service user fee.

**780.02**      **DEFINITIONS.**

- (a) "User" mean any person who is self-employed or who is employed within the City by an employer located within the City and whose conduct is consistent with that of an employee benefiting from the use of municipal services as stated in Section 780.03 of this Article.
- (b) "Municipal service or municipal services" shall mean any valuable service provided by the City of Parkersburg, its departments, boards, commissions and agents, which shall include, but not limited to, fire protection, flood protection, police protection, street maintenance and improvement, street lighting, and other valuable City services.
- (c) "User of municipal services" shall mean any person, as defined in this section, who uses any municipal service, as defined in this

section, and who is found or declared to be such a user in section 780.03 of this Article.

- (d) "Fee" shall mean the city service user fee to be imposed by the provisions of this Article.
- (e) "Director" shall mean the Director of Finance as designated and defined in section 4.3, Chapter 3, Article IV of the Official Charter of the City of Parkersburg as amended.
- (f) "Business" shall mean all activities engaged in or caused to be engaged in with the object of gain or economic benefit, either direct or indirect.
- (g) "City" shall mean the City of Parkersburg.
- (h) "Employer" shall mean any person, partnership, limited partnership, limited liability company, association (unincorporated or otherwise), corporation, institution, trust, governmental body or unit or agency, or any other entity (whether its principal activity is for-profit or not-for-profit) situated, doing business, or conducting its principal activity in the city and who employs an employee, as defined herein.
- (i) "Employee" shall mean any individual who is employed at or physically reports to one or more locations within the City and is on the payroll of an employer, on a full-time or part-time basis, in exchange for salary, wages or other compensation.
- (j) "Employed" shall include an employee working for an employer so as to be subject to any federal or state employment or wage withholding requirement and a self-employed individual working as a sole proprietor or member of a firm so as to be subject to self-employment tax. An employee shall be considered employed in a calendar week so long as the employee remains on the current payroll of an employer deriving compensation for such week and the employee has not been permanently assigned to an office or place of business outside the City. A self-employed individual shall be considered employed in a calendar week so long as such

individual has not permanently discontinued employment within the City.

- (k) "Self Employed Individual" shall mean an individual who regularly maintains an office or place of business for conducting any livelihood, job, trade, profession, occupation, business or enterprise of any kind within the City's geographical boundaries over the course of four or more calendar weeks, which need not be consecutive, in any given calendar year.

**780.03**      **DECLARATION AS TO CONDUCT EVIDENCING THE USE OF A MUNICIPAL SERVICE**

Council finds that being employed or holding employment with an employer with a place of business located within the City of Parkersburg during a calendar year is legal and valid proof of the use of one or more municipal services sufficient to assess and collect a city service user fee from the person engaging in the activity stated.

**780.04**      **IMPOSITION OF CITY SERVICE USER FEE.**

(a) Effective 12/6/10 , and thereafter, there is hereby imposed a city service user fee to help defray the cost of providing and maintaining City services within the City. The fee is hereby imposed upon any person who is employed within the City and meets the requirements of a user of municipal services as defined in section 780.02 (a) of this Article. Such person or persons shall be required to pay a city service user fee of **THREE DOLLARS (\$3.00) PER CALENDAR WEEK.**

**780.05**      **ADMINISTRATIVE REGULATIONS: INVESTIGATIONS AND POWER TO AUDIT.**

- (a) Pursuant to West Virginia Code Section 8-13-13, the Director shall have the authority and responsibility to promulgate reasonable regulations for the collection of the fees imposed by this Article. Said regulations shall include, but not limited to: 1) regulations setting due dates for all fees; 2) regulations setting forth guidelines for the orderly collection of the fees; 3) regulations requiring

employers employing persons within the City of Parkersburg to collect and remit said fees and supply to the Director any and all information which may include the following; the number of total employees; the number of full-time/part-time employees; hire dates and termination dates for new employees or those who have left employment; names, social security numbers and addresses; 4) regulations requiring employers to collect from their employees and to remit to the Department of Finance the fee imposed herein. Such rules, regulations and procedures shall be reduced to writing and shall take effect upon being filed in the Office of the City Clerk; 5) the Director of Finance may, upon his discretion, allow employers to submit information on an annual basis, however, payment of fees shall be made on or before the designated due date; and 6) the method of reporting can be done by any means found to be acceptable by the Director of Finance.

- (b) For the purpose of ascertaining the correctness of any information submitted to the Director as required by subsection (1) of this section, the Director, or his designee, shall have the power to examine or cause to be examined, any book, papers, records, memoranda, documents and any other payroll data and information, and may take testimony and require material proof with power to administer oaths to any person or persons from whom testimony may be taken. The Director of Finance shall further have the power to issue subpoenas and subpoenas ducas tecum in the name of the City of Parkersburg to compel the attendance of witnesses and the production of books, papers, records, memoranda, documents and testimony at the time and place specified. Every such subpoena and subpoena duces tecum shall be served at least five (5) days before the return date thereof by either personal service made by any credible person over eighteen (18) years of age, or by registered or certified mail, return receipt requested. A return receipt shall be required to prove service by registered or certified mail. The Director of Finance shall

have plenary and an authority to further enforce the provisions of this Article by instituting the appropriate civil action in any court of competent jurisdiction pursuant to West Virginia Code Section 8-13-15.

**780.06**      **DELINQUENT ACCOUNTS.**

Each installment of the city service user fee shall be due within thirty (30) days from the last day of the reporting period. Fees not received within thirty (30) days of said due date shall be considered delinquent. There shall be added to each delinquent account a penalty of five percent (5%) of the balance thereof on the thirty-first day after the bill has been sent. Thereafter, a penalty of two percent (2%) shall be added to the total outstanding balance at the end of each quarter. The Director of Finance may waive or abate the penalty hereunder for reasonable cause.

**780.07**      **ENFORCEMENT.**

The Director of Finance is charged with enforcement of this Article and may institute appropriate legal proceedings in the corporate name of the City and against any self employed individual or employer who fails to collect, pay or remit the fee imposed herein pursuant to West Virginia Code Section 8-13-15.

**780.08**      **PROTEST; ADMINISTRATIVE DECISION; APPEAL**

(a) Anyone one who has paid the fee imposed by this article shall file a claim for a refund no later than thirty (30) days after the fee is paid over to the City by written notice of such claim with the Director of Finance setting forth with particularity all objections thereto. The burden of proof shall be upon the aggrieved party to show that the fee was paid and is incorrect and contrary to law, in whole or in part. The Director of Finance shall review the refund claim and provide for any necessary hearing, render a decision on the claim and forthwith either notify the protesting party of such decision in writing or direct that a refund be issued, all within a reasonable time. Said decision shall be issued by certified mail, return receipt requested.

(b) If aggrieved by the decision of the Director of Finance, the protesting party may appeal the decision of the Director of Finance to the Circuit Court of Wood County within thirty (30) days after service of the Director of Finance'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 Director of Finance 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 Wood County Circuit Court and docketed as other cases, with the aggrieved party as plaintiff and the Director of Finance as defendant.

(2). The filing of the appeal shall not stay the collection of the fee unless the plaintiff shall file with such clerk a bond for the use of the defendant, with sureties approved by the Clerk of the Circuit Court of Wood County, the penalty of the bond to be not less than the total amount of the fee, and accumulated penalties to the date of the appeal, and conditioned that the plaintiff shall perform the orders of the Wood County Circuit Court; provided, that the judge of the Wood 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 Wood County Circuit Court's orders or that the ends of justice will be served thereby.

(3). The Wood County Circuit Court shall hear the appeal and determine anew all questions submitted to it on appeal from the decision of the Director of Finance. In such appeal a certified copy of the Director of Finance's fee assessment shall be admissible and shall constitute prima facie evidence of the fee due under the provisions of this article.

(c). The administrative remedies set forth in this section are exclusive. Failure to timely file a refund claim in accordance with this section shall preclude any right to refund with respect to any fee paid to the city prior to the claim. If no appeal is taken pursuant to this section with thirty (30) days after service of the Director of Finance's decision, said decision shall become final and conclusive and not subject to administrative or judicial review. The amount of the fee and accumulated penalties, if any, due the city under such decision shall be due and payable on the day following the date upon which such decision becomes final.

**780.09**

**EMPLOYER RESPONSIBILITY; WITHHOLDING; REPORTING; PAYMENT.**

It shall be the responsibility of all persons or firms employing persons subject to the city service fee pursuant to section 780.04(a) of this Article to make payments and complete reports when required to the Director pursuant to regulations promulgated by the Director and pursuant to the provisions set forth in this Article.

- (a) Every employer shall deduct and withhold from any compensation or income paid to an employee in its employ an amount equal to the fee imposed herein upon said employee; provided, that an employer shall not deduct or withhold the fees as to any employee who executes and delivers a proper form prescribed by the Director of Finance evidencing prior payment of the fee either directly or by collection through another employer in the City; provided further, that the employer shall maintain adequate records concerning any such employees. Every employer is deemed to be a trustee for the city in collecting and holding the fee required to be withheld and the funds so collected by such withholding are deemed to be trust funds. The failure of any employer to deduct the fee shall not relieve the employee from the duty to pay the fee. Any employer who fails to deduct the fee as required by this section, or who fails to pay the trust funds to the Director of Finance pursuant to this section and the regulations promulgated pursuant thereto, shall be liable for such fee in full, along with an penalties or interest accrued thereon, as though the fee had originally been assessed against the employer notwithstanding any provisions herein to the contrary.
- (b) Every self-employed individual who is not employed by an employer and who has not had the fee deducted or withheld by an employer shall file a form prescribed by the Director of Finance and pay to the Director of Finance all such fees that are due and owing according to and in the manner prescribed by the regulations promulgated pursuant hereto.

**780.10**      **SEVERABILITY.**

If any section, subsection, subdivision, paragraph, provision, sentence, clause or word of this Article is for any reason held invalid or unconstitutional, such holding shall not affect the validity, constitutionality, legality or application of any other portion of this Article.

**780.11**      **DEDICATION TO REVENUES.**

All revenues generated by the city service user fee imposed herein are hereby dedicated to and shall be utilized for fire and police protection, flood protection, traffic and street maintenance and public works projects related thereto, and any costs attendant or related to the imposition and processing of this fee.

**780.12**      **FEE IMPOSED IN ADDITION TO MUNICIPAL SERVICE USER FEE IN ARTICLE 781, 783, and 789.**

The fee imposed herein shall be in addition to and independent and exclusive of the Municipal Service User Fee for police, fire and flood protection service imposed under Article 781, Article 783 and Article 789, Chapter Three of Part Seven of these Ordinances.