

TOWN COUNCIL

MEETING

PACKET

June 17, 2019



Town Council

Agenda
Monday, June 17, 2019
Town Hall, Council Chambers
450 So. Parish Avenue
7:00 PM



MISSION STATEMENT-*"The mission of the government of the Town of Johnstown is to provide leadership based upon trust and integrity, commitment directed toward responsive service delivery, and vision for enhancing the quality of life in our community."*

Members of the audience are invited to speak at the Council meeting. Public Comment (item No. 5) is reserved for citizen comments on items not contained on the printed agenda. Citizen comments are limited to three (3) minutes per speaker. When several people wish to speak on the same position on a given item, they are requested to select a spokesperson to state that position. If you wish to speak at the Town Council meeting, please fill out a sign-up sheet and present it to the Town Clerk.

- 1) **CALL TO ORDER**
 - A) Pledge of Allegiance
- 2) **ROLL CALL**
- 3) **AGENDA APPROVAL**
- 4) **RECOGNITIONS AND PROCLAMATIONS –**
"Night of Champions"
Recognition of Commander Sanchez – Graduation from FBI Academy
- 5) **PUBLIC COMMENT (three-minute limit per speaker)**

*The "Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any Council member wishes to have an item discussed or if there is public comment on those ordinances marked with an *asterisk. The Council member may then move to have the subject item removed from the Consent Agenda for discussion separately.*

- 6) **CONSENT AGENDA**
 - A) Town Council Meeting Minutes – June 3, 2019
 - B) Payment of Bills
 - C) May Financial Statements
 - D) **2nd Reading** Ordinance Number 2019-161 – An Ordinance Amending Article 1 of Chapter 11 of the Johnstown Municipal Code to Include Section 11-7 Concerning the Sale, Exchange or Disposition of Real Property, Public Buildings and Public Utilities
 - E) Lease of Water Rights Agreement
- 7) **TOWN MANAGER REPORT**
- 8) **TOWN ATTORNEY REPORT**
- 9) **OLD BUSINESS**
- 10) **NEW BUSINESS**
 - A. **Public Hearing (First Reading)** Consider Ordinance No. 2019-162, an Ordinance Amending Section 1-62, 1-63, 2-74, 8-26, 8-81, 8-82, 13-114, 16-370, 17-206 and 17-264 of the Johnstown Municipal Code to Provide Uniformity in the Penalty Provisions of the Code and Omit the Possibility of Incarceration for Municipal Ordinance Violations.
- 11) **EXECUTIVE SESSION**
 - A. Executive session for the purpose of developing strategy for negotiations and instructing negotiators regarding development pursuant to C.R.S. § 24-6-402(4)(e).

12) COUNCIL REPORTS AND COMMENTS

13) MAYOR'S COMMENTS

14) ADJOURN



NOTICE OF ACCOMODATION

If you need special assistance to participate in the meeting, please contact the Town Clerk at (970) 587-4664. Notification at least 72 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to the meeting.

AGENDA ITEM 6A-E

CONSENT

AGENDA

- **Council Minutes – June 3, 2019**
 - **Payment of Bills**
 - **May Financial Statements**
- **2nd Reading Ordinance Number 2019-161**
 - **Lease of Water Rights Agreement**

TOWN COUNCIL AGENDA COMMUNICATION

AGENDA DATE: June 17, 2019

ITEM NUMBER: 6A-E

SUBJECT: Consent Agenda

ACTION PROPOSED: Approve Consent Agenda

PRESENTED BY: Town Clerk

AGENDA ITEM DESCRIPTION: The following items are included on the Consent Agenda, which may be approved by a single motion approving the Consent Agenda:

- A) Town Council Meeting Minutes – June 3, 2019
- B) Payment of Bills
- C) June Financial Statements
- D) **2nd Reading** Ordinance Number 2019-161 – An Ordinance Amending Article 1 of Chapter 11 of the Johnstown Municipal Code to Include Section 11-7 Concerning the Sale, Exchange or Disposition of Real Property, Public Buildings and Public Utilities
- E) *Lease of Water Rights Agreement

* On or about April 5, 2019, Raymond Schwarz (“Sellers”) sold nine (9) shares of Consolidated Home Supply Ditch and Reservoir Company (“Water Rights”) to developers of the Miracle (Encore) on 34 property. As a part of the sale, the Sellers executed a dry-up covenant. Until the Water Rights are used for the development project, the Sellers seek to lease back the water for irrigation. The term of the lease extends through November 30, 2020, and then automatically renews for one-year periods until terminated by either party. The Sellers agree to pay the Town \$500 per year and pay all assessments and obligations owed to the Consolidated Home Supply Ditch and Reservoir Company. Upon termination of the lease, the Sellers agree to permanently cease irrigating the property.

LEGAL ADVICE: The entire Consent Agenda may be approved by a motion of the Town Council approving the Consent Agenda, which automatically approves each and every item listed on the Consent Agenda. If a Council member wishes to have a specific discussion on an individual item included with the Consent Agenda, they may move to remove the item from the Consent Agenda for discussion.

FINANCIAL ADVICE: N/A

RECOMMENDED ACTION: Approve Consent Agenda

SUGGESTED MOTION:

For Approval: I move to approve the Consent Agenda.

For Denial:

Council Minutes

The Town Council of the Town of Johnstown met on Monday, June 3, 2019 at 7:00 p.m. in the Council Chambers at 450 S. Parish Avenue, Johnstown.

Mayor Lebsack led the Pledge of Allegiance.

Roll Call:

Those present were: Councilmembers Berg, Lemasters, Mellon, Molinar Jr., Young and Tallent

Also present: Matt LeCerf, Town Manager, Avi Rocklin, Town Attorney, Mitzi McCoy, Finance Director, Marco Carani, Public Works Director, Kim Meyer Planning Director and Brian Phillips, Police Chief

Agenda Approval

Councilmember Lemasters made a motion seconded by Councilmember Mellon to approve the Agenda as submitted. Motion carried with a unanimous vote.

Consent Agenda

Councilmember Mellon made a motion seconded by Councilmember Berg to approve the Consent Agenda with the following items included:

- May 20, 2019 Council Meeting Minutes
- 2nd Reading Ordinance Number 2019-160, An Ordinance Repealing and Replacing Article XIX of Chapter 16 of the Johnstown Municipal Code Concerning Wireless Communication Facilities
- Water Agreement between Town of Johnstown and Maplewood Acres, Inc.

Motion carried with a unanimous vote.

New Business

A) Public Hearing First Reading – Ordinance Number 2019-161, An Ordinance Amending Article 1 of Chapter 11 of the Johnstown Municipal Code to Include Section 11-7 Concerning the Sale, Exchange or Disposition of Real Property, Public Buildings and Public Utilities - This ordinance allows Town Council to sell, exchange or dispose of real property, public buildings and public utilities by ordinance based on terms and conditions that Town Council deems to be in the best interests of Town.

Mayor Lebsack opened the public hearing at 7:27 p.m. having no public comment closed the hearing at 7:29 p.m. Councilmember Berg made a motion seconded by Councilmember Mellon to approve Ordinance No. 2019-161, An Ordinance Amending Article I of Chapter 11 of the Johnstown Municipal Code to Include Section 11-7 Concerning the Sale, Exchange or Disposition of Real Property, Public Buildings and Public Utilities. Motion carried with a unanimous vote.

There being no further business to come before Council the meeting adjourned at 7:40 p.m.

Mayor

Town Clerk

Payment of Bills

Town of Johnstown
List of Bills - May 13, 2019 to June 9, 2019

<u>Vendor</u>	<u>Description</u>	<u>Dept</u>	<u>Amount</u>
2534 Retail Phase 1, LLC	Tax reimbursement	ADM	59,140.47
4990 Ronald Reagan LLC	Police Substation lease	PD	1,519.75
Adamson Police Products	Range supplies	PD	731.25
All Copy Products	Printer service	ALL	367.35
Anchor Auto Glass	Auto repair	PD	55.00
Angel Armor	Uniforms	PD	1,725.00
AP Mountain States, LLC	Johnstown Rec Center	ADM	1,429,816.37
Arapahoe Rental	Tools	PW	96.90
Avalis Wayfinding Solutions	Supplies	PW	126.61
Balltrip, Ken	Tuition reimbursement	PD	992.32
Caselle, Inc	Computer support	ADM	1,339.00
Central Weld County Water District	Water	PW	586.00
CenturyLink	Telephone	ADM	336.43
Chema Tox Laboratory Inc	Blood alcohol test	PD	263.00
Colorado Analytical Labs	Lab testing	PW	12.00
Coren Printing, Inc	Printing	PD	260.00
DPC Industries Inc	Chemicals	PW	15,809.82
Ehlers	Vista Commons Metro Dist	ADM	7,500.00
Faris Machinery Co.	Parts	PW	842.90
Felsburg Holt & Ullevig	Engineering Services	ADM	1,195.38
Ferguson Waterworks	Supplies	PW	1,402.72
First Class Security Systems	Fire system maintenance	ADM	108.80
First National Bank	Monthly support	ADM	995.03
Grainger, Inc.	Tools & supplies	PW	578.09
Hill & Robbins, PC	Legal Services	PW	2,009.86
Hill & Robbins, PC	Billable services	AMD	1,426.00
Home Depot Pro	Office supplies	ALL	341.52
Home Depot/GEFCF, The	Tools & supplies	PW	393.93
IMEG Corp	Professional services	ADM	70.00
IMEG Corp	Billable services	ADM	13,910.00
Inertia Automation Inc	Repair	PW	10,390.05
John Cutler & Associates	Audit services	AMD	6,000.00
Jones Excavating & Plumbing	Repair	PW	3,000.00
Kenyon P. Jordan, Ph.D.	Professional service	PD	1,175.00
Larimer Co Clerk & Recorder	Recording fees	ADM	91.00
Larimer County Sales Tax Administrator	Use taxes	ADM	29,813.20
Lazar, Michael	Municipal court judge	ADM	1,125.00
Life Stories Child & Family Advocacy	Professional service	PD	156.00
Lockard Development Group Inc.	Review fee refund	ADM	1,939.28
Mission Communications, LLC	Professional service	PW	347.40
Newman	Signs	PW	2,650.91
NOCO Engineering Company	Engineering services	PW	5,643.55
O.J. Watson Company Inc	Auto repair	PW	7,151.00
Office Depot	Office supplies	PD	18.97
Office Scapes	Furniture	ADM	417.39
Poudre Valley REA	Utilities	PW	12,209.40

Town of Johnstown
List of Bills - May 13, 2019 to June 9, 2019

<u>Vendor</u>	<u>Description</u>	<u>Dept</u>	<u>Amount</u>
Renewable Fiber	Wood chips	PW	3,893.50
RG and Associates, LLC	Professional services	ADM	2,035.00
RG and Associates, LLC	Billable services	ADM	2,090.00
Royal-T	Professional service	PW	498.00
Southwest Direct, Inc.	Utility bill printing	ADM	2,035.00
Stanek Constructors	DAF Improvements	PW	186,874.67
TDS	Internet	ALL	343.13
Thompson Ranch Development	Tax reimbursement	ADM	16,313.50
Town of Johnstown	Shortage/Overage	ADM	504.15
Traffic Signal Controls Inc	Pedestrian crossing signals	PW	11,482.00
Trugreen Chemlawn	Lawn service	PW	1,050.00
U.S. Postal Service	Postage	PD	110.00
United Power	Street lights	PW	798.60
Various Residents	Utility & deposit refunds	ADM	989.25
Veris Environmental, LLC	Professional services	PW	599.44
Verizon Wireless	Cell phones	ALL	2,327.04
Weld County Dept of Public	Water/Wastewater testing	PW	2,508.50
Weld County Detention Center	Jail services	PD	109.87
Weld County Public Safety IT	RSA tokens	PD	432.12
WIN-911 Software	Annual maintenance	PW	495.00
Windstream	Phone services	ALL	1,868.81
WR Investment, LLC	Infrastructure cost reimb.	ADM	41,400.00
Xcel Energy	Utilities	ALL	3,325.18
			1,908,162.41

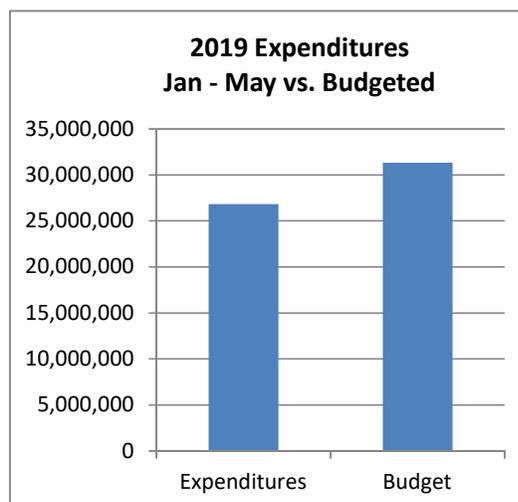
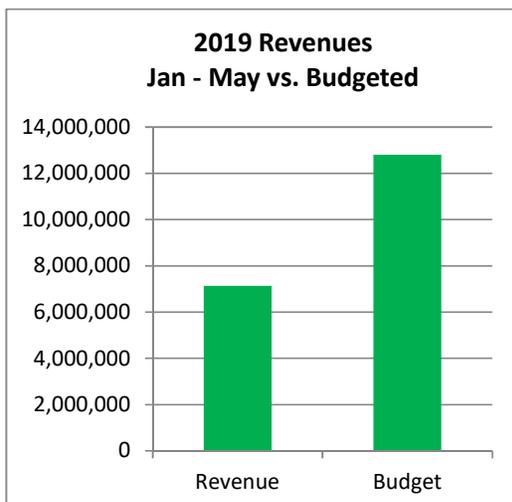
May Financial Statements

Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - General Fund
Period Ending May 31, 2019
Unaudited

General Fund	2019 Actuals Jan - May	2019 Adopted Budget	%
			Complete
Beginning Fund Balance*	46,372,234	46,372,234	
Revenues:			
Taxes & Fees	5,976,592	10,722,500	55.7%
Licenses & Permits	258,552	499,500	51.8%
Fines & Forfeitures	77,132	143,600	53.7%
Earnings on Investment	199,978	75,000	266.6%
Miscellaneous Revenue	(32,714)	53,000	-61.7%
Total Operating Revenues	7,140,903	12,806,000	55.8%
Expenditures:			
Legislative	12,157	78,900	15.4%
Judicial	13,483	51,100	26.4%
Elections	15	19,300	0.1%
Administration	231,044	493,300	46.8%
Planning & Zoning	122,468	242,900	50.4%
Police	1,011,611	2,662,900	38.0%
Inspections	70,557	189,000	37.3%
Streets	570,085	1,549,900	36.8%
Cemetery	4,735	42,900	11.0%
Animal Control	8,558	93,400	9.2%
Senior Coordinator	31,963	76,400	41.8%
Parks	8,155	64,400	12.7%
Library	196,875	472,500	41.7%
Contingent	72,185	468,700	15.4%
Transfers Out	24,485,976	24,846,000	98.6%
Total Expenditures	26,839,867	31,351,600	85.6%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	(19,698,963)	(18,545,600)	
Ending Fund Balance*	26,673,271	27,826,634	

* - Unaudited

41% of the fiscal year has elapsed

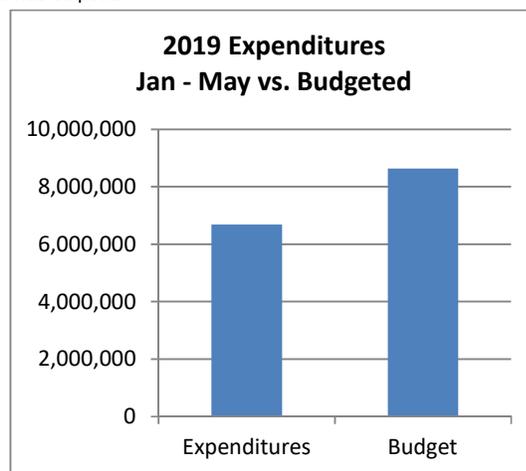
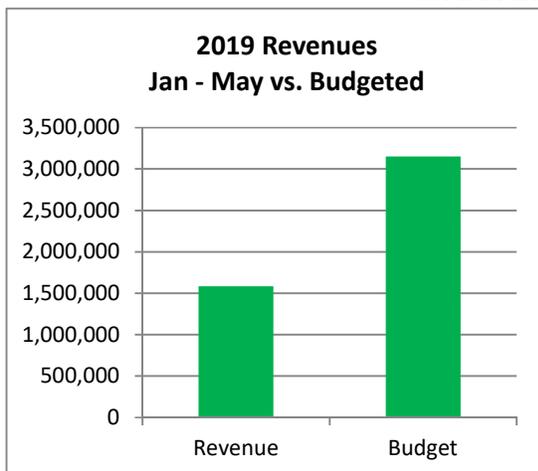


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Water Fund
Period Ending May 31, 2019
Unaudited

Water Fund	2019 Actuals Jan - May	2019 Adopted Budget	%
			Complete
Beginning Cash Balance*	23,276,463	23,276,463	
Revenues:			
Charges for Services	<u>716,345</u>	<u>2,745,000</u>	26.1%
Total Operating Revenues	<u>716,345</u>	<u>2,745,000</u>	26.1%
Expenses:			
Administration	128,238	441,100	29.1%
Operations	701,443	2,343,800	29.9%
Capital Outlay	5,854,826	5,854,826	100.0%
Depreciation	-	-	
Transfers Out	-	-	
Total Operating Expenses	<u>6,684,507</u>	<u>8,639,726</u>	77.4%
Operating Income (Loss)	<u>(5,968,162)</u>	<u>(5,894,726)</u>	
Non-Operating Revenues (Expenses)			
Tap Fees	180,425	-	
Capital Investment Fees	277,943	-	
Misc. Revenues	238,920	305,000	78.3%
Interest Expense	<u>171,428</u>	<u>100,000</u>	171.4%
Total Non-Operating Revenues (Expenses)	<u>868,716</u>	<u>405,000</u>	214.5%
Excess (Deficiency) of Revenues and Other Sources over Expenses	<u>(5,099,446)</u>	<u>(5,489,726)</u>	
Ending Cash Balance*	<u>18,177,017</u>	<u>17,786,737</u>	

* - Unaudited

41% of the fiscal year has elapsed

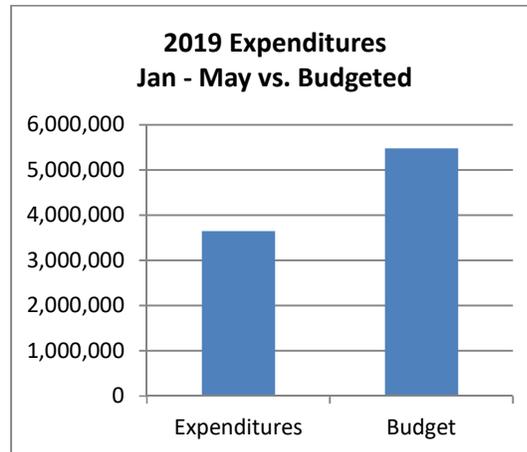
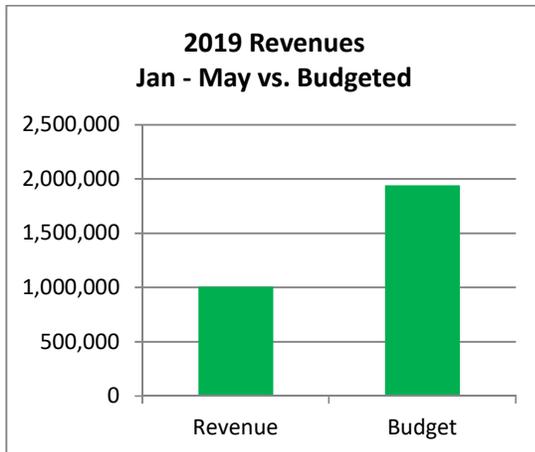


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Sewer Fund
Period Ending May 31, 2019
Unaudited

Sewer Fund	2019 Actuals Jan - May	2019 Adopted Budget	%
			Complete
Beginning Cash Balance*	10,901,997	10,901,997	
Revenues:			
Charges for Services	827,033	1,880,000	44.0%
Miscellaneous Revenue	-	-	
Total Operating Revenues	827,033	1,880,000	44.0%
Expenses:			
Administration	135,829	291,000	46.7%
Operations	365,368	2,043,000	17.9%
Capital Outlay	3,145,174	3,145,174	100.0%
Depreciation	-	-	
Total Operating Expenses	3,646,371	5,479,174	66.5%
Operating Income (Loss)	(2,819,338)	(3,599,174)	
Non-Operating Revenues (Expenses)			
Capital Improvement Fees	139,430	-	
Misc. Revenues	9,116	12,500	72.9%
Interest Expense	32,093	50,000	64.2%
Total Non-Operating Revenues (Expenses)	180,639	62,500	289.0%
Excess (Deficiency) of Revenues and Other Sources over Expenses	(2,638,700)	(3,536,674)	
Ending Cash Balance*	8,263,297	7,365,323	

* - Unaudited

41% of the fiscal year has elapsed

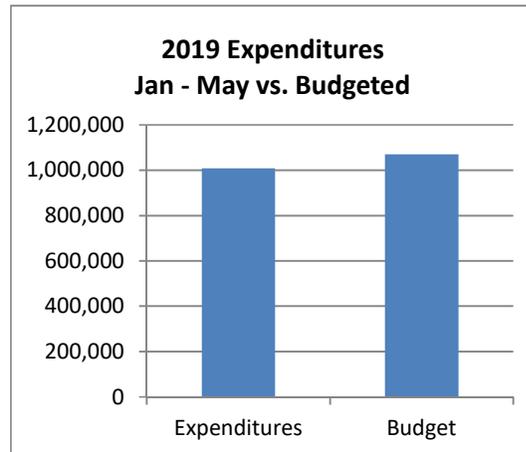
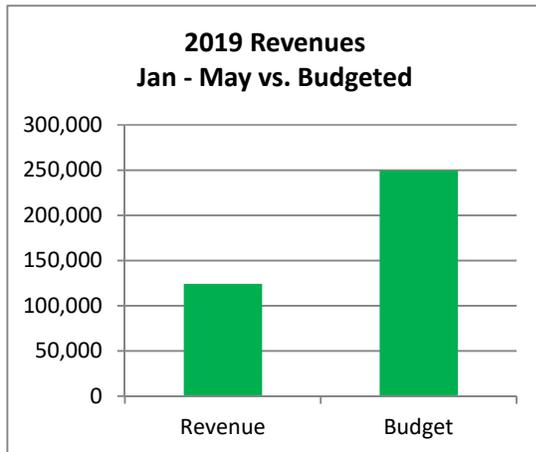


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Conservation Trust Fund
Period Ending May 31, 2019
Unaudited

Conservation Trust Fund	2019 Actuals Jan - May	2019 Adopted Budget	%
			Complete
Beginning Fund Balance*	2,651,796	2,651,796	
Revenues:			
Taxes & Fees	88,316	157,500	56.1%
Intergovernmental	29,519	72,000	41.0%
Earnings on Investment	6,188	15,000	41.3%
Miscellaneous	198	5,000	4.0%
Total Operating Revenues	<u>124,221</u>	<u>249,500</u>	49.8%
Expenditures:			
Operations	8,758	70,000	12.5%
Capital Outlay	<u>1,000,000</u>	<u>1,000,000</u>	100.0%
Total Expenditures	<u>1,008,758</u>	<u>1,070,000</u>	94.3%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	<u>(884,537)</u>	<u>(820,500)</u>	
Ending Fund Balance*	<u><u>1,767,259</u></u>	<u><u>1,831,296</u></u>	

* - Unaudited

41% of the fiscal year has elapsed

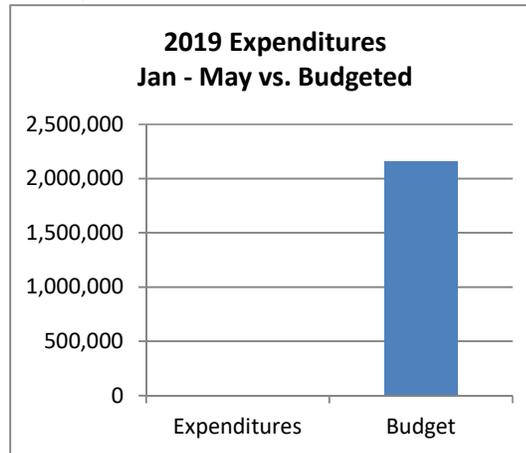
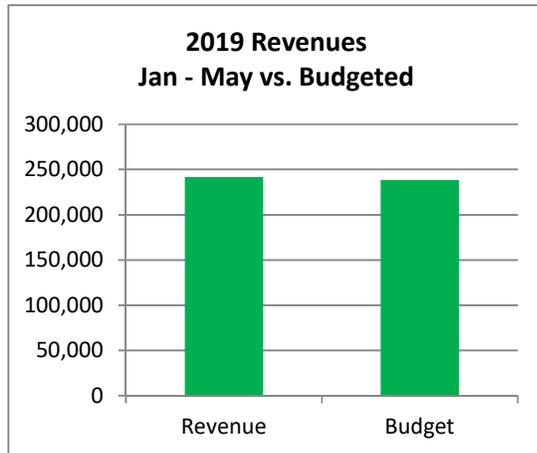


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Contingent Fund
Period Ending May 31, 2019
Unaudited

Contingent Fund	2019 Actuals Jan - May	2019 Adopted Budget	%
			Complete
Beginning Fund Balance*	1,964,383	1,964,383	
Revenues:			
Earnings on Investment	16,556	13,500	122.6%
Transfers In	225,000	225,000	
Total Operating Revenues	<u>241,556</u>	<u>238,500</u>	101.3%
Expenditures:			
Transfers Out	-	2,161,900	0.0%
Total Expenditures	<u>-</u>	<u>2,161,900</u>	0.0%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	<u>241,556</u>	<u>(1,923,400)</u>	
Ending Fund Balance*	<u><u>2,205,939</u></u>	<u><u>40,983</u></u>	

* - Unaudited

41% of the fiscal year has elapsed

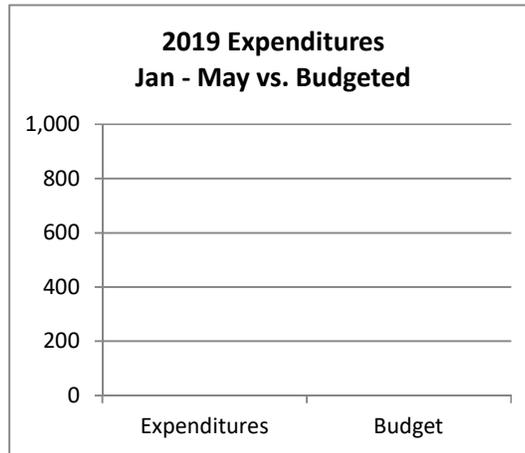
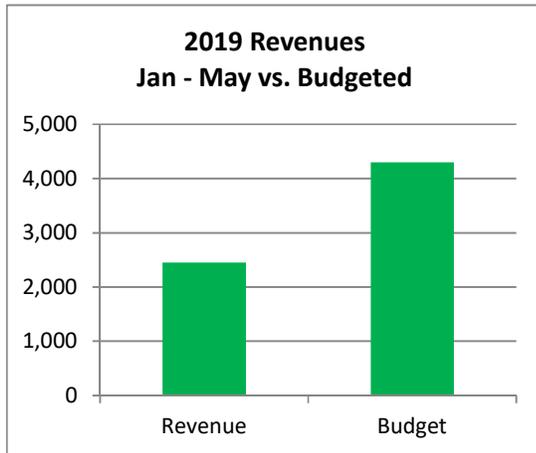


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Cemetery Fund
Period Ending May 31, 2019
Unaudited

Cemetery Fund	2019 Actuals Jan - May	2019 Adopted Budget	%
			Complete
Beginning Fund Balance*	120,895	120,895	
Revenues:			
Miscellaneous Revenue	1,287	3,000	42.9%
Earnings on Investment	1,163	1,300	89.5%
Total Operating Revenues	2,450	4,300	57.0%
Expenditures:			
Operations & Maintenance	-	-	
Capital Outlay	-	-	
Transfers Out	-	-	
Total Expenditures	-	-	
Excess (Deficiency) of Revenues and Other Sources over Expenditures	2,450	4,300	
Ending Fund Balance*	123,345	125,195	

* - Unaudited

41% of the fiscal year has elapsed

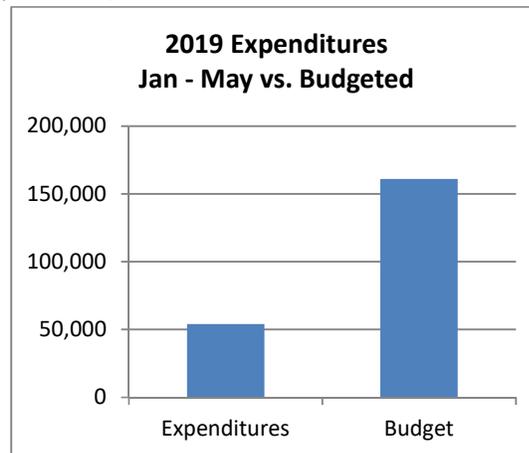
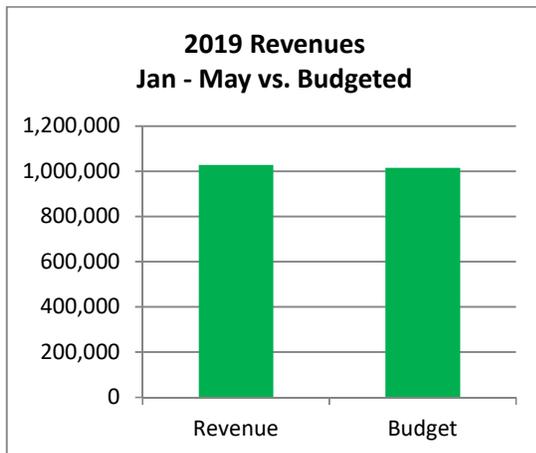


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Equipment Replacement Fund
Period Ending May 31, 2019
Unaudited

Equipment Replacement Fund	2019 Actuals Jan - May	2019 Adopted Budget	%
			Complete
Beginning Fund Balance*	3,770,626	3,770,626	
Revenues:			
Earnings on Investment	27,790	15,000	185.3%
Transfers In	1,000,000	1,000,000	
Total Operating Revenues	<u>1,027,790</u>	<u>1,015,000</u>	101.3%
Expenditures:			
Capital	<u>53,958</u>	<u>161,000</u>	33.5%
Total Expenditures	<u>53,958</u>	<u>161,000</u>	33.5%
Excess (Deficiency) of Revenues Over Expenditures	<u>973,831</u>	<u>854,000</u>	
Ending Fund Balance*	<u><u>4,744,457</u></u>	<u><u>4,624,626</u></u>	

* - Unaudited

41% of the fiscal year has elapsed

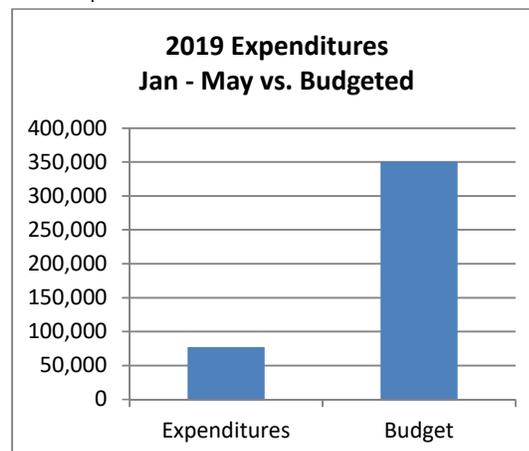
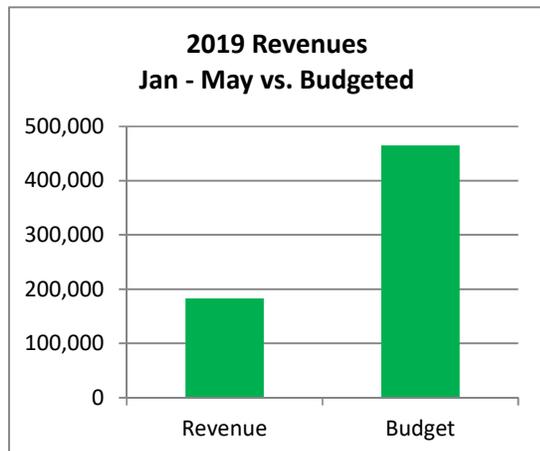


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Drainage Fund
Period Ending May 31, 2019
Unaudited

Drainage Fund	2019 Actuals Jan - May	2019 Adopted Budget	%
			Complete
Beginning Cash Balance*	2,975,713	2,975,713	
Revenues:			
Charges for Services	<u>182,759</u>	<u>430,000</u>	42.5%
Total Operating Revenues	<u>182,759</u>	<u>430,000</u>	42.5%
Expenses:			
Administration	36,003	100,600	35.8%
Operations	41,196	249,900	16.5%
Capital Improvements	-	-	
Transfer Out	-	-	
Total Operating Expenses	<u>77,199</u>	<u>350,500</u>	22.0%
Operating Income (Loss)	<u>105,559</u>	<u>79,500</u>	
Non-Operating Revenues (Expenses)			
Capital Revenues	-	-	
Misc. Revenues	-	-	
Interest Expense	<u>22,446</u>	<u>35,000</u>	64.1%
Total Non-Operating Revenues (Expenses)	<u>22,446</u>	<u>35,000</u>	64.1%
Excess (Deficiency) of Revenues and Other Sources over Expenses	<u>128,005</u>	<u>114,500</u>	
Ending Cash Balance*	<u>3,103,718</u>	<u>3,090,213</u>	

* - Unaudited

41% of the fiscal year has elapsed

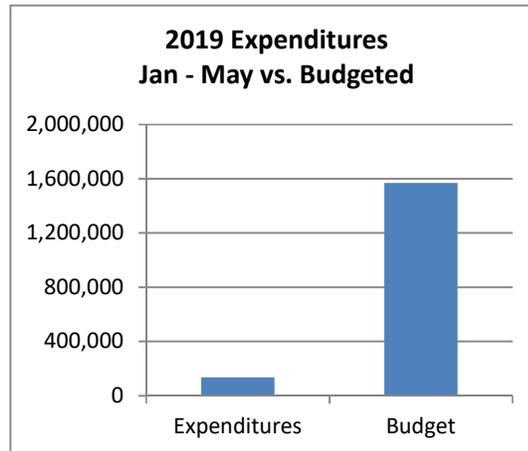
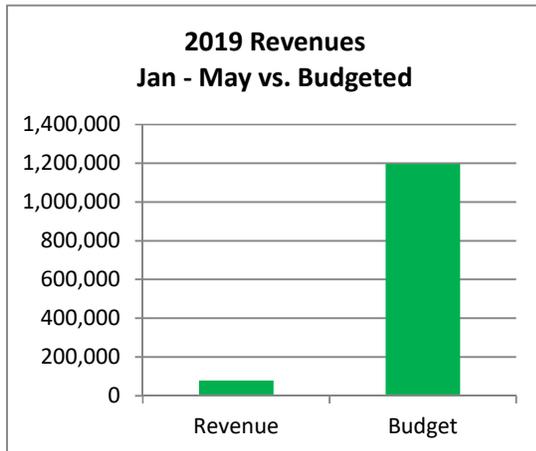


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Library Fund
Period Ending May 31, 2019
Unaudited

Library Fund	2019 Actuals Jan - May	2019 Adopted Budget	%
			Complete
Beginning Fund Balance*	1,872,089	1,872,089	
Revenues:			
Earnings on Investment	-	1,184,900	0.0%
Miscellaneous Revenue	77,843	9,000	864.9%
Transfers In	-	3,000	0.0%
Total Operating Revenues	<u>77,843</u>	<u>1,196,900</u>	6.5%
Expenditures:			
Operations	134,980	720,000	18.7%
Capital Outlay	-	850,000	0.0%
Total Expenditures	<u>134,980</u>	<u>1,570,000</u>	8.6%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	<u>(57,137)</u>	<u>(373,100)</u>	
Ending Fund Balance*	<u><u>1,814,951</u></u>	<u><u>1,498,989</u></u>	

* - Unaudited

41% of the fiscal year has elapsed

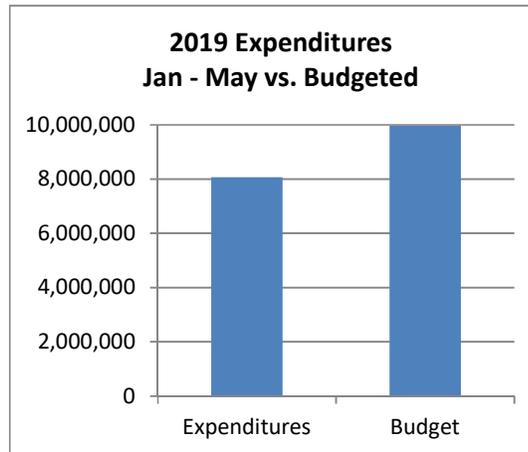
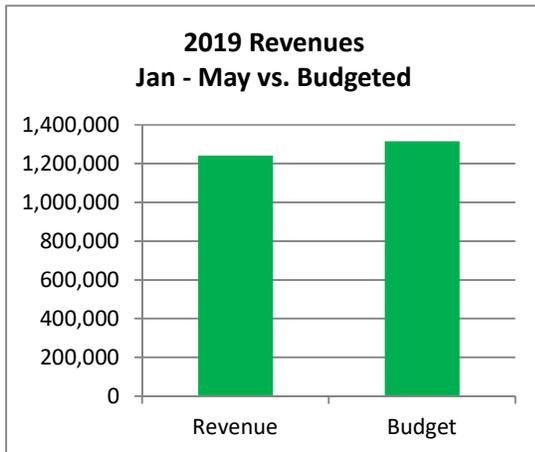


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Capital Projects Fund
Period Ending May 31, 2019
Unaudited

Capital Projects Fund	2019 Actuals Jan - May	2019 Adopted Budget	%
			Complete
Beginning Fund Balance*	19,867,294	19,867,294	
Revenues:			
Taxes and Fees	1,117,039	1,200,000	93.1%
Miscellaneous Revenue	-	15,000	0.0%
Interest	124,280	100,000	124.3%
<i>Transfers In</i>	-	-	
Total Operating Revenues	<u>1,241,319</u>	<u>1,315,000</u>	94.4%
Expenditures:			
Capital Outlay	73,704	1,973,500	0.0%
<i>Transfers Out</i>	<u>8,000,000</u>	<u>8,000,000</u>	0.0%
Total Expenditures	<u>8,073,704</u>	<u>9,973,500</u>	81.0%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	<u>(6,832,385)</u>	<u>(8,658,500)</u>	
Ending Fund Balance*	<u>13,034,909</u>	<u>11,208,794</u>	

* - Unaudited

41% of the fiscal year has elapsed

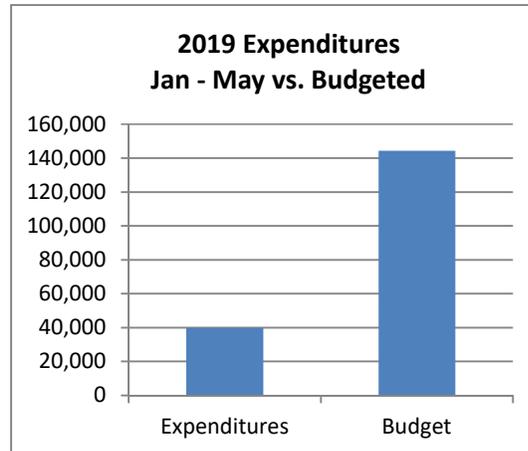
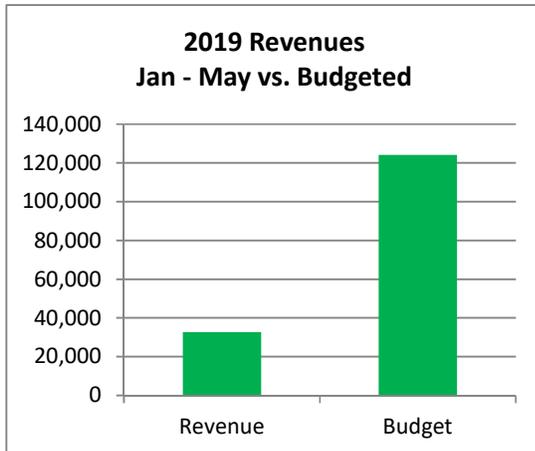


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Johnson's Corner Improvement Fund
Period Ending May 31, 2019
Unaudited

Johnson's Corner Improvement Fund	2019 Actuals Jan - May	2019 Adopted Budget	%
			Complete
Beginning Fund Balance*	19,275	19,275	
Revenues:			
Taxes & Fees	32,712	124,000	26.4%
Earnings on Investment	11	100	11.0%
Total Operating Revenues	<u>32,723</u>	<u>124,100</u>	26.4%
Expenditures:			
Capital Outlay	<u>39,824</u>	<u>144,300</u>	27.6%
Total Expenditures	<u>39,824</u>	<u>144,300</u>	27.6%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	<u>(7,102)</u>	<u>(20,200)</u>	
Ending Fund Balance*	<u>12,173</u>	<u>(925)</u>	

* - Unaudited

41% of the fiscal year has elapsed

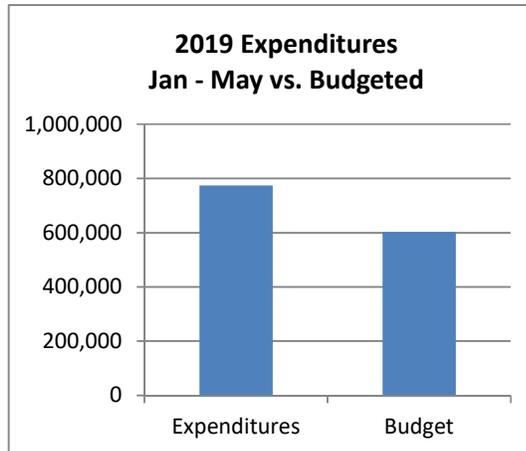
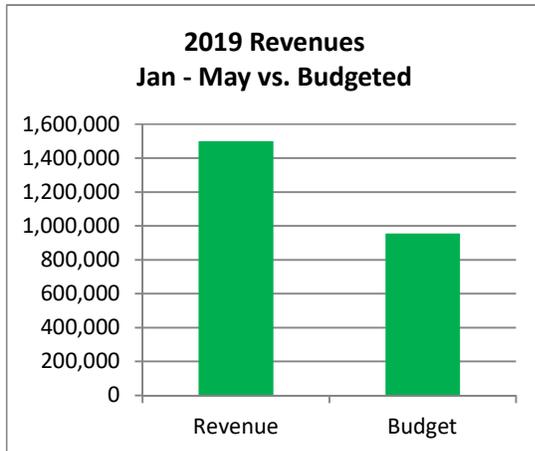


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Impact Fund
Period Ending May 31, 2019
Unaudited

Impact Fund	2019 Actuals Jan - May	2019 Adopted Budget	%
			Complete
Beginning Fund Balance*	18,435,604	18,435,604	
Revenues:			
Taxes & Fees	1,396,456	855,000	163.3%
Earnings on Investment	103,806	100,000	103.8%
Total Operating Revenues	<u>1,500,262</u>	<u>955,000</u>	157.1%
Expenditures:			
Capital Outlay	<u>774,660</u>	<u>602,839</u>	128.5%
Total Expenditures	<u>774,660</u>	<u>602,839</u>	128.5%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	<u>725,602</u>	<u>352,161</u>	
Ending Fund Balance*	<u>19,161,206</u>	<u>18,787,765</u>	

* - Unaudited

41% of the fiscal year has elapsed

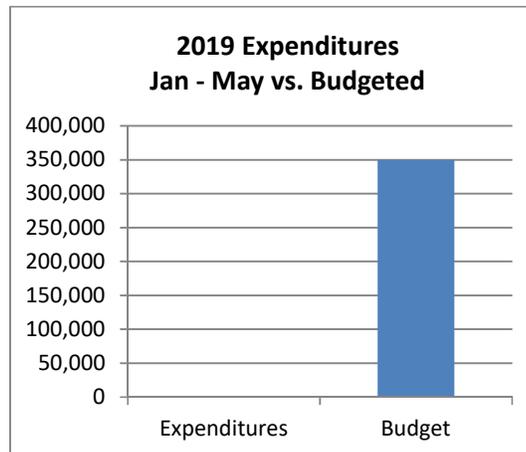
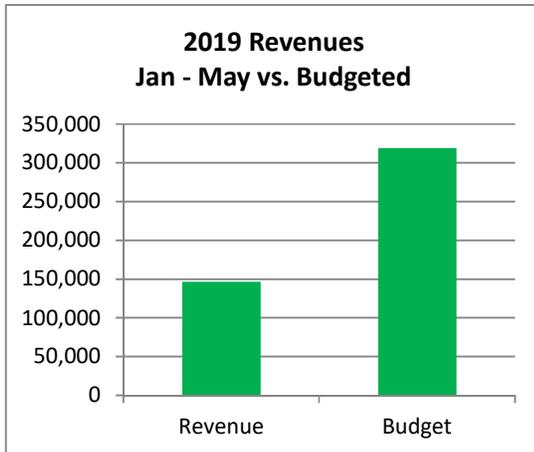


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Street Maintenance Fund
Period Ending May 31, 2019
Unaudited

Street Maintenance Fund	2019 Actuals Jan - May	2019 Adopted Budget	%
			Complete
Beginning Fund Balance*	300,231	300,231	
Revenues:			
Taxes & Fees	145,755	319,000	45.7%
Earnings on Investment	615	100	615.0%
Total Operating Revenues	<u>146,370</u>	<u>319,100</u>	45.9%
Expenditures:			
Operations & Maintenance	<u>55</u>	<u>350,000</u>	0.0%
Total Expenditures	<u>55</u>	<u>350,000</u>	0.0%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	<u>146,316</u>	<u>(30,900)</u>	
Ending Fund Balance*	<u>446,546</u>	<u>269,331</u>	

* - Unaudited

41% of the fiscal year has elapsed

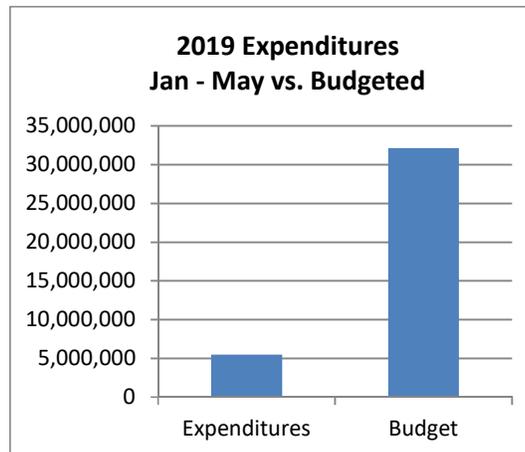
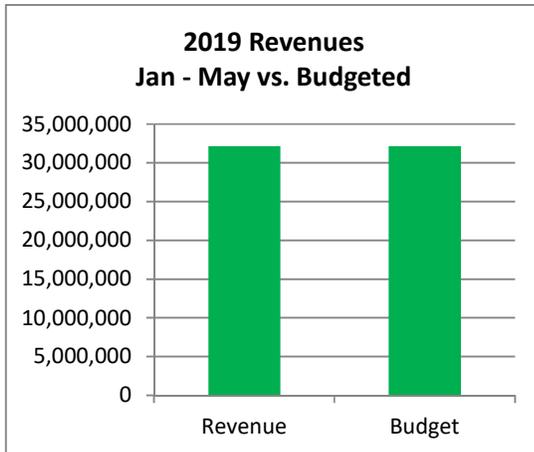


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Recreation Center Fund
Period Ending May 31, 2019
Unaudited

Recreation Center Fund	2019 Actuals Jan - May	2019 Adopted Budget	%
			Complete
Beginning Fund Balance*	0	0	
Revenues:			
Transfers In	32,150,000	32,150,000	100.0%
Earnings on Investment	-	-	
Total Operating Revenues	32,150,000	32,150,000	100.0%
Expenditures:			
Operations & Maintenance	5,476,006	32,000,000	17.1%
Total Expenditures	5,476,006	32,000,000	17.1%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	26,673,994	150,000	
Ending Fund Balance*	26,673,994	150,000	

* - Unaudited

41% of the fiscal year has elapsed



Ordinance 2019-161

**TOWN OF JOHNSTOWN, COLORADO
ORDINANCE NO. 2019-161**

**AN ORDINANCE AMENDING ARTICLE I OF CHAPTER 11 OF THE
JOHNSTOWN MUNICIPAL CODE TO INCLUDE SECTION 11-7
CONCERNING THE SALE, EXCHANGE OR DISPOSITION OF REAL
PROPERTY, PUBLIC BUILDINGS AND PUBLIC UTILITIES**

WHEREAS, the Town of Johnstown, Colorado (“Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

WHEREAS, Section 6 of Article XX of the Colorado Constitution recognizes the right of home rule municipalities to legislate with respect to matters of local concern, which includes a home rule municipality’s right to determine how to sell, exchange or dispose of real property, public buildings and public utilities; and

WHEREAS, consistent with the Town’s Home Rule Charter, the Town Council desires to amend the Johnstown Municipal Code to set forth the manner and process by which the Town may sell, exchange or dispose of real property, public buildings and public utilities; and

WHEREAS, the Town Council deems this Ordinance to be in the best interests of the Town of Johnstown.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, AS FOLLOWS:

Section 1. Article I of Chapter 11 of the Johnstown Municipal Code shall be amended to include Section 11-7, which shall read as follows:

ARTICLE I GENERAL

Sec. 11-7 Sale, exchange or disposition of Town property.

The Town may sell, exchange or dispose of real property, public buildings or public utilities, used or held for any purpose, by ordinance upon such terms and conditions as Town Council deems to be in the best interests of the Town. Alternatively, in Town Council’s discretion, the Town may submit the question of the sale, exchange or disposition of real property, public buildings or public utilities and the terms and conditions thereof to the electors at a regular or special election.

Section 2. Severability. If any part or provision of this Ordinance, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision, or application shall not affect any of the remaining parts, provisions or applications of this Ordinance that can be given effect without the invalid provision, part or application, and to this end the provisions and parts of this Ordinance are declared to be severable.

Section 3. Publication and Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Town Charter and the adoption, posting and publication shall be authenticated by the signature of the Mayor and the Town Clerk and by the Certificate of Publication. This Ordinance shall become effective upon final passage as provided by the Home Rule Charter of the Town of Johnstown, Colorado. Copies of the entire Ordinance are available at the office of the Town Clerk.

INTRODUCED, AND APPROVED on first reading by the Town Council of the Town of Johnstown, Colorado, this 31st day of June, 2019.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By:

Diana Seele
Diana Seele, Town Clerk

By:

Gary Lebsack
Gary Lebsack, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this _____ day of _____, 2019.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By:

Diana Seele, Town Clerk

By:

Gary Lebsack, Mayor

**Lease of Water Rights Agreement
(9 Shares Home Supply Water)**

LEASE OF WATER RIGHTS

THIS LEASE AGREEMENT is entered into this ____ day of day of _____, 2019, by and between the Town of Johnstown, Colorado, a municipal corporation, hereinafter "Landlord," and Raymond Schwarz and Marvin Schwarz, individuals, hereinafter collectively "Tenant," and J&J Holdings, LLC, a Colorado limited liability company, hereinafter "Developer." Landlord, Tenant and Developer may collectively be referred to as the "Parties" or individually as a "Party."

RECITALS

WHEREAS, Landlord is the owner of nine (9) shares of capital stock of The Consolidated Home Supply Ditch and Reservoir Company, represented by stock certificate number 6958, a copy of which is attached hereto and incorporated herein by reference as Exhibit A ("Water Rights");

WHEREAS, Tenant is the owner of property described on Exhibit B, which is attached hereto and incorporated herein by this reference ("Property"), which Property has historically been irrigated with the Water Rights;

WHEREAS, Developer, or Developer's managing member, John Giuliano, in his individual capacity, purchased the Water Rights from Tenant and thereafter dedicated the Water Rights to Landlord for use by a development of real property comprised of approximately 307 acres located generally on the north side of U.S. Highway 34 east of Larimer County Road 3, to be known as the Encore on 34 development;

WHEREAS, Tenant desires to lease the Water Rights to irrigate the Property consistent with the historical use;

WHEREAS, Developer agrees, subject to Landlord approval, that the Water Rights may be leased until such time as the Water Rights are used for municipal, augmentation and/or exchange purposes by Landlord; and

WHEREAS, Tenant has executed and recorded a dry-up covenant, providing, upon termination of this Lease, that it shall permanently discontinue irrigating the Property with, and otherwise cease all consumptive use of, the Water Rights, as set forth on Exhibit C ("Dry-Up Covenant"); and

WHEREAS, upon the terms and conditions set forth herein, Landlord desires to lease the Water Rights to the Tenant.

AGREEMENT

THEREFORE, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Recitals:** The Recitals are incorporated herein and made a part hereof.
2. **Term of Lease:** The initial term of this Lease shall be for a period of two years, commencing on April 1, 2019 and ending on November 30, 2020.
3. **Automatic Renewal:** At the expiration of the initial two year term of this Lease, this Lease shall automatically renew for a period of one year and shall thereafter automatically renew for succeeding and consecutive one year periods until either the Landlord or the Tenant provides written notice to the other Party of the termination of the Lease on or before the end of the term (including renewal term(s)).
4. **Early Termination:** Notwithstanding the foregoing, Landlord, in its sole discretion, may terminate this Lease after the initial two-year term by providing written notice to the Tenant on or before December 1 of any given calendar year of the termination of the Lease. Upon receipt of such notice, this Lease shall be deemed terminated at the end of such calendar year.
5. **Use of Water Rights:** The Tenant shall, during the term of this Lease and any and all renewal terms, have the use and benefit of the Water Rights for irrigation. Upon termination of this Lease, Tenant shall permanently cease using the Water Rights to irrigate the Property and shall otherwise cease all consumptive use of the water attributable to the Water Rights as set forth in the Dry-Up Covenant.
6. **Rent:** Tenant shall pay to the Landlord as rent for the use and benefit of the Water Rights the amount of Five Hundred Dollars (\$500.00) per year during the initial term of the Lease and any and all renewal terms, unless such rental amount is modified by mutual written agreement of the parties.
7. **Payment of Assessments and Obligations:** During the term of this Lease and any and all renewal terms, Tenant shall be responsible for all assessments and obligations due and owing to The Consolidated Home Supply Ditch and Reservoir Company relating to the use of the Water Rights. Landlord shall pay those sums on Tenant's behalf and, upon notice, Tenant shall promptly reimburse Landlord. Tenant shall not be entitled to delivery of water until the assessments and obligations are paid.
8. **Amendments:** Any and all amendments to this Lease shall be in writing and signed by all Parties.
9. **Notice.** Any notice required to be provided under this Lease shall be in writing and shall be deemed to have been duly given if personally delivered, sent by a nationally recognized overnight delivery service, or sent by certified mail, return receipt requested:

To Landlord: Town of Johnstown
Attn: Town Manager
450 S. Parish Avenue
Johnstown, CO 80534

With a copy: Law Office of Avi S. Rocklin, LLC
Attn: Avi Rocklin, Town Attorney
1437 N. Denver Avenue, #330
Loveland, CO 80538

To Tenant:

Raymond Schwarz and Marvin Schwarz
2551 East Larimer County Road 16E
Loveland, CO 80537

To Developer:

J&J Holdings, LLC
c/o John Giuliano, Manager
308 Commerce Drive
Ft. Collins, CO 80524

10. Indemnification. Tenant and Developer agree to indemnify, protect, defend and save harmless Landlord from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements and/or expenses (including, without limitation, reasonable attorneys' and experts' fees, expenses and disbursements) of any kind or nature whatsoever which may at any time be imposed upon, incurred by or asserted or awarded against Landlord, relating to or arising from the use of the Water Rights in a manner inconsistent with the historic consumptive use, in a manner inconsistent with the Dry-Up Covenant, or in an otherwise unlawful manner.

11. No Presumption. The Parties acknowledge that each has obtained, or has had the opportunity to obtain, the advice of legal counsel of its own choosing in connection with the negotiation and execution of this Lease and with respect to all matters set forth herein. Each Party acknowledges that it has carefully read and reviewed the terms of this Lease and that the entry into and execution of this Lease is its own free and voluntary act and deed, without compulsion. The Parties agree that this Lease reflects the joint drafting efforts of all Parties and in the event of any dispute, disagreement or controversy arising from this agreement, the Parties shall be considered joint authors and no provision shall be interpreted against any Party because of authorship.

12. Costs and Attorney Fees. In the event legal action is required to enforce the provisions of this Lease, the court shall award to the Landlord, if the prevailing party, all reasonable costs and expenses, including attorney's fees.

13. Governing Law and Venue. The terms of this Agreement shall be governed by and construed in accordance with Colorado law. Venue for any claim, proceeding or action arising out of this Lease shall be in Larimer or Weld County, Colorado.

14. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties and supersedes all prior agreements or understandings.

15. Assignment: If this Lease were assigned to a third party, the assigning Party shall provide written notice to the other party prior to such assignment.

16. Successors. This Lease shall be binding on and shall inure to the benefit of the Parties' heirs, successors or assigns.

17. Headings. The headings used herein are for convenience purposes only and shall not limit the meaning of the language contained herein.

LANDLORD:

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor

TENANT:

By: Raymond Schwarz
Raymond Schwarz

By: Marvin Schwarz
Marvin Schwarz

DEVELOPER

J&J Holdings, LLC
a Colorado limited liability company

By: John G. Gioliano
Name: John G. Gioliano
Title: Member

EXHIBIT A

Copy of Stock Certificate

[To be attached]

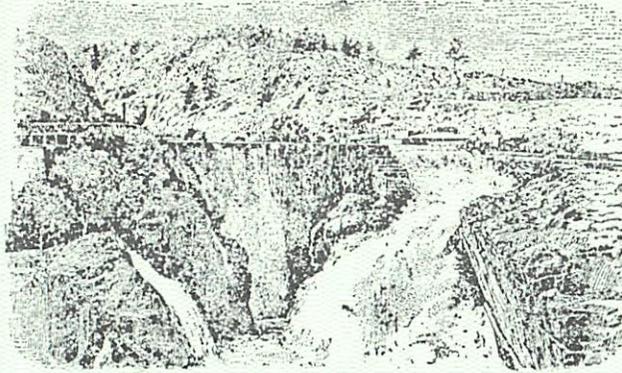
No 6958

Incorporated Under the
Laws of the State of Colorado

- 9 -
Shares

The Consolidated Home Supply Ditch and Reservoir Co.

CAPITAL STOCK
\$100,000



2,000 SHARES
\$50 EACH

This is to Certify that Town of Johnstown

is the owner of Nine Shares of Capital Stock of
The Consolidated Home Supply Ditch and Reservoir Company, full paid
transferrable only on the books of the Company, in person, or by attorney,
on surrender of this certificate.

Witness the Seal of the Company and the Signatures of the President
and Secretary at Loveland, Colorado, this 8TH day of April

192019

Minerva J. Lee
President

Don A. Schutt
Secretary

EXHIBIT B

Legal Description of Property

[To be attached]

Legal Description

The S2 of the SW4 of Section 32, Township 5 North, Range 68 West of the 6th P.M., Larimer County, Colorado less one acre more or less in the SW corner as conveyed to School District No. 57 by Warranty Deed recorded in Book 82, Page 361.

EXHIBIT C

Copy of Dry-Up Covenant

[To be attached]

**RESTRICTIVE DRY-UP COVENANT; GRANT OF EASEMENT;
WARRANTY OF FIRST RIGHT TO DRY-UP CREDIT;
AND AGREEMENT TO ASSIST**

THIS COVENANT, Agreement, Warranty and Easement ("Covenant") are made and given this 5th day of April, 2019, by Raymond Schwarz and Marvin Schwarz, individual owners of real property in Larimer County, Colorado (collectively, "Owner"), and accepted by the Town of Johnstown, a home rule municipal corporation of the State of Colorado ("Town").

RECITALS

WHEREAS, Owner entered into an agreement with John Giuliano, managing member of J&J Holdings, LLC, a Colorado limited liability company ("Developer"), dated on or about February 25, 2019, whereby Owner agreed to sell, transfer and assign and Developer agreed to accept nine (9) share(s) of the Capital Stock of The Consolidated Home Supply Ditch and Reservoir Company represented by stock certificate number(s) number 6949 ("Water Rights"), which stock certificate number may change upon Developer's purchase of the Water Rights, in connection with a development of real property comprised of approximately 307 acres located generally on the north side of U.S. Highway 34 east of Larimer County Road 3, known as the Encore on 34 development ("Purchase and Sale Agreement");

WHEREAS, Owner has historically used the Water Rights to irrigate approximately 68 acres of real property located in Larimer County, Colorado, described in Exhibit A, attached hereto and incorporated herein by reference;

WHEREAS, Owner recognizes, acknowledges and agrees that Developer intends to dedicate the Water Rights to the Town of Johnstown, a Colorado home-rule municipal corporation ("Town"), to be used for municipal purposes, including augmentation and exchange purposes, and in order to effect such uses, the Water Rights will need to be changed permanently in an appropriate change of water rights proceeding before the District Court, Water Division No. 1, State of Colorado ("Water Court"), from irrigation to municipal, augmentation and/or exchange purposes;

WHEREAS, Owner has retained one share of the Capital Stock of The Consolidated Home Supply Ditch and Reservoir Company and intends to continue irrigating approximately ten-percent (10%) of the real property with the reserved water, or approximately 6.8 acres of the real property, in the location described in Exhibit B, attached hereto and incorporated herein by reference; and

WHEREAS, for purposes of this Covenant, the term "Property" shall include all the real property described in Exhibit C, attached hereto and incorporated herein by reference, which includes the real property described in Exhibit A except for the real property described in Exhibit B;

WHEREAS, Owner understands and agrees that the Town, in its discretion, may request or the Water Court may require, as a term and condition of such change, that the Property be dried up and not used for irrigation; and

WHEREAS, Owner understands and agrees that, upon dedication of the Water Rights to the Town, the Town shall have the right to rely upon and enforce this Covenant.

AGREEMENT

NOW, THEREFORE, in consideration of the purchase of the Water Rights by Developer, and other good and valuable consideration, the receipt and sufficiency of which Owner acknowledges, Owner hereby covenants, agrees and grants as follows:

1. The Recitals are incorporated as if fully set forth herein.
2. From and after the date hereof, Owner covenants and agrees to permanently discontinue irrigation of the Property with any water diverted pursuant to the Water Rights. For the purposes of this Covenant, irrigation with water diverted pursuant to the Water Rights includes irrigation with wells augmented by the Water Rights. Owner further covenants and agrees that, except in compliance with the provisions of paragraph 5, below, the Property shall not be irrigated by any water tributary to the South Platte River.
3. Owner, at its sole expense, shall take any action necessary to accomplish the full and complete establishment of a self sustaining dry land vegetative ground cover on all of the Property and eliminate any consumptive use of water for irrigation purposes on the Property as may be determined and/or required by a judgment and decree entered in any case involving the change or exchange of any of the Water Rights, or by the State Engineer, State of Colorado, in any approval by his office of a substitute water supply plan entered pursuant to the provisions of Section 37-92-308, Colorado Revised Statutes, as the same may be amended or replaced, during the duration of such plan. Owner further agrees that it will not take any actions that would violate such court order or decree.
4. Upon Developer's dedication of the Water Rights to the Town, Owner hereby grants to the Town a non-exclusive perpetual easement for the purpose of providing a reasonable means for the Town and its agents, as well as the State Engineer of the State of Colorado and agents thereof, to obtain access to and over the Property as may be necessary to monitor, conduct site inspections, install observation wells or lysimeters, perform soil evaporation and plant transpiration tests, vegetative studies and surveys, and take other reasonable actions to effectuate and enforce this Covenant and to confirm the dry-up and revegetation of the Property as may be required by the State Engineer or by any court or tribunal of competent jurisdiction.
5. Unless otherwise required by any decree changing the Water Rights, or allowing such rights to be exchanged, or by the conditions of any substitute water supply plan as may be approved by the State Engineer, this Covenant shall not prohibit the Owner or Owner's successors and assigns from irrigating the Property with water rights which may in the future be transferred to such Property and for such use through an appropriate Water Court proceeding,

irrigating the Property with water from a well or wells to be constructed in the future that are authorized to pump pursuant to a Water Court-approved plan for augmentation, irrigating the Property with water that is not tributary to the South Platte River, to include not-nontributary water that is duly augmented, or irrigating the Property with treated water supplied by a municipality or a water district.

6. In the event that Owner, or Owner's successors or assigns, defaults in its obligations to dry up and revegetate the Property as required by this Covenant, the easement described herein also shall entitle the Town, at Owner, or Owner's successors or assigns, to take all actions necessary to accomplish the dry-up and revegetation of the Property, including, but not limited to, the construction of drainage and conveyance ditches, monumenting dried up acreage, revegetating with drought resistance plants, and removing and filling in of all or portions of irrigation ditches or farm laterals. Owner, and Owner's successors or assigns, shall be jointly and severally responsible for all direct and indirect costs incurred by Town to cure Owner's default.

7. The Property shall not be planted with, nor have upon it, any alfalfa or similar deep rooted crop, and any alfalfa or similar deep rooted crop presently existing, or which may exist in the future, shall be eradicated by Owner by deep tilling, chemical treatment or other means, unless otherwise allowed by the Town in a signed writing.

8. This Covenant shall burden, attach to and run with the Property, and shall be binding not only upon the Owner, but also upon Owner's heirs, successors and assigns and any other persons or entities which may acquire an ownership or leasehold interest in all or any portion of the Property. This Covenant shall also run with and benefit the Water Rights. The terms and provisions of this Covenant shall not expire and shall be perpetual unless specifically released in writing by the Town. This Covenant may be enforced by the Town or by any party having any right, title or interest in the Water Rights or by the State Engineer of the State of Colorado, at any time in any action at law or in equity.

9. Owner further warrants and represents that this Covenant shall entitle the Town to the first and prior right to claim credit for the dry-up or nonirrigation of the Property. Owner shall reasonably cooperate with the Town to demonstrate the dry up and revegetation of the Property. Owner agrees to provide the Town with all assistance the Town may reasonably require in regard to the above-referenced change of the Water Rights, including but not limited to providing affidavits and testimony before the Water Court, at no cost to the Town.

10. Notwithstanding the provisions of this Covenant, prior to establishing dry up of the Property as set forth herein, the Town may, in its discretion, enter into a written lease agreement with the Owner for irrigation of the Property for a limited duration. During the term of said lease agreement, the requirements of paragraphs 2-7, above, shall be suspended. The lease agreement shall not be valid, under any circumstances, once the Water Rights are used for municipal, augmentation and/or exchange purposes by the Town.

11. This Covenant may be enforced by the Town or by any party having any right, title or interest in the Water Rights or by the State Engineer of the State of Colorado, at any time in any action at law or in equity.

12. This Covenant shall be recorded in the real property records in the office of the Larimer County Clerk and Recorder.

OWNER

Raymond Schwarz
By: Raymond Schwarz

STATE OF COLORADO)
) ss.
COUNTY OF Larimer)

The foregoing instrument was acknowledged before me this 5th day of April, 2019, by Raymond Schwarz.

WITNESS my hand and official seal.



Beth A. Aksamitowski
Notary Public
My commission expires: 12-10-22

OWNER

Marvin Schwarz
By: Marvin Schwarz

STATE OF COLORADO)
) ss.
COUNTY OF Larimer)

The foregoing instrument was acknowledged before me this 5th day of April, 2019, by Marvin Schwarz.

WITNESS my hand and official seal.



Beth A. Aksamitowski
Notary Public
My commission expires: 12-10-22

Accepted for and on behalf of TOWN OF JOHNSTOWN

Matt Zee

Title: TOWN MANAGER

Date: APRIL 10, 2019

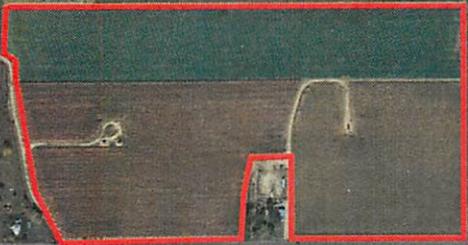


**Exhibit A -
Elmquist Farm**

Legend

Chapman Reservoir

Approx. 68 acres irrigated.
Located in S 1/2 of S 1/4 of
Section 32, R68W, T5N, 6th
P.M.



Google Earth

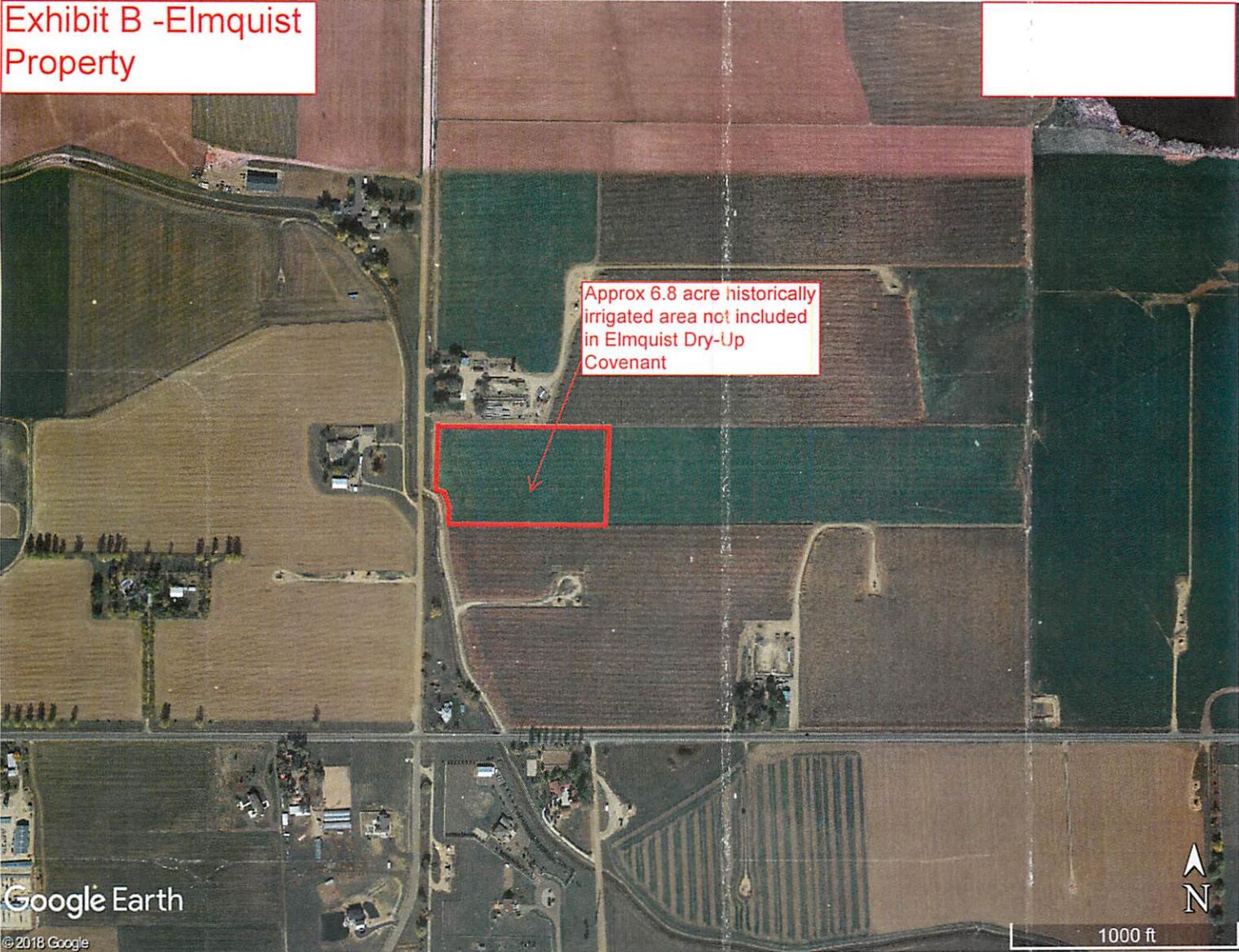
© 2018 Google

Idle and Starbird Reservoir



3000 ft

Exhibit B -Elmquist Property



Approx 6.8 acre historically irrigated area not included in Elmquist Dry-Up Covenant

Google Earth

© 2018 Google

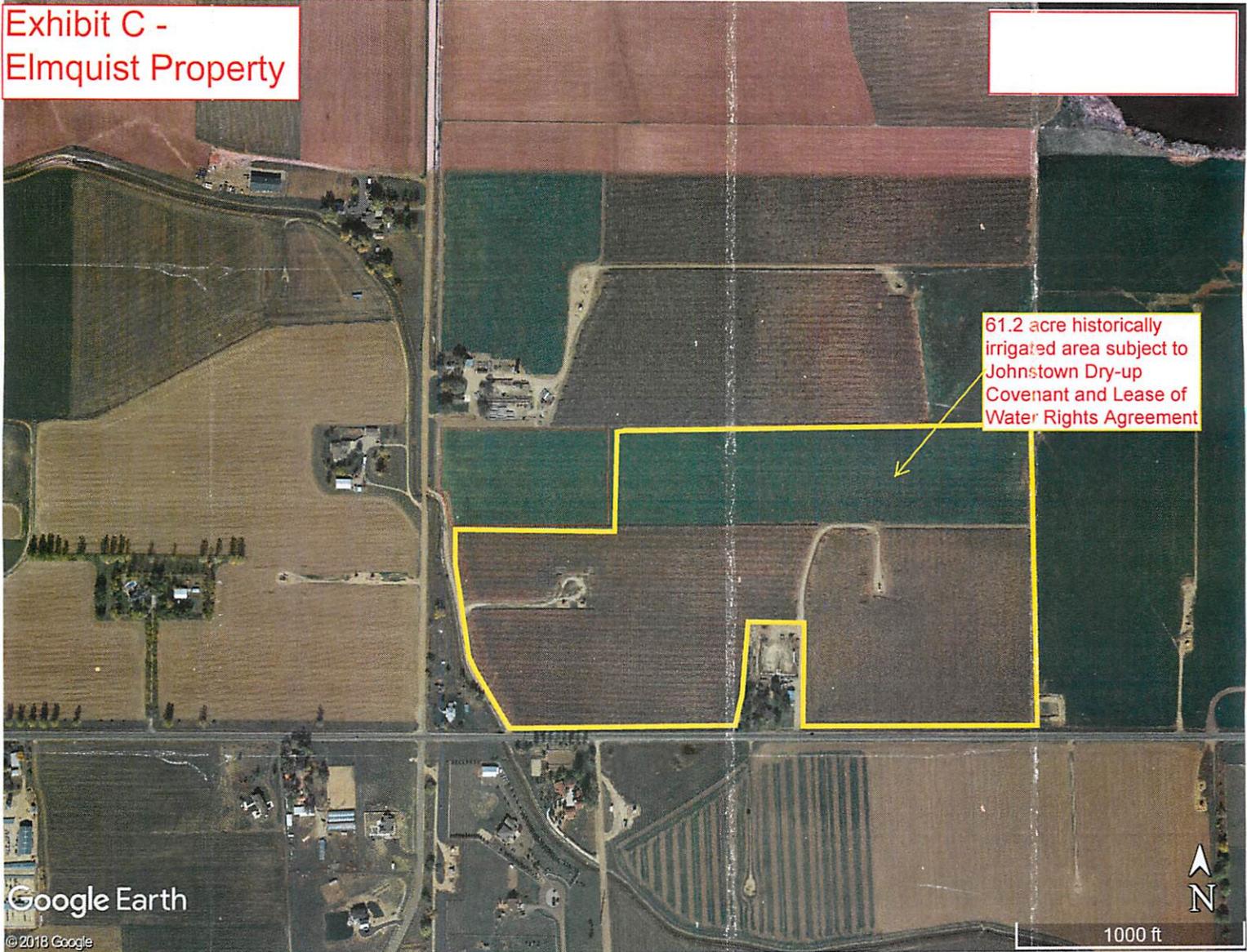


1000 ft

Exhibit C -
Elmqvist Property



61.2 acre historically irrigated area subject to Johnstown Dry-up Covenant and Lease of Water Rights Agreement



Google Earth

© 2018 Google



1000 ft

AGENDA ITEM 7

TOWN MANAGER

REPORT



TOWN OF JOHNSTOWN

MEMORANDUM

TO: Honorable Mayor and Town Council Members

FROM: Matt LeCerf, Town Manager

DATE: June 17, 2019

CC: Town Staff
Local Media

SUBJECT: Departmental Report

Upcoming Town Council Work Sessions – If there are topics that the Council would like staff to schedule for discussion, please let me know. The following topics are recommended for Council discussion (all meetings will be held in the Town Council Chambers unless otherwise indicated):

- 06/17/2019 – Regular Town Council Meeting
 - 06/24/2019 – Work Session (none planned)
 - 07/01/2019 – Regular Town Council Meeting
 - 07/08/2019 – Work Session (Sewer)
-

Police Department

Training:

- *Patrol Rifle Training* – Officers Dudley, Zoss, Grounds, Olds, and Cygan participated in our inhouse patrol rifle certification class. The class was instructed by Officer Blackburn and Sergeant Dickerson.
- *Lidar Training* – Officers Perry and Balltrip attended Lidar Instructor School. Both Officers will now be able to instruct officers on how to properly utilize and operate our Lidar (Light Detection and Ranging) speed measurement device.
- *Mass Casualty Drill* – Officer Piper attended a multi-jurisdictional mass casualty drill and the Budweiser Event Center. Over 30 agencies were represented at this exercise. The exercise consisted a mass casualty scenario involving a vehicle running into a crowd of people. The vehicle also had an VBIED attached to it which was the second part of the scenario. While the scenario at the Budweiser Event Center was happening, a second event started in Fort Collins, simulating multiple attacks at different positions in the Northern Colorado Area. The first responders didn't know what was going to happen when they got there. Actors were involved and moulage was utilized to make the scenarios as realistic as possible.

The Community That Cares

- *Crisis response training* – Sergeant Brown attended, Response to Suicidal Subjects hosted by Greeley PD.
- *Less Lethal Training* – JPD had its annual full department inspection and recertified on less lethal (bean bag) shotgun.
- *FBI National Academy* – Commander Sanchez earned his yellow brick by completing the 6.1 mile Yellow Brick Road obstacle course. He finished 9th out of 267 people. He also graduated the FBNI on Friday and was able to bring his family out for the ceremony.

Community Policing, Outreach & Miscellaneous Items:

- *BBQ Days* – All of JPD was on duty for the annual BBQ Days celebration. The parade, BBQ, and Fireworks went smooth and there was a good community turnout to the event as usual.

Administration, Finance, & Planning

- *Water Court Matters* – The Town Manager met with our Water Attorney and Water Engineers regarding our pending court case. There is still a substantial amount of data to collect for the engineers report. Initially it was believed that the matter may be filed in July, but based on the data yet to be collected we believe it will probably end up being in August.
- *Senior Center Program* – The Town Manager met with our active Seniors at the Senior Center to provide an update of activities around Town and to answer questions residents may have about other issues. This is completed quarterly.
- *Larimer County Manager's Meeting* – The Town Manager met the other managers in Larimer County to discuss the pending consideration of the Regional Transportation Tax ballot for November 2019. If approved, funding has been planned at approximately \$3.5 million for the bridge on LCR 3.
- *2020 Budget* – A budget meeting was held with the Department Heads on June 4th to review and discuss the budget process and worksheets. The worksheets were subsequently disbursed on June 7th.
- *2018 Audit* – Work continues with the auditors to complete the 2018 audit. A draft is currently in process.
- *GIS Services* – The Town received two submittals for GIS Services for the development of our base layer data. Staff is currently working on a small vendor agreement with InvisionGIS. When the information is completed, staff will bring to Council maps and a short presentation on the datasets we have completed. Having base layer data is critical to developing other datasets in the future that will include, but are not limited to water, wastewater, and stormwater.
- *Staffing* – Both the Planning and Public Works Positions have been posted on the Town's website and other locations to fill 2 of the 3 positions discussed at the recent Council retreat.
-

Public Works Department

Streets, Stormwater, & Parks

- *Parks* – Parks are the big focus right now. Approximately 80 acres of parks are maintained weekly.

- *Johnstown Lake* – Water is being delivered to the Johnstown Lake from the Home Supply Lateral we feed it from. Surveyors are scheduled to map the bottom of the lake surface on June 19th. As you may recall this project was delayed due to the lake level being too low. We met with ditch commissioner Jean Lever and dam inspector John Batka a couple weeks ago. Installation of a level staff and telemetry was requested for proper documentation of flows and use. We are currently getting quotes for these items.
- *Open Space* – Crews have started open space mowing maintenance.
- *Senior Center* – A hole in the wall and broken window were repaired at senior center. These damages were due to vandalism that occurred during an event held in the community room. The individual was arrested and will be paying restitution.
- *Road Maintenance* – Approximately 3.5 miles of gravel roadways were graded and 600 lbs. of asphalt cold patch was used around Town to fill potholes.
- *Signs* – Stop signs were installed on Brunner by the greenbelt area. We were receiving a number of complaints about speeders and racing along this stretch of roadway. After discussion with Chief Phillips, it was agreed that placing stop signs would be a good option to try and control speed volumes.
- *Buildings* – Decorative mulch was placed in planters at Town Hall, Police Station and Library.
- *New Employee*. The Public Works staff has a new employee. We would like to welcome Hunter Phillips to the Town.

Water & Wastewater

- *Cemetery* – Crews have the cemetery looking great. We had two funerals recently and staff made sure things were done properly.
- *North Tank* – The solenoid valve was installed in the vault for the north tank. We are currently waiting on a new electrical service to be installed for the valve in order to have telemetry available to operate the valve for filling the tank. We are expecting completion of this project around the end of June or early July for completion.
- *Water plant* – Staneck is close to completion of the saturator project. Final electrical work for the Variable Frequency Drives (VFD) is being installed. SCADA work is ongoing for better monitoring and operations and the new turbidimeter was installed and connected to the SCADA system. This work was part of the budget amendment that was requested in March for CDPHE compliance.
- *Wastewater plant* – Temperature sensors were installed on the effluent line at both plants. This is a required reading by the state to monitor what our effluent temperature of treated wastewater that goes back into the state waters. This work was part of the budget amendment that was requested.
- *Staff* – We are currently interviewing for a new plant operator to fill a currently vacant position.

AGENDA ITEM 10A

Ordinance No. 2019-162

(Public Hearing)

PUBLIC HEARING PROCEDURE – Ordinance No. 2019-162, An Ordinance Amending Section 1-62, 1-63, 2-74, 7-154, 8-26, 8-81, 8-82, 13-114, 16-370, 17-206 and 17-264 of the Johnstown Municipal Code to Provide Uniformity in the Penalty Provisions of the Code and Omit the Possibility of Incarceration for Municipal Ordinance Violations.

1. Open public hearing
2. Receive information from staff
3. Ask to hear from anyone who supports the ordinance
4. Ask to hear from anyone who opposes the ordinance
5. Close the public hearing
6. Ask for discussion
7. Make decision and/or motion from Council
 - a. Need motion to approve or deny the ordinance.

(SUGGESTED MOTIONS):

For Approval:

I move to approve Ordinance No. 2019-162, An Ordinance Amending Section 1-62, 1-63, 2-74, 7-154, 8-26, 8-81, 8-82, 13-114, 16-370, 17-206 and 17-264 of the Johnstown Municipal Code to Provide Uniformity in the Penalty Provisions of the Code and Omit the Possibility of Incarceration for Municipal Ordinance Violations.

For Denial:

I move to deny approval of Ordinance No. 2019-162.

TOWN COUNCIL AGENDA COMMUNICATION

AGENDA DATE: June 17, 2019

ITEM NUMBER: 10A

SUBJECT: *Public Hearing – (First Reading) Consider Ordinance No. 2019-162, an Ordinance Amending Sections 1-62, 1-63, 2-74, 7-154, 8-26, 8-81, 8-82, 13-114, 16-370, 17-206 and 17-264 of the Johnstown Municipal Code to Provide Uniformity in the Penalty Provisions of the Code and Omit the Possibility of Incarceration for Municipal Ordinance Violations

ACTION PROPOSED: Approve Ordinance No. 2019-162 on first reading

PRESENTED BY: Town Attorney

AGENDA ITEM DESCRIPTION: In 2013, the Colorado General Assembly raised the maximum amount a municipal court is entitled to fine from \$1,000 to \$2,650, subject to inflationary adjustments. By Ordinance No. 2015-138, the Town modified Section 2-74 of the Johnstown Municipal Code (“Code”), “Fines imposed by Municipal Court,” to be consistent with the increased fine permitted by state law. The Town did not modify Article IV of Chapter 1 of the Code, the General Penalty provisions of the Code, to be consistent with state law and those provisions continue to provide that the maximum penalty is \$1,000. Other Sections in the Code also provide for a maximum fine of \$1,000. *See, e.g.*, Section 8-26, relating to certain traffic offenses, Section 16-370 related to sign code violations, and Section 17-206, relating to oil and gas facilities.

On or about March 28, 2019, the Colorado General Assembly adopted House Bill 19-1148, changing the maximum jail sentence for municipal ordinance violations from one year to three hundred sixty-four (364) days. Neither Section 1-62 nor Section 2-74 provide for imprisonment as a potential penalty for the violation of municipal ordinances, but other sections of the Code do provide for imprisonment. *See, e.g.*, Section 8-26, relating to certain traffic offenses, Section 8-81, relating to the failure to have compulsory insurance, and Section 17-264, relating to flood administration.

To provide uniformity in the penalty provisions of the Code and to be consistent with state law, the Town Council may consider adoption of Ordinance No. 2019-162, which allows the Town to seek the maximum fine provided by state law and omits the possibility of incarceration for municipal ordinance violations. The Ordinance does not change the minimum fines set forth in various sections of the Code.

LEGAL ADVICE: Ordinance No. 2019-162 was prepared by the Town Attorney.

FINANCIAL ADVICE: N/A.

RECOMMENDED ACTION: Approve Ordinance No. 2019-162 on first reading.

SUGGESTED MOTION:

For Approval: I move to approve Ordinance No. 2019-162, an Ordinance Amending Sections 1-62, 1-63, 2-74, 7-154, 8-26, 8-81, 8-82, 13-114, 16-370, 17-206 and 17-264 of the Johnstown Municipal Code to Provide Uniformity in the Penalty Provisions of the Code and Omit the Possibility of Incarceration for Municipal Ordinance Violations.

For Denial: I move to deny approval of Ordinance No. 2019-162.

Reviewed:

Town Manager

**TOWN OF JOHNSTOWN, COLORADO
ORDINANCE NO. 2019-162**

AN ORDINANCE AMENDING SECTIONS 1-62, 1-63, 2-74, 7-154, 8-26, 8-81, 8-82, 13-114, 16-370, 17-206 AND 17-264 OF THE JOHNSTOWN MUNICIPAL CODE TO PROVIDE UNIFORMITY IN THE PENALTY PROVISIONS OF THE CODE AND OMIT THE POSSIBILITY OF INCARCERATION FOR MUNICIPAL ORDINANCE VIOLATIONS.

WHEREAS, the Town of Johnstown, Colorado (“Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

WHEREAS, in 2013, the Colorado General Assembly raised the maximum amount a municipal court is entitled to fine from one thousand dollars (\$1,000) to two thousand six hundred and fifty dollars (\$2,650), subject to inflationary adjustments; and

WHEREAS, by Ordinance No. 2015-138, the Town modified Section 2-74 of the Johnstown Municipal Code (“Code”), “Fines imposed by Municipal Court,” to be consistent with the increased fine permitted by state law; and

WHEREAS, on or about March 28, 2019, the Colorado General Assembly adopted House Bill 19-1148, changing the maximum jail sentence for municipal ordinance violations from one year to three hundred sixty-four (364) days; and

WHEREAS, based on prior action of Town Council, Section 1-62 of the Code, the general penalty section, and Section 2-74 of the Code do not provide for imprisonment as a potential penalty for the violation of municipal ordinances; and

WHEREAS, despite the foregoing, various sections of the Johnstown Municipal Code contain penalty provisions providing that the maximum fine is one thousand dollars (\$1,000) and/or that a person may be subject to imprisonment for a period, in some instances, of up to one (1) year; and

WHEREAS, the Town Council desires to amend those provisions to refer to the general penalty provision contained in Article IV of Chapter 1 of the Code, thus allowing the Town to seek the maximum fine permitted by state law, omit the possibility of incarceration for municipal ordinance violations and provide uniformity in the penalty provisions of the Johnstown Municipal Code; and

WHEREAS, the Town Council deems this Ordinance to be in the best interests of the Town of Johnstown.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, AS FOLLOWS:

Section 1. Section 1-62 of the Johnstown Municipal Code shall be amended to read as follows:

Sec. 1-62. General penalty for violations of Code; continuing violations.

Whenever in this Code or in any ordinance of the Town an act is prohibited or is made or declared to be unlawful, an offense or a misdemeanor, or wherever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this Code or any such ordinances shall be punished by a fine not exceeding two thousand six hundred fifty dollars (\$2,650.00). The maximum fine amount shall be adjusted for inflation on January 1 of each year as provided by Section 13-10-113, C.R.S., as amended. Each day any violation of this Code or any ordinance continues shall constitute a separate offense.

Section 2. Section 1-63 of the Johnstown Municipal Code shall be amended to read as follows:

Sec. 1-63. Application of penalties to juveniles.

Every person who, at the time of commission of the offense, was at least ten (10) but not yet eighteen (18) years of age and who is subsequently convicted of or pleads guilty or nolo contendere to a violation of any provision of this Chapter shall be punished by a fine not exceeding two thousand six hundred fifty dollars (\$2,650.00). The maximum fine amount shall be adjusted for inflation on January 1 of each year as provided by Section 13-10-113, C.R.S., as amended. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge.

Section 3. Section 2-74(b) of the Johnstown Municipal Code shall be amended to read as follows

Sec. 2-74. Fines imposed by the Municipal Court.

(b) *Maximum Fine.* The total fine, including the additional fine, shall not exceed the amount set forth in Article IV of Chapter 1 of the Code.

Section 4. Section 7-154 of the Johnstown Municipal Code shall be amended to read as follows:

Sec. 7-154. Violation; penalty.

The violation of or failure to comply with the provisions of this Article shall constitute an offense against the Town and subject the offender to a minimum fine for the first offense in the amount of \$25.00, a minimum fine for the second offense in the amount of \$50.00 and a minimum fine for the third offense in the amount of \$75.00. The minimum fines shall be mandatory and shall not be suspended for any reason. For all offenses, the offender shall be subject to a maximum fine not exceeding the amount set forth in Article IV of Chapter 1 of the Code. Any person charged with a fourth offense shall be required to appear in Municipal Court.

Section 5. Section 8-26(2) of the Johnstown Municipal Code shall be amended to read as follows:

Sec. 8-26. Penalties.

- (2) Every person convicted of a violation of any of the provisions stated or adopted in this Chapter shall be punished by a fine not exceeding the amount set forth in Article IV of Chapter 1 of the Code.

Section 6. Section 8-81(f) of the Johnstown Municipal Code shall be amended to read as follows:

Sec. 8-81. Compulsory proof of insurance.

- (f) Penalties. It shall be unlawful to violate any provision of this Section and, upon conviction, the guilty party may be sentenced to a fine not exceeding the amount set forth in Article IV of Chapter 1 of the Code. The minimum fine for a conviction of the violation of this Section shall be one hundred dollars (\$100.00).

Section 7. Section 8-82(g) of the Johnstown Municipal Code shall be amended to read as follows:

Sec. 8-82. Mandatory use of safety belt.

- (g) It shall be unlawful to violate any provision of this Section and, upon conviction, the guilty party may be sentenced to a fine not exceeding the amount set forth in Article IV of Chapter 1 of the Code.

Section 8. Section 13-114 of the Johnstown Municipal Code shall be amended to read as follows:

Sec. 13-114. Penalty for violation.

It shall be unlawful to violate any of the terms and conditions of this Article, and the penalties for violation of this Article shall be as follows:

<i>Offense</i>	<i>Penalty</i>
1st offense	\$ 25.00
2nd offense	50.00
3rd offense	100.00
4th offense	200.00
5th or any subsequent offense	Minimum fine of \$1,000.00 and maximum fine not exceeding the amount set forth in Article IV of Chapter 1 of the Code

Section 9. Section 16-370(a) of the Johnstown Municipal Code shall be amended to read as follows:

Sec. 16-370. Enforcement and penalties.

(a) A person who violates the requirements of this Section shall be punished by a fine not exceeding the amount set forth in Article IV of Chapter 1 of the Code.

Section 10. Section 17-206(b) of the Johnstown Municipal Code shall be amended to read as follows:

Sec. 17-206. Violation and enforcement.

(b) Penalty. Any person, firm, corporation or legal entity that constructs, installs or uses, or which causes to be constructed, installed or used, any oil and gas well or well site in violation of any provision of this Article or of the conditions and requirements of the special use permit may be punished by a fine not exceeding the amount set forth in Article IV of Chapter 1 of the Code. Each day of such unlawful operation shall constitute a separate violation. Any subsequent violation after any conviction of a violation of this Article shall be punished by a minimum fine of five hundred dollars (\$500.00) for each subsequent violation which may not be suspended by the Court.

Section 11. Section 17-264 of the Johnstown Municipal Code shall be amended to read as follows:

Sec. 17-264. Administration.

(b) Penalties for noncompliance. A person who violates the requirements of this Article shall be punished by a fine not exceeding the amount set forth in Article IV of Chapter 1 of the Code. Each day that any such violation continues shall constitute a separate violation and shall subject the perpetrator to a separate penalty.

Section 12. Severability. If any part or provision of this Ordinance, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision, or application shall not affect any of the remaining parts, provisions or applications of this Ordinance that can be given effect without the invalid provision, part or application, and to this end the provisions and parts of this Ordinance are declared to be severable.

Section 13. Code revisions. Minor changes such as the format and other related changes to unify the revised Code may be necessary. The Town Clerk is hereby authorized to make such changes, provided that neither the intent nor substantive content of this Ordinance be altered by such changes.

Section 14. Publication and Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Town Charter and the adoption, posting and publication shall be authenticated by the signature of the Mayor and the Town Clerk and by the Certificate of Publication. This Ordinance shall become effective upon final passage as provided by the Home Rule Charter of the Town of Johnstown, Colorado. Copies of the entire Ordinance are available at the office of the Town Clerk.

INTRODUCED, AND APPROVED on first reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2019.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2019.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor