

**Council Meeting  
Nutter Fort  
July 9, 2013**

The regular meeting of Nutter Fort council, was held, Tuesday, July 9, 2013, in council chambers with the following members present; William Benincosa, Stephen Korn, Donald Webster, Karen Phillips, Bruce Kidd, Mayor Nathan Rohrbough, and Recorder Sam Maxson. Also present were Police Chief Ron Godwin, Fire Chief Jeremy Haddix, Maintenance Supervisor Jim Wolfe, and Treasurer Julia Foley. Guests were; Jim Link, Charlotte Link, Artie Rohrbough, Libby Rohrbough, Lois Benincosa, Barbara Gorby, Mark Hayes, Linda Blake, Dave Nuzum, Leanna Spornak, Jake Gwinn, and Seth Johnson.

The meeting was called to order at 7:30 PM by Mayor Rohrbough after prayer by William Benincosa and the pledge of allegiance.

- The General Revenue budget Account Revision #1(attached) for FY 2013.2014 regarding the unencumbered balance, was approved by unanimous vote, following a motion by Bruce Kidd and a second by Karen Phillips.
- Bruce Kidd motioned approval of the Coal Severance Account Revision #1 (attached) for FY 2013/2014 regarding unencumbered balance. Following a second by Stephen Korn, the motion was approved by unanimous vote.
- Bruce Kidd, after concerns being expressed, motioned to table, the first reading of an ordinance that would increase wages for the police department (see attached). He suggests that, although he is in favor of the wage increases for the police department, a work session be held to further look at the budget. After a second by William Benincosa, the motion was approved by unanimous vote.
- William Benincosa motioned we contribute \$250 to the Harrison County Senior Center's Market research study and that we contribute \$250, when requested, to the Bi Nutrition Center. Following a second by Bruce Kidd, the motion was approved by unanimous vote.
- After some discussion, the authorization for the mayor to execute the sidewalk agreement (attached) and to provide matching grants, was tabled until more info can be obtained, by a unanimous vote after a motion by Bruce Kidd and a second by Stephen Korn.
- Bruce Kidd motioned to remove from the agenda, the request for an executive session to discuss the code enforcement position. The motion was approved by unanimous vote after a second by William Benincosa.
- William Benincosa motioned to remove from the agenda the authorization to advertise for the code enforcement position. Following a second by Bruce Kidd, the motion was approved by unanimous vote.
- The building permits (attached) were approved by unanimous vote following a motion by Karen Phillips and a second by Stephen Korn.
- Bruce Kidd motioned approval of the bills (attached) and they were approved by unanimous vote after a second by Karen Phillips.
- The minutes of the June 25, 2013 meeting were approved by unanimous vote after a motion by William Benincosa and a second by Stephen Korn.

**Old Business:** None

**New Business:** Complaints were aired by Councilor Kidd about signs being placed near the veteran's memorial on the island. He suggested an ordinance be drafted that would forbid any signs, including political on the island.

**Police Chief's Report:** None

**Fire Chief's Report:** Chief Haddix distributed a letter from the attorney, Johnnie Brown, (attached) about the dispute between the fire department and Underwood Contracting concerning prevailing wage law violations. No further response has been received from Underwood's attorney.

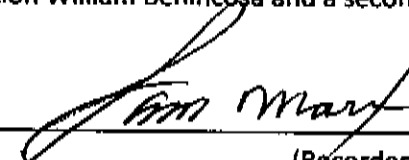
**Maintenance Supervisor's report:** Supervisor Wolfe has talked with Mr. Leatherman on JF Allen about paving. The cost to pave, and mill where necessary, 2<sup>nd</sup> Ave, Norma Ave, part of Ohio Ave, and Godwin Court would be \$102,000

**Treasurer's Report:** Treasurer Foley advised council that the "Meet and Greet" for members of the various boards and committees will be held, Thursday, July 11, 2013 in the fire department.

**Citizen's Comments:** None

The meeting was adjourned at 8:15Pm after a motion William Benincosa and a second by Bruce Kidd.

  
(Mayor)

  
(Recorder)

LGSD 6R (Rev. 2012)

Ora Ash, Director  
West Virginia State Auditor's Office  
200 West Main Street  
Clarksburg, WV 26301  
Phone: 627-2415 ext. 5114  
Fax: 627-2417

Person To Contact Regarding  
Budget Revision: Julia Foley  
Phone: 304-622-7713  
Fax: 304-623-0288

**REQUEST FOR REVISION TO APPROVED BUDGET**

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

CONTROL NUMBER

2013/2014

FY

2

FUND

1

REV. NO.

1

PG. OF NO.

Municipality

Government Type

Town of Nutter Fort  
GOVERNMENT ENTITY

STREET OR PO BOX

CITY

ZIP CODE

**REVENUES: (net each acct.)**

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
298	Assigned Fund Balance	15,000	2,582		17,582
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				

NET INCREASE/(DECREASE) Revenues (ALL PAGES)

2,582

Explanation for Account # 378, Municipal Specific:

Explanation for Account # 369, Contributions from Other Funds:

**EXPENDITURES: (net each account category)**

(WV CODE 7-1-9)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
698	Transfers/Reimb. (Audit Findings)		2,582		2,582
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				

NET INCREASE/(DECREASE) Expenditures

2,582

APPROVED BY THE STATE AUDITOR

By: \_\_\_\_\_  
Director, Local Government Services Division Date

AUTHORIZED SIGNATURE  
OF ENTITY

7/9/2013  
APPROVAL  
DATE

Ora Ash, Director  
West Virginia State Auditor's Office  
200 West Main Street  
Clarksburg, WV 26301  
Phone: 627-2415 ext. 5114  
Fax: 627-2417

REQUEST FOR REVISION TO APPROVED BUDGET

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Town of Nutter Fort

GOVERNMENT ENTITY

STREET OR PO BOX

CITY

ZIP CODE

CONTROL NUMBER

2013/2014

FY

1

FUND

1

REV. NO.

1

PG. OF NO.

Municipality

Government Type

Person To Contact Regarding

Budget Revision: Julla Foley  
Phone: 304-622-7713  
Fax: 304-623-0288

REVENUES: (net each acct.)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
299	Unassigned Fund Balance	400,000	48,485		448,485
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				

NET INCREASE/(DECREASE) Revenues (ALL PAGES) 48,485

Explanation for Account # 378, Municipal Specific:

Explanation for Account # 389, Contributions from Other Funds:

EXPENDITURES: (net each account category)

(WV CODE 7-1-9)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
404	State Grants		20,000		20,000
698	Transfers/Reimb. (Audit Findings)	100,000	28,485		128,485
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				

NET INCREASE/(DECREASE) Expenditures 48,485

AN ORDINANCE AMENDING, ESTABLISHING AND PROVIDING FOR A SALARY INCREASE FOR THE POLICE DEPARTMENT OF THE TOWN OF NUTTER FORT, HARRISON COUNTY, WEST VIRGINIA THAT AFFECTS THE PERSONEL POLICY DEALING WITH WAGES AND BENEFITS IN REGARD TO THE POLICE DEPARTMENT AND WILL TAKE EFFECT ON JULY 29, 2013.

Whereas the Nutter Fort Police Department is underpaid in comparison with other agencies similar in size to the Town of Nutter Fort, and;  
Whereas, the Town of Nutter Fort has continually suffered losses for training and related expenses for entry level patrolmen that exit their employment with the Town of Nutter Fort after obtaining certification through the WV State Police Academy in order to seek a more competitive wage and;  
Whereas, the Town of Nutter Fort suffers a loss of manpower while completing the process to fulfill the open position/s,  
Now Therefore, it is hereby ordained by the Council of the Town of Nutter Fort, Harrison County, West Virginia to adopt the following changes regarding compensation for the Nutter Fort Police Department personnel.

COMPENSATION FOR NUTTER FORT POLICE DEPARTMENT PERSONNEL

Beginning July 29, 2013, the Town of Nutter Fort Police Department employees shall be compensated in the following manner:

- Chief of Police** will be compensated as follows on an hourly basis.  
The Chief of Police position will be compensated \$18.57/hour for his wages.  
The yearly earnings (excluding OT pay and benefits) for the **Chief of Police** will be \$38,625.60
- The Rank of Lieutenant will be required to possess a minimum of five years' experience** and will be compensated as follows.  
The lieutenant position will receive an additional \$1,500.00 annually than a certified patrolman that is not serving probation making the hourly wage for this position \$16.53  
The yearly earnings (excluding OT pay and benefits) for the **Rank of Lieutenant** will be \$34,364.00
- The Rank of Sergeant will be required to possess a minimum of three years' experience** and will be compensated as follows.  
The sergcant position will receive an additional \$750.00 annually than a certified patrolman that is not serving probation making the hourly wage for this position \$16.16

- Patrolmen with one continuous year of employment with the Town of Nutter Fort Police Department, after probation and certified through the WV State Police Academy or possessing equivalent training will be compensated as follows on an hourly basis in the following manner.

A Patrolman that encounters the above requirements will receive wages in the amount of \$15.80/hour. The wages (excluding OT pay and benefits) for that **Patrolmen** will be \$32,864.00 annually.

- Entry Level Patrolmen that are certified through the WV State Police Academy or possessing equivalent training and serving their probation will be compensated in the following manner on an hourly basis.

A **Patrolman** that meets this criteria, will be compensated \$15.26/hour. The yearly wage (excluding OT pay and benefits) for the **Entry Level Patrolmen with WV State Police Academy Certification or equivalent, serving probation** will be \$31,740.80.

- Entry Level Patrolmen WITHOUT certification will be compensated in the following manner on an hourly basis.

A Patrolman that begins employment with the Town of Nutter Fort and has NO experience or certification will be paid \$14.22/hour.

The yearly wages (excluding OT pay and benefits) for the **Entry Level Patrolmen WITHOUT Certification or equivalent** will be paid \$29,577.60.

*\*The above specified wages will be subject to future increases that effect all employees of the Town of Nutter Fort.*

Passed by the Council of the Town of Nutter Fort this the \_\_\_\_ day of \_\_\_\_\_, 2013.

Passed by the Council of the Town of Nutter Fort on the second and final reading this the \_\_\_\_ day of \_\_\_\_\_, 2013.

Mayor – Nathan Rohrbough

Attest:

\_\_\_\_\_  
Recorder – Sam Mayson

7/5/13 at 11:38:12.01

Page: 1

**General Revenue Account**

**Purchase Journal**

**For the Period From Jun 20, 2013 to Jul 5, 2013**

Filter Criteria includes: 1) Includes Drop Shipments. Report order is by Date. Report is printed in Detail Format.

Date	Name	Line Description	Debit Amount	Credit Amount
6/20/13	Jim's Service Center	State inspection on cruiser 201 Jim's Service Center	12.00	12.00
6/20/13	Frontier	55% of monthly telephone service for all departments. Frontier	111.09	111.09
6/20/13	Skasiks Quality Cleaners	July 2013 alterations and cleaning for Police Dept. Skasiks Quality Cleaners	62.50	62.50
6/20/13	Thrasher Engineering	GIS Training provided by Colleen Lemasters Thrasher Engineering	2,000.00	2,000.00
6/20/13	RVS Software	Printing of 1000 Past Due Notices - 3% General RVS Software	14.37	14.37
6/20/13	Harrison Co. Recycling Ce	Monthly recycling fees - June 2013 Harrison Co. Recycling Center	25.00	25.00
6/20/13	Prescription Pest Control	Monthly pest control service Prescription Pest Control	80.00	80.00
6/20/13	Clarksburg Asphalt Compa	6.07 tons of wearing 1 asphalt at \$71/ton Clarksburg Asphalt Company	430.97	430.97
6/20/13	Dominion Hope Gas	55% of monthly budget for all departments Dominion Hope Gas	192.50	192.50
6/20/13	Pullin, Fowler, Flanagan, B	Legal services through 5/31/13 - Police Issues & truck damages Pullin, Fowler, Flanagan, Brown & Poe	560.00	560.00
6/20/13	Sheriff & Treasurer	2 days shelter fees for dog Sheriff & Treasurer	4.00	4.00
6/20/13	FP Mailing Solutions	Ink cassettes for postage machine FP Mailing Solutions	220.65	220.65
6/20/13	RVS Software	Printing of 1000 Past Due Notices - 24% Waste RVS Software	114.86	114.86

6/20/13	Dominion Hope Gas	Waste account - 15% of monthly budget amount Dominion Hope Gas	52.50		52.50
6/21/13	Sandy's Hardware	Sprayer Sandy's Hardware	25.99		25.99
6/21/13	Fleet Pride	Throttle repairs for garbage truck Fleet Pride	290.48		290.48
6/21/13	Airgas Mountain States	1/4 cost of monthly cylinder rentals & cut off wheels, cutting tips, & grinding wheels Airgas Mountain States	43.30		43.30
6/21/13	Marsh's Lumber & Home C	Weedeater head Marsh's Lumber & Home Center	29.95		29.95
6/21/13	Airgas Mountain States	1/4 cost of monthly cylinder rentals & cut off wheels, cutting tips, & grinding wheels - Waste Airgas Mountain States	43.30		43.30
6/22/13	Sandy's Hardware	Wasp spray Sandy's Hardware	8.10		8.10
6/23/13	Wex Bank	Monthly fuel expense for garbage truck for June 2013 Wex Bank	917.83		917.83
6/24/13	Wholesale Tire, Inc.	Rear tire for garbage truck Wholesale Tire, Inc.	471.43		471.43
6/24/13	MERIT Training Programs	Final 1/2 of costs for Meth Lab Field Response Training - completed 6/23/2013 MERIT Training Programs LLC	1,687.50		1,687.50
6/26/13	Chase Card Services	Food for Meth Lab Response Training Seminar Flag pole lights, concrete pour kits, & photo cells Umbrella & sprayers for Maintenance Dept Chase Card Services	170.41 5,734.30 63.62		5,968.33
6/26/13	Sandy's Hardware	Air filters  Sandy's Hardware	15.48		15.48
6/26/13	Advance Auto Parts	1/4 cost of freon for all maintenance vehicles Advance Auto Parts	22.52		22.52
6/26/13	Region VI Planning&Devel	FY 2013-2014 Annual Dues - Assessed on Population of 1686 @ \$.40 per capita Region VI Planning&Development	337.00		337.00
6/27/13	Amtower Auto Supply, Inc.	Cabin air filters & headlights for garbage truck Amtower Auto Supply, Inc.	149.18		149.18
6/27/13	MonPower	LED traffic lights - Rt. 20 MonPower	20.60		20.60
6/27/13	Advance Auto Parts	1/4 cost of freon for all maintenance vehicles - waste Advance Auto Parts	22.52		22.52
6/28/13	Weatherservice/Indoor Co	Service charge to check air conditioning unit at Police Department Weatherservice/Indoor Comfort, Inc.	119.00		119.00
6/29/13	Frank Mano Jr.	Oil Frank Mano Jr.	116.60		116.60
6/30/13	Time Warner Cable-SWO	55% of monthly charge for road runner Internet service Time Warner Cable-SWO Division	49.97		49.97
6/30/13	Clarksburg Asphalt Compa	16.96 tons wearing 1 asphalt @ \$71/ton Clarksburg Asphalt Company	1,204.16		1,204.16
6/30/13	Time Warner Cable-SWO	Waste Account - 15% of monthly charge for road runner Internet service Time Warner Cable-SWO Division	13.61		13.61
7/1/13	Meadowfill Landfill, Inc.	62.66 tons of waste @ \$45.35 per ton disposed for service period of June 16-30, 2013 Meadowfill Landfill, Inc.	2,841.65		2,841.65
7/1/13	Super America Group, Inc.	Police Department monthly fuel expense Fire Department monthly fuel expense  Maintenance Department monthly fuel expense Recycle Department fuel expense Super America Group, Inc.	1,881.36 1,149.25  303.50 74.01		3,408.12
7/1/13	RVS Software	3% of cost for annual software maintenance and updates - starting date 8/9/2013 RVS Software	31.83		31.83
7/1/13	Josh Oldaker	15 hours of street sweeping hours @ \$23.07 per hour Josh Oldaker	346.05		346.05
7/1/13	Sandy's Hardware	Mower parts Sandy's Hardware	16.39		16.39
7/1/13	Sandy's Hardware	Garbage bags Sandy's Hardware	11.68		11.68
7/1/13	Voided Check	Voided Check			
7/1/13	Voided Check	Voided Check			
7/1/13	Frontier	Waste Account's 15% of monthly telephone service for all departments. Frontier	30.29		30.29
7/1/13	Super America Group, Inc.	Waste portion of monthly fuel expense Super America Group, Inc.	33.54		33.54
7/1/13	RVS Software	24% of cost for annual software maintenance and updates - starting date 8/9/2013 - waste RVS Software	254.64		

		Monthly telephone wages	3,099.39		3,099.39
7/2/13	R.D. Wilson-Sons & Comp	Cigarette Butt Receptacle R.D. Wilson-Sons & Company	74.76		74.76
7/2/13	Nutter Fort Payroll Account	Treasurer Office bi-weekly wages Police Department bi-weekly wages	2,816.54 7,713.12		
		Street Department bi-weekly wages Recycle Department bi-weekly wages Code enforcement wages Fire Department bi-weekly wages Mayor monthly salary Council monthly salary Recorder monthly salary Police Judge monthly salary Police Special Duty bi-weekly salaries Nutter Fort Payroll Account	3,239.76 261.90 370.46 753.85 550.00 750.00 300.00 250.00 222.72		17,228.35
7/2/13	Nutter Fort Payroll	Treasurer's Office bi-weekly FICA/Medicare Tax Police Dept. bi-weekly FICA/Medicare Tax Fire Dept. bi-weekly FICA/Medicare Tax Street Dept bi-weekly FICA/Medicare Tax Recycle Dept. bi-weekly FICA/Medicare Tax  Code Enforcement bi-weekly FICA/Medicare Tax Mayor - FICA/Medicare Tax Council - FICA/Medicare Tax Recorder - FICA/Medicare Tax Police Special Duty bi-weekly FICA/Medicare Tax Police Judge FICA/Medicare Tax Nutter Fort Payroll	213.15 583.73 57.05 245.19 19.83  28.04 41.62 58.76 22.70 16.86 18.92		1,303.85
7/2/13	Nutter Fort Payroll	Waste account's bi-weekly FICA/Medicare Tax Nutter Fort Payroll	234.56		234.56
7/3/13	MonPower	Monthly charge for street lighting MonPower	1,498.39		1,498.39
7/3/13	Sandy's Hardware	Wasp spray Sandy's Hardware	8.10		8.10
7/5/13	US Postal Service	Postage for postage meter US Postal Service	550.00		550.00
7/5/13	Dominion Hope Gas	55% of monthly budget for all departments Dominion Hope Gas	323.40		323.40
7/5/13	Town of Nutter Fort Payroll	Monthly Health Ins. - Recycle Department Monthly Health Ins. - Treasurer's Office Monthly Health Ins. - Police Department Monthly Health Ins. -Street Department Monthly Health Ins. - Fire Department Town of Nutter Fort Payroll Acct.	74.70 896.71 2,764.84 3,138.46 597.81		7,472.52
7/5/13	Nutter Fort Payroll Account	Treasurer's office expense for monthly dental insurance Police Department's expense for monthly dental insurance Street Department's expense for monthly dental insurance Fire Department's expense for monthly dental insurance Nutter Fort Payroll Account	94.09 94.09 94.09 94.08		376.35
7/5/13	US Postal Service	Postage for postage meter - waste US Postal Service	150.00		150.00
7/5/13	Dominion Hope Gas	Waste account - 15% of monthly budget amount Dominion Hope Gas	88.20		88.20
7/5/13 at 11:40:30.45			54,819.35		54,819.35

**Water Board Account**  
**Purchase Journal**  
**For the Period From Jun 20, 2013 to Jul 5, 2013**

Filter Criteria includes: 1) Includes Drop Shipments. Report order is by Date. Report is printed in Detail Format.

Date	Name	Line Description	Debit Amount	Credit Amount	Payment Status
6/20/13	Frontier	15% of monthly telephone service for all departments. Frontier	30.29		Past Due
6/20/13	RVS Software	Printing of 1000 Past Due Notices - 31% RVS Software	148.33	148.33	Past Due
6/20/13	Sandy's Hardware	Twine Sandy's Hardware	2.99	2.99	Past Due
6/20/13	Dominion Hope	15% of monthly budgeted amount for all departments Dominion Hope	52.50	52.50	Past Due
6/20/13	Public Service Commissi	Annual Intrastate Revenue Assessment Public Service Commission of WV	2,031.65	2,031.65	Past Due
6/21/13	Airgas-Mid America	1/4 cost of monthly cylinder rentals & cut off wheels, cutting tips, & grinding wheels Airgas-Mid America	43.30	43.30	Past Due
6/24/13	A Hughes Supply Compa	Seat Washers A Hughes Supply Company	39.61	39.61	Past Due
6/27/13	Advance Auto Parts	1/4 cost of freon for all maintenance vehicles Advance Auto Parts	22.52	22.52	Past Due
6/28/13	Clarksburg Water Board	Water purchased monthly -18,115,000 gallons @ \$3.00 per thousand purchased from 5/28/13-6/28/13 Clarksburg Water Board	54,345.00	54,345.00	Paid In Full
6/30/13	Time Warner Cable	15% charge for monthly road runner Internet service for all departments Time Warner Cable	13.63	13.63	Past Due
7/1/13	SuperAmerica Group	Share of monthly fuel expense. SuperAmerica Group	202.01	202.01	Past Due
7/1/13	WV Municipal Bond Com	Monthly water bond revenue obligation WV Municipal Bond Commission Revenue	3,928.67	3,928.67	Paid In Full
7/1/13	RVS Software	31% of cost for annual software maintenance and updates. Expires July 31/2013	328.91		

		Bi-weekly transmission line repair	1,020.07		
		Bi-weekly customer collection labor	671.64		
		Mayor's Monthly Salary	994.73		
		Nutter Fort Payroll Account	150.00		
				3,643.04	Paid In Full
7/2/13	Nutter Fort Payroll Account	Bi-Weekly FICA/Medicare Expense	275.70		
		Nutter Fort Payroll Account		275.70	Paid In Full
7/5/13	US Postal Service	Postage for postage meter	150.00		
		US Postal Service		150.00	Unpaid
7/5/13	First State Bank 10000	Payment #20 on backhoe	1,020.62		
		First State Bank 10000		1,020.62	Unpaid
			<b>66,278.77</b>	<b>66,278.77</b>	

**Approval of building permits:**

Owner	Location	Description of work	Contractor (if applicable)	Estimated Cost	Notes
John-Harris, Mary	511 Maryland Avenue	Replacing roof	Griffith Roofing	\$3,000.00	
		Permit to install privacy fence		\$700.00	
Wanstreet, John	607 Pennsylvania Avenue	Remodel walkway		\$1,000.00	
Mason, Frances	104 Ohio Avenue			\$9,150.00	
Zwick, Charles	312 Indiana Avenue	Replace deck	Vision Home Improvement	\$100.00	Cutting out portion of floor
Hartzell, Carl	211 Maryland Avenue	Replacing wood flooring		\$3,000.00	
Strogen, William	303 Burton Avenue	Install drywall		\$650.00	
Ruziska, Tom	608 West Virginia Avenue	Install handrail	Gorrell Contracting	\$1,000.00	
Jenks, Cliff	412 Maryland Avenue	Repair sewer line		\$2,000.00	
Stier, Kelly	712 Indiana Avenue	Remodel bathroom			
		Add approximately 60' of chain link fence		\$700.00	
Pitts, Quint	101 Edison Street				



**PULLIN, FOWLER  
FLANAGAN,  
BROWN & POE, P.C.**

JAMESMAK BUILDING  
901 CHALKRIVER STREET  
CHARLESTON, WV 25301  
PHONE: (304) 344-0100  
FAX: (304) 342-1545

600 NEVILLE STREET  
SUITE 201  
BECKLEY, WV 25801  
PHONE: (304) 254-9300  
FAX: (304) 255-3319

2414 CRANBERRY SQUARE  
MORGANTOWN, WV 26508  
PHONE: (304) 225-2200  
FAX: (304) 225-2214

261 AIKENS CENTER  
SUITE 301  
MARTINSBURG, WV 25404  
PHONE: (304) 260-1300  
FAX: (304) 260-1208

REPLY TO: Charleston  
SENDERS E-MAIL: [jbrown@pffwv.com](mailto:jbrown@pffwv.com)  
[www.pffwv.com](http://www.pffwv.com)

July 3, 2013

Tera D. Goff  
FUBAR Enterprises  
606 Lewis Street  
Clarksburg, West Virginia 26301

**RE: Town of Nutter Fort - General Counseling  
Civil Action No.**

Dear Tera D. Goff:

I am writing you on behalf of the Town of Nutter Fort, in my role as Nutter Fort's attorney in this matter, to follow up from my previous letter dated May 28, 2013, wherein I explained the issue with recent work FUBAR Enterprises performed on the Town's new vehicle. The Town of Nutter Fort has not received a response from its previous demand, and this letter serves as our second demand for payment of \$1,228.52, calculated as follows:

T-Body estimate:	\$1,729.27
FUBAR invoice:	<u>- 500.75</u>
Amount owed Nutter Fort:	\$1,228.52


As explained in my previous letter, FUBAR caused damage to the Town's 2013 Ford F-250 4x4 Crew XL, when it installed a mini-light bar, hide-a-way LED's, grille lights, mirror lights and a radio. Summarily, when we received the truck back from your shop, after two attempted repairs, we noticed that severe scratches still remained on the body of the truck. Consequently, the Town sent the truck to T-Body Auto Body Repair, a normal town vendor, and obtained a preliminary estimate for the cost of repairs. Because extensive paint is needed, the repair estimate totals \$1,729.27.

Please remit payment in the amount of \$1,228.52 as soon as possible to the Town of Nutter Fort at 1415 Buckhannon Pike, Nutter Fort, WV 26301.

If you would like to respond, please make all communications through our Charleston office, address given above. Otherwise, we expect your timely payment to the Town of Nutter Fort. Thank you for your time and cooperation in this matter.

This serves as our final demand letter. If we receive no response within fourteen (14) days, we reserve our right to seek more formal action against FUBAR Enterprises.

Very truly yours,

  
Johnnie E. Brown

JEB/sas



JAMESMARK BUILDING  
901 QUARRIER STREET  
CHARLESTON, WV 25301  
PHONE: (304) 344-0100  
FAX: (304) 342-1545

600 NEVILLE STREET  
SUITE 201  
BECKLEY, WV 25801  
PHONE: (304) 254-9300  
FAX: (304) 255-5519

2414 CRANBERRY SQUARE  
MORGANTOWN, WV 26508  
PHONE: (304) 225-2200  
FAX: (304) 225-2214

261 AIKENS CENTER  
SUITE 301  
MARTINSBURG, WV 25404  
PHONE: (304) 260-1200  
FAX: (304) 260-1208

REPLY TO: Charleston  
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July 9, 2013

Natalie Haddix  
Nutter Fort Fire Department  
1415 Buckhannon Pike  
Nutter Fort, WV 26301

**RE: Nutter Fort Volunteer Fire Dept. v. Underwood General Building, Inc.  
Status Update – PRIVILEGED AND CONFIDENTIAL**

Dear Ms. Haddix:

I am writing to update you on the status of the dispute with Underwood General Building, Inc.

As you know, Underwood General Builders, Inc., was the subject of a prevailing wage investigation which recently concluded. Lee Powell, compliance officer for the West Virginia Division of Labor, determined that Underwood did not comply with the West Virginia prevailing wage statute, W. Va. Code §21-5A-3.

Relevant portions of the statute require that "any public authority . . . shall . . . ascertain from the state commissioner of labor, the fair minimum rate of wages . . . to be paid by the successful bidder to the laborers, workmen, or mechanics [on the job]." In other words, when a public authority engages in a project, the laborers who work on that project must be paid the "prevailing wage" for the locality, which usually equal the corresponding union rates.

The Division of Labor calculated the damages as the difference between the actual amounts that should have been paid to employees under the statute (prevailing wage) and the amounts that were actually paid to employees in the construction project. While speaking with Mr. Powell, he informed me that he was not permitted to send me a copy of the audit, but he stated that the amount owed totaled approximately \$52,000, including \$28,336.20 owed by Mr. Underwood and \$24,000 owed by five remaining subcontractors. Mr. Powell stated that, in his opinion, the failure to pay the prevailing wage was "very clearly" Nutter Fort's responsibility.

During our conversation, Mr. Powell clarified that no party would be paying any union monies. Thus, Mr. Underwood was mistaken on that point. Rather, the damages owed would be paid to the West Virginia Division of Labor, who would then redistribute the money to the



laborers, allowing them to receive the remaining "prevailing wage" that they have not yet received. Mr. Powell has a list of employees who worked, with the amounts owed each employee.

As I have discussed with you, if Mr. Underwood files suit against the Town, we have an argument that the prevailing wage statute does not apply to us, as the project was funded completely through private donations. We have discussed the pros and cons of that, and as previously stated, we do have a good faith argument, but is always difficult to predict how a Judge will evaluate the six factors we discussed.

We have contacted Mr. Underwood's attorney to propose a mediation, but we have not heard back from him. We will follow up and advise.

Also, I have spoken to the insurance company and they will not become involved unless a suit is filed. Quite frankly, it may be in your best interest to have him file a suit and then get the insurance company involved. It is something we can think about depending upon their attorney's response to mediate the case.

I will keep you informed in regards to my discussions with him, and please do not hesitate to contact me if you have any further questions.

Very truly yours,

/s/ *Johnnie E. Brown*

Johnnie E. Brown

JEB/sas

cc:

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