

The regular meeting of the Beverly Town Council was held Monday, September 14, 2020, at 6:30 pm in the council chambers of Beverly Town Hall. Members and visitors stood for the Pledge of Allegiance and were led in pray by Mayor Burns. Mayor Burns called the meeting to order in the presence of recorder Barbara Smith, members Debbie Stalnaker, Robbie Moyer, Becky Weese and Katie Whittaker. Matt Lewis was absent. Visitors included Utilities Clerk, Mellanie Dilley, David Sturdivant, Jarrod Phillips, Tamara Epperly, George Hudak, Chris Mielke, and Kenny Weese.

With all members reading copies of the minutes, Mr. Moyer made a motion to forego the oral reading of the August 10, 2020, minutes as submitted. Motion seconded by Mrs. Stalnaker, with all in favor.

PUBLIC HEARING ON SEWER RATE INCREASE

Mayor Burns opened the Public Hearing on the Sewer Rate Increase. He asked if anyone present had anything to say. Mr. George Hudak said he had a question regarding why the minimum water usage was 2000 gallons but the sewage minimum usage was 3000 gallons. He said if you run 2000 gallons of water out the line, why is it 3000 gallons to go in the drain that you are being charged for. Mayor Burns could not explain the reasoning, but said as far he knew the gallons had always been sat at these figures. He assured Mr. Hudak that he would check into the difference, either in the town records or with PSC and get back to him. He explained the sewer upgrade built in the 70's allowed 340,000 gallons to be filtered. There are days now that over a million gallons are coming into the system. To obtain the free grant money needed to repair and upgrade the plant, the town needs a certain percentage rate to qualify for the loan. This increase will qualify the town to receive over fourteen million dollars in grant money. With no further questions from anyone, the mayor closed the hearing to the public.

KUBOTA REPAIRS

Mayor Burns updated everyone on the purchase of the new Kubota saying it had been delivered and already in use. It is working well and saving the town time.

SECOND AND FINAL READING OF SEWER RATE INCREASE ORDINANCE

With no further discussion regarding the sewer rate increase, a motion was made by Mrs. Stalnaker to adopt an ordinance of the common council of the Town of Beverly, WV, increasing rates related to providing municipal sewer services to all general domestic, commercial, and industrial service except unusual industrial waste in the Town of Beverly's municipal sewage treatment plant and collections system. Motion was seconded by Mrs. Weese with all in favor. (See attachment #1, dated 9/14/2020)

SECOND AND FINAL READING OF THE IPMC ORDINANCE

The next item on the agenda was the IPMC ordinance. Mayor Burns reminded council that the WV State Fire Commission had changed the language in the IPMC ordinance and the town was required to adopt the new edition to be in compliance. A motion was made by Mrs. Whittaker to adopt an ordinance adopting, enacting and re-enacting the 2015 edition of the International

property Maintenance Code, as authorized by the WV State Fire commission, regulating and governing the conditions and maintenance of all premises, building and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures and premises are safe, sanitary, and fit for human occupation and use; and the condemnation of structures and premises unfit for human occupancy and use; and the demolition of such existing structures in the town of Beverly; providing for the issuance of permits and collection of fees thereof, and repealing all other ordinances or parts of laws in conflict herewith. Motion seconded by Mr. Moyer, with all in favor. (See attachment #2, dated 9/14/2020).

SPEED LIMIT/SPEED STUDY

Mr. Monk, DOH, did a speed study in Beverly June 23-24 for a 26 hour period. The findings show that 85% of traffic was traveling at a speed of 36.3 mph. The DOH strongly supports the 35 mph speed limit in affect now. Mrs. Stalnaker stated this was not unreasonable, but it needs enforced.

POLICE VEHICLE MAINTENANCE

A Black Ford Expedition had been donated from the Sheriff's Department for the town to use as their police car. The mayor requested that the vehicle have any maintenance necessary to ensure its safety and have the painting done to show that it is the Town's official vehicle. A motion was made by Mrs. Stalnaker to have vehicle maintenance done on the Expedition. Motion seconded by Mr. Moyer, with all in favor. Equipment purchases will be decided later.

MUNICIPAL ORDINANCE 1ST READING

The municipal ordinance reading was tabled till the next meeting.

TOWN HALL STREET SIGN

A motion was made by Mrs. Stalnaker to have signs placed on Main Street, pointing the way to Town Hall. The DOH will have to approve the lay out before production. Motion seconded by Mrs. Weese. All in favor.

APPOINT SAFETY COMMISSION

According to our insurance company, the Town has to have a Safety Committee. Mayor Burns suggested appointing the two water and two sewer board members to the committee. There is no requirement to have meetings, and this way a line item can be placed on the two utility board's agendas to meet. A motion was made by Mrs. Weese to appoint the current water and sewer board members as the safety committee. Motion seconded by Mrs. Whittaker. All in favor.

SUPERIOR LAUNDRIES LETTER

A motion was made by Mr. Moyer to have a letter from our attorney, Rob Chenoweth, be sent to Superior Industrial Laundries, Inc. in regards to a dispute over an alleged contract between them and the town. Motion seconded by Mrs. Weese with all in favor.

HALLOWEEN

A motion was set for Halloween Trick or Treating by Mrs. Weese for Saturday, October 31st from 6:00 pm to 7:30 pm. Motion seconded by Mrs. Stalnaker. All in favor. The date will be affective, depending on cancelations by the governor.

Chris Mielke, Beverly Heritage Center, told council that their Christmas Lantern Tours will be October 9 and 10, 16 and 17. There will be groups of 20 and tickets can be purchased online.

Mr. Mielke discussed Christmas ideas the Center is considering. A new idea of using the Book Mobile to deliver Christmas stockings to local children (asking for help from the town and local churches and businesses); decorating the public square (the town is in charge of putting up the tree) will also be done. Old Fashion Christmas will be December 5th.

FOREST FESTIVAL HOLIDAY

A motion to forego giving employees half a day for the Forest Festival this year was made by Mr. Moyer. Motion seconded by Mrs. Whittaker with all in favor.

INVOICES

A motion was made by Mrs. Stalnaker to pay the September 2020 invoices in the amount of \$4,902.65. Motion seconded by Mrs. Weese with all in favor.

UPDATES

FRONTIER: Nothing has been received. They have filed bankruptcy.

HUMAN RIGHTS COMMISSION

A rebuttal has been sign in regards to the human rights complaint.

PSC ANNUAL REPORTS

Reports have been turned in.

REED IPMC CASE

Items have been moved back to the Reed property.

SEWER PROJECT AGREEMENTS

Eight sewer project agreements have been signed and sent in for grants.

Motion made to adjourn by Mr. Moyer and seconded by Mrs. Stalnaker. Meeting adjourned at 7:59 pm.


MAYOR: ANDY BURNS
RECORDER: BARBARA SMITH

ORDINANCE ____

**AN ORDINANCE OF THE COMMON COUNCIL OF THE
TOWN OF BEVERLY, WEST VIRGINIA, INCREASING RATES RELATED
TO PROVIDING MUNICIPAL SEWER SERVICES TO ALL GENERAL DOMESTIC,
COMMERCIAL, AND INDUSTRIAL SERVICE EXCEPT UNUSUAL INDUSTRIAL
WASTE IN THE TOWN OF BEVERLY'S
MUNICIPAL SEWAGE TREATMENT PLANT AND COLLECTION SYSTEM**

WHEREAS, the Town of Beverly, West Virginia, sometimes referred to as the Utility, has plenary power pursuant to W.Va. Code § 8-12-5(32) to lay and collect charges for sewer systems and sewer treatment and disposal systems rendered to those served within and those served without the corporate limits of the municipality;

WHEREAS, pursuant to W.Va. Code § 16-3-16, the Town of Beverly has the power and duty, by ordinance, to establish and maintain just and equitable rates, fees, or charges for the use of and service rendered by sewage 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 sewage system of the municipality or that in any way uses or is served by such works. Further, the governing body may change and readjust such rates, fees, or charges from time to time subject to the limitations provided in the West Virginia State Code;

WHEREAS, pursuant to W.Va. Code § 24-2-4(b) any ordinance passed by the Town of Beverly to increase the rates and charges shall be reviewed by the Public Service Commission pursuant to W.Va. Code § 24-2-4(b);

WHEREAS, the Town of Beverly has determined that an increase in the sewage rates is necessary, and will be in the best interest of the Town of Beverly's residence as a whole; and

NOW THEREFORE, BE IT ORDAINED and ENACTED: The following rules, rates, and charges are hereby fixed, determined and established for municipal sewerage services provided to all general domestic, commercial, and industrial service except unusual industrial waste in the Town of Beverly's Municipal Sewage Treatment Plant and Collection System, commencing upon the effective dates as herein provided, and in accordance with the following Rates and Schedules:

RULES AND REGULATIONS

Rules and Regulations for the Government of Sewerage Utilities, adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto and modifications thereof hereafter made by said Commission.

SECTION 1 – TARIFF

APPLICABILITY

Applicable within the entire territory served

Attachment #1 - 9/14/2020

LEAK ADJUSTMENT RATE

\$2.50 per 1,000 gallons is to be used when a bill reflects unusual consumption which can be attributed and documented as an eligible leak on the customer's side of the meter. This rate shall be applied to all consumption for one billing cycle that is above the customer's historical 6 month average usage. (PSC Rules).

SECURITY DEPOSIT

Not to exceed one-twelfth (1/12) of the annual estimated charge for residential service, or one-sixth (1/6) of the estimated charge for commercial service, or fifty dollars (\$50), whichever is greater.

SURFACE OR GROUNDWATER SURCHARGE

An additional amount shall be charged where surface or ground water is introduced into the sanitary system where evidence of a violation exists.

Surcharge formula to be applied in cases where surface drainage is connected to the utility's wastewater system.

Applicability

Whenever the utility has discovered that a customer's roof drain, downspout, storm sewer or similar facilities conducting surface water have been connected to the utility's sewer system, and such customer has failed to take appropriate action, within thirty (30) days of receipt of a demand by the utility in accordance with the Rules of the Public Service Commission, to eliminate such connection, a surcharge will be imposed upon the customer calculated on the basis of the following formula:

$$S = A \times R \times .0006233 \times C$$

S = The surcharge in dollars

A = The area under roof and/or the area of any other water collection surface connected to the sanitary sewer, in square feet.

R = The measured monthly rainfall, in inches.

.0006233 = A conversion factor to change inches of rain x square feet of surface to thousands of gallons of water.

C = The utility's approved rate per thousand gallons of metered water usage.

The utility shall not impose the surcharge unless and until the customer has been notified by certified mail, return receipt requested, or by hand delivery, that it has been established by smoke testing, dye testing, or on-site inspection that rain or surface water is being introduced into the sanitary sewer system at the customer's location, and that the customer has not acted within thirty (30) days from receipt of such notice to divert the water from the sanitary sewer system.

Said surcharge shall be calculated and imposed for each month that said condition

SECTION 4- STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the Town Clerk shall cause to be published a copy of this Ordinance once a week for two (2) successive weeks within a period of fourteen (14) consecutive days, with at least six (6) days between each publication, in the *Inter-Mountain*, a qualified newspaper of general circulation in the Town of Beverly, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before Council on September 14, 2020, at 6:30 p.m., which date is not less than ten (10) days after the date of the first publication of the Ordinance and notice, and present any comment or protest thereto, following which hearing, Council shall take such action as it shall deem proper. Copies of this Ordinance shall be available to the public for inspection at the office of the Town Clerk, Beverly, West Virginia.

First Reading: August 10, 2020

Second Reading
and Public Hearing: September 14, 2020

TOWN OF BEVERLY, a municipal corporation

Mayor: _____

Clerk: _____

Barbara Smith

ORDINANCE _____

AN ORDINANCE ADOPTING, ENACTING, AND RE-ENACTING THE 2015 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE, AS AUTHORIZED BY THE WEST VIRGINIA STATE FIRE COMMISSION, REGULATING AND GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PREMISES, BUILDINGS AND STRUCTURES; BY PROVIDING THE STANDARDS FOR SUPPLIED UTILITIES AND FACILITIES AND OTHER PHYSICAL THINGS AND CONDITIONS ESSENTIAL TO ENSURE THAT STRUCTURES AND PREMISES ARE SAFE, SANITARY, AND FIT FOR HUMAN OCCUPATION AND USE; AND THE CONDEMNATION OF STRUCTURES AND PREMISES UNFIT FOR HUMAN OCCUPANCY AND USE; AND THE DEMOLITION OF SUCH EXISTING STRUCTURES IN THE TOWN OF BEVERLY; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREOF, AND REPEALING ALL OTHER ORDINANCES OR PARTS OF LAWS IN CONFLICT HEREWITH

WHEREAS, pursuant to the authority vested in the Town Council of the Town of Beverly, West Virginia, pursuant to West Virginia Code §§ 8-11-4 and 8-12-13, Council shall have plenary power to adopt an ordinance or code of ordinances to adopt such State building code as promulgated by the State Fire Commission; and

WHEREAS, pursuant to the authority vested in it by the West Virginia State Legislature, the State Fire Commission has promulgated Title 87, Series 4, Legislative Rule of the State Fire Commission, entitled "Building Code;" and,

WHEREAS, the Legislative Rule of the State Fire Commission, Title 87, Series 4 (87 CSR 4) of the West Virginia Code for State Regulations, permits adoption of the International Property Maintenance Code without requiring adoption of the other National Codes and Standards included under the West Virginia State Building Code; and,

WHEREAS, by Ordinance enacted November 13, 2017, the Town Council of the Town of Beverly adopted the 2015 edition of the International Property Maintenance Code; and,

WHEREAS, by Act of the West Virginia Legislature Title 87, Series 4 was amended to revise Section 87.4-4 paragraphs 4.1.j.1, 4.1.k, and 4.1.k.1 and,

WHEREAS, Section 87.4-8, Paragraph 8.1 provides "all building codes previously adopted by local jurisdictions are null and void."; and,

WHEREAS, the amendment of Title 87, Series 4 had the consequence of nullifying and voiding the Town of Beverly's adoption of the 2015 Edition of the International Property Maintenance Code effective August 1, 2020, thereby requiring the Town of Beverly to adopt, enact, and re-enact the 2015 Edition of the International Property Maintenance Code, unchanged, so as to continue to enforce those provisions of the State Building Code; and,

WHEREAS, the Town Council finds that in order to facilitate the public good and promote the general public health, safety and welfare, the Town Council of the Town of Beverly has deemed it necessary to properly regulate home matters related to the repair and maintenance of all buildings, structures and premises within the Town of Beverly; and,

WHEREAS, it is the intent of the Town Council of the Town of Beverly to establish minimum property maintenance standards by adopting and putting into force and effect the International Property Maintenance Code, 2015 Edition pursuant to W.Va. Code § 8-12-13;

NOW, THEREFORE, be it ordained and enacted by the Town Council of the Town of Beverly, West Virginia, that Section 11, Chapter 3, Article II, Subsection 3-7 be amended and the same is enacted and re-enacted as follows:

Sec. 3-7 Adopted.

(a) There is hereby adopted and incorporated by reference, for the purpose of safe guarding life and property and to insure the quality of construction of the applicable structures situate throughout the Municipality, that certain code known as the 2015 Edition of the International Property Maintenance Code, as amended or revised by the West Virginia State Fire Commission prior to or subsequent to adoption of this Ordinance, and all model codes and standards adopted thereunder are hereby adopted by reference as if fully set forth verbatim herein, which is part of the code known generally as the State Building Code as promulgated by the State Fire Commission pursuant to authority granted under West Virginia Code § 29-3-5b.

(b) The State Building Code, as adopted and incorporated by reference herein, and its application within this Municipality shall be subject to Legislative Rules adopted by the State Fire Commission and authorized by the West Virginia Legislature.

(c) The following sections of the State Building Code, as adopted and incorporated by reference herein are hereby revised as follows:

- (i) Section 101.1. Insert: "Town of Beverly"
- (ii) Section 103.5. Insert: "The fees for activities and services performed by Town of Beverly personnel or its agents in carrying out its responsibilities under this code shall be set forth in a fee schedule adopted by the Town of Beverly Commission by Resolution, which may be amended from time to time."
- (iii) Section 112.4. Insert: "a fine of no less than \$50 dollars or more than \$500 dollars."
- (iv) Section 302.4. Insert: "six (6) inches"
- (v) Section 304.14. Insert: "from April 1 to October 1"
- (vi) Section 602.3. Insert: "from November 1 to April 1"

(vii) Section 602.4. Insert: "from November 1 to April 1"

(d) Nothing in this legislation or in the International Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed of this law. Nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this legislation.

(e) Any existing ordinance that is determined to be more stringent or imposes a higher standard than is required by the International Property Maintenance Code shall govern, provided such ordinance is not contrary with the laws of the State of West Virginia and is not contrary to recognized standards and commonly accepted engineering practices.

(f) The Code Official shall enforce the provisions of the International Property Maintenance Code. The Code Official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. The Code Official shall issue all necessary notices and orders to ensure compliance. Such interpretations, policies, and procedures shall comply with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

The Code Official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

(g) The Town of Beverly Police Department shall assist the Code Official in the enforcement of the International Property Maintenance Code.

(h) The Violation; Penalties section of the International Property Maintenance Code is hereby amended and completed as follows:

Any person who shall violate a provision of the International Property Maintenance Code, or fail to comply therewith, or with any of the requirements thereof, shall be guilty of a misdemeanor and fined not less than twenty-five dollars (\$25.00), nor more than one hundred dollars (\$100.00). Each day that a violation continues after due notice has been served shall be deemed a separate offense. Failure to comply with a demolition order shall be deemed a violation subject to the penalties prescribed herein.

(i) If any section, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reasons whatsoever, such decisions shall not affect the remaining portions of this Ordinance, which shall continue in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.

(j) Jurisdiction over the enforcement of this Ordinance shall be with the Town of Beverly's Mayor pursuant to the power and duties of the Mayor as codified at W. Va. Code § 8-10-1.

(k) This Ordinance shall be deemed effective on passage.

PASSED AND APPROVED ON FIRST READING THIS 10th DAY OF August, 2020.


PASSED, APPROVED, AND EFFECTIVE ON SECOND AND FINAL READING THIS 14th DAY OF September, 2020.

TOWN OF BEVERLY, WEST VIRGINIA



Mayor

Attest:



City Clerk