TOWN OF NORTH HILLS, WEST VIRGINIA
SEWER REVENUE BOND
SERIES 2004

RECYCLED
80000 SERIES
30% P.C.W.

TOWN OF NORTH HILLS, WEST VIRGINIA
SEWER REVENUE BOND
SERIES 2004

INDEX OF CLOSING DOCUMENTS

1. Certified copy of Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended.

2. Certified copy of the Certificate of Incorporation of the Town of North Hills, West Virginia (the "Town").

3. Certified copy of the Administrative Ordinances of the Town.

4. Certified copy of the Oaths of Office of the Mayor, Recorder, Treasurer and Council members of the Town.

5. Certified copy of Ordinance enacted by the Council of the Town on July 22, 2003, establishing sewer rates (the "Rate Ordinance") and Affidavit of Publication of notice of public hearing on the Rate Ordinance and Affidavit of the Mayor that Notice was mailed to all customers.

6. Certified copy of Ordinance creating the Sanitary Board of the Town and minutes with respect to the enactment thereof.

7. Petition of the Sanitary Board.

8. Copies of Minutes of meetings of the Town Council on January 6, 2004, and January 13, 2004, regarding enactment of Bond Ordinance and copy of the Minutes of the meeting of the Town Council on January 27, 2004, with respect to the public hearing.

9. Certified copy of Bond Ordinance passed by the Council of the Town on January 6, 2004, and January 13, 2004, and placed into effect on January 27, 2004, authorizing the Town's Sewer Revenue Bonds, Series 2004 (the "Bond Ordinance) and public hearing thereon.

10. Affidavit of publication of the abstract of Bond Ordinance and notice of public hearing on Bond Ordinance in the Parkersburg [News].

11. NPDES Permit.

12. Engineer's Certificate.

13. Recommended Decision of the Public Service Commission of West Virginia dated January 29, 2004, which pursuant to the Commission Order Waiving Exception Period entered on February 3, 2004, became a Final Order of the Commission on February 9, 2004, granting the Certificate of Convenience and Necessity to the Town for the Sewerage System.

14. General Certificate, dated February 19, 2004, signed by the Acting Mayor, Town Recorder, and Counsel, including:

    A. Award of Bond
    B. No Litigation
    C. Governmental Approvals
    D. No Adverse Financial Change; Indebtedness
    E. Signatures, Etc.
    F. Certification of Copies of Documents
    G. Incumbency and Official Name
    H. Delivery and Payment
    I. Land and Rights of Way
    J. Meetings, Etc.
    K. Contractors' Insurance, Etc.
    L. Connections, Etc.
    M. Rates
    N. Publication and Public Hearing on Bond Ordinance

15. Opinion of Bowles Rice McDavid Graff & Love PLLC, Bond Counsel.

16. Opinion of Bowles Rice McDavid Graff & Love PLLC, Counsel to the Issuer

17. Receipt for Bond No. R-1 and Transcript dated February 19, 2004, signed by Rural Utilities Service.

18. Receipt for $165,700 of the Bond Proceeds, dated February 19, 2004, signed by the Acting Mayor.

19. Specimen Bond.

State of West Virginia

Certificate

I, Joe Manchin, III, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF WEST VIRGINIA CODE CHAPTER 16, ARTICLE 13, AS INDICATED BY THE RECORDS OF THIS OFFICE.

Given under my hand and the Great Seal of the State of West Virginia on

February 17, 2004

Secretary of State

If a majority of the votes cast at such election shall be in favor of disconnection, and if the trustees of such sanitary district shall, by ordinance, disconnect such territory, thereupon the county court of the county in which the original petition for the formation of such sanitary district was filed, shall enter an appropriate order in the records of the said county court and thereafter such territory shall henceforth be deemed disconnected from such sanitary district. (1933, Ex. Sess., c. 24, § 14.)

Editor's notes. — For construction of the county court as the county commission, see W.Va. Const. art. IX, § 9.

ARTICLE 13.

SEWAGE WORKS AND STORMWATER WORKS.

Sec.
16-13-1. Acquisition, operation, etc., of works; acquisition of property; issuance of bonds.
16-13-2. Sanitary board to supervise and control construction, etc., of works; appointment of board; definitions.
16-13-3. Powers of sanitary board; contracts; employees; compensation thereof; extensions and improvements; replacement of damaged public works.
16-13-4. Payment of preliminary expenses of surveys, etc.
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16-13-17. Government units subject to established rates.
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16-13-18a. Publication of financial statement.
16-13-19. Contract with other municipalities for service of works; powers of lessee as to rates; intercepting sewers.
16-13-20. Discharge of lien on property acquired.
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16-13-22b. Contracts for abatement of pollution.
16-13-22c. Refunding bonds.
16-13-22d. Subordination of bonds.
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16-13-22f. Exemption of bonds from taxation.
16-13-22g. Covenants with bondholders.
16-13-23. Article deemed full authority for construction, etc., of works and issue of bonds; alternative method; powers of state department of health unaffected.
16-13-23a. Additional powers of municipality upon receipt of order to cease pollution.
16-13-24. Article to be construed liberally.

Constitutionality. — See Brewer v. City of Point Pleasant, 114 W. Va. 572, 172 S.E. 717 (1934); Stevenson v. City of Bluefield, 39 F. Supp. 462 (S.D.W. Va. 1941); West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

Obligations incurred by a city under the authority of this article permitting the issuance of revenue bonds for the construction of sewers are not to be deemed "debts" within the constitutional inhibition. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

In general. — The effect of the provisions of this article is to authorize and empower a municipal corporation in this State to own, construct, equip, operate and maintain sewer systems, to place the construction, operation and management of such systems under the supervision and control of a sanitary board appointed by the governing body, to authorize such board to operate, manage and control them and to order and complete any extensions or betterments that the board may deem expedient. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Conflict of laws. — There is no conflict between this article, authorizing a city to incur expenses which are to be payable solely from the proceeds of revenue bonds, and the general statutory limitations on the expenditure of money and incurring of obligations with respect to funds produced by tax levies. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

Legislative intent. — It appears clear that the legislature recognized the need for municipal utility systems; however, it did not wish the municipality to become generally obligated for the building or acquisition of the system. Financing is provided for primarily by revenue bonds, and bondholders are assured of a safe investment through the collection of sufficient user charges to service the bonds and maintain the assets of the system. Op. Att'y Gen., April 3, 1979.

Limitations. — Where a city made an agreement with the federal works administrator under the War Mobilization and Reconversion Act of 1944 with regard to advances of money to the city for the purpose of plan preparation for construction of a proposed sewage treatment and disposal system, the limitation imposed by this article would be read into the agreement, since the parties are presumed to know the extent of the city's authority to make a binding contract. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

Nonresidents. — Municipality may not compel nonresidents to connect with a municipal sewer extended without its corporate limits. 48 Op. Att'y Gen. 19 (1958).

Ordinance held valid. — An ordinance of a municipal corporation, creating a sanitary board and authorizing such sanitary board to enter into contracts for the construction of a sewage system, was within the police power of the State delegated to municipalities by this chapter. West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

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§ 16-13-1. Acquisition, operation, etc., of works; acquisition of property; issuance of bonds.

(a) Any municipal corporation and/or sanitary district in the state of West Virginia is hereby authorized and empowered to own, acquire, construct, equip, operate and maintain within and/or without the corporate limits of such municipal corporation:

(1) A sewage collection system and/or a sewage treatment plant or plants, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and all other appurtenances necessary or useful and convenient for the collection and/or treatment, purification and disposal, in a sanitary manner, of the liquid and solid waste, sewage, night soil and industrial waste of such municipal corporation and/or sanitary district, including acquisition of the municipal sewerage system resulting from the severance of a combined system pursuant to section one-b [§ 8-20-1b], article twenty, chapter eight of this code; and

(2) A stormwater collection system and control system, including all lines, pumping stations and all other facilities and appurtenances necessary or useful and convenient for the collection and control of stormwater, and an associated stormwater management program.

(b) Any municipal corporation and/or sanitary district in the state of West Virginia is hereby authorized and empowered to acquire by gift, grant, purchase, condemnation, or otherwise, all necessary lands, rights-of-way and property therefor, within and/or without the corporate limits of such municipal corporation and/or sanitary district, and to issue revenue bonds to pay the cost of such works and property.

(c) Any municipality may serve and supply the facilities of such sewerage system and a stormwater system and associated stormwater management program within the corporate limits of the municipality and within the area extending twenty miles beyond the corporate limits of such municipality: Provided, however, That the municipality may not serve or supply the facilities of such sewerage system or stormwater system within the corporate limits of any other municipality without the consent of the governing body thereof: Provided, That for stormwater systems, within the twenty miles beyond the municipality's corporate limits the only areas the municipality may serve and supply shall be those areas from which stormwater affects or drains into the municipality.

(d) No obligations shall be incurred by any municipality and/or sanitary district in construction or acquisition except such as is payable solely from the funds provided under the authority of this article.

(e) No municipal corporation or sanitary district may acquire, construct, establish, extend, repair or equip or thereafter repair, maintain and operate a combined waterworks, sewerage or stormwater system, which includes highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways without the express agreement of the commissioner of highways. (1933, Ex. Sess., c. 25, § 1; 1955, c. 132; 1986, c. 118; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, added subsection designations, substituted "the" for "such" throughout; in (a)(1), deleted "waterworks and sewerage" preceding "system", deleted "shall have authority" from the end; added (a)(2); in (b), added "Any municipality... empowered", deleted "and any such" from the end; in (c), added "Any", inserted "and a stormwater system and associated stormwater management program", substituted "may not serve" for "shall not serve", inserted "or stormwater system", added the proviso; in (d), deleted "such" preceding "municipality" and "construction"; and added (e).

Use of territory in adjoining state authorized. — By this section and § 16-13-22 the legislature intended, insofar as it could, to confer upon such municipalities as might find its exercise convenient, the right to make necessary and appropriate arrangements for the disposal of their sewage, even where that course involved the use of territory in an adjoining state. Bernard v. City of Bluefield, 117 W. Va. 556, 186 S.E. 298 (1936).

Quoted in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Cited in City of Beckley v. Craighead, 125 W. Va. 484, 24 S.E.2d 908 (1943); Delardas v. Morgantown Water Comm'n, 148 W. Va. 776, 137 S.E.2d 426 (1964).

§ 16-13-2. Sanitary board to supervise and control construction, etc., of works; appointment of board; definitions.

(a) The construction, acquisition, improvement, equipment, custody, operation and maintenance of any works for the collection, treatment or disposal of sewage and, in addition, for the collection and control of stormwater and the collection of revenues therefrom for the service rendered thereby, shall be under the supervision and control of a sanitary board appointed by the governing body as set forth in section eighteen [§ 16-13-18] of this article.

(b) As used in this article, the following terms shall have the following meanings unless the text clearly indicates otherwise.

(1) "Board" means the sanitary board as set up in section eighteen [§ 16-13-18] of this article.

(2) "Governing body" means the mayor and council or other legally constituted governing body of any municipality.

(3) "Municipality" means any municipal corporation, incorporated city, town, village or sanitary district in the state of West Virginia.

(4) "Sewage works" means a works for the collection and/or treatment, purification and disposal of sewage, in its entirety or any integral part thereof.

(5) "Stormwater system" or "stormwater works" means a stormwater system in its entirety or any integral part thereof used to collect and dispose of stormwater and an associated stormwater management program. It includes all facilities, structures and natural water courses used for collecting and conducting stormwater to, through and from drainage areas to the points of final outlet, including, but not limited to, any and all of the following: Inlets, conduits, corals, outlets, channels, ponds, drainage easements, water quality facilities, catch basins, ditches, streams, gulches, flumes, culverts, syphons, retention or detention basins, dams, floodwalls, levies, pipes, flood control systems and pumping stations, and associated stormwater management program. The term "stormwater system" and "stormwater works" shall not include highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways.

(6) "Stormwater management program" means those activities associated with the management, operation, maintenance and control of stormwater and stormwater works, including, but not limited to, public education, stormwater and surface runoff water quality improvement, mapping, planning, flood control, inspection, enforcement and any other activities required by state and federal law: Provided, That, as used in this article, "stormwater management program" shall not include those activities associated with the management, operation, maintenance and control of highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways without the express agreement of the commissioner of highways.

(7) "Works" means sewage works and stormwater works either separately or collectively. (1933, Ex. Sess., c. 25, § 2; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, added subsection designations; in present (a), deleted "such" preceding "works", inserted "and, in addition, for the collection and control of stormwater", deleted "The term 'works'" from the end; and rewrote (b) to include the definitions of "sewerage works", "stormwater system" or "stormwater works", "stormwater management program", and "works".

Quoted in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Stated in Berkeley County Pub. Serv. Sewer Dist. v. West Va. Pub. Serv. Comm'n, 204 W. Va. 279, 512 S.E.2d 201 (1998).

Cited in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956); Delardas v. Morgantown Water Comm'n, 148 W. Va. 776, 137 S.E.2d 426 (1964).

§ 16-13-3. Powers of sanitary board; contracts; employees; compensation thereof; extensions and improvements; replacement of damaged public works.

The board shall have power to take all steps and proceedings and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers under this article: Provided, That any contract relating to the financing of the acquisition or construction of any works, or any trust indenture as provided for, shall be approved by the governing body of the municipality before the same shall be effective.

The board may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and other employees as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, all of whom shall do the work as the board shall direct. All compensation and all expenses incurred in carrying out the provisions of this article shall be paid solely from funds provided under the authority of this article, and the board shall not exercise or carry out any authority or power herein given it so as to bind said board of said municipality beyond the extent to which money shall have been or may be provided under the authority of this article.

No contract or agreement with any contractor or contractors for labor and/or material, exceeding in amount the sum of ten thousand dollars, shall be made without advertising for bids, which bids shall be publicly opened and award made to the best bidder, with power in the board to reject any or all bids.

After the construction, installation, and completion of the works, or the acquisition thereof, the board shall operate, manage and control the same and may order and complete any extensions, betterments and improvements of and to the works that the board may consider expedient, if funds therefor be available or are made available as provided in this article, and shall establish rules and regulations for the use and operation of the works, and of other sewers, stormwater conduits, and drains connected therewith so far as they may affect the operation of such works, and do all things necessary or expedient for the successful operation thereof, including, but not limited to, those activities necessary to comply with all federal and state requirements, including stormwater and surface runoff water quality improvement activities.

The sanitary board may declare an emergency situation in the event of collector line breaks or vital treatment plant equipment failure and shall be

exempted from competitive bidding requirements and enter into direct purchase agreements or contracts for the expenses. All public ways or public works damaged or destroyed by the board in carrying out its authority under this article shall be restored or repaired by the board and placed in their original condition, as nearly as practicable, if requested so to do by proper authority, out of the funds provided by this article. (1933, Ex. Sess., c. 25, § 3; 1989, c. 133; 2001, cc. 143, 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, deleted "such" throughout the section; in the third undesignated paragraph, substituted "the sum of ten thousand dollars" for "the sum of five thousand dollars"; in the fourth undesignated paragraph, substituted "may consider expedient" for "may deem expedient", inserted "stormwater conduits" and added "including... improvement activities" at the end; and made other, minor changes.

Editor's notes. — Acts 2001, c. 143, effective July 10, 2001, also proposed to amend this section; however, the amendments therein have been deemed superceded by those found in Acts 2001, c. 212, which are set out above. The superceded amendment, set out below, would have substituted "the sum of ten thousand dollars" for "the sum of five thousand dollars".

Chapter 143 read:

"The board shall have power to take all steps and proceedings and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers under this article: Provided, That any contract relating to the financing of the acquisition or construction of any such works, or any trust indenture as hereinafter provided for, shall be approved by the governing body of such municipality before the same shall be effective. The board may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and such other employees as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, all of whom shall do such work as the board shall direct. All such compensation and all expenses incurred in carrying out the provisions of this article shall be paid solely from funds provided under the authority of this article, and the board shall not exercise or carry out any authority or power herein given it so as to bind said board of said municipality beyond the extent to which money shall have been or may be provided under the authority of this article. No contract or agreement with any contractor or contractors for labor and/or material, exceeding in amount the sum of ten thousand dollars, shall be made without advertising for bids, which bids shall be publicly opened and award made to the best bidder, with power in the board to reject any or all bids. After the construction, installation, and completion of the works, or the acquisition thereof, the board shall operate, manage and control the same and may order and complete any extensions, betterments and improvements of and to the works that the board may deem expedient, if funds therefor be available or are made available as provided in this article, and shall establish rules and regulations for the use and operation of the works, and of other sewers and drains connected therewith so far as they may affect the operation of such works, and do all things necessary or expedient for the successful operation thereof. The sanitary board may declare an emergency situation in the event of collector line breaks or vital treatment plant equipment failure and shall be exempted from competitive bidding requirements and enter into direct purchase agreements or contracts for such expenses. All public ways or public works damaged or destroyed by the board in carrying out its authority under this article shall be restored or repaired by the board and placed in their original condition, as nearly as practicable, if requested so to do by proper authority, out of the funds provided by this article."

Immunity. — A contractor under contract with the sanitary board of a municipality for construction of a sewage treatment and disposal system is not entitled to the governmental immunities of the municipality incident to the construction project. West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

Third party. — Where a contract between a municipal sanitary board and a contractor, providing for the construction of a sanitary sewage system, provides inter alia that "existing surface, overhead or subsurface structures damaged or destroyed by reason of the contractor's operations shall be promptly repaired or replaced in a satisfactory manner at the cost and expense of the contractor," and the contractor by job order requests enters into a contract with an existing water company to remove certain of the latter's water pipes which interfere with the construction of the sewage system, the contractor, in a notice of motion for judgment proceeding instituted by the water company, is liable for the expense so incurred. West Vir-

ginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

Stated in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

§ 16-13-4. Payment of preliminary expenses of surveys, etc.

All necessary preliminary expenses actually incurred by the board of any municipality in the making of surveys, estimates of costs and of revenue, employment of engineers or other employees, the giving of notices, taking of options and all other expenses of whatsoever nature, necessary to be paid prior to the issue and delivery of the revenue bonds pursuant to the provisions of this article, may be met and paid in the following manner. Said board may from time to time certify such items of expense to the clerk or recorder of said municipality, directing him to pay the several amounts thereof, and thereupon said clerk or recorder shall at once draw a warrant or warrants upon the treasurer of said municipality, which warrant or warrants shall be paid out of the general funds of said municipality not otherwise appropriated, without a special appropriation being made therefor by the governing body; or, in case there are no general funds of such municipality not otherwise appropriated, the clerk or recorder shall recommend to the governing body the temporary transfer from other funds of such municipality of a sufficient amount to meet such items of expense, or the making of a temporary loan for such purpose, and such governing body shall thereupon at once make such transfer of funds, or authorize such temporary loan in the same manner that other temporary loans are made by such municipality: Provided, however, That the fund or funds of such municipality from which such payments are made shall be fully reimbursed and repaid by said board out of the first proceeds of the sale of revenue bonds hereinafter provided for, and before any other disbursements are made therefrom, and the amount so advanced to pay such preliminary expenses, shall be a first charge against the proceeds resulting from the sale of such revenue bonds until the same has been repaid as herein provided. (1933, Ex. Sess., c. 25, § 4.)

Advances. — Money used in preliminary engineering work prior to actually beginning construction of a sewage disposal system need not be handled by the sanitary board in accordance with the provisions of §§ 16-13-1, 16-13-18 and this section. The sanitary board is an agency of the city. This article merely requires that the construction and maintenance of the project be under the supervision and control of the sanitary board. A method is provided whereby the sanitary board may meet its own necessary preliminary expenses; but the city, in the early stages of the project, during that period in which the city has not even decided to go ahead with the work, and when there is no sanitary board in existence, is not prevented by any provision in the article from obtaining advances for plan preparation by any procedure which it may see fit to adopt. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

The United States was held entitled to recover from a city the amount of three advances of money made to the city by the federal works agency for the purpose of plan preparation for construction of a proposed sewage treatment and disposal system, and the city sanitary board was ordered to issue a requisition to the trustees, into whose hands proceeds of future bond issues came, to repay such advances out of any funds in its hands comprising proceeds of revenue bond issues. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

Repayment. — A municipality is authorized to incur obligations for the purpose of defraying preliminary expenses of sewer projects, provided repayment of such obligations is to be made solely from the proceeds of revenue

bonds, and not in any way from tax levies. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

§ 16-13-5. Ordinance necessary before acquisition or construction of works.

Before any municipality shall construct or acquire any works under this article, the governing body shall upon petition of the board, enact an ordinance or ordinances which shall: (a) Set forth a brief and general description of the works and, if the same are to be constructed, a reference to the preliminary report which shall heretofore have been prepared and filed by an engineer chosen by the board as aforesaid; (b) set forth the cost thereof estimated by the engineer chosen as aforesaid; (c) order the construction or acquisition of such works; (d) direct that revenue bonds of the municipality shall be issued pursuant to this article in such an amount as may be found necessary to pay the cost of the works; and (e) contain such other provisions as may be necessary in the premises. (1933, Ex. Sess., c. 25, § 5.)

Quoted in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956).

Stated in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

§ 16-13-6. Publication and hearing upon ordinance.

After such ordinance shall have been adopted, an abstract of the ordinance, determined by the governing body to contain sufficient information as to give notice of the contents of such ordinance, together with the following described notice, shall be published as a Class II legal advertisement in compliance with the provisions of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the municipality. The notice shall state that said ordinance has been adopted, and that the municipality contemplates the issuance of the bonds described in the ordinance, and that any person interested may appear before the governing body upon a certain date, which shall not be less than ten days subsequent to the first date of publication of such abstract and notice which shall not be prior to the last date of publication of such abstract and notice, and present protests. At such hearing all objections and suggestions shall be heard and the governing body shall take such action as it shall deem proper in the premises: Provided, however, That if at such a hearing written protest is filed by thirty percent or more of the owners of real estate situate in said municipality, then the governing body of said municipality shall not take further action unless four fifths of the qualified members of the said governing body assent thereto. (1933, Ex. Sess., c. 25, § 6; 1967, c. 105; 1981, 1st Ex. Sess., c. 2.)

§ 16-13-7. Acquisition by condemnation or purchase.

Every such municipality shall have power to condemn any such works to be acquired and any land, rights, easements, franchises and other property, real or personal, deemed necessary or convenient for the construction of any such works, or for extensions, improvements, or additions thereto, and in connection

therewith may have and exercise all the rights, powers and privileges of eminent domain granted to municipal corporations under the laws relating thereto. Title to property condemned shall be taken in the name of the municipality. Proceedings for such appropriation of property shall be under and pursuant to the provisions of chapter fifty-four [§§ 54-1-1 et seq.], of the Code of West Virginia, one thousand nine hundred thirty-one, and acts amendatory and supplemental thereto: Provided, That the municipality shall be under no obligation to accept and pay for any property condemned, and shall in no event pay for any property condemned or purchased, except from the funds provided pursuant to this article; and in any proceedings to condemn, such orders may be made as may be just to the municipality and to the owners of the property to be condemned, and an undertaking or other security may be required securing such owners against any loss or damage to be sustained by reason of the failure of the municipality to accept and pay for the property, but such undertaking or security shall impose no liability upon the municipality except such as may be paid from the funds provided under the authority of this article. In event of the acquisition by purchase the board may obtain and exercise an option from the owner or owners of said property for the purchase thereof, or may enter into a contract for the purchase thereof, and such purchase may be made upon such terms and conditions, and in such manner as the board may deem proper. In event of the acquisition of any works already constructed by purchase or condemnation, the board at or before the time of the adoption of the ordinance described in section five [§ 16-13-5] hereof, shall cause to be determined what repairs, replacements, additions, and betterments will be necessary in order that such works may be effective for their purpose, and an estimate of the cost of such improvements shall be included in the estimate of the cost required by section five hereof, and such improvement shall be made upon the acquisition of the works and as a part of the cost thereof. (1933, Ex. Sess., c. 25, § 7.)

§ 16-13-8. Cost of works.

The cost of the works shall be deemed to include the cost of acquisition or construction thereof, the cost of all property, rights, easements, and franchises deemed necessary or convenient therefor and for the improvements determined upon as provided in this article; interest upon bonds prior to and during construction or acquisition and for six months after completion of construction or of acquisition of the improvement last mentioned; engineering and legal expenses; expense for estimates of cost and of revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized and the construction or acquisition of the works and the placing of the works in operation and the performance of the things herein required or permitted in connection with any thereof. (1933, Ex. Sess., c. 25, § 8.)

Advances. — Advances from the United States to a city for the purpose of plan preparation for construction of a proposed sewage treatment and disposal system represent a part of the cost of the works which should have been repaid out of the first proceeds received from the sale of the first issue of revenue bonds. Such repayment would not in any way increase the cost of the works; it was the very first item of expense incurred in connection with the works. Under the agreement between the city and the United States, it was a liability from the moment construction of the sewage treatment and disposal plant was begun. No disadvantage would result to bondholders as a result of the payment of this just debt out of the proceeds of a future revenue bond issue. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

Preliminary expenses. — It is foreseen, as shown in this section, that a city may probably incur expenses in "determining the feasibility or practicability of the enterprise." Such determination would of course be made prior to the issuance of any revenue bonds, and probably before the creation of a sanitary board. It might often result in a rejection of the project altogether, in which event no revenue bonds would be issued, and any obligation incurred by the city might prove to be uncollectible. On the other hand, if the project be undertaken by the city, whatever loans may have been made on the faith of the revenue bonds would or should be included in the cost of the works and repaid out of the proceeds of the bonds. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

§ 16-13-9. Contracts and obligations incurred to be paid for solely by revenue bonds.

Nothing in this article contained shall be so construed as to authorize or permit any municipality to make any contract or to incur any obligation of any kind or nature except such as shall be payable solely from the funds provided under this article. Funds for the payment of the entire cost of any of the works referred to in this article, exclusive of any portions of the cost that may be defrayed out of any grant or contribution, shall be provided by the issuance of revenue bonds of the municipality, the principal and interest of which shall be payable solely from the fund herein provided for the payment, and the bonds may not, in any respect, be a corporate indebtedness of the municipality, within the meaning of any statutory or constitutional limitations thereon. All the details of the bonds shall be determined by ordinance or ordinances of the municipality. (1933, Ex. Sess., c. 25, § 9; 1949, c. 93; 2001, c. 212.)

Cross references. — See notes to § 16-13-8.

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, substituted "the" for "such" throughout, substituted "any of the works referred to in this article" for "the works", and substituted "the bonds may not" for "the bonds shall not".

Applicability. — The provisions of this article become a part of the contract between the municipality and the bondholders as effectually as if written verbatim in the bonds. The bondholders are bound by their contract in this instance just as firmly as in any other legal contract. Consequently, the bonds do not create a corporate indebtedness of the municipality. Brewer v. City of Point Pleasant, 114 W. Va. 572, 172 S.E. 717 (1934); United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

Contracts between municipalities. — Under the provisions of §§ 16-13-19 and 16-13-23a, a city and a town could enter into a contract whereby the city agreed to construct a sewage disposal facility and the town agreed to contribute to the cost of the construction of the facility in return for the right to use the facility, and the fact that the town was unable to sell revenue bonds because it was not allowed to have part ownership in the treatment plant or interceptor sewers did not relieve the town of its contractual obligation when the city offered to buy the revenue bonds issued by the town. Since the contracts were authorized by statute and were thus not ultra vires, even if the contracts were not formally approved by ordinance, the municipalities were estopped from asserting any invalidity of the contracts on such ground. City of Morgantown v. Town of Star City, 156 W. Va. 529, 195 S.E.2d 166 (1973).

§ 16-13-10. Interest on and redemption of bonds; form; statement on face of bond; negotiability; exemption from taxation; registration; execution; sale; disposition of surplus proceeds; additional and temporary bonds.

Such revenue bonds shall bear interest at not more than twelve percent per annum, payable at such times, and shall mature at such time or times as may be determined by ordinance. Such bonds may be made redeemable before maturity at the option of the municipality, to be exercised by said board, at not more than the par value thereof and a premium of five percent, under such terms and conditions as may be fixed by the ordinance authorizing the issuance of the bonds. The principal and interest of the bonds may be made payable in any lawful medium. Said ordinance shall determine the form of the bonds, either coupon or registered, shall set forth any registration and conversion privileges, and shall fix the denomination or denominations of such bonds and the place or places of payment of the principal and interest thereof, which may be at any bank or trust company within or without the State. The bonds shall contain a statement on their face that the municipality shall not be obligated to pay the same or the interest thereon except from the special fund provided from the net revenues of the works. All such bonds shall be, and shall have and are hereby declared to have all the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State. Said bonds shall be exempt from all taxation, state, county and municipal. Such bonds shall be executed by the proper legally constituted authorities of the municipality, and be sealed with the corporate seal of the municipality, and in case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers, before delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. Such bonds shall be sold at a price not lower than a price, which when computed upon standard tables of bond values, will show a net return of not more than thirteen per centum per annum to the purchaser upon the amount paid therefor, and the proceeds derived therefrom shall be used exclusively for the purposes for which said bonds are issued and same may be sold at one time or in parcels as funds are needed. Any surplus of bond proceeds over and above the cost of the works shall be paid into the sinking fund hereinafter provided. If the proceeds of the bonds, by error of calculation or otherwise, shall be less than the cost of the works, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in said ordinance authorizing the issuance of the bonds first issued or in the trust indenture hereinafter authorized, shall be deemed to be of the same issue and shall be entitled to payment without preference or priority of the bonds first issued. Prior to the preparation of the definitive bonds, temporary bonds may under like restrictions be issued with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. (1933, Ex. Sess., c. 25, § 10; 1970, c. 11; 1980, c. 33; 1981, 1st Ex. Sess., c. 2.)

§ 16-13-11. Additional bonds to extend or improve works.

The governing body may provide by said ordinance authorizing the issuance of the bonds or in the trust indenture hereinafter referred to, that additional bonds may thereafter be authorized and issued, at one time or from time to time under such limitations and restrictions as may be set forth in said ordinance and/or trust indenture, for the purpose of extending, improving or bettering the works when deemed necessary in the public interest, such additional bonds to be secured and be payable from the revenues of the works equally with all other bonds issued pursuant to said ordinance without preference or distinction between any one bond and any other definite bonds upon the issuance of the latter. (1933, Ex. Sess., c. 25, § 11.)

§ 16-13-12. Additional bonds for extension, etc., of works to have equal priority with original bonds.

The governing body may provide by said ordinance authorizing the issuance of the bonds or in the trust indenture hereinafter referred to, that additional bonds may thereafter be authorized and issued, at one time or from time to time, under such limitations and restrictions as may be set forth in said ordinance and/or trust indenture, for the purpose of extending, improving or bettering the works when deemed necessary in the public interest, such additional bonds to be secured and be payable from the revenues of the works equally with all other bonds issued pursuant to said ordinance without preference or distinction between any one bond and any other bond by reason of priority of issuance or otherwise. (1933, Ex. Sess., c. 25, § 12.)

§ 16-13-13. Application of revenue from bonds; lien.

All moneys received from any bonds issued pursuant to this article, after reimbursements and repayment to said municipality of all amounts advanced for preliminary expenses as provided in section four [§ 16-13-4] of this article, shall be applied solely to the payment of the cost of the work, extensions, improvements or betterments, or to the appurtenant sinking fund and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the holders of the bonds or the trustees hereinafter provided for. (1933, Ex. Sess., c. 25, § 13.)

Quoted in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956).

§ 16-13-14. Securing bonds by trust indenture.

In the discretion of the governing body such bonds may be secured by a trust indenture by and between the municipality and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the State of West Virginia but no such trust indenture shall convey or mortgage the works or any part thereof. The ordinance authorizing the revenue bonds and fixing the details thereof may provide that such trust indenture may

contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper, not in violation of law, including covenants setting forth the duties of the municipality and the board in relation to the construction or acquisition of the works and the improvement, operation, repair, maintenance and insurance thereof, and the custody, safeguarding and application of all moneys, and may provide that the works shall be contracted for, constructed and paid for under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers, successors, assigns or nominees, who may be given the right to require the security given by contractors and by any depository of the proceeds of bonds or revenues of the works or other moneys pertaining thereto be satisfactory to such purchasers, successors, assigns or nominees. Such indenture may set forth the rights and remedies of the bondholders and/or such trustee, restricting the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations. Except as in this article otherwise provided, the governing body may provide by ordinance or in such trust indenture for the payment of the proceeds of the sale of the bonds and the revenues of the works to such officer, board or depository as it may determine for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may det (1933, Ex. Sess., c. 25, § 14.)

§ 16-13-15. Sinking fund; transfer of balance of net revenues.

At or before the issuance of any such bonds the governing body shall by said ordinance create a sinking fund, to be remitted to and administered by the West Virginia municipal bond commission, for the payment of the bonds and the interest thereon and the payment of the charges of banks or trust companies for making payment of such bonds or interest, and shall set aside and pledge a sufficient amount of the net revenues of the works, hereby defined to mean the revenues of the works remaining after the payment of the reasonable expense of operation, repair and maintenance, such amount to be paid by the board into said sinking fund at intervals to be determined by ordinance prior to issuance of the bonds, for: (a) The interest upon such bonds as such interest shall fall due; (b) the necessary fiscal agency charges for paying bonds and interest; (c) the payment of the bonds as they fall due, or, if all bonds mature at one time, the proper maintenance of a sinking fund in such amounts as are necessary and sufficient for the payment thereof at such time; (d) a margin for safety and for the payment of premiums upon bonds retired by call or purchase as herein provided, which margin, together with any unused surplus of such margin carried forward from the preceding year, shall equal ten percent of all other amounts so required to be paid into the sinking fund. Such required payments shall constitute a first charge upon all the net revenue of the works. Prior to the issuance of the bonds the board may by ordinance be given the right to use or direct the West Virginia municipal bond commission to use such sinking fund or any part thereof in the purchase of any of the

outstanding bonds payable therefrom at the market price thereof, but not exceeding the price, if any, at which the same shall in the same year be payable or redeemable, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued. After the payments into such fund as herein required, the board may at any time in its discretion transfer all or any part of the balance of the net revenues, after reserving an amount deemed by the board sufficient for operation, repair and maintenance for an ensuing period of not less than twelve months and for depreciation, into the sinking fund or into a fund for extensions, betterments and additions to the works. The amounts of the balance of the net revenue as and when so set apart shall be remitted to the West Virginia municipal bond commission to be retained and paid out by said commission consistent with the provisions of this article and with the ordinance pursuant to which such bonds have been issued. The West Virginia municipal bond commission is hereby authorized to act as fiscal agent for the administration of such sinking fund, under any ordinance passed pursuant to the provisions of this article, and shall invest all such sinking funds as provided by general law. Notwithstanding the foregoing, payments of principal and interest on any bonds owned by the United States of America or any agency or department thereof may be made by the governing body directly thereto. (1933, Ex. Sess., c. 25, § 15; 1933, 2nd Ex. Sess., c. 48; 1986, c. 118.)

§ 16-13-16. Rates for service; change or readjustment; hearing; lien and recovery; discontinuance of services.

The governing body shall have power, and it shall be its duty, by ordinance, to establish and maintain just and equitable rates, fees or charges for the use of and the service rendered by:

(a) Sewerage works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses such works by or through any part of the sewerage system of the municipality, or that in any way uses or is served by such works; and

(b) Stormwater works, to be paid by the owner of each and every lot, parcel of real estate, or building that in any way uses or is served by such stormwater works or whose property is improved or protected by the stormwater works or any user of such stormwater works.

The governing body may change and readjust such rates, fees or charges from time to time. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways.

Such rates, fees or charges shall be sufficient in each year for the payment of the proper and reasonable expense of operation, repair, replacements and maintenance of the works and for the payment of the sums herein required to be paid into the sinking fund. Revenues collected pursuant to this section shall be considered the revenues of the works.

No such rates, fees or charges shall be established until after a public hearing, at which all the users of the works and owners of property served or

to be served thereby and others interested shall have an opportunity to be heard concerning the proposed rates, fees or charges.

After introduction of the ordinance fixing such rates, fees or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates, fees or charges, shall be given by publication as a Class II-O legal advertisement in compliance with the provisions of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication shall be the municipality. The first publication shall be made at least ten days before the date fixed in such notice for the hearing.

After such hearing, which may be adjourned from time to time, the ordinance establishing rates, fees or charges, either as originally introduced or as modified and amended, shall be passed and put into effect. A copy of the schedule of such rates, fees and charges so established shall be kept on file in the office of the board having charge of the operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates, fees or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice.

Any change or readjustment of such rates, fees or charges may be made in the same manner as such rates, fees or charges were originally established as hereinbefore provided: Provided, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. The aggregate of the rates, fees or charges shall always be sufficient for such expense of operation, repair and maintenance and for such sinking fund payments.

All rates, fees or charges, if not paid when due, shall constitute a lien upon the premises served by such works. If any service rate, fees or charge so established is not paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the board in a civil action in the name of the municipality, and in connection with such action said lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto: Provided, That where both water and sewer services are furnished by any municipality to any premises the schedule of charges may be billed as a single amount or individually itemized and billed for the aggregate thereof.

Whenever any rates, rentals, fees or charges for services or facilities furnished shall remain unpaid for a period of thirty days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities shall be delinquent until such time as all rates, fees and charges are fully paid.

The board collecting such rates, fees or charges shall be obligated under reasonable rules and regulations, to shut off and discontinue both water and sewer services to all delinquent users of either water facilities, or sewer facilities, or both, and shall not restore either water facilities or sewer facilities, to any delinquent user of either until all delinquent rates, fees or charges for both water facilities, and sewer facilities, including reasonable

interest and penalty charges, have been paid in full. (1933, Ex. Sess., c. 25, § 16; 1933, 2nd Ex. Sess., c. 48; 1959, c. 125; 1967, c. 105; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, inserted "fees" preceding "charges" throughout; in the first paragraph, deleted "such" from the end; inserted (b); in the second paragraph of (b), added "The governing body" and the last sentence; in the third paragraph of (b), substituted "shall be considered" for "shall be deemed"; in the seventh paragraph of (b), deleted "however" following "Provided"; and made other, minor changes.

Rules of Civil Procedure. — As to abolition of procedural distinctions between law and equity, see R.C.P. 2.

Applicability. — Although the public service commission concluded that cities providing only sewer service are not covered by this section, which applies to municipalities that provide both water and sewer service, the district court implicitly rejected the commission's interpretation. City of Charleston v. Public Serv. Comm'n, 57 F.3d 385 (4th Cir. 1995), cert. denied, 516 U.S. 974, 116 S. Ct. 474, 133 L. Ed. 2d 404 (1995).

Discrimination not shown. — Charges made against the users of a city sewage system were based upon the amount of water used upon the premises as indicating the extent to which the sewers were used. The charges were subject to a deduction of the amount of water retained on the premises, such amount to be determined by a meter installed by the consumer and used to record gallonage of water that had come on the property but had not been disposed of through the sewers. It was held that the method under which the charges were assessed was neither capricious nor unfair although certain users had been unable to install meters used to measure their deductions. Houchins v. City of Beckley, 127 W. Va. 306, 32 S.E.2d 286 (1944).

Jurisdiction. — The fact that this section speaks of the enforcement of the lien in a "civil action" should not be construed as placing that jurisdiction in our courts of law simply because the word "action," strictly applied, does not usually refer to chancery practice. City of Beckley v. Craighead, 125 W. Va. 484, 24 S.E.2d 908 (1943).

Municipal sewer system is subject to jurisdiction of public service commission, so municipality is required to file its rates with the commission for approval in accordance with §§ 24-2-1 et seq. 45 Op. Att'y Gen. 642 (1954).

Applied in Brewer v. City of Point Pleasant, 114 W. Va. 572, 172 S.E. 717 (1934).

Quoted in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Cited in Delardas v. Morgantown Water Comm'n, 148 W. Va. 776, 137 S.E.2d 426 (1964).

§ 16-13-17. Government units subject to established rates.

The municipality and any county government, state government and federal government served by the services of the works shall be subject to the same fees, charges and rates established as provided in this article, or to fees, charges and rates established in harmony therewith, for service rendered the municipality, county, state or federal government and shall pay such rates, fees or charges when due from corporate funds and the same shall be considered to be a part of the revenues of the works as herein defined, and be applied as herein provided for the application of the revenues. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways. (1933, Ex. Sess., c. 25, § 17; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, substituted "Government units" for "Municipality" in the section heading; inserted "fees" preceding "charges" throughout; inserted "and any county... works", substituted "as provided in this article" for "as hereinbefore provided", inserted "county, state or federal government", substituted "shall be considered" for "shall be deemed", substituted "the revenues" for "such revenues"; and added the last sentence.

Quoted in West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

§ 16-13-18. Supervision of works by sanitary board; organization of board; qualifications, terms and compensation of members.

The governing body shall provide by ordinance the organization of the board, and that the custody, administration, operation and maintenance of such works shall be under the supervision and control of a sanitary board, created as herein provided.

Such sanitary board shall be composed of either the mayor of the municipality, or the city manager thereof, if said municipality shall have a city manager form of government, and two persons appointed by the governing body: Provided, That, in the event of an acquisition or merger of an existing works, the governing body may increase the membership to a maximum of four members in addition to the mayor or city manager of the municipality served by the board.

During the construction period, one of the members must be a registered professional engineer. The engineer member of the board need not be a resident of said municipality. After the construction of the plant has been completed, the engineer member may be succeeded by a person not an engineer. No officer or employee of the municipality, whether holding a paid or unpaid office, shall be eligible to appointment on said sanitary board until at least one year after the expiration of the term of his or her public office. The appointees shall originally be appointed for terms of two and three years respectively, and upon the expiration of each term and each succeeding term, an appointment of a successor shall be made in like manner for a term of three years. Vacancies shall be filled for an unexpired term in the same manner as the original appointment. Each member shall give such bond, if any, as may be required by ordinance. The mayor or city manager shall act as chairman of the sanitary board, which shall elect a vice chairman from its members and shall designate a secretary and treasurer (but the secretary and the treasurer may be one and the same), who need not be a member or members of the sanitary board. The vice chairman, secretary and treasurer shall hold office as such at the will of the sanitary board.

The members of the sanitary board shall receive compensation for their services, either as a salary or as payments for meetings attended, as the governing body may determine, and shall be entitled to payment for their reasonable expenses incurred in the performance of their duties. The governing body shall fix the reasonable compensation of the secretary and treasurer in its discretion, and shall fix the amounts of bond to be given by the treasurer. All compensation, together with the expenses in this section referred to, shall be paid solely from funds provided under the authority of this article. The sanitary board shall have power to establish bylaws, rules and regulations for its own government. (1933, Ex. Sess., c. 25, § 18; 1939, c. 96; 1953, c. 146; 1957, c. 137; 1992, c. 95; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, made the section gender neutral; in the second paragraph, deleted "sewage" preceding "works", in the third paragraph, substituted "The appointees" for "Said appointees", deleted "such" pre-

ceding "term", substituted "The mayor" for "Such mayor"; and in the last paragraph, deleted "such" preceding "compensation".

In general. — The effect of the provisions of this article is to authorize and empower a municipal corporation in this State to own, construct, equip, operate and maintain sewer systems, to place the construction, operation and management of such systems under the supervision and control of a sanitary board appointed by the governing body, to authorize such board to operate, manage and control them and to order and complete any extensions or betterments that the board may deem expedient. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Construction. — There is no repugnancy between the provisions of this article and §§ 24-1-1, 24-2-1 or 24-3-1, and for these reasons, the provisions of this article do not operate to repeal any of those sections. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Adjoining state. — Since the incorporation of its sanitary board and its domestication in the state of Virginia was the only plan by which the power intended to be granted by the legislature to a city to construct a sewage disposal plant outside the State of West Virginia could be legally effectuated, the power to so incorporate its sanitary board was a necessary and incidental right to the main power granted. Bernard v. City of Bluefield, 117 W. Va. 556, 186 S.E. 298 (1936).

Board membership. — When a municipal corporation has a city manager form of government, the municipality's governing board has the option of appointing either its mayor or its city manager (but not both) to the municipal sanitary board. 52 Op. Att'y Gen. 217 (1967).

City treasurer. — As to scope of duties and responsibilities of city treasurer as they relate to possession of funds of a sanitary board, see 52 Op. Att'y Gen. 497 (1967).

Consulting engineer. — Member of city council may not serve as consulting engineer to the sanitary board on city sewer project. 49 Op. Att'y Gen. 60 (1961).

Extension of service. — A public utility is under a duty to make reasonable extensions of its services in accordance with its franchise and charter obligations and the needs of the inhabitants within the territory covered by its franchise; and a public service commission may, where its action is not unlawful, arbitrary, or capricious, order an extension of service for the inhabitants of such territory. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Legislative intent. — The provisions of this article do not revise the subject matter of §§ 24-1-1, 24-2-1 or 24-3-1, and they were not intended as a substitute for any of the provisions of those sections. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

In conferring such power and authority upon a municipality by this article, the legislature did not create, or intend to create, any repugnancy or inconsistency between the provisions of this article and the pertinent provisions of chapter 24, or to repeal any of those provisions of that chapter. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Applied in Houchins v. City of Beckley, 127 W. Va. 306, 32 S.E.2d 286 (1944).

Cited in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956).

§ 16-13-18a. Publication of financial statement.

Every sanitary board shall prepare a financial statement and cause the same to be published as a Class I legal advertisement in compliance with the provisions of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the sanitary district. Such statement shall contain an itemized account of the receipts and expenditures of the board during the previous fiscal year, showing the source from which all money was derived, and the name of the person to whom an order was issued, together with the amount of such order, and why such order was issued, arranging the same under distinct heads, and including all money received and expended from the sale of bonds, and also a specific statement of the debts of such board, showing the purpose for which any debt was contracted, the amount of money in all funds at the end of the preceding year, and the amount of uncollected service charges. Such statement shall be prepared and published by the board as soon as practicable after the close of the fiscal year: Provided, That such statement for the fiscal year ending June

CERTIFICATION

Certified a true copy of the Certificate of Incorporation of the Town of North Hills.

Dated: February 19, 2004.

Recorder, Town of North Hills

[SEAL]

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO-WIT:

I, H. K. Smith, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody the files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of

CANVASS RESULTS OF SPECIAL ELECTION HELD ON THE 8th day of February, 1979 to authorize incorporation of a territory commonly known as North Hills and Certificate of Incorporation

as the same appears of record in my said Office in Court Order Book 43 Page 59

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 15th day of February 19 79

H. K. SMITH

CLERK WOOD COUNTY COMMISSION

By: [signature]
Deputy

"It appearing [illegible] e commission that under [illegible] visions of article two (8-3-1 et seq.), chapter eight of the Code of West Virginia, as amended, at an election duly held on the eighth day of February, 1979, a majority of the legal votes cast on the question of incorporation by the qualified voters of the following territory, to wit:

> Beginning at a marked stone on the Northerly side of Starr Road corner to W. F. Airhart; thence N6° 41'W 728.07 feet to a concrete monument, corner to W. F. Airhart and McDonough Construction Company; thence N 83° 56'E 1337.58 feet to a one inch iron pipe; thence S 7° 25'E 1192.52 feet to a one inch pipe; thence S 86° 49'E 1180.75 feet to a one inch pipe; thence S 0° 11'W 1136.24 feet to a concrete monument; thence S 1° 49'W 2910.93 feet to a concrete monument; thence S 78° 16'E 81.24 feet to a pipe in the Northerly Right-of-Way line of West Virginia State Route 69; thence with said Right-of-Way S 46° 55'W 603.3 feet; thence N 55°.05'W 10.22 feet; thence S 46° 55'W 122.68 feet to a pipe; thence leaving said Right-of-Way N 36° 28'W 72.8 feet to a pipe; thence S 76° 32'W 30 feet to a pipe; thence N 23° 07'W 330 feet to a pipe in the Westerly line of North Hills Drive; thence S 67° W 150 feet to a pipe; thence N 23° 07'W 279.5 feet to a pipe; thence N 24° 57'W 145.5 feet to a concrete monument; thence N 63° 45'W 1719.81 feet to a concrete monument corner to Benjamin B. Brown; thence N 25° 43'E 519.57 feet to an angle iron and Hickory pointer; thence N 64° 07'W 2522.96 feet to a point in the center of Ridge Road passing a concrete monument set 21.50 feet from said point in road: thence with Ridge Road the following courses N 43° E 100.45 feet; thence N 30° 44'E 132 feet; thence N 22° 23'E 150.15 feet; thence N 11° 53'W 190.58 feet; thence N 7° 12'W 123.42 feet; thence N 11° 37'E 135.46 feet; thence N 26° 16'E 300 feet; thence N 14° 45'E 151 feet; thence N 32° 20'E 175 feet to a point in Rector Road; thence with Rector Road the following courses N 62° 30'E 350 feet; thence N 35° 24'E 153.25 feet; thence N 16° 35'E 150 feet; thence N 7° 19'E 200 feet; thence N 30° 04'E 150 feet; thence N 55° 52'E 120.12 feet to a point where the center line of Rector Road intersects the center line of Starr Road; thence with the center line of Starr Road the following courses S 57° 2[illegible]'E 194.06 feet; thence N 65° 17'E 177.1 feet; thence S 78° 53'E 139.82 feet; thence S 43° 3[illegible]'E 1[illegible] feet; thence S 77° 51'E 150 feet; thence N 12° 47'E 101.33 feet to place of beginning, containing 336.77 acres more or less.

were cast in favor of the incorporation of the town or village of North Hills, in the County of Wood, bounded as herein set forth; and it appearing to the satisfaction of the commission that all of the provisions of article two, chapter eight of the Code of West Virginia, as amended, have been complied with by the petitioners for said incorporation, said town or village is hereby declared to be a body corporate, duly authorized to exercise all of the corporate powers conferred upon towns or villages by chapter eight (8-1-1 et seq.) of the Code of West Virginia, as amended, from and after the date of this certificate.

CLERK WOOD COUNTY COMMISSION

Dated this the 11th day of February, 1979.

A COPY TEST:

IN THE COUNTY COMMISSION OF WOOD COUNTY, WEST VIRGINIA

Thursday, February 15, 1979

sitting Ex-Officio as a BOARD OF CANVASSERS

IN RE: CANVASS OF RESULTS OF A SPECIAL ELECTION HELD ON THE 8th DAY OF FEBRUARY, 1979 TO AUTHORIZE INCORPORATION OF A TERRITORY COMMONLY KNOWN AS NORTH HILLS, SITUATE IN PARKERSBURG and WILLIAMS MAGISTERIAL DISTRICTS, WOOD COUNTY, WEST VIRGINIA

O R D E R

PURSUANT to an ORDER of this Commission, made and entered on the 18th day of January, 1979, which Order appears of record in Court Order Book No. 43, at Page 47, the County Commission, convened at 9:00 o'clock A.M., this the 15th day of February, 1979, Ex-Officio as a BOARD OF CANVASSERS to canvass and ascertain the results of a SPECIAL ELECTION held on the 8th day of February, 1979, in the matter of authorization to incorporate a territory, situate in Parkersburg and Williams District, Wood County, West Virginia, commonly known as North Hills; and

The ballots, poll books, tally sheets, certificates of results of the various voting places and precincts in the several districts of Wood County, West Virginia, having been placed before the said Board of Canvassers, the County Commission Ex-Officio as a canvassing board proceeded to canvass and ascertain the results of said election; and

It appearing to this Commission, Ex-Officio as a Board of Canvassers, that the several challenged ballots in the various

Precincts were properly made and the challenges approved or overruled, and other changes in the tabulation of the vote were altered; and

It further appearing to this Commission, Ex-Officio as a Board of Canvassers, that the results of said Special Election held on the 8th day of February, 1979, having been completed, and upon examination found the facts and results as follows:

FOR INCORPORATION 207

AGAINST INCORPORATION 144

And, it further appearing to this Commission, ex-officio as a Board of Canvassers that the majority of the legal votes cast on the question of incorporation, were in favor of such incorporation, and that all applicable provisions of Chapter 8, Article 2, of the West Virginia Code, have been complied with,

IT IS HEREBY ORDERED that the Clerk of this Commission, issue a "CERTIFICATE OF INCORPORATION" of the territory for which the said Special Election was held, said territory being more fully described in said "Certificate of Incorporation" and is hereby made a part of this Order by reference.

Dated this the 15th day of February, 1979.

THE COUNTY COMMISSION OF WOOD COUNTY

sitting ex-officio as a Board of Canvassers

Holmes R. Shaver

Kenneth C. Harrison

NORTH HILLS INCORPORATION
NAME OF PARTY

Board of Canvassers' Certificate of Votes Cast for Candidates at ~~Primary~~ SPECIAL Election

Office of County Court, FEB. 15 19 79

WOOD County, West Virginia

To ROGER LATHAM Chairman

The Board of Canvassers of the County of WOOD State of West Virginia, having carefully and impartially examined the returns of the ~~Primary~~ Special Election held in said county on the 5TH day of FEBRUARY 19 79, do hereby certify that in said County and District thereof at said election, on the official ballot of the

.... Party

For the ~~XXXXX~~ NORTH HILLS INCORPORATION

FOR INCORPORATION	Received	TWO HUNDRED SEVEN	(207)	Votes
AGAINST INCORPORATION	Received	ONE HUNDRED FORTY-FOUR	(144)	Votes
	Received		( )	Votes
	Received		( )	Votes
	Received		( )	Votes
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For the ~~BOROUGH~~ NORTH HILLS INCORPORATION

Received ( ) Votes

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Given under our hands this 15TH day of FEBRUARY 19 79.

Board of Canvassers.

NORTH HILLS INCORPORATION

CANVASSING BOARD'S CERTIFICATE OF
CAST AT THE PRIMARY ELECTION

Held in 1960

on the 8TH day of FEB.

Filed FEB. 15

Notary Public

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO-WIT:

I, H. K. Smith, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody the files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of

BOND FOR SPECIAL ELECTION TO AUTHORIZE INCORPORATION OF TERRITORY COMMONLY KNOWN AS NORTH HILLS AS A TOWN OR VILLAGE.

as the same appears of record in my said Office in COURT ORDER BOOK NO. 43, Page 61

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 15th day of February, 19 79.

H. K. SMITH
CLERK WOOD COUNTY COMMISSION
By: [signature]
Deputy

IN THE COUNTY COMMISSION OF WOOD COUNTY, WEST VIRGINIA

Thursday, February 15, 1979

IN RE: BOND FOR SPECIAL ELECTION to
AUTHORIZE INCORPORATION OF
TERRITORY COMMONLY KNOWN AS
NORTH HILLS as a TOWN OR VILLAGE

O R D E R

It appearing to this Commission that on the 4th day of January, 1979, ROGER A. LATHAM, Chairman of the North Hills Residents Association Steering Committee for Incorporation, deposited with this Commission a check in the amount of One Thousand ($1,000.00) Dollars, to defray costs incurred in a Special Election held on February 8, 1979, in the matter of incorporation of a certain territory, commonly known as NORTH HILLS; and

It further appearing to this Commission that the said Special Election has now been held and the results canvassed and ascertained, and there being no contest pending, in compliance with Chapter 8, Section 2, of the West Virginia Code, it is ORDERED that the said check in the amount of One Thousand ($1,000.00) Dollars, be, and the same is hereby, returned to the aforesaid ROGER A. LATHAM.

THE COUNTY COMMISSION OF WOOD COUNTY

Marvin H. Leach, President

Date: 2/15/79

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO-WIT:

I, H. K. Smith, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody the files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of

ORDER RE: APPOINTMENT OF COMMISSIONERS OF ELECTION for village or town of NORTH HILLS for first election of officers.

as the same appears of record in my said Office in Court Order Book No. 43, Page 61

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 15th day of Feb., 19 79

H. K. SMITH

CLERK WOOD COUNTY COMMISSION

By: [signature]
Deputy

43/61

IN THE COUNTY COMMISSION OF WOOD COUNTY, WEST VIRGINIA

Thursday, February 15, 1979

IN RE: APPOINTMENT OF COMMISSIONERS OF ELECTION for village or town of NORTH HILLS for first election of OFFICERS.

O R D E R

Upon motion duly made, seconded and unanimously approved and passed, it is hereby ORDERED that the following persons, be, and they are hereby, appointed to act as COMMISSIONERS OF ELECTION for the first election of officers for the town or village of NORTH HILLS:

Shirley (Mrs. D. Peter) Carlson
34 North Hills Drive;

Jane (Mrs. John F.) Pendleton
111 Wedgewood Drive;

and

Judy (Mrs. Miguel J.) Roura
100 Briarwood Place.

THE COUNTY COMMISSION OF WOOD COUNTY

Marvin H. Leach, President

Holmes R. Shaver, Commissioner

William C. Parrish, Commissioner

Enter: Feb. 15, 1979

CERTIFICATION

Certified a true copy of the Administrative Ordinances duly enacted by the Council of the Town of North Hills.

Dated: February 19, 2004.

Recorder, Town of North Hills

[SEAL]

CHAPTER 2- ADMINISTRATION

Article 1 - Governing Body

2-1 Time and Place of Regular Meetings
2-2 Who is to Preside at Meetings; Quorum; Interested Member of Governing Body Not to Vote
2-3 Tie Vote; Mayor and Recorder May Vote
2-4 Order of Business
2-5 General Rules of Order
2-6 Keep Records; Minutes of Proceedings

Article 2 - Powers and Duties of Mayor

2-7 Executes Acts of Governing Body
2-8 Has Control of Police
2-9 Shall be Bonded
2-11 Maintenance of Docket
2-12 Issuance of Arrest Warrants
2-13 Issuance of Summonses
2-14 Issuance of Subpoenas
2-15 Disposition of Cases
2-16 Appearance Bonds
2-17 Contempt
2-18 Imposition, Remission, and Disposition of Fines and Costs
2-19 Appeals
2-20 Bond Amounts, Conditions and Forms
2-21 Authority to Hire Special Counsel
2-22 Recommend Important Measures
2-23 Generally Supervises Municipality Affairs

Article 3 - Recorder or Clerk

2-24 Keeps Minutes, etc.
2-25 Shall be Bonded
2-26 Replaces Mayor of the Municipality
2-27 Performs General Administrative Duties

Article 4 - Rate of Compensation for Municipal Officers and Employees

2-28 In General

Article 5 - Restrictions on Municipal Employees

2-29 Business Dealings with Town
2-30 Gifts and Bribes
2-31 Use of Municipal Time and Property
2-32 Use of Title or Position

Article 6 - Commissions

2-33 In General

AN ORDINANCE BY AND FOR THE TOWN OF NORTH HILLS TO MODIFY ARTICLE 1, GOVERNING BODY, SECTION 2-1, TIME AND PLACE OF REGULAR MEETINGS.

Article 1 - Governing Body

Section 2-1 Time and Place of Meetings

The governing body shall hold regular meetings at 7:30 p.m. on the first Tuesday and third Tuesday of each month at a location or place to be designated by Council from time to time, either in the Town of North Hills or such other designated location. It may also establish at its discretion the time and date of any special meeting it deems necessary to secure the general welfare of the community. Special meetings may be called by the Mayor or by three memebers of the governing body upon written request to the Recorder. At least three days in advance of a special meeting, the Recorder shall send to all members of the governing body a written notice fixing the time, place and agenda of the meeting. The Recorder shall also notify the local newspapers of the same information. Written notice of a special meeting is not required if the time, place, and purpose of the meeting have been fixed at a regular meeting.

Passed first reading March 21, 1991

Passed second reading April 2, 1991

MAYOR

RECORDER

ADMINISTRATION

Article 1 - Governing Body

Section 2-1 Time and Place of Regular Meetings

The governing body shall hold regular meetings at 7:30 PM on the first Wednesday and third Thursday of each month at a location or place to be designated by council from time to time, either in the Town of North Hills or such other designated location. It may also establish at its discretion the time and date of any special meeting it deems necessary to secure the general welfare of the community.

Section 2-2 Who is to Preside at Meetings; Quorum; Interested Members of Governing Body Not to Vote

The mayor shall serve as the presiding officer at all meetings of the governing body. If both the mayor and recorder are absent, then a member of the governing body, selected by a majority of the members present shall preside. A quorum, consisting of a majority of the members of the governing body, must be present in order to transact business. No member of the governing body shall vote upon any ordinance, order, measure, resolution, or proposition, in which he or she may be interested in other than as a citizen of said municipality.

Section 2-3 Tie Vote; Mayor May Vote

Unless otherwise provided by the charter, the mayor and recorder shall have votes as members of the governing body. In the case of a tie, the presiding officer at the time shall cast the tie-breaking vote, unless he has previously voted. If the mayor or recorder presides at meetings of the governing body of said municipality, he may elect not to vote on issues decided by the governing body; however, this choice does not restrict his right to cast a tie-breaking vote.

Section 2-4 Order of Business

Unless dispensed with by a majority of the members present, the governing body shall observe the following regular order of business:

1) Call to order by presiding officer.
2) Roll call by the recorder or clerk.
3) Reading of minutes of the previous meeting by the recorder or clerk and approval or correction.
4) Communications from the mayor.
5) Reports from committees, members of the governing body.
6) Old business.
7) New business.
8) Hearing of grievances of citizens.
9) Adjournment.

Section 2-5 General Rules of Order

The rules of order and parliamentary procedure contained in Roberts Rules of Order, Revised shall govern the transaction of business by and before the governing body. Only in cases where they conflict with provisions of this Code will they be abandoned.

Article 1 - Governing Body (continued)

Section 2-6 Governing Body to Keep Records and Minutes of Proceedings

The governing body of said municipality shall keep an accurate record of all proceedings, ordinances, orders, bylaws, acts, resolutions, rules and regulations; they shall be indexed and open to the general public of said municipality.

Article 2 - Powers and Duties of the Mayor

Section 2-7 Executies Acts of Governing Body

The mayor shall see to it that all ordinances, orders, bylaws, acts, resolutions, rules and regulations made by the governing body are faithfully executed.

Section 2-8 Has Control of Police

The police of said municipality (whether employed by the Town of North Hills or contracted for) are subject to the control of the mayor. The mayor may appoint special police officers whenever he deems it necessary to preserve the peace and order of the community.

Section 2-9 Shall be Bonded

The mayor, while in office, shall be bonded in the sum of $10,000, with surety acceptable to the governing body. His bondedness is not released until the complete transfer of office by his successor.

Section 2-10 Jurisdiction to Hear and Determine Violations of City Ordinances

The mayor shall have the power to hear and decide alleged violations of ordinances and to convict and sentence persons therefor; however, in no case shall he sentence anyone to a jail term exceeding 30 days; nor can he hand down a monetary penalty exceeding $200. The mayor shall enjoy and exercise the duties vested in county magistrates, barring civil cases, within the corporate limits of the Town.

The mayor possesses the authority to issue search warrants, warrants of arrest, summonses, subpoenas and other forms of process necessary to secure the peace and security of the community.

Section 2-11 Maintenance of Docket

The mayor shall maintain a docket of all judicial matters and proceedings which come before him. The docket shall include the defendant's name, warrant and/or summons numbers, description of alleged offense, disposition, fines and costs imposed and whether received, whether incarcerated, and other information relevant to the judicial proceeding.

Section 2-12 Issuance of Arrest Warrants

The mayor and the recorder are invested with the authority to issue arrest warrants for violations of this Code.

Article 2 - Powers and Duties of the Mayor (continued)

Section 2-13 Issuance of Summonses

The mayor and recorder shall have, at his discretion, the choice of either issuing an arrest warrant or a summons whenever an alleged violation of city ordinances occurs. The summons will order the defendant to appear before the municipal court at a specified time in order to answer the charges against himself. The summons shall contain a brief description of the offense charged against him but need not be a verbatim account of the supposed violated ordinance. If the defendant fails to answer the summons, the municipal court may proceed with judgment and it shall be binding, subject to the defendant's right of appeal.

Section 2-14 Issuance of Subpoenas

The official designated in Section 2-10 of this Code has invested in him the authority to subpoena witnesses whose testimony is relevant to any judicial proceeding. It shall be unlawful for any citizen to ignore said subpoena.

Section 2-15 Disposition of Cases

Every individual charged with a violation of a municipal ordinance shall have the right to an immediate trial and disposition of his case in conformity to due process requirements. However, this provision does not apply if the municipal court is not in session, if the mayor is unavailable or if the defendant is not in clear possession of his faculties.

Section 2-16 Appearance Bonds

Whenever the municipal court is not in session, or the mayor is not available, the defendant may be allowed to post a reasonable appearance bond. He may also post an appearance bond if he has reasonable grounds for delaying his trial. Such a bond shall be posted with the mayor and, in his absence, with the recorder. However, this provision does not apply if an individual is intoxicated or in need of protective custody.

Section 2-17 Contempt

It shall be unlawful for any individual to disrupt or hinder the proceedings of the municipal court through misbehavior in the presence of the court so near as to disrupt the administration of justice, threats of violence to the mayor, officer of the court, jurors, witnesses or parties going to, attending, or returning from the court; the disobedience or resistance to an order of the court; or the utterance of indecorous and profane language. The court may punish contemptuous persons by imposing a fine of not more than $50 and/or imprisoning said person for not more than 10 days.

Section 2-18 Imposition, Remission and Disposition of Fines and Costs

All fines and costs imposed by the mayor must be recorded in the court docket. Once recorded, it shall be beyond the power of the mayor to remit the whole or any part of said fines and costs unless it is necessary to correct an error. Once recorded, it shall be the duty of the mayor to turn over all fines and costs to the municipality daily. It shall also be the duty of the mayor to submit an accounting report to the governing body at least once a month, detailing the collection and non-collection of all fines and costs imposed by his court. The report will give a run-down of all fines and costs for the current month and to date for the current fiscal year.

Article 2 - Powers and Duties of the Mayor (continued)

Section 2-19 Appeals

It shall be the right of any defendant to appeal any verdict of the municipal court to the next term of the circuit court. Such an appeal must occur within 10 days following the judgment of the municipal court. All appeals must be accompanied with the posting of an appeal bond as set forth in Section 2-20.

Section 2-20 Bond Amounts, Conditions and Forms

The amount of appearance bonds shall be set by the mayor or recorder in the mayor's office. It is conditioned on the defendant's appearance before the municipal court at a stated time and place. Appeal bonds in all cases shall be set by the mayor or recorder in the mayor's absence, and are conditioned that if the circuit court finds against the defendant, he shall promptly pay all costs of the trial and of the appeal. The forms of appearance and appeal bonds shall be made either by 1) cash deposits, 2) any corporate surety company authorized to do business in this state, and 3) property bond with justification of surety. No other type of bond is acceptable.

Section 2-21 Authority to Hire Special Counsel

It shall be within the power of the mayor, subject to authorization of the governing body, to employ an attorney or firm of attorneys to represent and advise the municipality on legal matters. This action may be taken in lieu of a town solicitor.

Section 2-22 Recommend Important Measures

It shall be the duty of the mayor to recommend to the governing body measure he deems important to the welfare of the community.

Section 2-23 Generally Supervises Municipality Affairs

The mayor shall have general supervisory powers over all the affairs of the municipality. He may require municipal officers, council and employees to submit reports whenever he deems it necessary to fully execute his executive functions.

Article 3 - Recorder

Section 2-24 Keep Minutes

It shall be the duty of the recorder to keep a journal of the proceedings of the governing body. The recorder shall also preserve all ordinances in a separate ordinance book.

Section 2-25 Shall be Bonded

The recorder, while in office, shall be bonded in the sum of $10,000, with surety acceptable to the governing body. His bondedness is not released until the complete transfer of office by his successor.

AMENDMENT TO:
AN ORDINANCE OF THE COUNCIL OF THE TOWN OF NORTH HILLS

CHAPTER 2 - ADMINISTRATION, ARTICLE 2-24, ABSENCE OF MAYOR

In the event that the Mayor is temporarily unable to perform his duties by reason of illness,absence or any other reason, then he may give notice to the Recorder stating the period of time that he will be unable to perform his duties. During that period of time, the Recorder shall have all the powers, duties and responsibilities of the Mayor, and shall act in the Mayor's place and stead in all matters.

In the event that the Mayor is incapacitated due to illness and is unable to give notice to the Recorder of his inability to perform his duties, then the Town Council may, by majority vote in a regular or special meeting, give the recorder the powers, duties and responsibilities of the Mayor during the pendency of his incapacity.

In the event that a vacancy occurs in the office of Mayor, Recorder, or Town Council, then the Town Council shall have the power and duty to appoint a person to fill the vacant position. Such appointment shall occur at a regular or special meeting of the Town Council. Appointments shall be for the unexpired term only and persons appointed are subject to all qualifications of duly elected municipal officials.

FIRST READING: AUGUST 18, 1992
SECOND READING: SEPTEMBER 1, 1992

MAYOR

Sylvia W. Cone
RECORDER

AN ORDINANCE BY AND FOR THE TOWN OF NORTH HILLS TO REVISE CHAPTER 2, ARTICLE 4 - RATE OF COMPENSATION FOR ELECTED OFFICIALS AND MUNICIPAL OFFICERS, SECTION 2-28 IN GENERAL AND TO REVISE CHAPTER 2, ARTICLE 5 - RESTRICTIONS ON ELECTED OFFICIALS, MUNICIPAL AND EMPLOYEES, SECTION 2-29, BUSINESS DEALINGS WITH THE TOWN, WITH THE OBJECTIVE TO PROVIDE SALARIES FOR THE MAYOR AND RECORDER.

ARTICLE 4 - RATE OF COMPENSATION FOR ELECTED OFFICIALS AND MUNICIPAL OFFICERS

SECTION 2-28 IN GENERAL

A salary in the amount of $100 per month will be provided for each, the Mayor and Recorder, for their services in behalf of the Town of North Hills. Such Federal Income Taxes, State Income Taxes, F.I.C.A. and other charges as required by Federal and State laws will be deducted from the monthly remuneration. No other remuneration or fees will be provided other elected officials. Travel expenses for seminars or meetings which are of interest to the Town of North Hills shall be authorized by the Town Council prior to travel on an individual basis, with reimbursement made only after presentation of receipts for expenses authorized. Remuneration shall be effective with the new terms of office for the Mayor and Recorder beginning July 1, 1986, Fiscal Year 1986-1987.

SECTION 2-29 BUSINESS DEALINGS WITH THE TOWN

It shall be unlawful for any elected official, municipal officer, committee member or employee to be privately interested in or profit from any business dealing with the Town.

Passed First Reading April 23, 1986

Passed Second Reading May 13, 1986

Robert J. Brown, MAYOR

Judy J. Alms, RECORDER

RJBROWN/dsc
DOC. 0645D

82-3

An ordinance to revise Chapter 2, Article 4 - Rate of Compensation for Elected Officials and Municipal Officers, Section 2-28 In General, and to revise Chapter 2, Article 5 - Restrictions on Elected Officials, Municipal Officers and Employees, Section 2-29, Business Dealings with the Town, with the objective to provide payment to the Recorder for occasional special typing on a contract basis.

Section 2-28 In General

No salaries or other remuneration will be provided the Mayor or members of Council for carrying out the duties of their office. The Recorder shall not receive a salary for carrying out the duties of the office, but may receive remuneration from contracting with the Town of North Hills for special typing or clerical duties which the Town Council deems outside the normal duties of the Recorder. Prior authorization and approval by the Town Council is required before the work is started. In no instance shall the cost of the contracted service exceed $200 in a single month or $1,200 in a calendar year. Travel expenses for seminars or meetings which are of interest to the Town of North Hills shall be authorized by the Town Council prior to travel on an individual basis, with reimbursement made only after presentation of receipts for expenses authorized.

Section 2-29 Business Dealings with the Town

It shall be unlawful for any elected official, municipal officer, or employee to be privately interested in or profit from any business dealings with the Town; the exception being Council's privilege to contract with the Recorder for typing services when volunteers are not available as covered in Section 2-28 above.

Passed First Reading: 3/25/82

Passed Second Reading: 4/ 6/82

Robert J. Brown Mayor

Virginia D. Mayo Recorder

Article 3 - Recorder (continued)

Section 2-26 Replaces Mayor of Municipality

Whenever the mayor is unable to faithfully discharge his duties of his office, the recorder shall perform all mayoral duties and be invested with all of the mayor's power and authority.

Section 2-27 Performs General Administrative Duties

Administrative duties not expressly assigned a municipal officer by the charter, or this Code, shall be performed by the recorder. The recorder shall also have custory and maintain the records, corporate bonds, papers, etc., of the municipality.

Article 4 - Rate of Compensation for Elected Officials and Municipal Officers

Section 2-28 In General

No remuneration will be provided elected officials or municipal officers of the Town of North Hills. Travel expenses shall be authorized by the Town council prior to travel on an individual basis, with reimbursement made only after presentation of receipts for expenses authorized.

Article 5 - Restrictions on Elected Officials, Municipal Officers and Employees

Section 2-29 Business Dealings with the Town

It shall be unlawful for any elected official, municipal officer, or employee to be privately interested in or profit from any business dealing with the Town.

Section 2-30 Gifts and Bribes

It shall be unlawful for any elected official, municipal officer or employee to accept money, favors, or any other form of gift which could reasonably be construed as an attempt to influence the performance of his municipal duties.

Section 2-31 Use of Municipal Time and Property

It shall be unlawful for any elected official, municipal officer or employee to use or authorize the use of any municipal time or property for private benefit or for the benefit of other private individuals or groups. This ordinance shall not apply whenever the governing body has given proper authorization for the use of such time and property and is justly compensated for its use, at a rate normally charged by private sources for comparable service.

Section 2-32 Use of Position or Title

It shall be unlawful for any elected official, municipal officer or employee to use his position or title to secure unwarranted privileges or benefits for himself or others. No elected official, municipal officer or employee shall use his position and title to make purchases in the name of the municipality when they are intended for private use.

ADMINISTRATION (continued)

Article 6- Commissions

Section 2-33 In General

It will be necessary, from time to time, for municipalities to formulate certain commissions to better oversee the development of specific areas under the supervision of the municipality. Examples include: park commissions; utility commission; or human relations commissions. In enacting enabling ordinances creating such commissions, council will include the following provisions:

1) Purpose
2) Creation; composition; appointment; terms and compensation of members; filling vacancies
3) Officers; rules; meetings; records
4) Powers and authority generally; budget; annual report
5) Duties and responsibilities

Approved First Reading, Thursday, February 21, 1980.

Approved Second Reading, Wednesday, March 5, 1980.

Robert J. Brown, Mayor

Elizabeth H. "Bill" Thomas, Recorder

CERTIFICATION

Certified a true copy of the Oaths of Office of the Acting Mayor, Recorder, and Council Members of the Town of North Hills.

Dated: February 19, 2004.

Recorder, Town of North Hills

[SEAL]

STATE OF WEST VIRGINIA)

TO-WIT:

COUNTY OF WOOD)

I, Dwight Davis, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and I will faithfully and impartially discharge the duties of the Office of Mayor, Town of North Hills in and for Wood County, West Virginia, to the best of my skill and judgement, during my continuance in the same:

SO HELP ME GOD.

Dwight Davis

Subscribed and sworn to, before Michael J. Gilfillan of Wood County, West Virginia, this 17th day of February, 2004.

Michael J. Gilfillan, Town Recorder

STATE OF WEST VIRGINIA)

TO-WIT:

COUNTY OF WOOD)

I, Michael S. Butcher, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and I will faithfully and impartially discharge the duties of the Office of Mayor, Town of North Hills in and for Wood County, West Virginia, to the best of my skill and judgement, during my continuance in the same:

SO HELP ME GOD.

Michael S. Butcher

Subscribed and sworn to, before Michael J. Gilfillan of Wood County, West Virginia, this 2nd day of July, 2002.

Michael J. Gilfillan, Town Recorder

STATE OF WEST VIRGINIA)

TO-WIT:

COUNTY OF WOOD)

I, Michael J. Gilfillan, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and I will faithfully and impartially discharge the duties of the Office of Town Recorder, Town of North Hills in and for Wood County, West Virginia, to the best of my skill and judgement, during my continuance in the same:

SO HELP ME GOD.

Michael J. Gilfillan

Subscribed and sworn to, before Michael Scott Butcher of Wood County, West Virginia, this 2nd day of July, 2002.

Michael S. Butcher, Mayor

STATE OF WEST VIRGINIA)

TO-WIT:

COUNTY OF WOOD)

I, Dwight Davis, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and I will faithfully and impartially discharge the duties of the Office of Councilman, Town of North Hills in and for Wood County, West Virginia, to the best of my skill and judgement, during my continuance in the same:

SO HELP ME GOD.

Dwight Davis

Subscribed and sworn to, before Michael Scott Butcher of Wood County, West Virginia, this 2nd day of July, 2002.

Michael S. Butcher, Mayor

STATE OF WEST VIRGINIA)

TO-WIT:

COUNTY OF WOOD)

I, Thomas Hager, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and I will faithfully and impartially discharge the duties of the Office of Councilman, Town of North Hills in and for Wood County, West Virginia, to the best of my skill and judgement, during my continuance in the same:

SO HELP ME GOD.

Thomas Hager

Thomas Hager

Subscribed and sworn to, before Michael Scott Butcher of Wood County, West Virginia, this 2nd day of July, 2002.

Michael S. Butcher, Mayor

STATE OF WEST VIRGINIA)

TO-WIT:

COUNTY OF WOOD)

I, Kenneth Kupsche, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and I will faithfully and impartially discharge the duties of the Office of Councilman, Town of North Hills in and for Wood County, West Virginia, to the best of my skill and judgement, during my continuance in the same:

SO HELP ME GOD.

Kenneth Kupsche

Subscribed and sworn to, before Michael Scott Butcher of Wood County, West Virginia, this 2nd day of July, 2002.

Michael S. Butcher, Mayor

STATE OF WEST VIRGINIA)

TO-WIT:

COUNTY OF WOOD)

I, Terry Moore, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and I will faithfully and impartially discharge the duties of the Office of Councilman, Town of North Hills in and for Wood County, West Virginia, to the best of my skill and judgement, during my continuance in the same:

SO HELP ME GOD.

Terry Moore

Terry Moore

Subscribed and sworn to, before Michael Scott Butcher of Wood County, West Virginia, this 2nd day of July, 2002.

Michael S. Butcher

Michael S. Butcher, Mayor

STATE OF WEST VIRGINIA)

TO-WIT:

COUNTY OF WOOD)

I, Amy Snodgrass, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and I will faithfully and impartially discharge the duties of the Office of Councilman, Town of North Hills in and for Wood County, West Virginia, to the best of my skill and judgement, during my continuance in the same:

SO HELP ME GOD.

Amy Snodgrass

Amy Snodgrass

Subscribed and sworn to, before Michael Scott Butcher of Wood County, West Virginia, this 2nd day of July, 2002.

Michael S. Butcher

Michael S. Butcher, Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the Town of North Hills on the 22nd day of July, 2003.

Dated: February 19, 2004.

Recorder, Town of North Hills

[SEAL]

AN ORDINANCE ENACTING RATES FOR SEWER SERVICE AND EFFECTIVE DATE FOR IMPOSITION OF CHARGES

WHEREAS, the Town of North Hills finds it necessary to enact rates for sewage service throughout the entire territory served by it, in order to acquire and provide for sewage collection and treatment facilities.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of North Hills, West Virginia, that the rates and minimum charges for sewage service be enacted as follows:

Applicable in the entire territory served.

AVAILABILITY

Available for general domestic, commercial and industrial service.

RATES

Customers with metered water supply (excluding convenience meters):

Usage Charge	$ 11.00 per 1,000 gallons
Minimum monthly bill (3,000 gallons)	$33.00

Residential customers with non-metered water supply:
Equivalent to 4,000 gallons water usage per month $44.00

Delayed Payment Penalty:
The above tariff is net. On all current usage billings not paid within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

Connection Charge for new connections $300.00.

Bad Check Charge:
The Town will collect a fee equal to that charged the Town by any banking institution.

EFFECTIVE DATE

The rates, charges and penalties, herein, shall become effective when the sewer system currently owned and operated by North Hills Service Company, Inc. has been acquired by the Town of North Hills.

FIRST READING: July 1, 2003

PUBLIC HEARING: July 22, 2003

SECOND READING: July 22, 2003

s\ Michael S. Butcher
Mayor

Attest: _____
Recorder

NOTICE

TOWN OF NORTH HILLS

Notice is hereby given that the Town of North Hills, a municipal corporation, will hold a public hearing before the final vote on a proposed ordinance, the principal object of which is to fix and establish rates for sewer service for customers of the sewer system proposed to be operated by the Town of North Hills. The title of such ordinance is: AN ORDINANCE ENACTING RATES FOR SEWER SERVICE AND EFFECTIVE DATE FOR IMPOSITION OF CHARGES.

The ordinance establishes the following rates for sewer service for customers of the Town of North Hills:

Customers with metered water supply (excluding convenience meters):

Usage Charge $11.00 per 1,000 gallons

Minimum monthly bill (3,000 gallons) $33.00

Residential customers with non-metered water supply:
Equivalent to 4,000 gallons water usage per month $44.00

Delayed Payment Penalty:
The above tariff is net. On all current usage billings not paid within twenty (20) days; ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

Connection Charge for new connections $300.00

Bad Check Charge:
The Town will collect a fee equal to that charged the Town by any banking institution.

The rates, charges and penalties so established shall become effective when the sewer system currently owned and operated by North Hills Service Company, Inc. has been acquired by the Town of North Hills.

The final vote on the adoption of the proposed ordinance shall be held in the meeting room of the Parkersburg and Wood County Public Library, 3100 Emerson Avenue, Parkersburg, West Virginia on Tuesday, July 22, 2003, at 7:30 p.m. Interested parties may appear and be heard at such time with respect to the passage of the proposed ordinance. Copies of the proposed ordinance are available from the Mayor of the Town of North Hills, Michael S. Butcher, 176 North Hills Drive, Parkersburg, West Virginia V 26101 or from the Recorder of the Town of North Hills, Michael Gilfillan, 112 Wedgewood Drive, Parkersburg, West Virginia 26101.

Jul 8,15

N

SHERRY L. BRUNETT

Being first duly sworn, says that the

"Notice of Sewer Service Ordinance/Town of North Hills

Hereto attached was printed in the

XX Parkersburg News,

.....The Marietta AM,

.....The Parkersburg Sentinel,

A daily newspaper published in the City of Parkersburg, Wood County, West Virginia, for TWO successive weeks, the first publication and posting thereon being on the 8th day of July 20 03, and subsequent publication on the 15th day (s) of July 20 03

Printer's Fee $ 148.23

Notarized Signature $ 2.00

Additional Copy Fee $.....

Total Due: $ 150.23

By: S L Brunett

Subscribed and sworn to before me this

15th day of July 20 03.

Melani Zyla

Notary Public for Wood County, West Virginia

My commission expires 3-23-04

OFFICIAL SEAL
NOTARY PUBLIC, STATE OF WEST VIRGINIA
MELANI ZYLA
1629 - 19th STREET PARKERSBURG, WV 26101
MY COMMISSION EXPIRES MAR. 23, 2004

State of West Virginia
County of Wood, to wit:

I, Michael S. Butcher, being first duly sworn upon my oath, do depose and say that I am the Mayor of the Town of North Hills, and that I have been duly authorized by the Town Council to execute this affidavit of public notice by mail.

The attached public notice, substantially in the format of Tariff Form No. 12 of the Public Service Commission of West Virginia's *Rules for the Construction and Filing of Tariffs*, 150 C.S.R. 2, was mailed to every resident of the Town of North Hills via first class U. S. Mail on July 28, 2003.

Signed:

Michael S. Butcher

Taken, subscribed and sworn to before me in said county this 2nd day of September, 2003.

My commission expires: February 27, 2013.

Rebecca L. Nichols
Notary Public

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
REBECCA L. NICHOLS
508 Victoria Avenue
Parkersburg, West Virginia 26101
My Commission Expires Feb. 27, 2013

1173528.1

Tariff Form No. 12
(Tariff Rule 44)

NOTICE is hereby given that the Town of North Hills, has adopted by ordinance on July 22, 2003 a tariff containing rates, tolls and charges for furnishing sewer service to 307 customers in the Town of North Hills, Wood County, West Virginia.

The proposed rates and charges will become effective on or after October 1, 2003, at the time the Town acquires the sewer system currently operated by North Hills Service Company, Inc. unless otherwise ordered by the Public Service Commission and will produce approximately $262, 892 annually in revenue. Customers can expect to pay the following rates and charges:

Customers with metered water supply (excluding convenience meters):

Usage Charge	$ 11.00 per 1,000 gallons
Minimum monthly bill (3,000 gallons)	$33.00

Residential customers with non-metered water supply:
Equivalent to 4,000 gallons water usage per month $44.00

Delayed Payment Penalty:

The above tariff is net. On all current usage billings not paid within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

Connection Charge for new customers $300.00.

Bad Check Charge:

The utility will collect a fee equal to that charged the utility by any banking institution.

These are newly established rates. The utility has no resale rate.

The requested rates and charges are only a proposal and are subject to change (increases or decreases) by the Public Service Commission in its review of this filing. The Commission shall review and approve or modify the increased rates only upon the filing of a petition within thirty (30) days of the adoption of the ordinance changing said rates or charges, by:

(1) Any customer aggrieved by the newly established rates or charges who presents to the Commission a petition signed by not less than twenty-five percent of the customers served by such municipally operated public utility; or

(2) Any customer who is served by a municipally operated public utility and who resides outside the corporate limits and who is affected by the newly established rates or charges and who presents to the Commission a petition alleging discrimination between customers within and without the municipal boundaries. Said petition shall be accompanied by evidence of discrimination; or

(3) Any customer or group of customers who are affected by the newly established rates or charges who reside within the municipal boundaries and who present a petition to the Commission alleging discrimination between said customer or group of customers and other customers of the municipal utility. Said petition shall be accompanied by evidence of discrimination.

All petitions should be addressed to the Executive Secretary, Public Service Commission of West Virginia, 201 Brooks Street, P. O. Box 812, Charleston, West Virginia 25323.

A complete copy of the proposed rates, as well as a representative of the utility to provide any information requested concerning it, is available to all customers, prospective customers, or their agents at either of the following locations:

Michael S. Butcher
Mayor of the Town of North Hills
176 North Hills Drive
Parkersburg, West Virginia 26101

Michael Gilfillan
Recorder of the Town of North Hills
112 Wedgewood Drive
Parkersburg, West Virginia 26101.

A copy of the proposed rates is available for public inspection at the office of the Executive Secretary of the Public Service Commission at 201 Brooks Street, P. O. Box 812, Charleston, West Virginia 25323.

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the Town of North Hills on the 15th day of April, 2003.

Dated: February 19, 2004.

Recorder, Town of North Hills

[SEAL]

TOWN OF NORTH HILLS

ORDINANCE CREATING SANITARY BOARD

AN ORDINANCE CREATING A SANITARY BOARD TO ACQUIRE, CONSTRUCT, EQUIP, OPERATE AND MAINTAIN A SEWAGE COLLECTION AND DISPOSAL SYSTEM OR SYSTEMS WITHIN AND/OR WITHOUT THE CORPORATE LIMITS OF THE TOWN OF NORTH HILLS, WEST VIRGINIA, AND TO VEST IN SUCH BOARD THE CUSTODY, ADMINISTRATION, OPERATION, MAINTENANCE AND CONTROL OF SUCH SYSTEM OR SYSTEMS.

WHEREAS, it is the desire of the Town of North Hills to own, acquire, construct, equip, operate and maintain within and/or without its corporate boundaries, a sewage collection system and/or a sewage treatment plant or plants, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and all other appurtenances necessary or useful and convenient for the collection and/or treatment, purification and disposal, in a sanitary manner, of the liquid and solid waste, sewage, night soil, and industrial waste of the Town of North Hills, and to acquire, construct, equip, operate and maintain such system or systems, as provided in Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended, and other applicable provisions of law.

NOW, THEREFORE, Be it Enacted and Ordained by the Council of the Town of North Hills:

Section 1. That there is hereby created the Sanitary Board of the Town of North Hills which shall be composed of the mayor of the Town of North Hills, and two persons appointed by the council, one of whom, during the construction period, must be a registered professional engineer. The engineer member of the Board need not be a resident of said municipality. After the construction of the plant has been completed, the engineer may be succeeded by a person not an engineer. Said appointees shall originally be appointed for terms of two and three years, respectively, and upon the expiration of each such term and each succeeding term, an appointment of a successor shall be made in like manner for a term of three years. Vacancies shall be filled for an unexpired term in the same manner as the original appointment.

Section 2. That no officer or employee of the Town of North Hills, whether holding a paid or unpaid office, shall be eligible to appointment on said Sanitary Board until at least one year after the expiration of the term of his public office.

Section 3. That the mayor shall act as chairman of the Sanitary Board and such Sanitary Board shall elect a vice chairman from its members and shall designate a secretary and treasurer (but the secretary and treasurer may be one and the same), who need not be a member or members of the Sanitary Board. The vice chairman, secretary and treasurer shall hold office as such at the will of the Sanitary Board. The Sanitary Board shall have power to establish by-laws, rules and regulations for its own government.

Section 4. That each member of the Sanitary Board shall receive such compensation as may be fixed by the Council of the Town of North Hills from time to time, and

shall be entitled to payment for his reasonable expenses incurred in the performance of his duties. The secretary and treasurer shall be paid such reasonable compensation for services as the Council shall fix, and the treasurer shall give bond in such amount as the Council may require.

All compensation, together with expenses incurred by said Board, its officers and employees, shall be paid solely from funds provided under the authority of Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended.

Section 5. That the construction, acquisition, improvement, equipment, custody, operation and maintenance of all works for the collection, treatment or disposal of sewage within or without the corporate limits of the Town of North Hills, the collection of revenues therefrom for the services rendered thereby and the employment of all engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and other employees, as in the judgment of the Board may be necessary in the execution of its powers and duties, shall be under the supervision and control of the Sanitary Board.

Section 6. That the Sanitary Board created by this ordinance shall have, in addition to the powers enumerated herein, all other powers provided for such Boards in Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended.

Section 7. That ROBERT EDDY is hereby appointed to the Board for an initial term of two (2) years from the date of adoption hereof and MICHAEL S. BUTCHER AS MAYOR is hereby appointed to the Board for an initial term of three (3) years from the date of adoption hereof.

Adopted this 15TH day of APRIL, 2003.

s\ Michael S. Butcher
Mayor

Attest:

Recorder

257770

Minutes of the Town of North Hills
Council Meeting
March 4, 2003

The regular meeting of the Town of North Hills was held on Tuesday March 4, 2003, at the Wood County Public Library. In attendance were Mayor Mike Butcher, Council members Terry Moore, Dwight Davis, Tom Hagar, Ken Kupshe, and Amy Snodgrass. Steve Hardman was in attendance to provide discussion and answer questions pertaining to sewer issues.

Mayor Butcher called the meeting to order at 7:30pm. The minutes from February 4, 2003 meeting were reviewed and approved unanimously as amended by adding the name Kam Secrest as a person the Mayor spoke with about possible reimbursement to the town of sewer planning expenses.

Council member Davis opened the session. He had four issues regarding the Davis Development of the Brentwood Extension (paper attached), and one issue about encroachment on the roadway. The encroachment was addressed first with discussion determining that growth should be cut back to the curb and overhead growth should be no lower than thirteen feet to allow buses and vans to pass unhindered. The four issues with the Davis Development were addressed next: First, It was explained that lots 12 and 13 are not viable lots and recommended they be incorporated into adjoining lots. Following discussion it was moved by Terry Moore and seconded by Amy Snodgrass to incorporate lot 12 into lot 11 and lot 13 into lot 14 and replat the map. The motion passed with Council member Davis not voting. Second, It was proposed that lots 15, 16, 17 and a large unnamed lot be combined into a single large lot eliminating the need for Ironwood Drive. Access would be through a private drive. Following minimal discussion Ken Kupshe made a motion to accept the proposal, seconded by Tom Hagar. The motion passed with Council member Davis not voting. Third, It was proposed to rename Parkview Drive into Brentwood Drive because of concerns within the county 911 system that the name was already being used. This was moved and seconded by Ken Kupshe and Amy Snodgrass respectively. The motion passed with Council member Davis not voting. In connection with the change to Parkwood Drive in the new Brentwood Extension the council determined that Brentwood drive should be a continuous road through the community, this required renaming the existing Parkwood Drive, which extends from 36 Brentwood Drive to the new Brentwood Extension/Davis Development. This was moved and seconded by Terry Moore and Tom Hagar. The motion passed with council member Davis not voting.

Steve Hardman then reviewed the sewer project task list (attached). Hardman passed out a Draft Agreement to all Council Members and entertained discussion. Significant discussion occurred pertaining to where sewer billing would be measured. Council Member Davis voiced the councils' expectation as to pay for actual usage assuming the I&I leakage problem will have been repaired. It was generally recognized by the council that historical date needed by Union Williams was inaccurate due to the leakage problems in the past and that this may not support an average usage estimate by Union Williams. Council Member Hagar expressed strong opinion that Union Williams should be approached with our desires for precise measurement and billing in spite of the strong

position held by Union Williams in these negotiations. The council generally agreed but recognized that our ability to change Union Williams methods would not be strong.

Council Member Kupshe noted that the town is late in submitting "Rule 42". Steve Hardman indicated the data was not available and that a submission by March 7, 2003 will be acceptable without penalty.

The Mayor introduced three documents for second reading. First the Reimbursement Resolution was opened for further discussion. It was briefly reviewed then moved and seconded by Terry Moore and Dwight Davis and unanimously passed. Second, the North Hills Sewer Ordnance was discussed then moved and seconded by Ken Kupshe and Terry Moore and passed unanimously. Last, the Establishment of a Sanitary Board was discussed moved and seconded by Dwight Davis and Ken Kupshe. The ordnance was passed with Tom Hagar abstaining. Steve Hardman then departed.

In the remaining few minutes the council briefly discussed budget items to become familiar with historic trends and potential issues to be considered next year due to the sewer installation.

The meeting was adjourned at 9:00pm.

TOWN OF NORTH HILLS

ORDINANCE CREATING SANITARY BOARD

AN ORDINANCE CREATING A SANITARY BOARD TO ACQUIRE, CONSTRUCT, EQUIP, OPERATE AND MAINTAIN A SEWAGE COLLECTION AND DISPOSAL SYSTEM OR SYSTEMS WITHIN AND/OR WITHOUT THE CORPORATE LIMITS OF THE TOWN OF NORTH HILLS, WEST VIRGINIA, AND TO VEST IN SUCH BOARD THE CUSTODY, ADMINISTRATION, OPERATION, MAINTENANCE AND CONTROL OF SUCH SYSTEM OR SYSTEMS.

WHEREAS, it is the desire of the Town of North Hills to own, acquire, construct, equip, operate and maintain within and/or without its corporate boundaries, a sewage collection system and/or a sewage treatment plant or plants, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and all other appurtenances necessary or useful and convenient for the collection and/or treatment, purification and disposal, in a sanitary manner, of the liquid and solid waste, sewage, night soil, and industrial waste of the Town of North Hills, and to acquire, construct, equip, operate and maintain such system or systems, as provided in Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended, and other applicable provisions of law.

NOW, THEREFORE, Be it Enacted and Ordained by the Council of the Town of North Hills:

Section 1. That there is hereby created the Sanitary Board of the Town of North Hills which shall be composed of the mayor of the Town of North Hills, and two persons appointed by the council, one of whom, during the construction period, must be a registered professional engineer. The engineer member of the Board need not be a resident of said municipality. After the construction of the plant has been completed, the engineer may be succeeded by a person not an engineer. Said appointees shall originally be appointed for terms of two and three years, respectively, and upon the expiration of each such term and each succeeding term, an appointment of a successor shall be made in like manner for a term of three years. Vacancies shall be filled for an unexpired term in the same manner as the original appointment.

Section 2. That no officer or employee of the Town of North Hills, whether holding a paid or unpaid office, shall be eligible to appointment on said Sanitary Board until at least one year after the expiration of the term of his public office.

Section 3. That the mayor shall act as chairman of the Sanitary Board and such Sanitary Board shall elect a vice chairman from its members and shall designate a secretary and treasurer (but the secretary and treasurer may be one and the same), who need not be a member or members of the Sanitary Board. The vice chairman, secretary and treasurer shall hold office as such at the will of the Sanitary Board. The Sanitary Board shall have power to establish by-laws, rules and regulations for its own government.

Section 4. That each member of the Sanitary Board shall receive such compensation as may be fixed by the Council of the Town of North Hills from time to time, and

Minutes of the Town of North Hills Council Meeting April 15, 2003

The regular meeting of the Town of North Hills was held on Tuesday, April 15, 2003, at the Wood County Public Library. In attendance were Mayor Mike Butcher, Town Recorder Mike Gilfillan, and Council members Dwight Davis and Amy Snodgrass.

Mayor Butcher called the meeting to order at 7:30 p.m.

The minutes from the April 01, 2003, meeting were reviewed and then unanimously approved by the Council.

The Council discussed the sewer ordinance and council member Davis made a motion, which was seconded by Council member Snodgrass, to pass and adopt the municipal sewer ordinance as amended after the second reading and currently written. The motion passed 4-0.

A second motion was made by Council member Davis, and seconded by Council member Snodgrass, to pass and adopt the Sanitation Board ordinance as amended after the second reading and currently written. The motion passed 4-0.

Mayor Butcher then discussed the shell proposal submitted by Attorney Steve Hardman regarding the agreement between the Town and Union Williams PSD which detailed how Union Williams would take over the treatment of the Town's sewage. Council member Snodgrass made a motion, which was seconded by Council member Davis, to adopt the shell agreement as written. The motion passed 4-0.

Mayor Butcher then discussed a proposed building permit application submitted by Aaron & Mary Moore of 246 North Hills Drive for a backyard fence. The plans called for galvanized fencing only while the Town ordinance requires that the metal be covered with earth tone colored vinyl such as brown or green. The Council agreed that the plans could not be accepted until they showed a vinyl coating for the fence. The Council agreed to accept the plans as submitted once this change was made and Mayor Butcher informed the Council that he would speak personally with the applicants and let them know of this requirement.

The Council then discussed the need to publish another Town Crier. Items that will be discussed in the next edition will include a spring clean up day, a pond refurbishment update, an explanation regarding the street user fees, and upcoming street paving projects.

The Council then discussed donating $1,000 to the Garden Club and a motion was passed unanimously to take this action. Additionally, the Council agreed to pay an invoice bill of $2,500 to the North Hills Swim & Racquet Club for the annual use of the pond parking lot.

Finally, Mayor Butcher officially "layed the levy" for the Town 2003-2004 fiscal budget.

The meeting adjourned at 8:10 p.m.

TOWN OF NORTH HILLS

ORDINANCE CREATING SANITARY BOARD

AN ORDINANCE CREATING A SANITARY BOARD TO ACQUIRE, CONSTRUCT, EQUIP, OPERATE AND MAINTAIN A SEWAGE COLLECTION AND DISPOSAL SYSTEM OR SYSTEMS WITHIN AND/OR WITHOUT THE CORPORATE LIMITS OF THE TOWN OF NORTH HILLS, WEST VIRGINIA, AND TO VEST IN SUCH BOARD THE CUSTODY, ADMINISTRATION, OPERATION, MAINTENANCE AND CONTROL OF SUCH SYSTEM OR SYSTEMS.

WHEREAS, it is the desire of the Town of North Hills to own, acquire, construct, equip, operate and maintain within and/or without its corporate boundaries, a sewage collection system and/or a sewage treatment plant or plants, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and all other appurtenances necessary or useful and convenient for the collection and/or treatment, purification and disposal, in a sanitary manner, of the liquid and solid waste, sewage, night soil, and industrial waste of the Town of North Hills, and to acquire, construct, equip, operate and maintain such system or systems, as provided in Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended, and other applicable provisions of law.

NOW, THEREFORE, Be it Enacted and Ordained by the Council of the Town of North Hills:

Section 1. That there is hereby created the Sanitary Board of the Town of North Hills which shall be composed of the mayor of the Town of North Hills, and two persons appointed by the council, one of whom, during the construction period, must be a registered professional engineer. The engineer member of the Board need not be a resident of said municipality. After the construction of the plant has been completed, the engineer may be succeeded by a person not an engineer. Said appointees shall originally be appointed for terms of two and three years, respectively, and upon the expiration of each such term and each succeeding term, an appointment of a successor shall be made in like manner for a term of three years. Vacancies shall be filled for an unexpired term in the same manner as the original appointment.

Section 2. That no officer or employee of the Town of North Hills, whether holding a paid or unpaid office, shall be eligible to appointment on said Sanitary Board until at least one year after the expiration of the term of his public office.

Section 3. That the mayor shall act as chairman of the Sanitary Board and such Sanitary Board shall elect a vice chairman from its members and shall designate a secretary and treasurer (but the secretary and treasurer may be one and the same), who need not be a member or members of the Sanitary Board. The vice chairman, secretary and treasurer shall hold office as such at the will of the Sanitary Board. The Sanitary Board shall have power to establish by-laws, rules and regulations for its own government.

Section 4. That each member of the Sanitary Board shall receive such compensation as may be fixed by the Council of the Town of North Hills from time to time, and

shall be entitled to payment for his reasonable expenses incurred in the performance of his duties. The secretary and treasurer shall be paid such reasonable compensation for services as the Council shall fix, and the treasurer shall give bond in such amount as the Council may require.

All compensation, together with expenses incurred by said Board, its officers and employees, shall be paid solely from funds provided under the authority of Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended.

Section 5. That the construction, acquisition, improvement, equipment, custody, operation and maintenance of all works for the collection, treatment or disposal of sewage within or without the corporate limits of the Town of North Hills, the collection of revenues therefrom for the services rendered thereby and the employment of all engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and other employees, as in the judgment of the Board may be necessary in the execution of its powers and duties, shall be under the supervision and control of the Sanitary Board.

Section 6. That the Sanitary Board created by this ordinance shall have, in addition to the powers enumerated herein, all other powers provided for such Boards in Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended.

Section 7. That _____ is hereby appointed to the Board for an initial term of two (2) years from the date of adoption hereof and _____ is hereby appointed to the Board for an initial term of three (3) years from the date of adoption hereof.

Adopted this ____ day of _____, 2003.

_____
Mayor

Attest:

_____
Town Clerk

Recorded: _____, 2003.

Ordinance Book _____, page _____.

TOWN OF NORTH HILLS, WEST VIRGINIA
SEWER REVENUE BONDS
SERIES 2003

PETITION OF SANITARY BOARD TO COMMON COUNCIL
OF THE TOWN OF NORTH HILLS

The Sanitary Board of the Town of North Hills, heretofore duly established by the Common Council of the Town of North Hills, hereby respectfully petitions said Council to enact an ordinance ordering the acquisition, construction and improvement of the existing sewerage collection and treatment system currently owned and operated by the North Hills Service Company, Inc. and providing sewer service to the Town of North Hills, as more particularly described in and according to the plans and specifications prepared by Cerrone Associates, Inc., Consulting Engineers, Wheeling, West Virginia, copies of which plans and specifications are on file in the office of the Town of North Hills, and providing for financing of all or a portion of the costs of such acquisition, construction and improvement by the issuance of Sewer Revenue Bonds by the Town of North Hills to be issued in an amount not to exceed $1,300,000.

All as required by Chapter 16, Article 13 of the West Virginia Code.

Respectfully submitted this 16th day of December, 2003.

SANITARY BOARD OF THE
TOWN OF NORTH HILLS

Mayor and Chairman

Member (Engineer)

Member

1182445 (December 16, 2003)

Minutes of the Town of North Hills Council Meeting January 6, 2004

The regular meeting of the Town of North Hills was held on Tuesday, January 6, 2004, at 7:30 p.m. at the Wood County Public Library. In attendance were Town Mayor Mike Butcher, Town Recorder Mike Gilfillan, and Council members Ken Kupsche, Dwight Davis, Terry Moore, Amy Snodgrass, and Tom Hager. Mayor Butcher called the meeting to order at 7:30.

The minutes of the November 18, 2004, Council meeting were reviewed and unanimously approved 7-0. There were no Council meetings held in December due to lack of quorums on each scheduled date.

Attending the Council meeting was Town Attorney Steve Hardman who presented the Council with two ordinances to review. The first ordinance was titled "Addendum to the Intergovernmental Agreement Between Union Williams Public Service District and the Town of North Hills." The RUS needs the Council to adopt this ordinance as part of its loan funding requirements prior to the loan closing and the ordinance will require a first and second reading into the record to become valid. The Council reviewed the ordinance which was followed up with discussion with Attorney Hardman. Subsequently, Council member Dwight Davis made a motion to adopt the ordinance and Council member Tom Hager seconded his motion. The motion passed 7-0 and a first reading was conducted into the record.

The second ordinance was titled "Town of North Hills Ordinance authorizing the Issuance of $1,255,000 of Sewer Revenue Bonds Series 2003." The Council reviewed the ordinance with Attorney Hardman and then Council member Terry Moore made a motion to adopt it. Council member Tom Hager seconded this motion. The motion passed 7-0 and a first reading was conducted into the record.

A special meeting of the Town Council will be scheduled for Tuesday, January 13, 2004, for the sole purpose of conducting a second reading of both ordinances into the record.

Attorney Hardman also informed the Council that the RUS sewer loan closing for the Town is scheduled on February 11, 2004, at 6:30 p.m. at the Union Williams office on Route 2. Both Mayor Mike Butcher and Recorder Mike Gilfillan will need to be present for the signing of documents.

Mayor Butcher informed the Council that the Sanitary Board has been formed to oversee the sewer project. The three member Board consists of Mayor Butcher, Robert Eddy, and Civil Engineer Harold Starcher. Mr. Starcher will be charging the Town $100 per hour for his services in this endeavor. Additionally, Council member Ken Kupsche made a motion that Mayor Butcher be compensated $150 a month in his capacity as a Sanitary Board member during the initial phase of the sewer construction project instead of an hourly fee of $100/hr which he would be entitled to per statutory law. Once the sewer construction was completed, the Council could reassess a new compensation rate. It should be noted that Sanitary Board compensation fees would come from the RUS bond money loaned to the Town. Council member Tom Hager seconded this motion, and the motion passed 6-0 with Mayor Butcher abstaining. The record should also reflect that Mayor Butcher was in agreement with this proposal.

The meeting adjourned at 8:50 p.m.

Minutes of the Town of North Hills Council Meeting January 13, 2004

A special meeting of the Town of North Hills was held on Tuesday, January 13, 2004, at 7:30 p.m. at the Wood County Public Library. In attendance were Town Recorder Mike Gilfillan, and Council members Ken Kupsche, Terry Moore, and Tom Hager. Also attending was Town Attorney Steve Hardman. Town Recorder Mike Gilfillan called the meeting to order at 7:30.

The minutes of the January 6, 2004, Council meeting were reviewed and unanimously approved 4-0.

The two ordinances which were the subject of a first reading into the official record during the January 6, 2004, Council meeting were reviewed again by the Council and Attorney Hardman. A motion was then made by Council member Terry Moore, which was seconded by Council member Ken Kupsche, to adopt the ordinances "Addendum to the Intergovernmental Agreement Between Union Williams Public Service District and the Town of North Hills" and "Town of North Hills Ordinance Authorizing the Issuance of $1,255,000 of Sewer Revenue Bonds Series 2003." The motion passed 4-0 and both ordinances were adopted and a second reading was conducted into the record.

Town Recorder Gilfillan then informed the Council he recently learned that Mayor Butcher had been ill and was hospitalized which was why he was not present at the meeting. The issue was raised on what course of action the Council would need to take if Mayor Butcher was incapacitated and not able to perform his duties in regards to the February 11, 2004, RUS loan closing. Attorney Hardman stated that the Council could appoint an interim Mayor to substitute for Mayor Butcher who could sign the loan documents at the February 11 closing. Attorney Hardman informed the Council that this action would need to be taken no later than the first Council meeting in February (February 3, 2004) and then he would expedite the necessary paperwork with the RUS and Union Williams to allow the loan closing to go forward.

The meeting adjourned at 7:50 p.m.

Minutes of the Town of North Hills Council Meeting January 27, 2004

A special public meeting of the Town of North Hills was held on Tuesday, January 27, 2004, at 7:30 p.m. at the Wood County Public Library. The purpose of the meeting was to hear public discussion on the Town sewer project and to hear commentary on the recently enacted sewer bond ordinance by the Sanitary Board. In attendance were Town Recorder Mike Gilfillan, and Council members Dwight Davis, Ken Kupsche, Terry Moore, Tom Hager, and Amy Snodgrass. Also attending was Town Attorney Steve Hardman and Attorney Camden Siegrist who is also working on the Town sewer project with Attorney Hardman. Additionally, several Town residents were also in attendance. Town Recorder Mike Gilfillan called the meeting to order at 7:30.

The minutes of the January 20, 2004, Council meeting were reviewed and unanimously approved 6-0.

Attorney Siegrist then addressed the meeting and provided a summary of the sewer project to date and what will be accomplished in the near future. Attorney Siegrist stated the Council is focusing upon obtaining the final right-of-ways/easements from the Town residents who will be affected by the construction work and he also informed the meeting that the RUS loan closing with the Town will take place in February. Once this is done, the actual construction of the new sewer will commence in the spring. Attorney Siegrist then responded to questions from Council members and some Town residents. After all questions had been addressed, a motion was made by Council member Ken Kupsche and seconded by Council member Terry Moore to officially pass the ordinance entitled:

> ORDINANCE AUTHORIZING THE ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF PUBLIC SEWERAGE FACILITIES OF THE TOWN OF THE NORTH HILLS AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE OF SEWER REVENUE BONDS SERIES 2004, OF THE TOWN OF NORTH HILLS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $1,255,000; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS, PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITY OF THE HOLDERS OF THE BONDS; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

The motion passed unanimously 6-0 and the ordinance was officially adopted by the Council.

The situation involving Mayor Mike Butcher was then addressed and the issue of whether or not to determine if Mayor Butcher was incapacitated and unable to serve was explored. Town Recorder Mike Gilfillan provided the Council with an e-mail sent to him by Sandy Butcher, the Mayor's wife, which stated that Mayor Butcher was suffering from a drug dependency problem and at the present time his whereabouts were unknown. Mrs. Butcher went on to state that in her opinion, her husband could no longer serve as the Mayor. Attorneys Hardman and Siegrist provided the Council with their opinions on how to proceed and it was determined that a final

decision on removing the Mayor from office would be made at the February 3, 2004, Council meeting.

The meeting adjourned at 8:45 p.m.

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the Town of North Hills.

Dated: February 19, 2004.

[SEAL]

Recorder, Town of North Hills

TOWN OF NORTH HILLS

ORDINANCE AUTHORIZING THE ISSUANCE

OF $1,255,000 OF

SEWER REVENUE BONDS

SERIES 2004

TOWN OF NORTH HILLS
ORDINANCE AUTHORIZING THE ISSUANCE OF $1,255,000
OF SEWER REVENUE BONDS, SERIES 2004

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TOWN OF NORTH HILLS
ORDINANCE AUTHORIZING THE ISSUANCE OF $1,255,000
OF SEWER REVENUE BONDS
SERIES 2004

ORDINANCE AUTHORIZING THE ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF PUBLIC SEWERAGE FACILITIES OF THE TOWN OF NORTH HILLS AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE OF SEWER REVENUE BONDS, SERIES 2004, OF THE TOWN OF NORTH HILLS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $1,255,000; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITY OF THE HOLDERS OF THE BONDS; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT

BE IT ORDAINED BY THE COMMON COUNCIL OF THE TOWN OF NORTH HILLS:

ARTICLE I
STATUTORY AUTHORITY, FINDINGS
AND DEFINITIONS

Section 1.01. Authority for This Ordinance. This Ordinance (together with any order, ordinance or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 16, Article 13 of the Code of West Virginia of 1931, as amended (the "Act") and other applicable provisions of law.

Section 1.02. Definitions. All capitalized terms used in the Bond Legislation and not otherwise defined herein shall have the following meanings unless the context otherwise expressly requires:

"Act" means Chapter 16, Article 13 of the West Virginia Code of 1931, as amended and in effect on the date of enactment hereof.

"Authorized Officer" means the Mayor of the Issuer or any acting Mayor duly appointed by the Governing Body.

"Bank" means United Bank, Inc., Parkersburg, West Virginia , a member of the FDIC.

"Bondholder," "Holder of the Bonds," "Holder" or any similar term whenever used herein with respect to an outstanding Bond or Bonds, means the person in whose name such Bond is registered.

"Bond Legislation," "Ordinance," "Bond Ordinance" or "Local Act" means this Ordinance and all ordinances, orders and resolutions supplemental hereto or amendatory hereof.

"Bonds" mean the Original Bonds authorized hereby, and any bonds on a parity therewith authorized to be issued hereunder.

"Construction Account" means the Town of North Hills Construction Account established by Section 4.01 hereof.

"Consulting Engineer" means Cerrone Associates, Inc., Wheeling, West Virginia, or any qualified engineer or firm of engineers which at any time hereafter may be retained by the Issuer as Consulting Engineer for the System.

"Costs" or "Costs of the Project" means those costs described in Section 1.03(E) hereof to be a part of the cost of construction and acquisition of the Project.

"FDIC" means the Federal Deposit Insurance Corporation.

"Fiscal Year" means each 12-month period beginning on July 1 and ending June 30 of the following year.

"Governing Body" means the Council of the Issuer.

"Government Obligations" means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America.

"Gross Revenues" means the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that "Gross Revenues" does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined, purchased pursuant to Article 8.01 hereof).

"Herein" means in this Ordinance.

"Independent Certified Public Accountants" shall mean any public accountant or certified public accountant or firm of public accountants or certified public accountants that shall at any time hereafter be retained by the Issuer to prepare an independent annual or special audit of the accounts of the System or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

"Issuer" means Town of North Hills, Wood County, West Virginia, and, unless the context clearly indicates otherwise includes the Governing Body, the Sanitary Board and any commission, board or department established by the Issuer to operate and maintain the System.

"Mayor" means the Mayor of the Issuer.

"Net Revenues" means the balance of the Gross Revenues, remaining after deduction of Operating Expenses, as hereinafter defined.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, fees and expenses of fiscal agents and the Registrar (as hereinafter defined), other than those capitalized as part of the Costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Original Bonds" means the $1,255,000 Sewer Revenue Bonds, Series 2004 authorized hereby.

"Outstanding," when used with reference to Bonds as of any particular date, describes all Bonds theretofore and thereupon being executed and delivered except (i) any Bond

canceled by the Registrar at or prior to said date; (ii) any Bond for the payment of which moneys, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); and (iii) for purposes of consents or other action by a specified percentage of Bondholders, Bonds registered to the Issuer.

"Parity Bonds" means additional Bonds issued under the provisions and within the limitations described by Section 5.09 hereof.

"Project" shall have the meaning stated in Section 1.03(B).

"Project Costs" means all those costs set out in Section 1.03(E) hereof.

"Purchaser" means United States of America and any successor thereof, as the holder of the Original Bonds.

"Qualified Investments" means and includes any of the following:

(A) Government Obligations;

(B) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

(C) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

(D) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;

(E) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(F) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (A) through (E) above;

(G) Repurchase agreements, fully secured by investments of the types described in paragraphs (A) through (E) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(H) Obligations of States or political subdivisions or agencies thereof, the interest on which is exempt from federal income taxation, and which are rated at least "A" from Moody's Investors Service, Inc. or Standard & Poor's Corporation; and

(I) The West Virginia "consolidated fund" managed by the West Virginia Investment Management Board pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended.

"Recording Officer" means the Recorder or Clerk of the Issuer.

"Registrar" means the Recording Officer or such other person or entity designated by the Issuer as Registrar herein or by subsequent Ordinance or Resolution.

"Revenue Fund" shall mean the Sewer Revenue Fund established in Section 4.02(A) herein.

"Series 2004 Bonds Reserve Account" means the Series 2004 Bonds Reserve Account created and established by Section 4.02(B) hereof.

"Series 2004 Bonds Reserve Requirement" means the maximum amount of principal and interest which will come due on the Original Bonds in the then current or any fiscal year thereafter.

"System" means the public service properties for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes, owned by the Issuer, and any improvements or extensions thereof, both within and without the Issuer.

Words importing the singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

Section 1.03. Findings and Determinations. It is hereby found, determined and declared as follows:

(A) The Town of North Hills (the "Issuer"), a municipal corporation of the State of West Virginia in Wood County of said State, desires to establish a sewerage system for the benefits of the inhabitants of the Issuer and the Issuer has established its Sanitary Board for

such purpose by Ordinance enacted April 15, 2003, and said Sanitary Board has petitioned to the Council of the Issuer that the Project, as hereinafter defined, be acquired and constructed as herein provided. The inhabitants of the Issuer and surrounding area to be served by the Project urgently require that the Project be acquired, constructed and improved as herein provided in order that adequate provision may be made for the sanitary disposal and treatment of sewage and waste water.

(B) It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of North Hills that there be acquired from the North Hills Service Company, Inc. the sewerage facilities currently owned and operated by the North Hills Service Company, Inc. and providing sewer service to the inhabitants of Issuer, together with all appurtenant facilities (collectively, the "Project") and, accordingly, it is hereby ordered that the Project be acquired, constructed and improved as more particularly described in and according to the plans and specifications prepared by the Consulting Engineer and heretofore filed with the Recording Officer of the Issuer. The acquisition and construction of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

(C) It is necessary for the Issuer to issue its Sewer Revenue Bonds, Series 2004 (the "Original Bonds") in the principal amount of $1,255,000 to finance a portion of the costs of such Project in the manner hereinafter provided.

(D) The estimated maximum cost of the acquisition and construction of the Project is $1,255,000, which will be obtained from the proceeds of the sale of the Original Bonds herein authorized.

(E) The cost of such acquisition and construction shall be deemed to include, without being limited to, the acquisition of the existing sewerage collection and treatment system from the North Hills Service Company, Inc., the construction of the Project; the acquisition of any necessary property, real or personal, or interest therein; interest on the Original Bonds or any note, bond, construction loan, or other indebtedness of the Issuer issued to provide interim financing of the Project in anticipation of the issuance of the Original Bonds prior to, during and for six months after completion of such construction; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; and such other expenses as may be necessary or incidental to the acquisition and construction of the Project and the financing authorized hereby.

(F) The period of usefulness of the Project is not less than forty years.

(G) There are no outstanding obligations of the Issuer which will rank on a parity with the Original Bonds as to liens and source of and security for payment.

(H) The Issuer has complied with all requirements of the law of West Virginia relating to authorization of the acquisition, construction and operation of the Project and issuance of the Original Bonds, or will have so complied prior to issuance of the Original Bonds including, among other things, obtaining a certificate of convenience and necessity for the

Project from the Public Service Commission of West Virginia by final order, the time for a rehearing and appeal of which shall have been waived or shall have expired. The rates, charges and rules as provided by Article VI hereof shall be in full force and effect.

(I) The Sanitary Board of the Issuer has presented a petition to the Issuer for enactment of this Bond Legislation.

(J) The Purchaser is expected by the Issuer to purchase the entire principal amount of the Original Bonds.

(K) The estimated revenues to be derived in each year after the enactment hereof from the operation of the System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on the Original Bonds, and all Sinking Fund, Reserve Account and other payments provided for herein.

Section 1.04. Bond Legislation to Constitute Contract. In consideration of the acceptance of the Original Bonds by the Purchaser, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and the Purchaser, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the Purchaser as holder of the Original Bonds.

ARTICLE II
AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUE OF BONDS

Section 2.01. Authorization of Bonds. Subject and pursuant to the provisions hereof, the Bond of the Issuer, to be known as "Sewer Revenue Bonds, Series 2004," are hereby authorized to be issued in the principal amount of $1,255,000, for the purpose of financing in whole or in part the costs of the acquisition and construction of the Project.

Section 2.02. Description of Bonds. The Original Bonds shall be issued initially in single form, No. R-1, fully registered to the United States of America and shall be dated on the date of delivery. The Original Bonds shall bear interest from date, payable monthly at the rate of 4.625% per annum, and shall be sold at the par value thereof. The Original Bonds shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, and shall be payable as provided in the bond form hereinafter set forth.

Section 2.03. Negotiability, Registration, Transfer and Exchange of Bonds. The Bonds shall be and have all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but the Bonds, and the right to the principal of, and stated interest on, the Bonds, may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 2.04 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Bonds for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Registrar.

Whenever the Bonds shall be surrendered for registration of transfer, the Issuer shall execute and deliver a new bond or bonds in authorized denominations, for a like aggregate principal amount. The Registrar shall require the payment by the new owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer, but the Issuer shall pay any other expenses incurred by the Registrar with respect to such transfer.

No registration of transfer of the Bonds shall be permitted to be made after the 15th day next preceding any installment payment date on the Bonds.

Section 2.04. Registrar. The Recording Officer of the Issuer will keep or cause to be kept at the office of the Issuer, sufficient books for the registration and transfer of the Bonds, and, upon presentation for such purpose, the Recording Officer shall register the Bonds initially issued pursuant hereto and register the transfer, or cause to be registered, on such books, the transfer of the Bond as hereinbefore provided.

Section 2.05. Execution of Bond. The Bonds shall be executed in the name of the Issuer by the Mayor and its corporate seal shall be affixed thereto and attested by the Recording Officer.

Section 2.06. Mutilated, Destroyed, Stolen or Lost Bond. In case any Bond shall become mutilated, destroyed, stolen or lost, the Issuer may in its discretion issue and deliver a new bond of like tenor as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the holder of the Bond furnishing the Issuer proof of his ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Bond so surrendered shall be canceled and held for the account of the Issuer. If the Bond shall have matured or be about to mature, instead of issuing a substitute Bond the Issuer may pay the same, and, if such bond be destroyed, stolen or lost, without surrender thereof.

Section 2.07. Bonds not to be Indebtedness of the Members of the Governing Body or the Sanitary Board of the Issuer. The Bonds shall not be or constitute an indebtedness of the Members of the Governing Body or the Sanitary Board of the Issuer but shall be payable solely from the Net Revenues and from funds in the Series 2004 Bonds Reserve Account and the respective reserve accounts for subsequent series of Bonds.

Section 2.08. Bonds Secured by Pledge of Net Revenues, Funds and Unexpended Bond Proceeds. Payment of the Bonds shall be secured forthwith by a first lien on the Net Revenues derived from the System and the funds on deposit in the Series 2004 Bonds Reserve Account and the respective reserve accounts for subsequent series of Bonds. The Net Revenues derived from the System in an amount sufficient to pay the principal of and interest on the Bonds, and to make the payments as hereinafter provided, together with the funds on deposit in the Series 2004 Bonds Reserve Account and the respective reserve accounts for subsequent series of Bonds and the unexpended proceeds of the Bond are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds as the same become due.

Section 2.09. Form of Bond. Subject to the provisions hereof, the text of the Original Bonds and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted hereby or by any resolution adopted after the date of adoption hereof and prior to the issuance thereof:

(Form of Bond)

TOWN OF NORTH HILLS
SEWER REVENUE BOND

$1,255,000

No. R-1 Date: _____ __, 2004

THE TOWN OF NORTH HILLS (the "Issuer"), for value received, promises to pay to the order of the United States of America (the "Purchaser"), or its registered assigns, at its National Finance Office, St. Louis, Missouri, 63103, or at such other place as the Purchaser may hereafter designate in writing, the principal sum of $1,255,000, plus interest on the unpaid principal balance at the rate of four and 625/100th per cent (4.625%) per annum. The said principal and interest shall be paid in the following installments on the following dates: Installments of interest only commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof and $5,861.00, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of 40 years from the date of this Bond, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount hereof is not advanced at the time of closing, the proceeds hereof shall be advanced to Issuer as requested by Issuer and approved by the Purchaser and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made hereon shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Issuer. Refunds and extra payments, as defined in the regulations of the Purchaser according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Issuer to pay the remaining installments as scheduled herein.

If the Purchaser at any time assigns this Bond and insures the payment thereof, Issuer shall continue to make payments to Purchaser as collection agent for the holder.

While this Bond is held by an insured lender, prepayments made by Issuer may, at the option of the Purchaser, be remitted by the Purchaser to the Holder promptly or, except for final payment, be retained by the Purchaser and remitted to the Holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Issuer, except payments retained and remitted by the Purchaser on an annual installment due date basis, shall be the date of the United States Treasury check by which the Purchaser remits the payment to the Holder. The effective date of any prepayment retained and remitted by the

Purchaser to the Holder on an annual installment due date basis shall be the date of the prepayment by Issuer and the Purchaser will pay the interest to which the Holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the Holder.

Any amount advanced or expended by the Purchaser for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Purchaser shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Issuer to the Purchaser without demand. Issuer agrees to use the loan evidenced hereby solely for purposes authorized by the Purchaser.

Issuer hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing rates and terms in or near its community for loans for similar purposes and periods of time.

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of construction and acquisition of additions and improvements to the sewerage collection and treatment system (the "System") of the Issuer, is payable solely from the Revenues to be derived from the operation of the System after there have been first paid from such Revenues the reasonable current costs of operation and maintenance of the System. This Bond does not constitute an indebtedness of the Issuer within any constitutional or statutory provision or limitation.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of the Recorder of the Issuer, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the Ordinance hereinafter described, and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions of the Act hereinafter defined, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may only be transferred by transfer of registration hereof with the Recorder of the Issuer.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13 of the Code of West Virginia of 1931, as amended (herein called the "Act") and Ordinance of the Issuer duly enacted on _____, 2004.

If at any time it shall appear to the Purchaser that Issuer may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Issuer will, at Purchaser's request, apply for and accept such loan in sufficient amount to repay the Purchaser.

This Bond is given as evidence of a loan to Issuer made or insured by the Purchaser pursuant to the Consolidated Farmers Home Rural Development Act. This Bond shall be subject to the present regulations of the Purchaser and to its future regulations not inconsistent with the express provisions hereof.

THE TOWN OF NORTH HILLS

[CORPORATE SEAL]

By:_____
Mayor

Attest:

_____
Recorder

RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	$		(6)	$	
(2)	$		(7)	$	
(3)	$		(8)	$	
(4)	$		(9)	$	
(5)	$		(10)	$	

TOTAL $

(No writing on this Bond except by the Issuer as Registrar)

Date of Registration	In Whose Name Registered	Signature of Recorder or Registrar
_____, 2004	United States of America Post Office Box 678 Morgantown, West Virginia 26505	_____
_____		_____
_____		_____

ASSIGNMENT

Pay to the Order of _____

_____

UNITED STATES OF AMERICA

By_____

By:_____

(Title)

ARTICLE III
[RESERVED]

ARTICLE IV
BOND PROCEEDS; REVENUES
AND APPLICATION THEREOF

Section 4.01. Bond Proceeds; Project Construction Account. The proceeds of the sale of the Bonds shall be deposited on receipt by the Issuer in the Bank, in a special account hereby created and designated "Town of North Hills Project Construction Account". The moneys in the Construction Account in excess of the amount insured by FDIC shall be secured at all times by the Bank by securities or in a manner lawful for the securing of deposits of state and municipal funds under West Virginia law. Moneys in the Construction Account shall be expended by the Issuer solely for the purposes provided herein.

Until completion of acquisition and construction of the Project, the Issuer will transfer from the Construction Account and pay to the Purchaser on or before the due date thereof, such sums as shall be from time to time required to make the monthly installment payments on the Bonds if there are not sufficient Net Revenues to make such monthly payment.

Moneys in the Construction Account shall be used solely to pay the cost of acquisition and construction of the Project upon vouchers and other documentation approved by the Purchaser.

If the Issuer shall determine at any time that all funds on deposit in the Construction Account exceed the estimated disbursements on account of the Project for the ensuing ninety (90) days, the Issuer may invest such excess funds in Government Obligations which shall mature not later than eighteen (18) months after the date of such investment. All such investments and the income therefrom shall be carried to the credit of the Construction Account.

When acquisition and construction of the Project has been completed and all costs have been paid or provision for such payment has been made, any balance remaining in the Construction Account shall be disposed of in accordance with the regulations of the Purchaser.

Section 4.02. Covenants of the Issuer as to Revenues and Funds. As long as any Bond shall be outstanding and unpaid, or until there shall have been set apart in the Series 2004 Bonds Reserve Account hereinafter established or corresponding reserve accounts for subsequent series of Bonds, a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of all Bonds remaining unpaid, together with interest accrued and to accrue thereon, the Issuer further covenants with the holder of any and all Bonds as follows:

(A) Revenue Fund. The entire Gross Revenues, and all parts thereof, including without limitation all tap fees received, shall be deposited as collected by the Issuer in the Town of North Hills Sewer Revenue Fund which is hereby established with the Bank. The Revenue Fund shall constitute a trust fund for the purposes provided herein and shall be kept separate and apart from all other funds of the Issuer and used only for the purposes and in the manner provided herein. The holders of the Bonds shall have a lien on and a pledge, hereby

granted, of all Net Revenues of the System, as herein provided, and as granted and created by the Act, as long as the Bonds remain unpaid.

(B) Disposition of Revenues. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

(1) The Issuer shall first each month transfer from the Revenue Fund and pay into the Town of North Hills Operation and Maintenance Fund, which is hereby established with the Bank, such sum as the Issuer may determine, in accordance with its budget, to be necessary to pay all current Operating Expenses.

(2) The Issuer shall next, by the fifteenth day of each month, transfer from the Revenue Fund and pay to the National Finance Office designated in the Original Bonds the amount required to pay the interest on the Original Bonds, and to amortize the principal of the Original Bonds over the term of the Bond as provided in the Bond.

(3) The Issuer shall next, by the fifteenth day of each month beginning with and including the month in which the first principal installment is due upon the Original Bonds, transfer from the Revenue Fund and deposit in the Series 2004 Bonds Reserve Account, which is hereby established with the West Virginia Municipal Bond Commission, one-twelfth of one-tenth of the Series 2004 Bonds Reserve Requirement until the amount in the Series 2004 Bonds Reserve Account is equal to the Series 2004 Bonds Reserve Requirement. After the Series 2004 Bonds Reserve Requirement has been accumulated in the Series 2004 Bonds Reserve Account, the Issuer shall deposit monthly into the Series 2004 Bonds Reserve Account, such part of the moneys remaining in the Revenue Fund, after such provision for payment of monthly installments on the Bonds and for payment of Operating Expenses of the System, as shall be required to maintain the Series 2004 Bonds Reserve Requirement. Moneys in the Series 2004 Bonds Reserve Account shall be used solely to make up any deficiency for monthly installments required to be paid on the Original Bonds as the same shall become due, for prepayment of installments on the Original Bonds or for mandatory prepayment of the Original Bonds as provided herein, and for no other purpose.

(4) After all the foregoing provisions for use of moneys in the Revenue Fund have been fully complied with, any moneys remaining therein and not permitted to be retained therein may be used to prepay installments of the Bonds or for any lawful purpose.

Whenever the money in the Series 2004 Bonds Reserve Account shall be sufficient to prepay the Original Bonds in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Original Bonds at the earliest practical date and in accordance with applicable provisions hereof.

The West Virginia Municipal Bond Commission (and any successor appointed by the Issuer) is hereby designated as Fiscal Agent for the administration of the Series 2004 Bonds Reserve Account as herein provided, and all amounts required therefor will be deposited by the

Issuer upon transfers of funds from the Revenue Fund at the times provided herein, together with written advice stating the amount remitted for deposit into each such fund.

All the funds provided for in this Section shall constitute trust funds and shall be used solely for the purposes and in the order provided herein, and until so used, the Purchaser shall have a lien thereon for further securing payment of the Original Bonds and the interest thereon. The moneys in excess of the sum insured by FDIC in any of such funds shall at all times be secured, to the full extent thereof in excess of such insured sum, in a manner lawful for securing deposits of state and municipal funds under the laws of the State of West Virginia. The Bank and the West Virginia Municipal Bond Commission shall not be a trustee as to such funds.

If on any payment date the revenues are insufficient to make the payments and transfers as hereinabove provided, the deficiency shall be made up in the subsequent payments and transfers in addition to those which would otherwise be required to be made on the subsequent payment dates.

The Fiscal Agent shall keep the moneys in the Series 2004 Bonds Reserve Account invested and reinvested to the fullest extent practicable in direct obligations of, or obligations the payment of the principal of and interest on which are guaranteed by, the United States of America. Earnings upon moneys in the Series 2004 Bonds Reserve Account, as long as the Series 2004 Bonds Reserve Requirement is on deposit and maintained therein, shall be paid annually in January to the Issuer by the West Virginia Municipal Bond Commission and deposited by the Issuer upon receipt into the Revenue Fund.

(C) Change of Fiscal Agent. The Issuer may designate a bank insured by FDIC as Fiscal Agent for the administration of the Series 2004 Bonds Reserve Account if the West Virginia Municipal Bond Commission should cease for any reason to serve or if the Governing Body determines by resolution and with the written consent of the Purchaser that the West Virginia Municipal Bond Commission or its successor should no longer serve as Fiscal Agent for the Series 2004 Bonds Reserve Account. Upon any such change, the Governing Body will cause notice of the change to be sent by registered or certified mail to the Purchaser.

(D) User Contracts. The Issuer hereby certifies that there will be not less than 339 bona fide users serviced by the System.

ARTICLE V
GENERAL COVENANTS

Section 5.01. General Statement. As long as any Bond shall be outstanding and unpaid, or until there shall have been set apart in the Series 2004 Bonds Reserve Account or corresponding reserve accounts for subsequent series of Bonds, a sum sufficient to prepay the entire principal of the Bonds remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Purchaser.

Section 5.02. Bonds not to be Indebtedness of the Issuer. The Bonds shall not be or constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Ordinance. No holder or holders of any Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay said Bonds or the interest thereon.

Section 5.03. Rates. The Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide revenues in each fiscal year sufficient to produce Net Revenues equal to not less than 110% of the annual debt service on the Bonds and to make the payments required herein into the Series 2004 Bonds Reserve Account and all the necessary expenses of operating and maintaining the System during such fiscal year, and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate revenues for such purposes.

Section 5.04. Authorizations. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Original Bonds, or will have so complied prior to issuance of any thereof, including, among other things, the obtaining of a Certificate of Convenience and Necessity and approval of this financing and necessary user rates and charges described herein from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which shall have been waived or shall have expired.

Section 5.05. Investments. The Issuer shall invest and reinvest, and hereby instructs the Bank to invest and reinvest, in Qualified Investments any moneys held as part of the funds and accounts created by this Ordinance, other than the Revenue Fund, to the fullest extent possible subject to applicable laws and this Ordinance, and the need for such moneys for the purposes set forth herein, and the specific restrictions and provisions set forth in this Section 5.06. The Issuer may direct the Bank in writing as to what particular permitted investments shall be made.

Except as provided herein and in the indenture, if any, any investment shall be held in and at all times be deemed a part of the fund or account in which the moneys and investments are held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the corresponding fund or account. The Bank shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any

fund or account is insufficient to make the payments required from such fund or account, regardless of any loss on such liquidation. The Issuer may invest funds on deposit with the Bank through the trust department of the Bank. The Bank shall not be responsible for any losses from such investments, except losses due to its own gross negligence or willful misconduct.

Section 5.06. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Division of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Division of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30 day notice of the availability of the System, pay the rates and charges established therefor.

Any such house, dwelling or building from which emanates sewage or water-borne waste matter and which is not so connected with the System is hereby declared and found to be a hazard to the health, safety, comfort and welfare of the inhabitants of the Issuer and a public nuisance which shall be abated to the extent permitted by law and as promptly as possible by proceedings in a court of competent jurisdiction.

Section 5.07. Completion of Project and Operation and Maintenance of System. The Issuer will complete the Project as promptly as reasonably possible and will operate and maintain the System in good condition.

Section 5.08. Sale of the System. The System will not be sold without the prior written consent of the Purchaser so long as any of the Originals Bonds are outstanding. Such consent will provide for disposition of the proceeds of any such sale.

Section 5.09. Issuance of Additional Parity Bonds or Obligations. No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Recording Officer a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues for the Fiscal Year following the year in which such Parity Bonds are to be issued shall be at least 120% of the average annual debt service requirements on the following:

(1) The Bonds Outstanding;

(2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Bond Legislation then Outstanding; and

(3) The Parity Bonds then proposed to be issued.

No additional bonds or other obligations payable out of the revenues of the System which are senior in any way to or on a parity with the Original Bonds shall be issued after the issuance of the Original Bonds pursuant hereto except with the prior written consent of the Purchaser.

Section 5.10. Insurance and Bonds. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Original Bonds remain outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(a) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground structures of the System in an amount equal to the actual cost thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than $500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than $200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Original Bonds.

(c) Vehicular Public Liability Insurance, in the event the Issuer owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the Issuer is operated at any time or times for the benefit of the Issuer, with limits of not less than $500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than $200,000 to protect the Issuer from claims for damage to property of others which may arise from such operation of vehicles, such insurance to be procured prior to acquisition or commencement of operation of any such vehicle for the Issuer.

(d) Workers' Compensation Coverage for all Employees of the Issuer Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds will be filed with the Clerk of the County Commission of said County prior to commencement of construction of the Project in compliance with the West Virginia Code § 38-2-39.

(e) Fidelity Bonds will be provided as to every member of the Governing Body and as to every officer and employee thereof having custody of the Revenue Fund or of any revenues or other funds in the custody of any such person at any one time, and initially in the

amount of $10,000 upon the Recording Officer, provided, however, that no bond shall be required insofar as custody of the Project Construction Account is concerned so long as checks thereon require the signature of a representative of the Purchaser.

(f) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Original Bonds are outstanding, the Issuer will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Issuer, and during such construction will require each contractor and subcontractor to carry insurance, of such types and in such amounts as the Purchaser may specify, with insurance carriers or bonding companies acceptable to the Purchaser.

Section 5.11. Events of Default. Each of the following events is hereby declared an "Event of Default":

(a) Failure to make payment of any monthly amortization installment at the date specified for payment thereof;

(b) Failure duly and punctually to observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the Bonds or herein, or violation of or failure to observe any provision of any pertinent law.

Section 5.12. Enforcement. Upon the happening of any Event of Default specified above, then, and in every such case, the Purchaser may proceed to protect and enforce its rights by an appropriate action in any court of competent jurisdiction, either for the specific performance of any covenant or agreement, or execution of any power, or for the enforcement of any proper legal or equitable remedy as shall be deemed most effectual to protect and enforce such rights.

Upon application by the Purchaser, such court may, upon proof of such default appoint a receiver for the affairs of the Issuer and the System. The Receiver so appointed shall administer the System on behalf of the Issuer, shall exercise all the rights and powers of the Issuer with respect to the System, shall proceed under the direction of the Court to obtain authorization to increase rates and charges of the System, and shall have the power to collect and receive all revenues and apply the same in such manner as the court may direct.

Section 5.13. Fiscal Year; Budget. While any Bond is outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a fiscal year basis commencing on July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than thirty days prior to the beginning of each fiscal year, the Issuer agrees to adopt the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such fiscal year unless unanimously authorized and directed by the Governing Body. Copies of each Annual Budget shall be delivered to the Purchaser by the beginning of each fiscal year.

If for any reason the Issuer shall not have adopted the Annual Budget before the first day of any fiscal year, it shall adopt a Budget of Current Expenses from month to month

until the adoption of the Annual Budget; provided, however, that no such monthly budget shall exceed the budget for the corresponding month in the year next preceding by more than ten per centum; and provided further, that adoption of a Budget of Current Expenses shall not constitute compliance with the covenant to adopt an Annual Budget unless failure to adopt an Annual Budget be for a reason beyond the control of the Issuer. Each such Budget of Current Expenses shall be mailed immediately to the Purchaser.

Section 5.14. Books and Records. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and the Purchaser shall have the right at all reasonable times to inspect the System and all records, accounts and data of the Issuer relating thereto.

The Issuer shall, at least once a year, cause said books, records and accounts of the System to be properly audited by an independent competent firm of certified public accountants and shall mail a copy of such audit report to the Purchaser.

Section 5.15. No Competition. To the extent allowable by law, the Issuer will not permit competition with the System within its boundaries or within the territory served by it and will not grant or cause, consent to or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the Issuer or within the territory served by the System.

Section 5.16. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, rates, rentals and other charges, if not paid, when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services of the System and any services and facilities of the water system, if so owned by the Issuer, to all users of the services of the System delinquent in payment of charges for the service of the System and will not restore such services of either system until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and, if the water system is not owned by the Issuer, then the Issuer shall enter into a

termination agreement with the water provider and the Issuer shall take all further actions to enforce collections to the maximum extent permitted by law.

Section 5.17. Wetlands Covenant. The Issuer shall not use any Bond proceeds for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity. Failure to comply with this covenant shall constitute an Event of Default under Section 5.11(b) of this Resolution.

ARTICLE VI
RATES, ETC.

Section 6.01. Initial Schedule of Rates and Charges; Rules. The schedule of rates and charges for the services and facilities of the System initially shall be those contained in the Ordinance enacted by the Council of the Issuer on July 22, 2003, and the adoption of such rates is hereby ratified and affirmed.

ARTICLE VII
MISCELLANEOUS

Section 7.01. Modification or Amendment. No material modification or amendment of this Bond Legislation, or of any Bond Legislation amendatory hereof or supplemental hereto, may be made without the prior consent in writing of the Purchaser.

Section 7.02. Delivery of Bond No. 1. The Mayor is hereby authorized and directed to cause Bond No. 1, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 7.03. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Bonds.

Section 7.04. Conflicting Provisions Repealed. All ordinances, resolutions and orders, or parts thereof, in conflict with the provisions hereof are, to the extent of such conflicts, hereby repealed, but excluding the Loan Resolution (Form FmHA 442-47).

Section 7.05. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 7.06. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Bond Legislation, substantially in the form attached hereto as Exhibit A, which abstract is determined by the governing Body to contain sufficient information as to give notice of the contents hereof, shall be published once a week for two successive weeks within a period of fourteen consecutive days, with at least six full days intervening between each publication, in the Parkersburg News , a newspaper published and of general circulation in the boundaries of the Issuer, together with a notice stating that this Bond Legislation has been adopted and that the Issuer contemplates the issuance of the Bond, and that any person interested may appear before the Common Council upon a date certain, not less than ten days subsequent to the first date of the publication of this Bond Legislation and notice, and present protests. At such hearing, all objections and suggestions shall be heard and the Common Council shall take such action as it shall deem proper in the premises.

Section 7.07. Covenant of Due Procedure, etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the final enactment and passage of this Bond Legislation do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor and Recording Officer, all members of the

Governing Body and the Sanitary Board, were at all times when any actions in connection with this Bond Legislation occurred and are duly in office and duly qualified for such service.

Passed on First Reading	January 6, 2004
Passed on Second Reading	January 13, 2004
Effective following public hearing held on	January 27, 2004

[SEAL]

Acting Mayor

Attest:

By: _____
Recorder

EXHIBIT A

TOWN OF NORTH HILLS
NOTICE OF PUBLIC HEARING
ON SEWER BOND ORDINANCE

A public hearing will be held on the following entitled Ordinance at a special meeting of the Council of the Town of North Hills to be held on _____, 2004, at _____ __.m. in the _____, North Hills, West Virginia, and at such hearing all objections and suggestions shall be heard by the Council and such Council shall then take such action as it shall deem proper in the premises upon an ordinance entitled:

> ORDINANCE AUTHORIZING THE ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF PUBLIC SEWERAGE FACILITIES OF THE TOWN OF NORTH HILLS AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE OF SEWER REVENUE BONDS SERIES 2004, OF THE TOWN OF NORTH HILLS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $1,255,000; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS;; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITY OF THE HOLDERS OF THE BONDS; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT

The above-entitled Ordinance was adopted by the Council of the Town of North Hills upon Petition of the Sanitary Board of the Town on _____, 2004.

The above quoted title of the Ordinance describes generally the contents thereof and the purposes of the bond issue contemplated thereby. The bonds are to provide permanent financing of a portion of the cost of acquisition and construction of a sewage collection and treatment system for the Town of North Hills (the "System"). The bonds are payable solely from revenues derived by ownership and operation of the System. No taxes may at any time be levied for the payment of the bonds or the interest thereon.

A certified copy of the above-entitled Ordinance is on file at the office of the Recorder of the Town of North Hills for review by interested parties during regular office hours.

Following the said public hearing, the Council intends to take action to place said Ordinance into effect immediately.

Dated: January 14, 2004.

_____

Recorder

TOWN OF NORTH HILLS
NOTICE OF PUBLIC HEARING
ON SEWER BOND ORDINANCE

A public hearing will be held on the following entitled Ordinance at a special meeting of the Council of the Town of North Hills to be held on Tuesday, January 27, 2004, at 7:30 p.m. in the Wood County Library, 3100 Emerson Avenue, Parkersburg, West Virginia, and at such hearing all objections and suggestions shall be heard by the Council and such Council shall then take such action as it shall deem proper in the premises upon an ordinance entitled:

ORDINANCE AUTHORIZING THE ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF PUBLIC SEWERAGE FACILITIES OF THE TOWN OF NORTH HILLS AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE OF SEWER REVENUE BONDS SERIES 2004, OF THE TOWN OF NORTH HILLS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $1,255,000; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITY OF THE HOLDERS OF THE BONDS; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT

The above-entitled Ordinance was enacted by the Council of the Town of North Hills upon Petition of the Sanitary Board of the Town on January 13, 2004.

The above quoted title of the Ordinance describes generally the contents thereof and the purposes of the bond issue contemplated thereby. The bonds are to provide permanent financing of the cost of acquisition, construction and improvement of the existing sewage collection and treatment system, which is currently owned and operated by the North Hills Service Company, Inc., for the Town of North Hills (the "System"). The bonds are payable solely from revenues derived by ownership and operation of the System. No taxes may at any time be levied for the payment of the bonds or the interest thereon.

A certified copy of the above-entitled Ordinance is on file at the office of the Recorder of the Town of North Hills for review by interested parties during regular office hours.

Following the said public hearing, the Council intends to take action to place said Ordinance into effect immediately.

Dated: January 14, 2004.

Michael Gilfillan
Recorder

Jan 15, 22 N

SHERRY L. BRUNETT

Being first duly sworn, says that the

"Town of North Hills / Notice of Public Hearing on Sewer Bond Ordinance"

Hereto attached was printed in the

XX Parkersburg News,

..... The Marietta AM,

..... The Parkersburg Sentinel,

A daily newspaper published in the City of Parkersburg, Wood County, West Virginia, for ....TWO.... successive weeks, the first publication and posting thereon being on the .....15th.....day of ....January.... 20.04., and subsequent publication on the .....22nd..... day (s) of ..January... 20.04..

Printer's Fee $..150.92..

Notarized Signature $.....2.00..

Additional Copy Fee $.....

Total Due: $..152.92..

By: S L Brunett

Subscribed and sworn to before me this

22nd day of January 20.04.

Melani Zyla

Notary Public for Wood County, West Virginia

My commission expires .....3-23-04.....

OFFICIAL SEAL
NOTARY PUBLIC, STATE OF WEST VIRGINIA
MELANI ZYLA
1029-19th STREET PARKERSBURG, WV 26101
MY COMMISSION EXPIRES MAR. 23, 2004

TRANSCRIPT DOCUMENT #11

NPDES PERMIT

The Town of North Hills cannot obtain an NPDES Permit until it has acquired the sewer system of North Hills Service Co. The Town will acquire the sewer system on February 18, 2004 and will promptly thereafter apply for the NPDES Permit. A copy of the NPDES Permit will be forwarded for insertion into the transcript when received.

TOWN OF NORTH HILLS, WEST VIRGINIA
SEWER REVENUE BONDS
SERIES 2004

ENGINEER'S CERTIFICATE

I, Manning H. Frymier, Registered Professional Engineer, West Virginia Registration No. 8497, of Cerrone Associates, Inc., Consulting Engineers, Wheeling, West Virginia, hereby certify that my firm is engineer for the acquisition, construction and improvement of the existing sewerage system currently owned and operated by the North Hills Service Company, Inc., (herein called the "Project") for the Town of North Hills, West Virginia in Wood County, West Virginia, which construction is being financed in whole or in part by the above-captioned Revenue Bond of the District.

I further certify that the Project will, to the best of my knowledge, be acquired, constructed and improved in accordance with plans and specifications prepared by my firm and that such system is situate wholly or chiefly within the boundaries of said Town.

I further certify that the Project is adequate for the purpose for which it was designed and that all necessary governmental approvals and permits for the construction thereof have been obtained or can be obtained.

WITNESS my signature on this 17th day of February, 2003.

CERRONE ASSOCIATES, INC.
By: Manning H. Frymier
Manning H. Frymier, P.E.
Its: President
West Virginia License No. 8497

030397alj012904.wpd

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: January 29, 2004

FINAL
2-9-04
By Commission
order waiving
15 days

CASE NO. 03-0397-PSD-CN

UNION WILLIAMS PUBLIC SERVICE DISTRICT,
PO Box 243, Waverly, WV 26184
Application for a certificate of convenience and necessity to construct an extension to its existing sewer system to serve additional residents of Union and Williams Magisterial Districts in Wood County.

CASE NO. 03-1030-S-CN

TOWN OF NORTH HILLS
Application for a certificate of convenience and necessity to operate a sewer system to serve 307 customers in the Town of North Hills.

RECOMMENDED DECISION

Case No. 03-0397-PSD-CN

On March 17, 2003, Union Williams Public Service District (Applicant or District), a public utility, filed a duly verified application for a certificate of convenience and necessity to construct and operate certain additions and improvements to its existing sewage system in order to provide service to additional customers in the Union and Williams Magisterial Districts of Wood County, West Virginia.

This application was properly filed for prefiling notice with the Commission on November 13, 2002, and was published for public legal notice of prefiling on October 30 and November 6, 2002, in the St. Marys Oracle (Pleasants County), and on October 31 and November 7, 2002, in the Parkersburg News (Wood County), newspapers duly qualified by the Secretary of State, published and of general circulation in the service territory of the District.

The Applicant initially estimated that construction of this proposed project would cost $12,534,500 and would be financed by a loan from the West Virginia Water Development Authority State Revolving Fund Program in the amount of $15,681,125, and a loan from the West Virginia Infrastructure and Jobs Development Council in the amount of $400,000. Increased rates and charges were requested by the Applicant which would represent approximately a 19.7% increase for the District's customers.

The District has no resale rate in its present tariff. The proposed tariff includes a resale rate of $3.01/1,000 gallons. The resale customer of Union Williams Public Service District will be the Town of North Hills.

By a Notice of Filing entered March 18, 2003, the Applicant was required to provide public legal notice of this application by causing a copy of said Notice to be published once in a newspaper duly qualified by the Secretary of State, published and of general circulation in Wood County, and to make due return to the Commission of proper certification of publication. Said Notice contained the proposed increased rates and the right to file written protest or notice of intervention within thirty (30) days of publication.

On March 28, 2003, the Applicant filed its Rule 42 financial exhibit for inclusion in this application.

Pursuant to public legal notice, four statements of protest were filed with the Commission on April 16, 18 and 30, 2003. The Protestants were against higher rates and did not believe existing customers should be required to help fund extensions of the system to new customers.

On April 21, 2003, Commission Staff filed its Initial Joint Staff Memorandum in this matter. Staff was seeking additional information and documents from the Applicant and recommended that this matter be referred to the Division of Administrative Law Judges for further proceedings.

On April 25, 2003, the Applicant filed duly executed affidavits of publication demonstrating publication of the Notice of Filing on April 2, 2003, in the St. Marys Oracle and the Parkersburg News, all in compliance with said Notice of Filing entered March 13, 2003.

On May 5, 2003, the Applicant filed its responses to Staff's first set of interrogatories.

By a Commission Referral Order entered May 6, 2003, this application was referred to the Division of Administrative Law Judges for further proceedings with a decision due date of October 14, 2003.

On July 8, 2003, a Procedural Order was issued which scheduled this certificate application for hearing to be held on August 5, 2003, in Wood County.

On July 11, 2003, Commission Staff filed a Further Initial Joint Staff Memorandum in this matter. Staff stated that the project contemplated by this filing is complicated and that the review of additional documents, including certain inter-utility operating agreements, would be required.

On July 31, 2003, the Applicant, by counsel, filed a request to toll the statutory time frame in this case and to cancel the hearing previously scheduled to be held on August 5, 2003.

By Commission Order entered August 1, 2003, the District's motion to toll the statutory period to process this certificate application was

granted. The new statutory deadline was established as January 27, 2004, and the Administrative Law Judge's decision due date was extended until December 1, 2003.

On August 4, 2003, the hearing previously scheduled to be held on August 5, 2003, was cancelled pending further orders. Additionally, the Applicant and Commission Staff were required to file a Joint Status Report on or before August 26, 2003, and to include at least three (3) agreeable hearing dates.

On September 9, 2003, the Applicant filed a modified West Virginia Department of Environmental Protection - NPDES Permit, No. WV 0101443, issued for this prospective sewer project.

On September 12, 2003, the Applicant filed a Revised Rule 42 Exhibit in this matter. The estimated project cost had been revised to $17,996,291 to reflect actual bids received. As a result, project funding was changed. However, the District was not required to change the proposed increased rates and charges contained in the original filing.

On September 22, 2003, the District filed four professional services agreements required by this project and previously requested by Commission Staff.

On October 20, 2003, the District filed documents relating to the acquisition by the District of the sewer systems currently operated by Par Metta Crest Homeowners Association, Inc., and The Brierwood Property Owners Association, Inc.

On November 21, 2003, the District filed, by telefacsimile, a request to toll the statutory time frame in this case for an additional sixty (60) days.

By a Commission Order entered November 24, 2003, the statutory period to process this certificate application was extended to March 29, 2004, and the Administrative Law Judge's decision due date was extended until January 30, 2004.

On December 8, 2003, the District filed a letter from the West Virginia Department of Environmental Protection expressing a commitment to provide funding for this project from State Revolving Fund bonds in the amount of $15,681,125, at an annual interest rate of zero percent (0%), with an annual administrative fee of one-half percent (½%) for a term not to exceed thirty (30) years. This letter also referenced a previous commitment from the West Virginia Infrastructure & Jobs Development Council to provide funding for this project in the amount of $2,400,000, for a total funding package of $17,996,291.

Case No. 03-1030-S-CN

On or about July 7, 2003, the Town of North Hills (Town), North Hills Service Company, Inc., and Union Williams Public Service District filed a duly verified application for a certificate of convenience and necessity and Commission approval for North Hills Service Company, Inc., to discontinue operation of its wastewater treatment plant serving the North Hills residents; for Union Williams Public Service District to

connect North Hills' customers to the District's sewer system and to provide billing service; and for the Town of North Hills to become certificated to operate a sewer utility.

By a previous Commission Order entered in Case No. 03-0836-S-PSD-PW on June 25, 2003, the Town of North Hills was granted a waiver of the requirement of the 30-day notice of intent to file an application for a certificate of convenience and necessity found in West Virginia Code §24-2-11 and Rule 10.3.c. of the Commission's Rules of Practice and Procedure.

On July 7, 2003, the Commission entered a formal Notice of Filing in this matter which required the Applicants to give public legal notice of this filing by causing to be published a copy of said Notice of Filing once in a newspaper duly qualified by the Secretary of State, published and of general circulation in Wood County, West Virginia, and to make due return of proof of such publication to the Commission. The formal Notice of Filing contained the rates and charges for sewer service proposed by the Applicants and made provision for the filing of written statements of protest or objection within thirty (30) days from the date of publication. The Notice provided further that, in the absence of protest, the Commission could waive formal hearing and grant this application based on the evidence submitted and its review thereof.

On July 10, 2003, the Applicants filed the Revised Final Engineering Report on this project, which included updated customer data, project costs and financing information.

On July 30, 2003, the Applicants filed copies of the Sewer Rate Ordinance duly adopted by the Town of North Hills on July 22, 2003, as well as an affidavit of publication demonstrating pre-adoption public legal notice.

On August 8, 2003, the Applicants filed an affidavit of publication demonstrating publication of the Notice of Filing on August 4, 2003, in the Parkersburg News, all in compliance with the Notice of Filing entered July 7, 2003. As of the date of this Recommended Decision, no statements of protest or objection have been filed against this application.

On August 21, 2003, Commission Staff filed its Initial Joint Staff Memorandum in this matter. Staff explained that, pursuant to this application, the privately owned North Hills Service Company, Inc., will discontinue operations as a sewer utility and transfer those operations and facilities to the newly certificated Town of North Hills, which will become a municipal sewer utility. Union Williams Public Service District will then contract with the Town to provide treatment services as well as operation, maintenance, billing and collecting services. All sewer utility operations will be conducted by Union Williams through improvements and interconnections contemplated in Case No. 03-0397-PSD-CN, the certificate application filed by Union Williams Public Service District. Staff recommended that these cases be consolidated and processed on similar courses. Staff also detailed numerous documents and additional information needed in the North Hills certificate case.

By a Commission Referral Order entered August 19, 2003, this case, No. 03-1030-S-CN, was referred to the Division of Administrative Law

Judges for further proceedings with a decision due date of February 2, 2004.

On September 4, 2003, the Town of North Hills filed affidavits from Mayor Michael Butcher demonstrating that Tariff Form 12, Notice of Proposed Increased Rates, had been properly posted and individually mailed to the customers expected to be served by its sewer operations.

On October 15, 2003, the Applicants filed copies of an unexecuted Operation and Maintenance Agreement between Union Williams Public Service District and the Town of North Hills and an Agreement to allow the Town of North Hills to provide sewer service to certain residents in the District's service territory.

On December 8, 2003, the Applicants filed copies of the Agreement between the Town of North Hills and North Hills Service Company, Inc., an Application for Authority to Discontinue Service from North Hills Service Company, Inc., a Petition for Purchase, Lease or Otherwise Acquiring Control of One Public Utility by Another Public Utility, and other documentation relating to this case.

Consolidated Cases

On December 17, 2003, a Procedural Order was entered which consolidated Case No. 03-0397-PSD-CN and Case No. 03-1030-S-CN for further proceedings and scheduled these consolidated cases for hearing to be held on January 6, 2004, in Parkersburg, Wood County. Due to the small number of written protests received in these matters, notice of the hearing was required to be provided by direct mail.

On December 30, 2003, Commission Staff filed its Final Joint Staff Memorandum in the Union Williams certificate case. Based on Technical Staff's review, the plans and specifications provided for the project are in general conformance with the Commission rules and regulations. The project is expected to add 1,121 new customers with a cost per customer of $16,054. Project density is approximately 20 customers per mile of new pipe. Both values are acceptable given the nature and scope of the project. Pursuant to its overall review of the financial and technical aspects of this filing, Staff recommended as follows:

1. That the Union Williams Public Service District be granted a Certificate of Convenience and Necessity to construct an extension to its existing sewer system to serve additional residents of Union and Williams Magisterial Districts in Wood County with the stipulation that all outstanding permits be received prior to construction;

2. Approval of a loan from the State Revolving Fund in the amount of $15,596,291 for 30 years at 0.5%; a loan from the Infrastructure Jobs and Development Council in the amount of $1,900,000 for 40 years at 0.0%; and a grant from the Infrastructure Jobs and Development Council in the amount of $500,000;

3. Approval of the rate increase requested by the Union Williams Public Service District detailed in Appendix A (attached);

4. That, if there are any changes in the scope of the project or if increased financing occurs, Union Williams Public Service District be required to seek permission from the Commission before proceeding;

5. Approval of the purchase agreement between Union Williams Public Service District and Par Metta Crest Homeowners Association. Staff also recommends approval of Union Williams Public Service District acquiring the assets and assuming the debt of Par Metta Crest Homeowners Association. In addition, Staff recommends that Union Williams Public Service District obtain approval from its bondholders concerning this acquisition;

6. Approval of the purchase agreement between Union Williams Public Service District and Brierwood Subdivision Property Owners Association, Inc. Staff also recommends approval of Union Williams Public Service District acquiring the assets and assuming the debt of Brierwood Subdivision Property Owners Association, Inc. In addition, Staff recommends that Union Williams Public Service District obtain approval from its bondholders concerning this acquisition;

7. Approval of the sewer termination agreement between Union Williams Public Service District and the Parkersburg Utility Board;

8. Approval of the agreement between Union Williams Public Service District and the Town of North Hills for billing, collecting, maintenance, sewage treatment and sewer service termination;

9. That new customers should not begin paying the Staff recommended rate until this project is substantially complete; and

10. That Union Williams Public Service District apply to the Commission for a rate review 18 months after the project which is the subject of this certificate of convenience and necessity is substantially complete.

On December 31, 2003, Union Williams Public Service District filed a duly executed affidavit demonstrating that the formal Notice of Filing, containing the proposed increased rates and charges, had been directly mailed to the District's sewer customers on April 11, 2003.

On January 2, 2004, Commission Staff filed its Final Joint Staff Memorandum in the Town of North Hills' certificate case. Technical Staff stated that the plans and specifications provided for the project are in

general conformance with the Commission's rules and regulations. Although the project will not add any new customers, it affects all current customers and the per customer cost of $4,128 is very reasonable and acceptable. Customer density for this system is adequate. Pursuant to its overall review of the financial and technical aspects of this filing, Staff recommended as follows:

1. That the Town of North Hills be granted a Certificate of Convenience and Necessity to operate a sewer system and serve approximately 304 customers in the Town of North Hills with the stipulation that all outstanding permits be received prior to construction;

2. Approval of a loan from Rural Utilities Service in the amount of $1,255,000 for 40 years at 4.65%;

3. Approval of the rate ordinance requested by the Town of North Hills detailed in Appendix B, attached;

4. That, if there are any changes in the scope of the project or if increased financing occurs, the Town of North Hills be required to seek approval and permission from the Commission before proceeding;

5. Approval of the purchase agreement between the Town of North Hills and North Hills Service Company, Inc. Staff also recommends approval of the Town of North Hills acquiring the assets and assuming the debt of North Hills Service Company, Inc. In addition, Staff recommends that the Town of North Hills obtain approval from its bondholders concerning this acquisition;

6. Approval of the sewer termination agreement between Town of North Hills and Union Williams Public Service District;

7. Approval of the agreement between Union Williams Public Service District and the Town of North Hills for billing, collecting, maintenance and sewage treatment; and

8. Approval for the Town of North Hills to serve some customers in the geographical boundaries of Union Williams Public Service District.

The hearing convened as scheduled on January 6, 2004, in Parkersburg, Wood County, West Virginia, with all parties in attendance. The Applicants, Union Williams Public Service District and the Town of North Hills, appeared and were represented by their attorney, Steven R. Hardman. Commission Staff appeared and was represented by Staff Attorney Cecelia Jarrell. On January 12, 2004, an accurate transcript consisting of sixty (60) pages of testimony were filed with the Commission. No post-hearing briefs or memoranda of law have been received in these consolidated cases.

EVIDENCE

At hearing, no customers or members of the public appeared to make statements of protest or objection. However, Charles D. Piersol, owner of Birnham Wood Mobile Home Park, appeared to protest the intended service arrangement contemplated as part of this project. Originally, Union Williams proposed to serve the park as a bulk customer. This was unacceptable to Dr. Perisol. As a result, a compromise solution had apparently been negotiated between the parties. Union Williams will assume ownership of the sewer collection system serving the sixty-four lots inside Birnham Wood and bill each customer individually. This agreement cannot be used as a precedent for requiring Union Williams to take over other mobile home park sewer systems. Dr. Piersol has as-built drawings and the required engineering specifications for his system and is willing to transfer all service rights-of-way to Union Williams. The parties further agreed to reduce their agreement to writing. This agreement would then be submitted post-hearing. (Tr., pp. 8-13).

Under questioning by Commission Staff, Dr. Perisol stated that the mobile home park and its sewer system had been constructed approximately fifteen or twenty years ago. Dr. Piersol acquired the park about one year ago. The sewer system consists of gravity mains and several lift stations leading to a package plant and lagoon. Park residents are individually metered water customers of the Union Williams Public Service District and are not charged separately for sewer service by Dr. Piersol. The park generally operates with a ten percent (10%) vacancy rate. Dr. Piersol believes his sewer system should be taken over because his residents are already individual water customers of the District. Connecting the Birnham Wood system to the Union Williams system will require construction of several grinding stations and connecting mains. Dr. Piersol's system is currently not a certificated sewer utility. (Tr., pp. 13-20).

By agreement of Counsel, Commission Staff presented its case first. Staff called Staff Engineer Jefferson Brady as its first witness. The District and Town stipulated to Mr. Brady's qualifications as an engineer. Mr. Brady produced, identified and sponsored Staff Exhibit No. 1, the Final Joint Staff Memorandum filed December 30, 2003, in Case No. 03-0397-PSD-CN, Union Williams Public Service District. He also produced, identified and sponsored Staff Exhibit No. 2, the Final Joint Staff Memorandum filed on January 2, 2004, in Case No. 03-1030-S-CN, Town of North Hills. Mr. Brady briefly described the District's project which is an extension and upgrade of its existing sanitary sewer system. The District's project will add over 1,100 new customers and eliminate several inadequate package plants and sewage lagoons. The project will also add the Town of North Hills as a bulk sewer customer of the District. The project is necessary in that it will provide reliable modern sanitary sewer service to unserved areas and eliminate failing or outdated treatment facilities in other service areas. Many of these package systems are inadequate and have been under the scrutiny of the Department of Environmental Protection. This project meets several

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significant public health concerns. It is also appropriately designed for the job that needs to be done. (Tr., pp. 22-28; Staff Ex. 1).

Concerning Case No. 03-1030-S-CN, Mr. Brady explained that the Town of North Hills is currently served by the privately-owned North Hills Service Company. Under this certificate case, the municipal government of North Hills will acquire ownership of the private sewer system, rehabilitate and refurbish the existing collection system and construct approximately one mile of force main and a pump station in order to connect to the Union Williams system. The private service company's existing sewer lagoon will be decommissioned and reclaimed. Although the Town of North Hills will be the certificated sewer utility, Union Williams Public Service District will perform all billings, maintenance and sewer treatment, by contract. The North Hills project will cost $1,255,000. The project is necessary because the North Hills collection system is currently deficient in maintenance and operation. Additionally, the existing treatment facility, a lagoon, is the subject of certain enforcement actions and fines by the Department of Environmental Protection. The project is convenient in that the sewerage flows will be treated at reasonable bulk rates by the Union Williams Public Service District. (Tr., pp. 28-31; Staff Ex. 2).

Commission Staff then called Utilities Analyst Randy Lengyel as its next witness. The District and Town stipulated to Mr. Lengyel's qualifications. Mr. Lengyel confirmed that Union Williams had presented funding commitment letters to cover the entire estimated project cost of $17,996,291.00. Very little grant funding was available for this project, but the loan funding was obtained at favorable terms. The District will treat the Town's sewerage flows at reasonable bulk rates. As a result of the overall project, the District's rates will increase about nineteen percent (19%). Based on the District's financial exhibits, the District's increased revenues will adequately cover the debt service and increased operating and maintenance expense resulting from the project with a coverage ratio of 126%. Staff believes that the District should apply for a review of its rates after eighteen months of actual experience with its completed system. (Tr., pp. 32-39).

In regards to the Town of North Hills' certificate case, Mr. Lengyel stated that the Town had arranged to fund its project with a loan from the Rural Utilities Service in the amount of $1,225,000, at an interest rate of 4.65%, for a term of forty (40) years. Because the private North Hills Service Company had not increased rates or performed needed maintenance, the North Hills project will result in a dramatic, but necessary, rate increase. This rate increase has already been approved in the form of a municipal rate ordinance, which, in turn, had been reviewed by Staff. A sewer bill in North Hills for 4,500 gallons average usage will be $49.50; North Hills will be charged a resale rate of $3.01 per thousand gallons by Union Williams Public Service District. Staff also reviewed and recommended approval of the various inter-utility agreements submitted as part of this complex project. (Tr., pp. 39-44).

At the conclusion of Staff's case-in-chief, the District presented the testimony of its project engineer, Dominick Cerrone. The Staff

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of West Virginia

Attorney stipulated to Mr. Cerrone's qualifications as an engineer. Mr. Cerrone stated that the West Virginia Division of Highways has approved, to date, every service and construction access permit applied for concerning this project. The last submission, made in September 2003, is currently pending final formal approval, but a verbal approval has been given. Upon receipt, that permit will be filed with the Commission. No Federal Aviation Administration permits were required by this project. Mr. Cerrone also explained the Certificate of Substantial Completion process and how it related to the proposed effective date of the requested rate increase for Union Williams. (Tr., pp. 46-50).

The Town of North Hills then called its project engineer, Manny Frymier, to the witness stand. The Staff Attorney stipulated to Mr. Frymier's qualifications. Mr. Frymier explained that North Hills Service Company uses a sewer lagoon type treatment facility. This lagoon has been in service for nearly 30 years, has several structural deficiencies and does not meet current environmental or regulatory standards. The lagoon was constructed along an environmentally sensitive creek and there is insufficient "freeboard" or elevation between the lagoon and the creek. The lagoon does not meet current treatment standards for the receiving stream and overflows of raw sewerage have occurred. This problem has been under review for a long time and the current project is the most feasible solution. (Tr., pp. 52-54).

On cross-examination by the Staff Attorney, Mr. Frymier explained that a successful upgrade of the current treatment lagoon in North Hills is unlikely because of the low flows in the receiving stream and because the receiving stream flows into the environmentally sensitive McDonough Wildlife Preserve. Any release of untreated flows would not be tolerated by regulators. Additionally, the lagoon walls are seriously eroded and slips have occurred. The best solution is to abandon the outdated lagoon and connect to Union Williams Public Service District. (Tr., pp. 54-56).

In closing, the attorney for the District and Town stated that the Applicants stipulated to the findings and recommendations of the Final Joint Staff Memoranda, Staff Exhibit Nos. 1 and 2, and had no objection to those exhibits or their admission to the record. All exhibits were admitted. (Tr., p. 57).

Staff reminded the Town of North Hills that an affidavit of notice by direct mail was still outstanding and would need to be filed post-hearing. (Tr., p. 58).

This concluded the testimony at hearing.

On January 23, 2004, the Town of North Hills filed a motion for waiver of Rule 150 CSR 10.3(d) in this matter. This motion was filed to address Staff's concern about public notice by direct mail.

DISCUSSION

By these two projects, the residents of the northwestern section of Wood County are taking comprehensive action to adequately serve the

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region with modern and efficient sanitary sewer service and to alleviate several failing and inadequate package treatment facilities. Because these projects are complex and comprehensive, they also appear to be expensive. However, by paying this cost now, area residents will be providing for continued economic development and environmental compliance in the region.

Both projects are adequately funded using available public sources with favorable interest rates. The resulting increased rates and charges required to cover debt service and operations and maintenance expenses for these utilities are reasonable given the nature and scope of both projects. The low number of protests attests to the fact that residents of the region support responsible environmental remediation and infrastructure development.

At hearing and after the presentation of the evidence, Staff raised its concern that the Town of North Hills had not filed proof of compliance with Rule 10.3.d of the Commission's Rules of Practice and Procedure. That rule requires the mailing of direct notice to customers when a utility seeks a rate increase in a certificate application. The rule requires that Form No. 14 be mailed. In this instance, the Town of North Hills, soon to be a municipal utility, provided direct notice by mailing Tariff Form No. 12, Public Notice Of Change In Rates By Municipalities, to its customers. Clearly, the appropriate information and public notice were provided by the Town. Therefore, the Town has substantially complied with the intent of Rule 10.3.d. and a waiver will be granted.

On January 23, 2004, the District and the Protestant, Dr. Piersol, filed a duly executed agreement whereby the District will acquire ownership of the Birnham Wood Mobile Home Park sewer collection system and make the Birnham Wood residents direct customers of the District. This resolves the protest of Dr. Piersol. However, the agreement will have to be filed as a separate case for Commission approval.

Pursuant to its extensive review of this project, Commission Staff has determined that both projects are required to deal with currently unserved customers, or failing and deficient outdated treatment systems. Both projects are properly designed and suitable for the existing and future requirements of the respective service territories. Consequently, both projects are convenient and necessary and will be approved as recommended by Commission Staff.

FINDINGS OF FACT

Case No. 03-0397-PSD-CN

1. On March 17, 2003, Union Williams Public Service District, a public utility, filed a duly verified application for a certificate of convenience and necessity to construct and operate certain additions and improvements to its existing sewage system in order to provide service to additional customers in the Union and Williams Magisterial Districts of Wood County, West Virginia. (See, Application filed March 17, 2003).

2. This application was properly filed for prefiling notice with the Commission on November 13, 2002, and was published for public legal notice of prefiling on October 30 and November 6, 2002, in the St. Marys Oracle (Pleasants County), and on October 31 and November 7, 2002, in the Parkersburg News (Wood County), newspapers duly qualified by the Secretary of State, published and of general circulation in the service territory of the District. (See, Letter filed November 13, 2003; Affidavits of Publication filed March 19, 2003).

3. Pursuant to a formal Notice of Filing entered by the Commission on March 13, 2003, the Applicant demonstrated publication of the Notice of Filing on April 12, 2003, in the St. Mary's Oracle and the Parkersburg News. (See, Affidavits of Publication filed April 25, 2003).

4. Pursuant to public legal notice, four statements of protest were filed with the Commission on April 16, 18 and 30, 2003. These Protestants were against higher rates in general and did not believe existing customers should be required to help fund extension of the system to serve new customers. Pursuant to notice and opportunity, no Protestants appeared at hearing. (See, Letters filed April 16, 18 and 30, 2003; Procedural Order entered December 17, 2003; Letter dated December 18, 2003; Tr., pp. 7-8, 21, 60).

5. On December 31, 2003, the District filed a duly executed affidavit demonstrating that the formal Notice of Filing, containing the proposed increased rates and charges, had been directly mailed to the District's sewer customers on April 11, 2003. (See, Affidavit filed December 31, 2003).

6. Pursuant to formal requests filed by the Applicant on July 31, and November 21, 2003, the Commission entered Orders on August 1, and November 24, 2003, which tolled the statutory time frame in this case and established a new statutory deadline of March 29, 2004. (See, Commission Orders entered August 1, and November 24, 2003).

7. The estimated cost of this project has been revised to $17,996,291, based on actual bids received. As a result, project funding was also revised, but the District was not required to change the proposed increased rates and charges contained in the original filing. (See, Revised Rule 42 Exhibit filed September 12, 2003).

8. This project will be financed by a loan from the Clean Water State Revolving Fund in the amount of $15,681,125, at an annual interest rate of zero percent (0%), with an annual administrative fee of one-half percent (½%) for a term not to exceed thirty (30) years, and a loan from the West Virginia Infrastructure & Jobs Development Council (WVIJDC) in the amount of $1,900,000, at an annual interest rate of zero percent (0%) for a term of forty (40) years. The WVIJDC will also provide a grant of $500,000 for this project. Letters of commitment for all funding have been filed in this matter. (See, Letters filed December 8, 2003).

9. The project which is the subject of this application will provide modern, safe sanitary sewer service to approximately 1,120 new

Public Service Commission

customers in Wood County, West Virginia; rehabilitate and improve sewage collection, transportation and treatment facilities for all District customers; eliminate discharges of raw or inadequately treated sewage for an area waterway; and eliminate the outdated, inefficient and dangerous sewer facilities operated by the Par Metta Crest Homeowners Association, the Brierwood Subdivision Property Owners Association and the Town of North Hills. (See, Final Joint Staff Memorandum filed December 30, 2003; Tr., pp. 22-28; 28-37, 52-54, 54-56).

10. Pursuant to its review, the West Virginia Department of Environmental Protection has approved the plans and specifications for this project. (See, WV/NPDES Permit No. WV0101443, filed September 9, 2003).

11. Commission Staff has reviewed the plans and specifications of this project and found no conflicts with the Commission's rules and regulations concerning engineering requirements. (See, Final Joint Staff Memorandum filed December 30, 2003).

12. Pursuant to its review of this project, Commission Staff has recommended approval of the application filed in this matter and that a certificate of convenience and necessity be issued for said project. Staff further recommended as follows:

1. That the Union Williams Public Service District be granted a Certificate of Convenience and Necessity to construct an extension to its existing sewer system to serve additional residents of Union and Williams Magisterial Districts in Wood County with the stipulation that all outstanding permits be received prior to construction;

2. Approval of a loan from the State Revolving Fund in the amount of $15,596,291 for 30 years at 0.5%; a loan from the Infrastructure Jobs and Development Council in the amount of $1,900,000 for 40 years at 0.0%; and a grant from Infrastructure Jobs and Development Council in the amount of $500,000;

3. Approval of the rate increase requested by the Union Williams Public Service District detailed in Appendix A, attached;

4. That, if there are any changes in the scope of the project or if increased financing occurs, the Union Williams Public Service District be required to seek permission from the Commission before proceeding;

5. Approval of the purchase agreement between Union Williams Public Service District and Par Metta Crest Homeowners Association. Staff also recommends approval of Union Williams Public Service District acquiring the assets and assuming the debt of Par Metta Crest Homeowners Association. In addition, Staff recommends that Union Williams Public Service District

Public Service Commission

obtain approval from its bondholders concerning this acquisition;

6. Approval of the purchase agreement between Union Williams Public Service District and Brierwood Subdivision Property Owners Association, Inc. Staff also recommends approval of Union Williams Public Service District acquiring the assets and assuming the debt of Brierwood Subdivision Property Owners Association, Inc. In addition, Staff recommends that Union Williams Public Service District obtain approval from its bondholders concerning this acquisition;

7. Approval of the sewer termination agreement between Union Williams Public Service District and the Parkersburg Utility Board;

8. Approval of the agreement between Union Williams Public Service District and the Town of North Hills for billing, collecting, maintenance, sewage treatment and sewer service termination;

9. That new customers should not begin paying the Staff recommended rate until this project is substantially complete; and

10. That Union Williams Public Service District apply to the Commission for a rate review 18 months after the project which is the subject of this certificate of convenience and necessity is substantially complete.

(See, Final Joint Staff Memorandum filed December 30, 2003; Tr., pp. 22-28, 22-39).

13. Commission Staff has designed and recommended a Staff recommended tariff, to become effective for all service rendered on and after the date the project engineer certifies this project as substantially complete. (See, Final Joint Staff Memorandum filed December 30, 2003; Appendix A, attached).

14. Pursuant to public legal notice, four statements of protest were filed in this matter; however, the Protestants did not produce any reliable evidence that this proposed project is not convenient and necessary, or otherwise properly funded. (See, Letters filed April 16, 18 and 30, 2003; transcript generally).

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15. On or about July 7, 2003, the Town of North Hills, North Hills Service Company, Inc., and Union Williams Public Service District filed a duly verified application for a certificate of convenience and necessity and Commission approval for North Hills Service Company, Inc., to discontinue operation of its wastewater treatment plant serving the North Hills residents; for Union Williams Public Service District to

connect the North Hills customers to the District's sewer system and to provide billing service; and for the Town of North Hills to become certificated to operate a sewer utility. (See, Application filed July 7, 2003).

16. By a previous Commission Order entered in Case No. 03-0836-S-PSD-PW, on June 25, 2003, the Town of North Hills was granted a waiver of the requirement of the 30-day notice of intent to file an application for a certificate of convenience and necessity found in West Virginia Code §24-2-11 and Rule 10.3.c. of the Commission's Rules of Practice and Procedure. (See, Commission Order entered June 25, 2003, Case No. 03-0836-S-PSD-PW).

17. Pursuant to a formal Notice of Filing entered by the Commission on July 7, 2003, the Town of North Hills demonstrated publication of the Notice of Filing on August 4, 2003, in the Parkersburg News, all in compliance with said Notice of Filing. (See, Affidavit of Publication filed August 8, 2003).

18. Pursuant to public legal notice, no written statements of protest or objection against this application were filed with the Commission, nor did anyone appear at hearing to protest this project. (See, Commission case file generally; Tr., pp. 7-8, 21, 60).

19. On July 30, 2003, the Applicant filed copies of the Sewer Rate Ordinance duly adopted by the Town of North Hills on July 22, 2003, as well as an affidavit of publication demonstrating pre-adoption public legal notice of said ordinance. (See, Ordinance filed July 30, 2003; affidavit of publication filed July 30, 2003).

20. On September 4, 2003, the Town of North Hills filed affidavits demonstrating that Tariff Form 12, Notice of Proposed Increased Rates, had been properly posted and individually mailed to the customers of the Town's proposed sewer utility. (See, Affidavits filed September 4, 2003).

21. The estimated total cost of the Town's project is $1,255,000, to be funded by a loan for that full amount from the Rural Utilities Service, at an interest rate of 4.625% for a term of forty (40) years. A letter of commitment for this loan is on file with this application. (See, Final Joint Staff Memorandum filed January 2, 2004).

22. This project will allow the Town of North Hills to acquire the sewer facilities of the North Hills Service Company; to reconstruct portions of its collection system; to divert its sewage flows to the modern and efficient treatment facilities of the Union Williams Public Service District; and to decommission and reclaim the deficient and failing sewer lagoon now serving North Hills residents. (See, Final Joint Staff Memorandum filed January 2, 2004; Tr., pp. 28-31, 52-54, 54-56).

23. Commission Staff has reviewed the plans and specifications of this project and found no conflicts with the Commission's rules and regulations concerning engineering requirements. (See, Final Joint Staff Memorandum filed January 2, 2004).

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24. Pursuant to its review of this project, Commission Staff has recommended approval of the application filed in this matter and that a certificate of convenience and necessity be issued to the Town's project. Staff's complete recommendations are as follows:

1. That the Town of North Hills be granted a Certificate of Convenience and Necessity to operate a sewer system and serve approximately 304 customers in the Town of North Hills with the stipulation that all outstanding permits be received prior to construction;

2. Approval of a loan from Rural Utilities Service in the amount of $1,255,000 for 40 years at 4.65%;

3. Approval of the rate ordinance requested by the Town of North Hills detailed in Appendix B, attached;

4. That, if there are any changes in the scope of the project or if increased financing occurs, the Town of North Hills be required to seek approval and permission from the Commission before proceeding;

5. Approval of the purchase agreement between the Town of North Hills and North Hills Service Company, Inc. Staff also recommends approval of the Town of North Hills acquiring the assets and assuming the debt of North Hills Service Company, Inc. In addition, Staff recommends that the Town of North Hills obtain approval from its bondholders concerning this acquisition;

6. Approval of the sewer termination agreement between Town of North Hills and Union Williams Public Service District;

7. Approval of the agreement between Union Williams Public Service District and the Town of North Hills for billing, collecting, maintenance and sewage treatment; and

8. Approval of the Town of North Hills to serve some customers in the geographical boundaries of Union Williams Public Service District.

25. Commission Staff has recommended a tariff incorporating the Town's sewer rate ordinance, to become effective for all service rendered on and after the date the project engineer certifies this project substantially complete. (See, Final Joint Staff Memorandum filed January 2, 2004; Appendix B, attached).

CONCLUSIONS OF LAW

Case No. 03-0397-PSD-CN

1. The construction project proposed by Union Williams Public Service District is necessary in that it will provide comprehensive,

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modern and efficient sanitary sewer service to approximately 1,120 new customers in the project territory and eliminate several out-dated and failing sewer treatment facilities.

2. This project is convenient in that it does not financially burden existing or new customers and is the only currently viable option to extend reliable, safe and efficient sanitary sewer service to this area.

3. This project is supported by an adequate and favorable financial package, which results in reasonable and adequate increased rates and charges, as recommended by Commission Staff and approved herein.

4. Under the facts and circumstances of this case, the recommendation of Commission Staff and by agreement of the Applicant, it is reasonable to approve the application filed herein on March 17, 2003, and to issue a certificate of convenience and necessity to the Union Williams Public Service District to construct and operate the public sewer improvements detailed in that application.

Case No. 03-1030-S-CN

5. The acquisition and construction proposed by the Town of North Hills is necessary in that it will insure continued modern and efficient sanitary sewer service to approximately 300 existing customers and eliminate a potentially dangerous, out-dated and failing sewer treatment facility.

6. This project is convenient in that it does not unnecessarily financially burden existing customers and is the only viable and environmentally suitable option to insure reliable, safe and efficient sanitary sewer service to this area.

7. This project is supported by an adequate and appropriate financial package, which results in reasonable and adequate increased rates and charges, as adopted by ordinance.

8. Under the facts and circumstances of this case, the recommendation of Commission Staff and by agreement of the Applicant, it is reasonable to approve the application filed herein on July 7, 2003, and to issue a certificate of convenience and necessity to the Town of North Hills to acquire, construct and operate the public sewer improvements detailed in that application.

ORDER

IT IS, THEREFORE, ORDERED that the application filed on March 17, 2003, by Union Williams Public Service District, shall be approved, as amended, and a certificate of convenience and necessity to construct and operate the public sewer project detailed in said application shall be issued to the Union Williams Public Service District.

IT IS FURTHER ORDERED that the Union Williams Public Service District shall be authorized to charge and collect the increased rates

Public Service Commission

and charges set out in the Staff-recommended rates, attached hereto as Appendix A, for all service rendered on and after the date this project is certified as substantially complete by the District's project engineer. The Certificate of Substantial Completion shall be filed with the Commission immediately upon its issuance.

IT IS FURTHER ORDERED that the Union Williams Public Service District shall file with the Commission the original and at least five (5) copies of its actual tariff setting forth the rates herein approved, within thirty (30) days of first use of the rates.

IT IS FURTHER ORDERED that the proposed project funding package, consisting of a loan from the Clean Water State Revolving Fund in the amount of $15,596,291, at an interest rate of zero percent (0%) and an administrative fee of one-half percent (0.5%) for a term of thirty (30) years; a loan from the West Virginia Infrastructure and Jobs Development Council (WVIJDC) in the amount of $1,900,000, at an interest rate of zero percent (0%) per year for a term of forty (40) years; and a grant from the WVIJDC in the amount of $500,000, shall be approved for Union Williams Public Service District.

IT IS FURTHER ORDERED that, if the plans, scope or terms of financing of this project change, the District shall request a reopening of this case for subsequent review and approval by the Public Service Commission prior to commencement of construction.

IT IS FURTHER ORDERED that the following agreements and actions submitted for consideration as part of this case are approved, without specifically approving the terms and conditions thereof:

1) The purchase agreement between Union Williams Public Service District and Par Metta Crest Homeowners Association and the acquisition by the District of the assets and debt of Par Metta Crest Homeowners Association, contingent upon the approval of the bondholders of Union Williams Public Service District of said acquisition and debt assumption; and

2) The purchase agreement between Union Williams Public Service District and Brierwood Subdivision Property Owners Association Inc. and the acquisition of the assets and debt of Brierwood Subdivision Property Owners Association, Inc., contingent upon the approval of the bondholders of Union Williams Public Service District of said acquisition and debt assumption.

IT IS FURTHER ORDERED that the following agreements be, and hereby are, approved:

1) The sewer termination agreement between Union Williams Public Service District and the Parkersburg Utility Board; and

2) The agreement between Union Williams Public Service District and the Town of North Hills for billing, collecting, maintenance, sewage treatment and sewer service termination.

IT IS FURTHER ORDERED that Union Williams Public Service District shall apply to the Public Service Commission for a rate review eighteen (18) months after the increased rates and charges approved herein go into effect.

IT IS ALSO ORDERED that the application filed herein on July 7, 2003, by North Hills Service Co. Inc., the Town of North Hills and the District shall be approved, as amended, and a certificate of convenience and necessity to acquire, construct and operate the public sewer project detailed in said application shall be issued to the Town of North Hills.

IT IS FURTHER ORDERED that the Town of North Hills shall file with the Commission the original and at least five (5) copies of its actual tariff setting forth the rates adopted in its rate ordinance, within thirty (30) days of first use. Said rates and charges are attached hereto as Appendix B.

IT IS FURTHER ORDERED that the proposed funding package, consisting of a loan from the Rural Utilities Service in the amount of $1,255,000, at an interest rate of 4.65% for a term of forty (40) years, shall be approved for the Town of North Hills.

IT IS FURTHER ORDERED that, if the plans, scope or terms of financing of the project change, the Town shall request a reopening of this case for subsequent review and approval by the Public Service Commission, prior to construction.

IT IS FURTHER ORDERED that the purchase agreement between the Town of North Hills and North Hills Service Company, Inc., and the acquisition by the Town of the assets and debt of North Hills Service Company Inc., contingent upon the approval of the Town's bondholders, be, and hereby are, approved, without approving the terms and conditions thereof.

IT IS FURTHER ORDERED that the following agreements be, and hereby are, approved:

1) The sewer termination agreement between the Town of North Hills and Union Williams Public Service District; and

2) The agreement between Union Williams Public Service District and the Town of North Hills for billing, collection, operation, maintenance and sewage treatment.

IT IS FURTHER ORDERED that the Town of North Hills shall be approved to serve certain customers located in the geographical boundaries of Union Williams Public Service District, to which direct service by the District is unavailable.

IT IS FURTHER ORDERED that the Town of North Hills shall be granted a waiver of that portion of Rule 10.3.d. of the Commission's Rules of Practice and Procedure, requiring a direct mailing to each customer of Form No. 14. Sufficient public notice was provided pursuant to this application process and the ordinance process executed by the Town.

IT IS FURTHER ORDERED that the Applicants shall file all outstanding permits prior to construction, including permits to be issued by the West Virginia Division of Highways (Union Williams) and the West Virginia Department of Environmental Protection, NPDES Modification and NPDES Stormwater (Town of North Hills).

IT IS FURTHER ORDERED that those consolidated cases shall be removed from the Commission's docket of open cases.

The Executive Secretary is hereby ordered to serve a copy of this order upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

Leave is hereby granted to the parties to file written exceptions supported by a brief with the Executive Secretary of the Commission within fifteen (15) days of the date this order is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

If no exceptions are so filed this order shall become the order of the Commission, without further action or order, five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's Order by filing an appropriate petition in writing with the Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's Order or Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.

Thomas N. Trent
Administrative Law Judge

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Public Service Commission
of West Virginia

UNION WILLIAMS PUBLIC SERVICE DISTRICT (Sewer)

CASE NO. 03-0397-PSD-CN

APPROVED RATES

APPLICABILITY
Applicable within the entire territory served.

AVAILABILITY OF SERVICE
Available for general domestic, commercial and industrial service and sale for resale sewer service.

RATES

Service Charge	$7.86 per month.
Usage Charge	$6.99 per 1,000 gallons of water usage

MINIMUM CHARGE
No bill will be rendered for less than $21.84 per month, which is the equivalent of 2,000 gallons.

FLAT RATE CHARGE (Customers with non-metered water supply)
Residential customer with non-metered water supply:
Equivalent of 4,500 gallons of water usage - $39.32 per month.

Commercial and Industrial Customer:
Meter installation at water source required.

DELAYED PAYMENT PENALTY
The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE
The following charges are to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of $150 will be charged to customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to the applicant's premises that is associated with a certificate proceeding.

A tap fee of $250 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

DISCONNECT/RECONNECT/ADMINISTRATIVE FEES

Whenever water service has been disconnected for non-payment of sewer bill in conjunction with a water service termination agreement with WV-American Water Co., Inc., a disconnection fee of $20.00 shall be charged or, in the event the delinquent sewer bill is collected by the water company, an administrative fee of $20.00 shall be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for nonpayment of a sewer bill in conjunction with a water service termination agreement with WV-American Water Co., Inc., is reconnected, a reconnection fee of $20.00 shall be charged.

Leak Adjustment

$0.94 per 1,000 gallons of water is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

Public Service Commission
of West Virginia

TOWN OF NORTH HILLS (Sewer)

CASE NO. 03-1030-S-CN

RATES ADOPTED BY MUNICIPAL ORDINANCE

APPLICABILITY
Applicable with the entire territory served.

AVAILABILITY OF SERVICE
Available for general domestic, commercial and industrial service and sale for resale sewer service.

RATES (customers with metered water supply)
Usage Charge $11.00 per 1,000 gallons of water usage

MINIMUM CHARGE
No bill will be rendered for less than $33.00 per month, which is the equivalent of 3,000 gallons of usage with a 5/8" meter.

FLAT RATE CHARGE (Customers with non-metered water supply)
Equivalent of 4,000 gallons of water usage - $44.00 per month.

DELAYED PAYMENT PENALTY
The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE
The following charges are to be made whenever the utility installs a new tap to serve an applicant. A tap fee of $300 will be charged to customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to the applicant's premises that is associated with a certificate proceeding.

A tap fee of $300 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

RETURNED CHECK CHARGE
A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

DISCONNECT/RECONNECT/ADMINISTRATIVE FEES

Whenever water service has been disconnected for non-payment of sewer bill in conjunction with a water service termination agreement with WV-American Water Co., Inc., a disconnection fee of $20.00 shall be charged or in the event the delinquent sewer bill is collected by the water company, an administrative fee of $20.00 shall be charged.

Whenever water service which has been previously disconnected or otherwise withheld for nonpayment of a sewer bill in conjunction with a water service termination agreement with WV-American Water Co., Inc., is reconnected, a reconnection fee of $20.00 shall be charged.

LEAK ADJUSTMENT

$6.20 per 1,000 gallons of water is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

Public Service Commission

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 3rd day of February, 2004.

CASE NO. 03-0397-PSD-CN
UNION WILLIAMS PUBLIC SERVICE DISTRICT
Application for a certificate of convenience and necessity to construct an extension to its existing sewer system to serve additional residents of Union and Williams Magisterial Districts in Wood County.

CASE NO. 03-1030-S-CN
TOWN OF NORTH HILLS
Application for a certificate of convenience and necessity to operate a sewer system to serve 307 customers in the Town of North Hills.

COMMISSION ORDER
WAIVING EXCEPTION PERIOD

On January 29, 2004, Administrative Law Judge Thomas A. Trent entered a Recommended Decision which, among other things, approved, as amended, the application filed March 17, 2003 by Union Williams Public Service District. A certificate of convenience and necessity to construct and operate the public sewer project detailed in said application will be issued to the Union Williams Public Service District. Also approved, as amended, was the application filed on July 7, 2003, by North Hills Service Co. Inc., the Town of North Hills and the District, and a certificate of convenience and necessity to acquire, construct and operate the public sewer project detailed in said application will be issued to the Town of North Hills.

On February 3, 2004, Steven R. Hardman, Counsel, filed a letter requesting a waiver of the fifteen day period of time in which a party may file exceptions to the Recommended Decision in this proceeding. Staff has indicated it has no objection to granting said waiver and motion.

West Virginia Code §24-1-9 provides a time period of at least twenty (20) days from the date of a recommended order until it becomes effective. According to West Virginia Code §24-1-9(c), at least fifteen (15) days must be afforded the parties within which to file exceptions. In addition, §24-1-9(e) provides that when no exceptions are filed within the specified time period, the Commission shall have an additional five (5) days within which to stay or postpone the order.

The Commission is of the opinion and belief that said request of waiver received by the Commission on February 3, 2004, should be granted.

IT IS, THEREFORE, ORDERED that the requested waiver be, and the same hereby is, granted.

IT IS FURTHER ORDERED that the Administrative Law Judge's Recommended Decision in this matter becomes final (5) days after the date of this order absent further action by the Commission.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall serve a copy of this order upon all parties of record by United States First Class Mail, and upon Commission Staff by hand delivery.

A True Copy, Teste:

Sandra Squire

Sandra Squire
Executive Secretary

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3. Governmental Approvals: All applicable approvals and certificates required by law for the acquisition, construction, improvement and operation of the System and issuance of the Bond have been duly and timely obtained and remain in full force and effect.

4. No Adverse Financial Change; Indebtedness: There has been no adverse financial change in the financial condition of the Issuer since the approval by RUS of a loan to assist in the acquisition, construction and improvement of the System. There are no outstanding obligations of the Issuer which will rank senior or on a parity with the Bond as to liens and source of and security for payment.

5. Signatures, etc.: The undersigned Mayor and Recorder of the Issuer on the date hereof officially executed and sealed the Bond with the official corporate seal of the Issuer, an impression of which seal is on this certificate above our signatures and the undersigned Mayor and Recorder are the duly elected, qualified and serving officials as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Bond for the Issuer.

6. Certification of Copies of Documents: The copies of the documents listed below, attached hereto or delivered herewith or heretofore are true, correct and complete copies of the originals of the documents of which they purport to be copies, and such original documents are in full force and effect and have not been repealed, rescinded or amended or changed in any way unless modification appears from later documents also listed below:

a. Certificate of Incorporation of the Issuer
b. Administrative Ordinances of the Issuer
c. Oaths of Office of the Mayor, Recorder, Treasurer and Council Members of the Issuer
d. Ordinance Enacted by the Council of the Town on July 22, 2003 Establishing Sewer Rates (the "Rate Ordinance")
e. Affidavit of Publication of Notice of Public Hearing on the Rate Ordinance
f. Ordinance Creating the Sanitary Board of the Issuer
g. Petition of the Sanitary Board
h. Minutes of Meetings of the Town Council on January 6, 2004, January 13, 2004 and January 27, 2004, regarding enactment of Bond Ordinance
i. Bond Ordinance
j. Affidavit of Publication of Abstract of Bond Ordinance and Notice of Public Hearing on Bond Ordinance
k. NPDES Permit
l. Recommended Decision of the Public Service Commission of West Virginia Dated January 29, 2004, which became the Final Order of the Commission on February 9, 2004, granting the Certificate of Convenience and Necessity to the Town for the sewerage system

7. Incumbency and Official Name: The proper corporate title of the Issuer is "Town of North Hills" and it is a municipal corporation of the State of West Virginia in Wood County, West Virginia. The governing body of the Issuer is its Council consisting of [five] members and their respective offices, dates of commencement and termination of current terms of office are as follows:

Office	Name	Date of Commencement of Term	Date of Expiration of Term
Mayor (Incapacitated)	Michael S. Butcher	July 1, 2002	June 30, 2004
Acting Mayor	Dwight Davis*		
Recorder	Michael J. Gilfillan	July 1, 2002	June 30, 2004
Council Member	Amy Snodgrass	July 1, 2002	June 30, 2004
Council Member	Kenneth Kupsche	July 1, 2002	June 30, 2004
Council Member	Dwight Davis	July 1, 2002	June 30, 2004
Council Member	Terry Moore	July 1, 2002	June 30, 2004
Council Member	Thomas Hager	July 1, 2002	June 30, 2004

* By action taken by the City Council on January 27, 2004, Mayor Michael S. Butcher was determined to be incapacitated, and acting in accordance with the City's Administrative Ordinances, City Council elected Dwight Davis as Acting Mayor.

All of the foregoing officers took, subscribed to and filed their oaths of office in accordance with law prior to entering upon their official duties; all of those required to give bonds or undertakings filed such bonds or undertakings at the place and in the manner required by law; all of them have otherwise duly qualified for office and were or are the acting officers for their respective periods above stated; and no proceedings for the removal from office of any such officer have been taken or are pending or threatened.

The duly appointed Counsel for the Issuer is Bowles Rice McDavid Graff & Love PLLC, of Parkersburg, West Virginia.

8. Delivery and Payment: On the date hereof, Bond No. R-1 was delivered to FmHA at Parkersburg, West Virginia, by the undersigned Mayor, and at the time of such delivery, the Bond had been duly and fully executed and sealed on behalf of the Issuer in accordance with the Bond Ordinance.

At the time of delivery of the Bond, the amount of $165,700 was received by the undersigned Acting Mayor.

9. Land and Rights of Way: All land in fee simple and all rights of way and easements necessary for the acquisition, construction, operation and maintenance of the System have been acquired or can and will be acquired by purchase, or if necessary, by condemnation by the Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which may have to be acquired by condemnation are, in the opinion of the undersigned, within

the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bond.

10. Meetings, etc.: All actions, ordinances, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the construction, operation and financing of the System were authorized, adopted or enacted at meetings of the Council or Sanitary Board of the Issuer duly and regularly called and held by the Issuer in accordance with all applicable statutes, ordinances, resolutions and regulations, and a quorum of duly elected, qualified and acting members of the Council or Sanitary Board, as the case may be, was present and acting at all times during all such meetings.

11. Contractors' Insurance, etc.: All contractors have been required to maintain Workers' Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Letter of Conditions and Commitment of RUS and the Bond Ordinance.

12. Connections, etc.: The Issuer will serve at least 339 bona fide full-time users on the System when it has been completed and is placed in operation, in full compliance with the requirements of RUS.

13. Rates: The Council of the Issuer has duly enacted an Ordinance on July 22, 2003, setting rates and charges for the services of the System. Such Ordinance is presently in full force and effect. A public hearing relating to such rates and charges was held on July 22, 2003, after notice duly given in accordance with all provisions of law. All necessary government approvals have been obtained by the Issuer with respect to such rates and charges.

14. Publication and Public Hearing on Bond Ordinance: Upon adoption of the Bond Ordinance, and abstract thereof, determined by the Council of the Issuer to contain sufficient information as to give notice of the contents thereof, was published once each week for two (2) successive weeks, with not less than six (6) full days between each publication, the first such publication occurring not less than ten (10) before the date stated below for the public hearing, in a newspaper of general circulation in the Town of North Hills, together with a notice to all persons concerned, stating that the Bond Ordinance had been adopted and that the Issuer contemplated the issuance of the Bond described in the Ordinance, stating that any person interested may appear before the Council at the public hearing held at a public meeting of Council on the 27th day of January, 2004, at 7:30 p.m., in the Wood County Library, 3100 Emerson Avenue, Parkersburg, West Virginia, and present protest, and stating that a certified copy of the Bond Ordinance was on file with the Council for review by interested parties during the office hours of the Recorder. At such hearing all objections and suggestions were heard by the Council of the Issuer and there being no public protest, written or oral, the Bond Ordinance became finally adopted, and enacted and effect as of the date of such public hearing, and remains in full force and effect.

The Bond has been awarded to the United States of America at par. There are no outstanding obligations of the Issuer which rank on a parity with the Bond as to liens and source of and security for payment.

It is our opinion that:

1. The Issuer is a duly organized and presently existing municipal corporation of the State of West Virginia with full power and authority to acquire, construct, improve and maintain the System and issue and sell the Bond, all under the provisions of Chapter 16, Article 13, of the Code of West Virginia of 1931, as amended, (the "Act") and other applicable provisions of law.

2. The Issuer has legally and effectively enacted the Bond Ordinance in connection with the Bond and has sold and delivered the Bond to the United States of America.

3. The Bond is in due and proper form and has been duly executed and delivered, and constitutes a valid and legally enforceable special obligation of the Issuer secured by and payable solely from a first lien on and pledge of the net revenues of the System, all in accordance with the terms of the Bond and the Bond Ordinance.

4. The Bond is not being issued on the basis that the interest thereon is or will be excluded from gross income for federal income tax purposes; therefore, the interest on the Bond is not excluded from gross income for federal income tax purposes. We express no opinion regarding other federal tax consequences arising with respect to the Bond.

5. The Bond and the interest thereon are by statute, exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

6. To the best of our knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transaction contemplated by that certain Letter of Conditions, dated June 18, 2003, as amended by letter dated August 25, 2003, from the United States Department of Agriculture, Rural Development to the Issuer, the Bond Ordinance, acquisition, construction or operation of the System or the validity of the Bond or the issuance of the Bond or the collection or pledge of the net revenues of the System therefor or for the Bond.

It is to be understood that the rights of the holders of the Bond and the enforceability of the Bond, the Bond Ordinance and liens and pledges set forth therein may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting

creditors' rights (to the extent constitutionally applicable) and that the enforcement thereof may also be subject to the exercise of judicial discretion in appropriate cases.

Very truly yours,

Bowles Rice McDavid Graff & Love LLP

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Telephone (304) 347-1100

101 South Queen Street
Martinsburg, West Virginia 25401
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E-Mail Address:
shardman@bowlesrice.com

February 19, 2004

Town of North Hills
P. O. Box 305
North Hills, West Virginia 26335

RE: $1,255,000 Town of North Hills Sewer Revenue Bonds

Ladies and Gentlemen:

We are counsel to the Town of North Hills, a municipal corporation and political subdivision of the State of West Virginia, in Wood County, West Virginia (the "Issuer"). As such counsel, I have examined the Bond Ordinance duly enacted by the Issuer on January 13, 2004, and put into effect following a public hearing on January 27, 2004 (the "Local Act"), and other documents, papers, agreements, instruments and certificates relating to the above-captioned Bond of the Issuer (the "Bond"). Terms used in said Local Act and not otherwise defined herein have the same meanings herein.

Based upon the foregoing and upon our examination of such other documents as we have deemed necessary, we are of the opinion as follows:

1. The Issuer is a duly organized and presently existing municipal corporation of the State of West Virginia with full power and authority to acquire, construct, improve and maintain the System and issue and sell the Bond, all under the provisions of Chapter 16, Article 13, of the Code of West Virginia of 1931, as amended, (the "Act") and other applicable provisions of law.

2. The Mayor, Recorder and members of the Council and Sanitary Board of the Issuer have been duly and properly elected or appointed as applicable, have taken the requisite oaths, and are authorized to act on behalf of the Issuer in their respective capacities.

3. The Local Act has been duly enacted by the Issuer and is in full force and effect.

4. To the best of our knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transaction contemplated by that certain Letter of Conditions, dated June 18, 2003, as amended by letter dated August 25, 2003, from the United States Department of Agriculture, Rural Development to the Issuer, the Bond Ordinance, acquisition, construction or operation of the System or the validity of the Bond or the issuance of the Bond or the collection or pledge of the net revenues of the System therefor or for the Bond.

Very truly yours,

Bowles Rice McDavid Graff & Love LLP

Bowles Rice McDavid Graff & Love LLP

SRH/pss

TOWN OF NORTH HILLS, WEST VIRGINIA
SEWER REVENUE BOND
SERIES 2004

RECEIPT FOR BOND AND TRANSCRIPT

The undersigned, for the United States Department of Agriculture, hereby certifies as follows:

1. On the 19th day of February, 2004, at Parkersburg, West Virginia, the undersigned received from the Town of North Hills, West Virginia (the "Town"), the single Town of North Hills, West Virginia Sewer Revenue Bond, Series 2004 (the "Bond"), in the principal amount of $1,255,000 dated as of the date hereof, bearing interest at the rate of 4.625% per annum, payable in monthly installments as stated in the Bond.

2. At the time of such receipt, the Bond had been executed and sealed by the Mayor and Recorder of the Town.

3. At the time of such receipt, there was paid to the Town the sum of $165,700.00.

4. At the time of such receipt, there was also received by the undersigned three sets of Bond transcript documents.

WITNESS my signature on the 19th day of February, 2004.

UNITED STATES OF AMERICA
DEPARTMENT OF AGRICULTURE
RURAL UTILITIES SERVICE

By: Virginia M McDonald
Its: Rural Development Specialist
(Title)

RECYCLED
WOOD SERIES
50% P.C.W.

KLEERFAX
RECYCLED
80000 SERIES
10% P.C.W.

TOWN OF NORTH HILLS
SEWER REVENUE BOND
SERIES 2004

SPECIMEN

No. R-1

$1,255,000

Date: February 19, 2004

THE TOWN OF NORTH HILLS (the "Issuer"), for value received, promises to pay to the order of the United States of America (the "Purchaser"), or its registered assigns, at its National Finance Office, St. Louis, Missouri, 63103, or at such other place as the Purchaser may hereafter designate in writing, the principal sum of $1,255,000, plus interest on the unpaid principal balance at the rate of four and six hundred twenty-five one thousandths per cent (4.625%) per annum. The said principal and interest shall be paid in the following installments on the following dates: Installments of interest only commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof and $5,861.00, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of 40 years from the date of this Bond, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount hereof is not advanced at the time of closing, the proceeds hereof shall be advanced to Issuer as requested by Issuer and approved by the Purchaser and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made hereon shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Issuer. Refunds and extra payments, as defined in the regulations of the Purchaser according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Issuer to pay the remaining installments as scheduled herein.

If the Purchaser at any time assigns this Bond and insures the payment thereof, Issuer shall continue to make payments to Purchaser as collection agent for the holder.

While this Bond is held by an insured lender, prepayments made by Issuer may, at the option of the Purchaser, be remitted by the Purchaser to the Holder promptly or, except for final payment, be retained by the Purchaser and remitted to the Holder on

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either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Issuer, except payments retained and remitted by the Purchaser on an annual installment due date basis, shall be the date of the United States Treasury check by which the Purchaser remits the payment to the Holder. The effective date of any prepayment retained and remitted by the Purchaser to the Holder on an annual installment due date basis shall be the date of the prepayment by Issuer and the Purchaser will pay the interest to which the Holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the Holder.

Any amount advanced or expended by the Purchaser for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Purchaser shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Issuer to the Purchaser without demand. Issuer agrees to use the loan evidenced hereby solely for purposes authorized by the Purchaser.

Issuer hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing rates and terms in or near its community for loans for similar purposes and periods of time.

SPECIMEN

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of construction and acquisition of additions and improvements to the sewerage collection and treatment system (the "System") of the Issuer, is payable solely from the Revenues to be derived from the operation of the System after there have been first paid from such Revenues the reasonable current costs of operation and maintenance of the System. This Bond does not constitute an indebtedness of the Issuer within any constitutional or statutory provision or limitation.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of the Recorder of the Issuer, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the Ordinance hereinafter described, and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions of the Act hereinafter defined, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may only be transferred by transfer of registration hereof with the Recorder of the Issuer.

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This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13 of the Code of West Virginia of 1931, as amended (herein called the "Act") and Ordinance of the Issuer duly enacted on January 13, 2004, and put into effect following a public hearing held on January 27, 2004.

If at any time it shall appear to the Purchaser that Issuer may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Issuer will, at Purchaser's request, apply for and accept such loan in sufficient amount to repay the Purchaser.

This Bond is given as evidence of a loan to Issuer made or insured by the Purchaser pursuant to the Consolidated Farmers Home Rural Development Act. This Bond shall be subject to the present regulations of the Purchaser and to its future regulations not inconsistent with the express provisions hereof.

THE TOWN OF NORTH HILLS

[CORPORATE SEAL]

By: SPECIMEN
Acting Mayor

Attest:

SPECIMEN
Recorder

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RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	$ 165,700.00	February 19, 2004	(6)	$	
(2)	$		(7)	$	
(3)	$		(8)	$	
(4)	$		(9)	$	
(5)	$		(10)	$	
	TOTAL			$	

(No writing on this Bond except by the Issuer as Registrar)

Date of Registration	In Whose Name Registered	Signature of Recorder or Registrar
February 19, 2004	United States of America Post Office Box 678 Morgantown, West Virginia 26505	SPECIMEN

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ASSIGNMENT

Pay to the Order of

_____

UNITED STATES OF AMERICA

By_____

By:_____

(Title)

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RECYCLED
50% P.C.W.

XLEER-FAX
RECYCLED
80000 SERIES
10% P.C.W.