

## **MINUTES**

### **JEFFERSON COUNTY PLANNING COMMISSION**

**AUGUST 10, 2010**

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Mr. Rivard reported that there would be a Citizen's Committee meeting on August 14, 2010 at 2 PM and another meeting September 21, 2010 at 7 PM.

**9. Reports from Legal Counsel and legal advice to the Planning Commission.**

Legal counsel was not present.

**10. Planning Commission Training.**

Mr. Rivard provided the Planning Commission with Section 24.105, 24.106, 24.107 and 24.108 of the Subdivision Regulations detailing the processing of a Concept Plan. Mr. Rivard explained the steps from application to the Public Workshop of a Concept Plan.

Mr. Maxey called for a break to allow staff to change the CD at 9:46 PM. Mr. Maxey called the meeting to order at 9:48 PM.

**11. Director's Report.**

- a) Activity Report. An Activity report of the staffs' schedule for the two weeks prior to the meeting was provided to the Commissioner's in the agenda packets.
- b) Update on Subdivision Regulation Amendment Public Hearings. Mr. Rivard provided an update on two public hearings held August 4, 2010 and August 9, 2010. He noted that public comment would be accepted until 5 PM on August 11, 2010.
- c) Urban Tree Canopy- Division of Forestry Grant opportunity. Mr. Rivard reported that Mr. Frank Rogers of the Cacapon Institute has offered to write the grant and that it would be a collective effort between Charles Town, Ranson, and Jefferson County.
- d) Update on the US 340 planning effort. Mr. Rivard explained that there had been several meetings related to this effort and that Ms. Brockman, County Commissioner Lynn Widmyer, and Mr. Rivard took part in a conference call with Place Makers, which is a Smart Code organization that had completed work for Ranson.
- e) Report on Zoning Map work and Federal Lands. Mr. Rivard informed the Planning Commission of the progress of the Zoning Map update. He explained that staff has located a map that states any undesignated parcel is zoned rural and how that affected park land. Mr. Maxey stated he would have interest in taking a proposal to County Commission to have any underlying zone with regards to Federal Land down-zoned to rural. Mr. Maxey moved to direct staff to provide to the Planning Commission at the August 24, 2010 meeting a map of the parcels, an accurate legal description of the parcels, and a recommendation for a zoning map change so that the Planning Commission could decide if a public hearing should be scheduled. Mr. Trumble seconded the motion which carried unanimously.

**12. County Commission Liaison Report: None.**

**13. Planning Commission Exchange: None.**

**14. President's Report: None.**

## MINUTES

### JEFFERSON COUNTY PLANNING COMMISSION

AUGUST 24, 2010

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towers placed on lands owned by Jefferson County, the Jefferson County Fire and Rescue Training land, and the Jefferson County Development Authority, and up to 120 feet for cell towers placed within silos.

Mr. Maxey moved to incorporate Mr. Rosa's suggested changes into the Draft Amendments to Article 4B, Wireless Telecommunications Facilities. There was no second.

Mr. Barney presented maps to show allowed cell tower coverage provided by the Draft Amendments to Article 4B, Wireless Telecommunications Facilities. Discussion ensued on allowing cell towers in parks as a part of lands owned by Jefferson County.

Mr. Trumble moved to refrain from including in the Draft Amendments to Article 4B, Wireless Telecommunications Facilities, allowing greater height restrictions up to 199 feet for cell towers placed on lands owned by Jefferson County, the Jefferson County Fire and Rescue Training land, and the Jefferson County Development Authority. Mr. Baty seconded the motion. Mr. Hayes offered a friendly amendment to still include allowing greater height restrictions up to 199 feet for cell towers placed on lands owned by Jefferson County and the Jefferson County Fire and Rescue training land but to specify that county owned land does not include county owned parks or the Jefferson County Development Authority. Mr. Trumble and Mr. Baty accepted the friendly amendment. Discussion ensued. The motion passed unanimously.

Ms. Brockman presented a letter drafted by staff to be sent to the municipalities regarding this issue. Mr. Maxey moved to accept the letter as drafted for immediate distribution. Mr. Trumble seconded the motion which carried unanimously.

#### **10. Blue Ridge Mountain Community Plan.**

Mr. Rivard reported on the last Citizen's Committee meeting and informed the Planning Commission that the next meeting would be held September 21, 2010 at Saint Andrew's Community Center. Ms. Brockman stated a joint meeting of the Planning Commission and County Commission would need to take place around December or January. Mr. Maxey asked Ms. Brockman to discuss with the consultants the possibility of helping the Planning Commission write a follow up grant proposal of more funds to lead the county up to an EPA Authorized Watershed Plan.

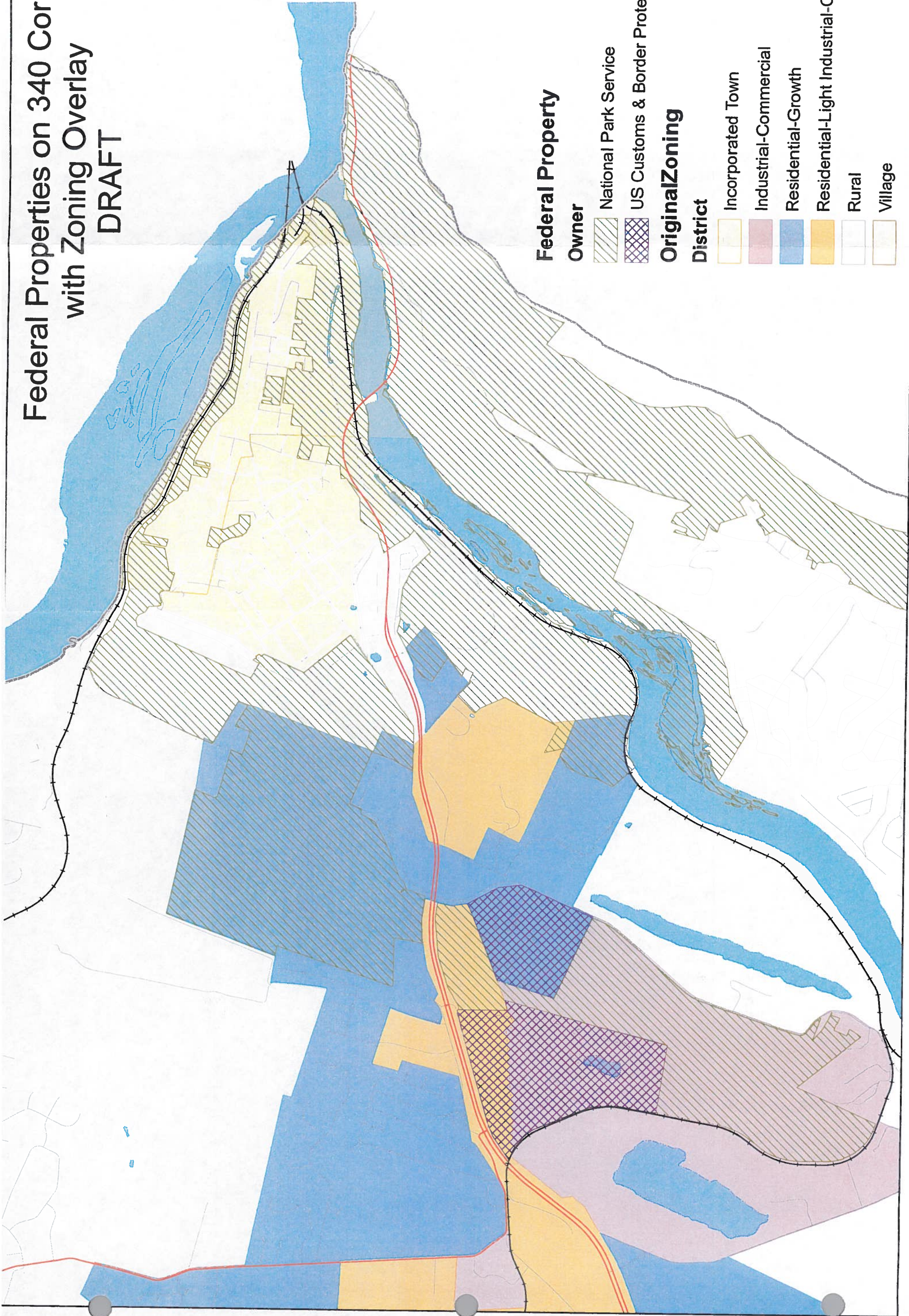
#### **11. Reports from Legal Counsel and legal advice to Planning Commission. None.**

#### **12. Director's Report.**

Ms. Brockman presented a map of Federal Lands and discussed corrections to the zoning map. She stated that almost all Federal Land in Jefferson County is zoned rural with the exception of the Federal Land along the 340 corridor which was zoned before becoming Federal Land. Discussion ensued on the next steps to be taken. Mr. Maxey asked that Ms. Brockman provide a draft agenda request form to present this issue to the County Commission.

# Federal Properties on 340 Corridor with Zoning Overlay DRAFT

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## MINUTES

### JEFFERSON COUNTY PLANNING COMMISSION

SEPTEMBER 14, 2010

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Mr. Dailey moved to reopen the file. Mr. Taylor seconded the motion which carried unanimously.

Discussion ensued regarding the use of Beauregard Road, which runs through Patrick Henry Estates, as access to Sloan Square Apartments and the effects of the lawsuit in the decision to grant or deny the variance.

Ms. Morgan moved to grant an extension of time to July 1, 2011 instead of July 1, 2012. Mr. Taylor seconded the motion. Mr. Trumble moved to table the current motion until such time as the lawsuit is resolved. There was no second and Mr. Trumble's motion died. Additional discussion ensued regarding whether or not this was a self-imposed hardship. The original motion failed 2 for and 4 against (Mr. Beatty, Mr. Trumble, Mr. Dailey, and Mr. Maxey).

Mr. Trumble moved to grant an extension of time to July 1, 2012. Mr. Dailey seconded the motion. The motion failed to carry with 3 for (Mr. Dailey, Mr. Taylor, and Mr. Trumble) and 3 against (Ms. Morgan, Mr. Beatty, and Mr. Maxey).

Ms. Morgan moved to postpone reconsideration of the application to March 1, 2011. There was no second and the motion died.

Mr. Dailey moved to postpone this item to the September 28, 2010 meeting. Mr. Taylor seconded the motion which carried unanimously.

#### **5. Update on Old Standard Quarry Freedom of Information Act requests.**

Mr. Groh stated that he had received two emails from the Legislative Rule Making Committee, one containing documents and one stating that the audio file that they have been trying to send to him is too large to send electronically. It was requested that Mr. Groh send out any documents by e-mail. Mr. Maxey asked for unanimous consent to share all information presented to the Planning Commission with the County Commission. There was no objection.

Ms. Morgan left the meeting at 7:58 PM.

Ms. Brockman presented a memorandum detailing the events of the conference called held with Mr. Yogesh Patel, WV DEP Permits Officer, in which Ms. Brockman, Ms. Quodala, and Mr. Trumble participated. Ms. Brockman reported that she and Ms. Quodala had also spoken to Mr. Jay Lazell, Legal Counsel for DEP and the Department of Agriculture, regarding the Brownfield Economic Development Rule becoming Law.

#### **6. Draft request to the County Commission to consider a change in zoning for Federal Lands.**

Ms. Brockman presented a draft County Commission agenda request requesting Zoning Map Amendment for Planning Commission approval. Mr. Maxey also presented a draft Resolution to Petition the Jefferson County Commission to amend the zoning map.

Mr. Maxey moved to approve the resolution as drafted. Mr. Trumble seconded the motion which carried unanimously. Staff was directed to amend the agenda request form and attach the approved resolution to submit to the County Commission for the September 23, 2010 meeting. Staff was also directed to notify Ms. Jennifer Mahan, County Clerk of the request.

Mr. Maxey directed Ms. Brockman to set up a meeting with Harvey Heyser, Shepherdstown Zoning Administrator, to discuss the Shepherdstown Urban Growth Boundary.

**7. Discussion on the Draft Amendments to Article 4B, Wireless Telecommunications Facilities and review of Stakeholder Meeting.**

Mr. Barney described the Stakeholder Meeting that was held August 31, 2010. Mr. Barney relayed that comments from that meeting were provided in the agenda packets. He discussed several comments that were presented at the Stakeholder Meeting. Mr. Maxey suggested that Mr. Barney have a meeting with Mr. Groh to discuss comments addressing legal issues. Mr. Maxey stated that the time schedule should be extended by two weeks and to have Mr. Barney report back at the September 28, 2010 meeting.

Mr. Maxey asked for unanimous consent to remove the County-owned property height benefit from the Draft Amendments to Article 4B, Wireless Telecommunications Facilities. There was no objection.

Mr. Paul Rosa, citizen of Charles Town, presented a mark-up of the amendments relating to the comments received at the Stakeholder's Meeting.

Mr. Maxey asked that information relating to these amendments be posted to the Planning and Zoning website as soon as available.

Ms. Brockman explained staff's intent to review all comments and recommend changes to the draft amendments. Mr. Barney stated those recommended changes would be presented at the next Planning Commission meeting scheduled for September 28, 2010.

Mr. Tim Dennis, of Viewable Tower Partners, commented that the industry supports allowing the public to have a voice in the processing of a cell tower. He asked that the industry be allowed to submit a draft mark-up of the Draft Amendments.

**8. Blue Ridge Mountain Community Plan.**

Ms. Brockman stated that the consultants have provided a draft vision document constructed from comments made at the Citizen's Committee meetings on the Blue Ridge Mountain. This document is available to be viewed at the Blue Ridge Community Plan website. She explained that the next step would be to finalize the mission statement.

Ms. Brockman notified the Planning Commission that the Water Advisory Committee would be holding a meeting for anyone interested in creating a Watershed Association. Mr. Maxey suggested that Mr. Roger Ethier be notified.

**Resolution to Petition the Jefferson County Commission to Amend the Zoning Map**

WHEREAS the existing Jefferson County Zoning map indicates parcels along Route 340 now owned by the National Park Service and U.S. Customs and Border Patrol as either their original zoning classification or as "National, State and County Facilities"; and

WHEREAS the Jefferson County Planning Commission wishes to revise the zoning map so that it reflects the true underlying zoning classification rather than parcel ownership; and

WHEREAS the current use of these parcels fits the rural zoning classification; and

WHEREAS rezoning these parcels to reflect a rural classification would be consistent with the Jefferson County Comprehensive Plan;

THEREFORE BE IT RESOLVED that the Jefferson County Planning Commission petition the Jefferson County Commission under the provisions of WV Code §8A-7-9 paragraph B to rezone the parcels owned by either the National Park Service or the U.S. Customs and Border Patrol along Route 340 from the current zoning classification to rural.

On September 14, 2010 at the regularly scheduled Planning Commission meeting, the Planning Commission decided with a 5-0 vote to petition the County Commission to rezone Federal Lands along the Route 340 Corridor.

X

John Maxey

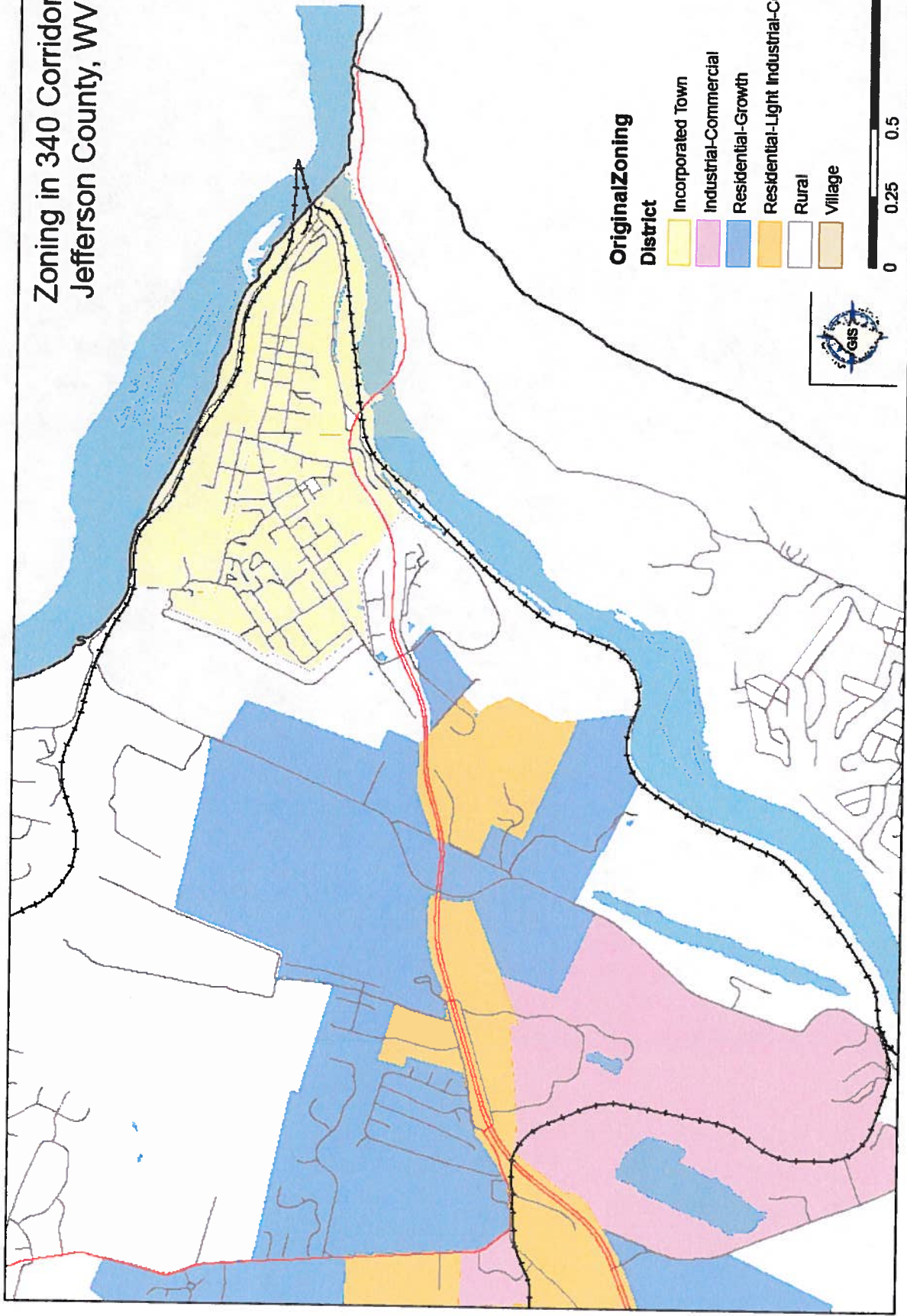
President, Jefferson County Planning Commiss...

# Jefferson County Planning Commission Petition to County Commission

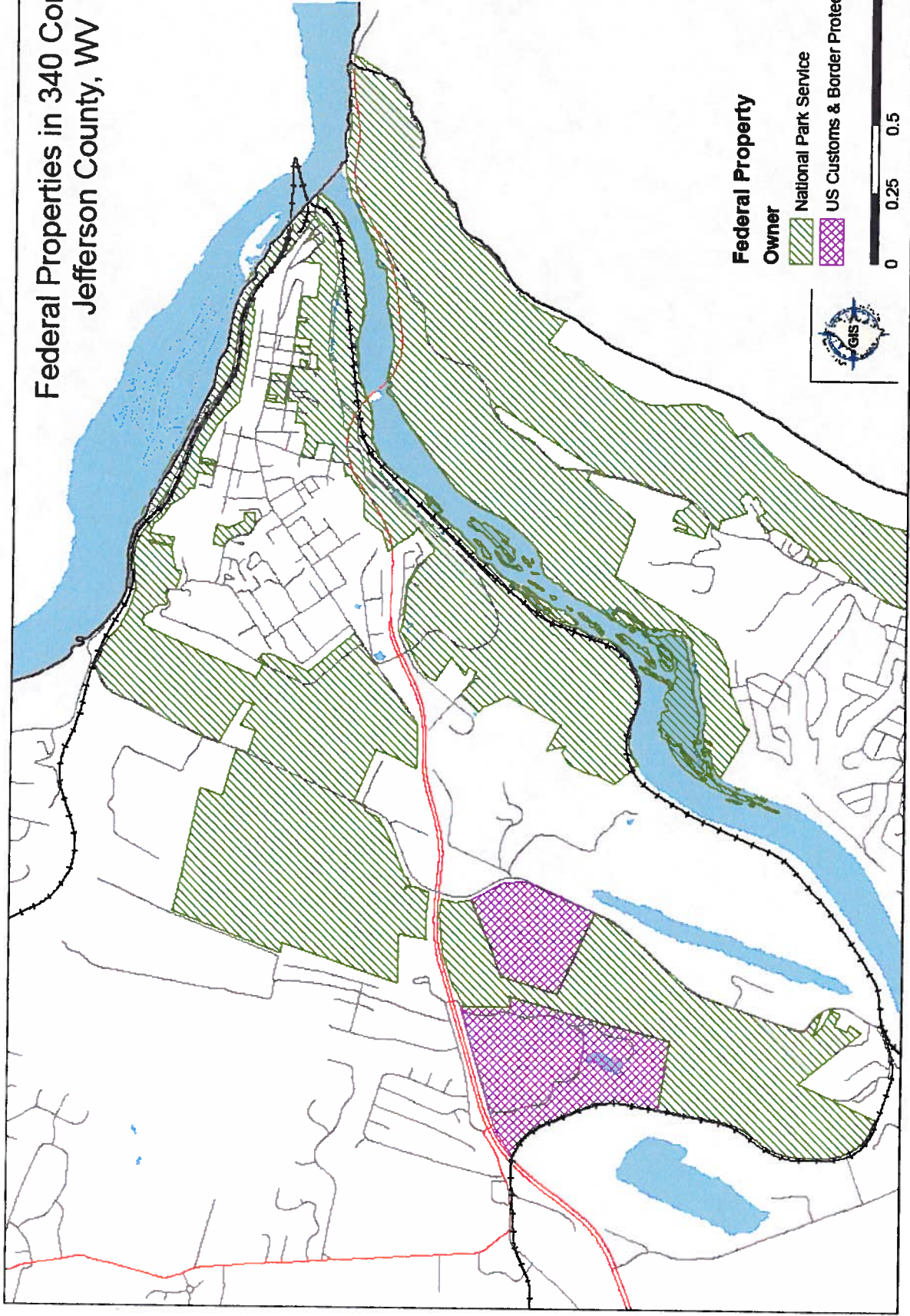
Request to Rezone Certain  
Federal Lands along US 340

September 23, 2010

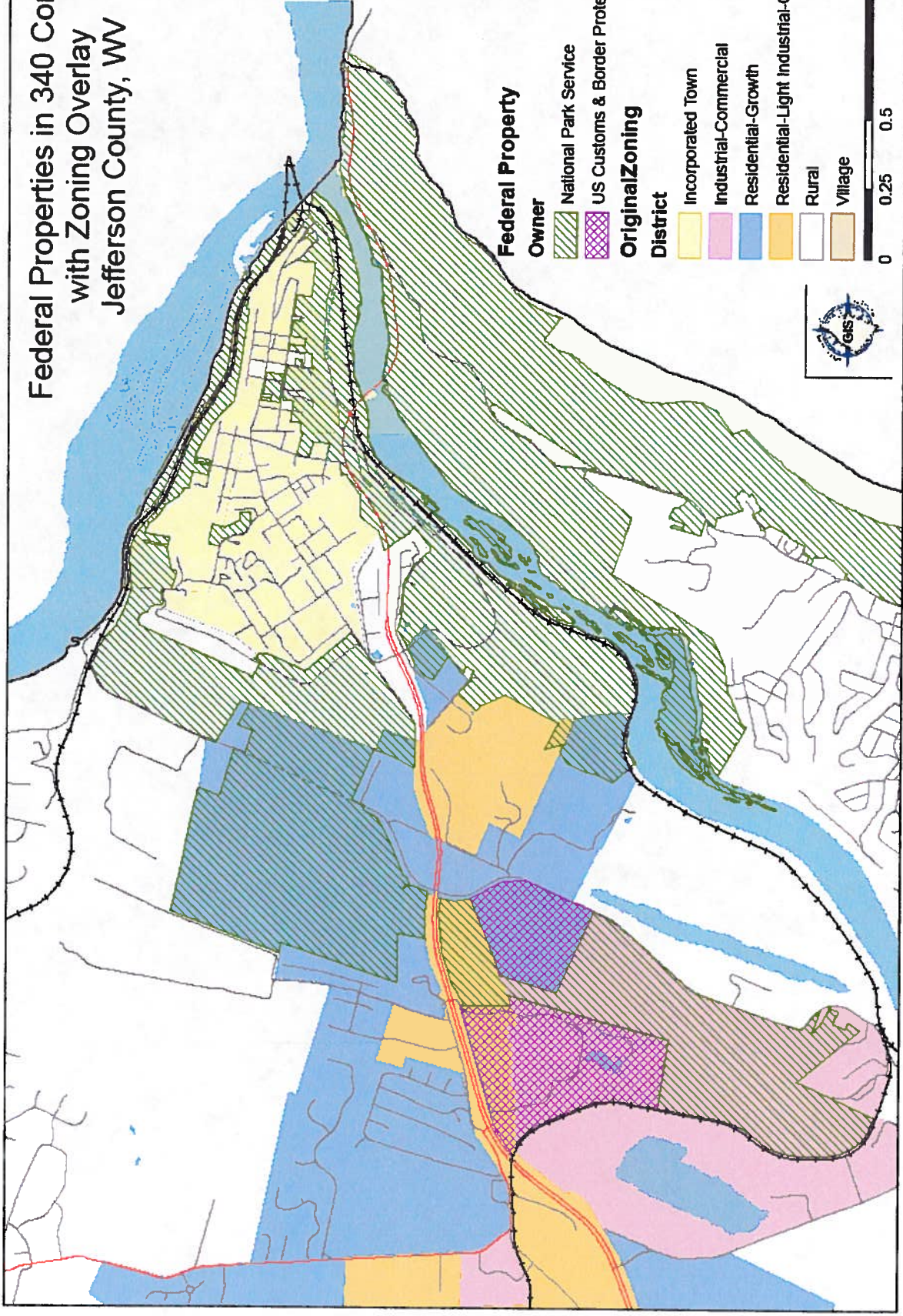
# Zoning in 340 Corridor Jefferson County, WV



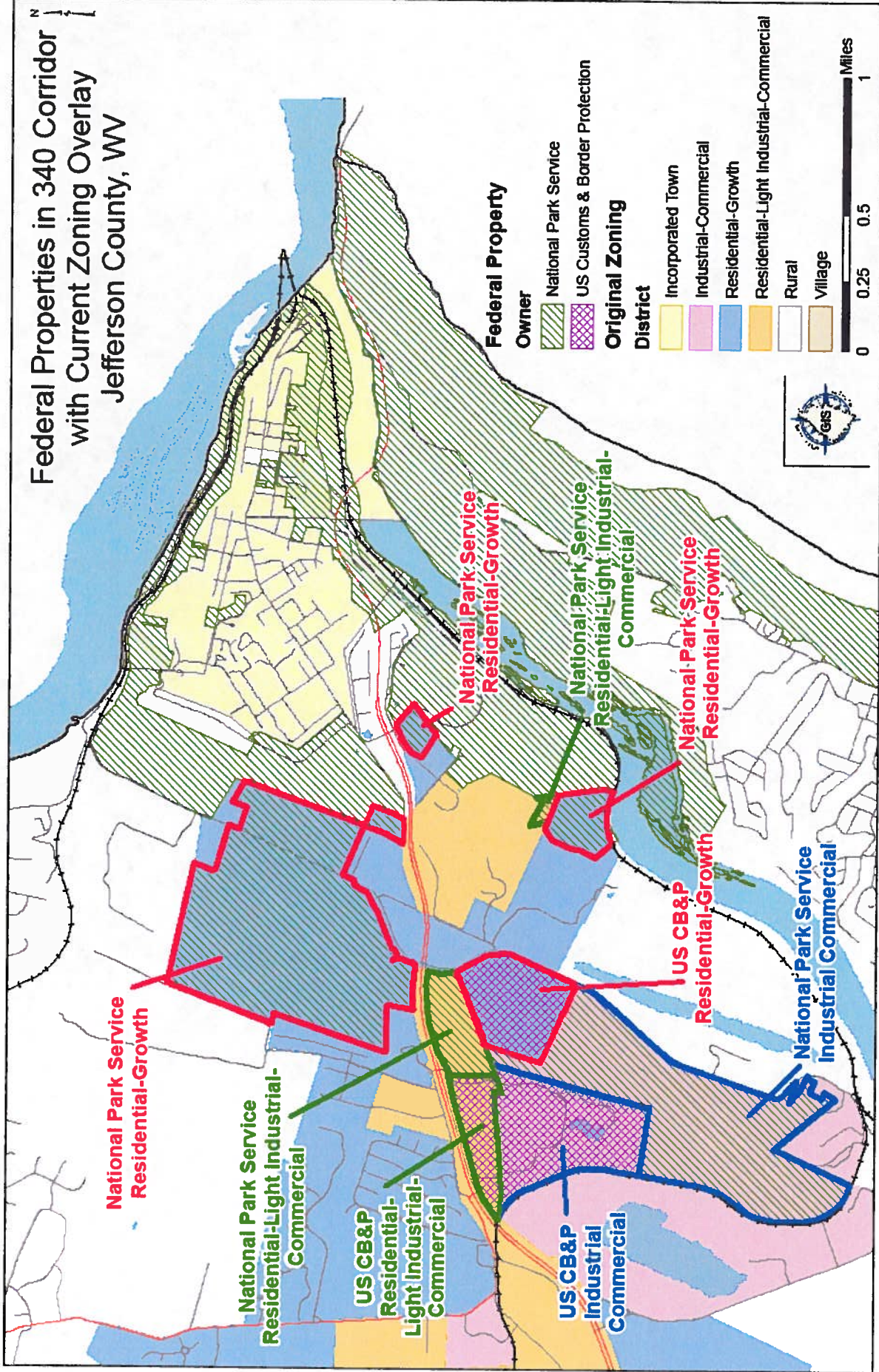
# Federal Properties in 340 Corridor Jefferson County, WV



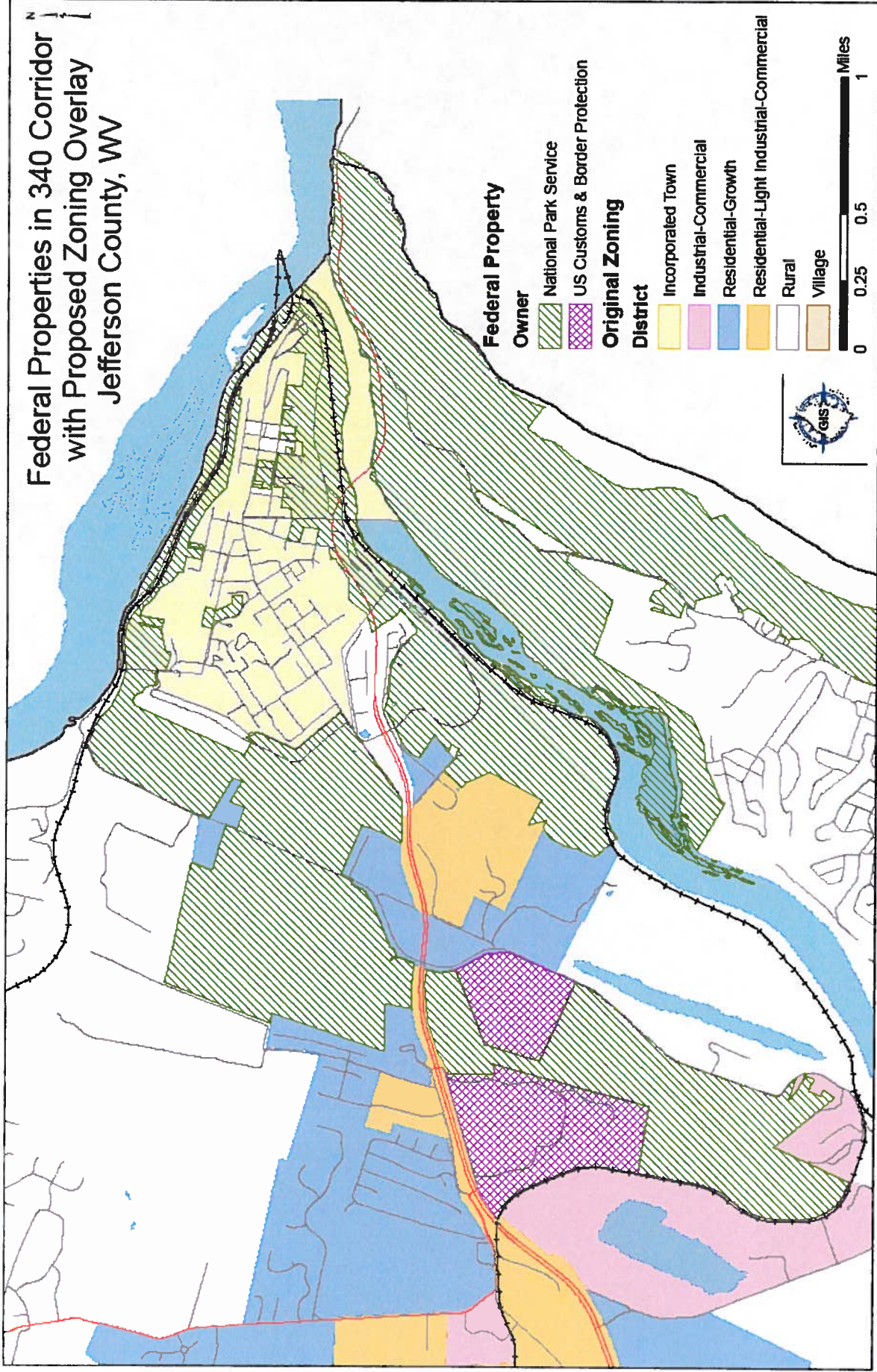
# Federal Properties in 340 Corridor with Zoning Overlay Jefferson County, WV



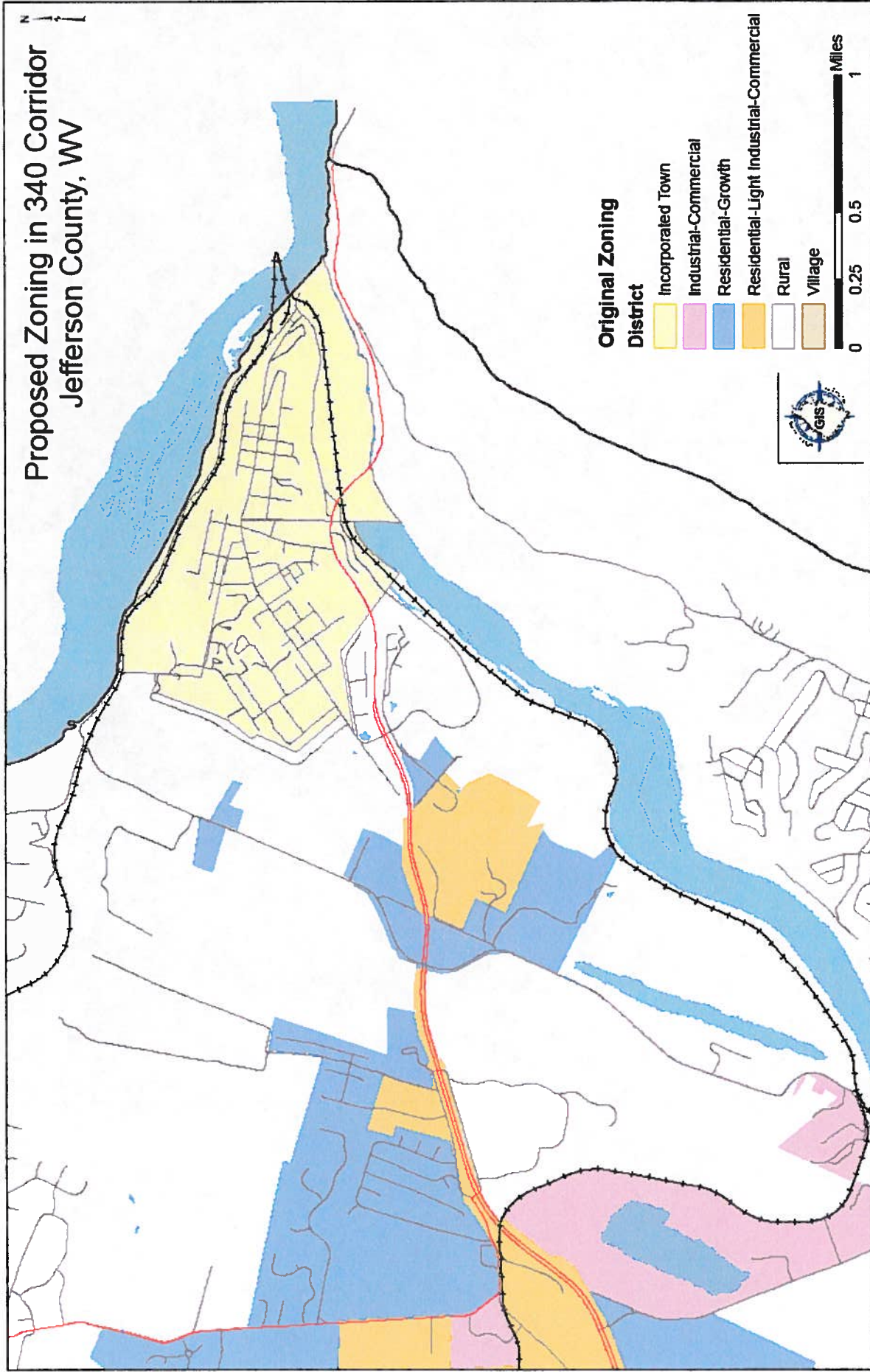
# Federal Properties in 340 Corridor with Current Zoning Overlay Jefferson County, WV



# Federal Properties in 340 Corridor with Proposed Zoning Overlay Jefferson County, WV



# Proposed Zoning in 340 Corridor Jefferson County, WV



# Jefferson County Zoning and Land Development Ordinance (effective 12/3/09)

## Section 5.7 Rural District

- (a) Principal Permitted Uses
  2. Churches and private or public elementary, middle or secondary schools and specialized or accredited educational and training facilities for adults in a campus setting, including classroom buildings, dormitories, cafeterias, gymnasiums (whose use is limited to the students, participants and instructors at said school or training facility), and administrative buildings.

## **West Virginia State Code**

### **§8A-7-9. Amendments to the zoning ordinance by petition.**

- a) After the enactment of the zoning ordinance, the planning commission or the owners of fifty percent or more of the real property in the area to which the petition relates may petition to amend the zoning ordinance. The petition must be signed and be presented to the planning commission or the clerk of the governing body.
- b) Within sixty days after a petition to amend the zoning ordinance is received by the planning commission or the governing body, then the planning commission or the governing body must hold a public hearing after giving public notice. The public notice of the date, time and place of the public hearing must be published in a local newspaper of general circulation in the area affected by the proposed zoning ordinance, as a Class I legal advertisement, in accordance with the provisions of article three, chapter fifty-nine of this code, at least fifteen days prior to the public hearing.
- c) If the petition to amend the zoning ordinance is from the owners of fifty percent or more of the real property in the area, then before amending the zoning ordinance, the governing body with the advice of the planning commission, must find that the amendment is consistent with the adopted comprehensive plan. If the amendment is inconsistent, then the governing body with the advice of the planning commission, must find that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area.

## **Minutes**

### **Jefferson County Commission**

**Thursday, September 23, 2010**

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A meeting of the Jefferson County Commission was held on Thursday, September 23, 2010 at the Old Charles Town Library meeting room located at 200 E. Washington Street, Charles Town, WV 25414. Present were Lyn Widmyer, President, Commissioners Patsy Noland and Dale Manuel; Tim Boyde, County Administrator and Debbie Stellato, Administrative Assistant. Commissioners Jim Surkamp and Frances Morgan were absent. (An audio tape of this September 23, 2010 meeting is available through the Jefferson County Commission Office.)

The Meeting was called to order at 9:30 a. m. by Commissioner Widmyer.

#### **PLEDGE OF ALLEGIANCE.**

#### **APPROVAL OF MINUTES.**

Motion by Ms. Noland to approve the minutes of September 16, 2010 as amended, seconded by Mr. Manuel and was unanimously approved. (An audio tape of the September 16, 2010 meeting is available through the Jefferson County Commission Office.)

Motion by Mr. Manuel to approve the minutes, as amended, of the August 31, 2010 Special Session with the Jefferson County Commission sitting as a Board of Canvassers, seconded by Ms. Noland and was unanimously approved. (An audio tape of the August 31, 2010 special session is available through the Jefferson County Commission Office.)

#### **APPROVAL OF PURCHASE ORDERS**

Motion by Ms. Noland to approve Purchase Orders in the amount of \$23,917.57 being purchase order numbers: 48871, 48293, 48294, 48500, 48502, 48720, 48722, 48865, 48187, 48887, 48864, 48868, 48869, 48870, 4887248629. Motion seconded by Mr. Manuel and was unanimously approved.

#### **APPROVAL OF ACCOUNTS PAYABLE**

Motion by Mr. Manuel to approve \$462,870.77 in accounts payable. Motion seconded by Ms. Noland and was unanimously approved.

#### **PUBLIC COMMENT**

Martha H. Zimmerman of Charles Town voiced her objections to the water rate hike by Jefferson Utilities, Inc. and requested that the Jefferson County Commission intervene on behalf of the citizens of Jefferson County.

Following Ms. Zimmerman's comments, Ms. Widmyer suggested that Mr. Boyde appoint a staff person to put together a history of Jefferson Utilities' rate increases to be presented to the Commission.

### **COUNTY ADMINISTRATOR REPORTS**

#### **County Administrator Tim Boyde:**

- (1) Reported that since two commissioners were absent from the meeting, to save repetition, it was agreed by the three commissioners present that the budget and personnel sessions should be tabled until next week when all commissioners could be present.
- (2) Reported that Ed Sloanaker would be making a presentation on a long term disability policy at the September 30, 2010 meeting, explaining the pros and cons, costs, etc.
- (3) Reported that an Attorney John Stump would like to address the Commission and schedule a briefing session on Monday, October 18, 2010, at 3:00 p.m. regarding the "TIFF" tax zone.
- (4) That the West Virginia Risk Pool will be having its Board Meeting on September 28, 2010 and asked that we send a representative. Mark Schiavone volunteered to attend.
- (5) Reported that at the meeting with the Department Heads they offered their input into the proposed Policies and Procedures, and they approved of the proposed Policies and Procedures unanimously and would urge the Commission to approve them.
- (6) Reported that next Wednesday he will participate in a conference call with regard to the Lifestyles Return Program. One of the items discussed will be a schedule kicking off the program.
- (7) Reported that the office copiers have been checked in all departments and most are in good shape and maintenance agreements are in place.
- (8) Reported that this morning the following documents were given to the Commissioners for review:
  - (a) Legal opinion regarding Claymont from Stephanie Grove, Esq.
  - (b) Revised salary scale
  - (c) Supporting documents for Item 11C – Request to Expand Part-time Position

### **COUNTY COMMISSIONER REPORTS**

#### **Commissioner Patricia Noland:**

- (1) Reported that this past Sunday and Monday she attended a meeting of the County Commissioners' Association of West Virginia in Pipestem, WV.

#### **Commissioner Dale Manuel:**

- (2) Reported that on September 18, 2010 he attended the Charles Town Heritage Day Festival, and noted that it was well attended by Jefferson County residents as well as two of the Washington brothers, Charles and George.
- (3) Reported that on September 18, 2010 he was one of the judges for the "Pink Hat Contest" held at the Charles Town Races. The Pink Hat Contest was held in support of breast cancer and research.
- (4) Reported that on September 20, 2010 he attended the Grand Opening of Skipper's and noted that Paul Espinosa was the cow pie eating champion.
- (5) Reported that on September 20, 2010 he attended the dedication of the opening of Route 9, along with Governor Manchin and Congresswoman Capito.
- (6) Reported that on September 21, 2010 he attended the Governor's 35<sup>th</sup> Star Reception where Mr. and Mrs. Walker were honored, among others.

- (7) Reported that on September 21, 2010 he attended the Blue Ridge Mt. Watershed Plan Meeting and observed that public participation was encouraged and that the meeting was well attended by a cross section of citizens. Themes of the meeting were (1) Property Rights, and (2) being realistic while protective of a most valuable resource.

**Commissioner Lyn Widmyer:**

- (1) Reported that on September 18, 2010 she participated in the Washington Homes Tour.
- (2) Reported that on September 20, 2010 she attended Governor Manchin's ribbon cutting ceremony for the dedication of Route 9.
- (3) Reported that she attended a Community Ministries meeting and noted that three churches will be opened to homeless this winter.
- (4) Reported that on September 22, 2010 she met with the Regional Planning and Development Councils from around the state.
- (5) Reported that Senator Herb Snyder may come and talk to the Commission in November 2010 regarding the Chesapeake Bay Watershed and other issues.

**PRESENTATIONS**

- (1) Angela Banks, Assessor, requested exoneration for Christina F. Harrison in the amount of \$20.00. Her vehicle was inadvertently assessed in two different counties.

Motion by Ms. Noland to approve exoneration of \$20.00 for Christina F. Harrison, ticket no. 22169. as presented by Angela Banks, Assessor. Motion seconded by Mr. Manuel and was unanimously approved.

Name	District	Type	Ticket #	Amount
Christina F. Harrison	Charles Town	Personal Property	22169	20.00

- (2) Peter Fricke of the Farmland Protection Board presented his request for advice regarding Farmland Protection Board's staffing options. Upon completion of his presentation, Mr. Boyde, County Administrator, explained that the Board should make this request of the Development Authority, who would be the agency to handle this matter since no Jefferson County employees are involved. The Commissioners concurred.

Mr. Boyde and the Commissioners inquired if he was prepared to go forward with the request to approve easement. Mr. Fricke advised that he was not, as the paperwork had been held up by several government agencies. The Commission directed that Mr. Fricke be placed on the September 30, 2010 agenda with his easement request if he had obtained the proper documentation by that date.

**The Commission took a 5-minute break at 10:35 a.m.**

- (3) John Maxey of the Jefferson County Planning Commission, and Jennifer Brockman, Director of Planning and Zoning, offered a Power Point presentation to illustrate their

request to initiate rezoning of certain federal lands and ask the Commission to schedule a Public Hearing on the matter.

Motion by Ms. Noland to schedule a date for the Public Hearing at next Thursday's meeting, September 30, 2010 and to place John Maxey's request on the September 30, 2010 agenda. Motion seconded by Mr. Manuel and was unanimously approved.

- (4) Jennifer Maghan, County Clerk, presented the Financial Statement of Jefferson County for fiscal year ending June 30, 2010 and explained that it has been published and is available for public review.

Ms. Maghan requested that the "Voter Expectations for the Maintenance Department" discussed at last Thursday's Commission meeting be included in these minutes. (See attached.)

1. Attached, please find the "Voter Expectations for the Maintenance Department" as discussed during the commission meeting last week.
2. Please review the Financial Statement for Fiscal Year ending June 2009. The copy required by law to be published by our local newspaper will be fulfilled by the first issue of October in the Spirit of Jefferson Advocate. The complete copy can be found online at [Jeffersoncountyclerkwv.com](http://Jeffersoncountyclerkwv.com)

Should the Commissioners or members of the public have questions regarding the County's financial statement, please present them in writing or by email to the County Clerk. [jmaghan@jeffersoncountyclerkwv.com](mailto:jmaghan@jeffersoncountyclerkwv.com)

## **Preparation of Elections**

### **Expectations for the Maintenance Department**

*A time line will and detailed truck route will always be provided well in advance of an election to allow for planning of personnel and resources.*

#### ***The following tasks are requested of the Maintenance Department***

- Remove benches and tables from the old county commission meeting room.
- Pickup early voting/election night supplies and equipment from Bardane and deliver to the courthouse. (Approx. 1 week prior to early voting)
- Pickup trucks from the rental facility.

- Deliver election equipment to precincts the day before the election.  
(approx 8am-2pm)
- Pickup election equipment from the precincts and return trucks to the rental facility the day after the election.
- After canvass and certification return election equipment and supplies to Bardane.
- Put tables and benches back into the old county commission room.

(5) Mark Schiavone requested the Commission to approve the Resolution regarding Budget Revision 003 to the General Fund.

Motion by Mr. Manuel to approve the Resolution of Budget Revision 003 to the General Fund as presented by Mr. Schiavone. Motion seconded by Ms. Noland and was unanimously approved.

#### RESOLUTION

At a regular session of the Jefferson County Commission, held 23<sup>rd</sup> September, 2010, the following order was made and entered:

SUBJECT: The revision of the General Fund (Fund 001) Levy Estimate (Budget) for the County of Jefferson. The following resolution was offered:

RESOLVED That subject to approval of the State Auditor as ex officio chief inspector of public offices, the county commission does hereby direct the budget be revised PRIOR TO THE EXPENDITURE OR OBLIGATION OF FUNDS FOR WHICH NO APPROPRIATION OR INSUFFICIENT APPROPRIATION CURRENTLY EXISTS, as shown on budget revision number 003, a copy of which is entered as part of this record.

The adoption of the foregoing resolution having been moved by Mr. Manuel, and duly seconded by Ms. Noland, the vote thereon was as follows:

Dale Manuel	Yes
Patricia Noland	Yes
Lyn Widmyer	Yes

(Commissioners Surkamp and Morgan were absent.)

WHEREUPON, Lyn Widmyer, declared said resolution duly adopted, and it is therefore ADJUDGED and ORDERED that said resolution be, and the same is, hereby adopted as so stated above, and F. Mark Schiavone is authorized to fix his signature on the attached "Request for Revision to Approved Budget" to be sent to the State Auditor for approval.

**The Commission took a 10-minutes break at 11:10.**

- (6) Request by Valley Health to use the Commission Meeting Room on November 23, 2010 from 9:00 a.m. to 12:00 noon to conduct a Health Needs Assessment.

Motion by Mr. Manuel to approve the use of the Commission Meeting Room by Valley Health on November 23, 2010 from 9:00 a.m. to 12:00 noon. Motion seconded by Ms. Noland and was unanimously approved.

- (7) Request by NAACP Jefferson County to use the Commission Meeting Room on October 4, 2010 at 7:00 p.m. to host a forum with the 2<sup>nd</sup> Congressional District candidates.

Motion by Ms. Noland to approve the use of the Committee Meeting Room by NAACP Jefferson County on October 4, 2010 at 7:00 p.m. to host a forum with the 2<sup>nd</sup> Congressional District candidates. Mr. Manuel seconded the motion and was unanimously approved.

- (8) Doug Pittinger of the Emergency Services Agency - request for approval of fire company contracts FY2011.

There was a brief discussion to amend guidelines that were previously discussed by the Jefferson County Emergency Services Agency.

Mr. Pittinger explained that the officials of the fire companies would not be meeting until next Tuesday, September 28, 2010 and that it may require more than one meeting. He requested that any decision by the Commission be put on hold for two weeks. The Commissioners agreed and directed that this matter be placed on the Agenda for the October 7, 2010 meeting.

Motion by Mr. Manuel to adjourn the meeting. Second by Ms. Noland and the meeting was adjourned.

Upon rising the Commission recessed until Thursday morning next beginning at 9:30 o'clock a.m.

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LYN WIDMYER, PRESIDENT

## **MINUTES**

### **JEFFERSON COUNTY PLANNING COMMISSION**

**SEPTEMBER 28, 2010**

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#### **10. Reports from Legal Counsel and legal advice to the Planning Commission.**

These topics were covered in the executive session.

#### **11. Director's Report.**

- Activity Report. These reports were provided in the agenda packets.
- Draft Policy on meetings involving Planning Commission members without a quorum present. Ms. Brockman presented the draft policy. Mr. Maxey asked that this be tabled until the October 12, 2010 meeting to allow for research on procedure.
- Update on Petition by Planning Commission to rezone certain Federal Lands on US 340. Ms. Brockman stated that the petition was presented to County Commission and that they would be setting a date for a public hearing.
- Follow-up on Urban Growth Boundary Issues. Ms. Brockman reviewed the issues with getting the municipalities to approve the Urban Growth Boundaries (UGB). Ms. Brockman stated she would visit with the Harper's Ferry Town Council to discuss the UGB on October 11, 2010.
- October 1, 2010 Smart Code On-Site Workshop. Ms. Brockman reminded the Planning Commission of this workshop and stated three of the Planning Staff were scheduled to go.
- Status of Land Development Fees. Ms. Brockman reported that this topic would be discussed at the County Commission meeting on October 7, 2010.
- Follow-up on discussion of Planning Commission Authority outside of WV Code 8A. Ms. Brockman stated that the Improvement Location Permit Ordinance had been the document dictating what project would require a site plan. She reported that the Planning Commission may be able to hold a Brownfield District to stormwater management standards.
- Status of Zoning Ordinance Amendments. Ms. Brockman reported that the amendments to Article 4B, Wireless Telecommunications Facilities, had taken up more staff time than planned and had caused the Zoning Ordinance Amendments to be delayed. She stated that the staff had started working on the formatting of the Zoning Ordinance and that a cleanup of the ordinance would be the next step. She reminded the Planning Commission that amendments to the Subdivision Regulations were still necessary. Mr. Trumble asked that Ms. Brockman provide the Planning Commission with a work plan detailing the priorities and deadlines of the staff. Mr. Maxey stated that Article 4.4 (h) referenced the incorrect section of the Subdivision Regulations and directed staff to draft an amendment to that article.
- Urban Tree Canopy Grant. Ms. Brockman stated that staff had drafted a memorandum of understanding to distribute to the cities of Charles Town and Ranson.

#### **12. County Commission Liaison Report. None.**

#### **13. Planning Commission Exchange. None.**

#### **14. President's Report. None.**

## **Minutes**

### **Jefferson County Commission**

**Thursday, September 30, 2010**

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A meeting of the Jefferson County Commission was held on Thursday, September 30, 2010 at the Old Charles Town Library meeting room located at 200 E. Washington Street, Charles Town, WV 25414. Present were Lyn Widmyer, President, Commissioners Patsy Noland, Dale Manuel, Jim Surkamp and Frances Morgan; Tim Boyde, County Administrator and Debbie Stellato, Administrative Assistant. (An audio tape of this September 30, 2010 meeting is available through the Jefferson County Commission Office.)

The Meeting was called to order at 9:35 a. m. by Commissioner Widmyer.

#### **PLEDGE OF ALLEGIANCE.**

**PRESENTATION OF PROCLAMATION FOR NEAL D. CARPENTER** presented to his widow, Mrs. Mary Jo Carpenter, in honor of his years of service to Jefferson County.

#### **APPROVAL OF MINUTES.**

Motion by Ms. Noland to approve the minutes of September 23, 2010 as amended, seconded by Mr. Manuel and unanimously approved. (An audio tape of the September 23, 2010 meeting is available through the Jefferson County Commission Office.)

#### **APPROVAL OF PURCHASE ORDERS**

Motion by Mr. Manuel to approve Purchase Orders in the amount of \$16, 892.29 being purchase order numbers: 48969, 48862, 48876, 45555, 45556, 48898, 48380, 48877, 48878, 48879, 48880, 48994, and 49975. Motion seconded by Ms. Morgan and unanimously approved.

#### **APPROVAL OF ACCOUNTS PAYABLE**

Motion by Ms. Morgan to approve \$342, 402.68 in accounts payable. Motion seconded by Ms. Noland and unanimously approved.

#### **PUBLIC COMMENT**

Heidi Parker of Charles Town voiced her objections to the water rate hike by Jefferson Utilities, Inc. and requested that the Jefferson County Commission intervene on behalf of the citizens of Jefferson County.

Barbara Gibson of Harpers Ferry commented on the Jefferson County Planning Commission's proposal for rezoning of federal lands.

## **COUNTY ADMINISTRATOR REPORTS**

### **County Administrator Tim Boyde:**

- (1) Presented a plaque received from the 2010 Census Board to the Jefferson County Commission as a Recognition Award for the Commission's excellent work during the 2010 Census.
- (2) Reported two deletions to the agenda: Peter Fricke of the Farmland Protection Board will be placed on next week's agenda for approval of a farmland easement; and, Jennifer Maghan, County Clerk, having nothing to report, was removed from this week's Agenda.
- (3) Reported that the Healthy Lifestyles Return Program will be scheduling two sessions per day on consecutive days to enroll employees. Healthy Lifestyles will also be scheduling a webinar.
- (4) Reported that an agreement was completed between elections and maintenance, as per instructions from the Commissioners at the September 16, 2010 meeting.
- (5) Reported that he met with the consultant for the Commission who is assisting in preparing a plan for the County employees as to procedures for emergencies.
- (6) Reported that, pursuant to the Commissioners request, he sent a letter to the PSD this week requesting documents.

## **COUNTY COMMISSIONER REPORTS**

### **Commissioner Patricia Noland:**

- (1) Reported that on Saturday, September 25, 2010 she attended the grand opening of the Morgan County Courthouse.
- (2) Reported that on September 29, 2010 she attended the Commission-sponsored Roundtable Discussion regarding impact fees as they affect fire companies, emergency services and the Sheriff's Department.
- (3) Reported that she attended a parade committee meeting at the City of Charles Town to discuss ideas for the Christmas parade.

Mr. Manuel commented that the County should have a presence in the parade and Ms. Widmyer suggested asking the County employees if they would like to participate.

### **Commissioner Dale Manuel:**

- (1) Reported that on September 24, 2010 he attended the Jefferson County Council on Aging Recognition of Service Ceremony. He also noted that he and Bill Kline were retired from the Council as of September 30, 2010.
- (2) Reported that on September 25<sup>th</sup> he attended the Parks and Recreation Summit where the idea of a combined municipal and county Parks and Recreation organization was discussed.
- (3) Reported that also on September 25, 2010 he attended the Medication Take Back and did not observe a large amount of participation. Mr. Manuel suggested that perhaps the Medication Take Back should be conducted at the same time as the Electronic Waste and Hazardous Material Recycling for a larger resident turnout.
- (4) Reported that on September 26, 2010 he visited the Arts and Crafts Festival. Mr. Manuel advised that ice cream sales by the Kiwanis was a success.

- (5) Reported that on September 27, 2010 he attended the Building Safety and Security Committee meeting and advised that emergency plans were being developed.
- (6) Reported that on September 29, 2010 he attended the County Commission's Impact Fee Roundtable.

**Commissioner Morgan:**

- (1) Reported that she attended the Jefferson County Planning Committee meeting on Tuesday evening, September 28, 2010.
- (2) Reported that she attended a Workforce Investment Board Meeting in Martinsburg.

**Commissioner Surkamp:**

Commissioner Surkamp had nothing to report.

**Commissioner Lyn Widmyer:**

- (1) Reported that she attended the Parks and Recreation Summit on September 25, 2010.
- (2) Reported that she attended the Building Safety and Security Meeting on September 27, 2010 and advised that the evacuation plans for the County buildings will be done in six months.
- (3) Reported that she attended the Impact Fee Roundtable on September 29, 2010.
- (4) Reported that she met with County staff regarding the 340 corridor study and stated that there is a lot of opportunity in the 340 corridor.

**PRESENTATIONS:**

- (1) **Ed Slonaker of Morgan Financial Group, LLC** - presented the Commission with a quote on Long Term Disability for county employees and explained options.

Motion by Mr. Manuel, seconded by Ms. Noland to take this matter up for discussion in two weeks. Motion defeated 2 – 3 with Commissioners Surkamp, Morgan and Widmyer voting “no.” It was agreed that the issue will be revisited during next year's budget discussion.

**The Commission took a 5-minute break at 10:30 a.m.**

- (2) **Roger Goodwin, Department of Engineering** – requested that the Commission approve a complete release of the remaining \$53,244.00 construction bond amount for Mark D. Zwilsky – Potomac Metals, Inc. (File #S07-04).

Motion by Ms. Noland to approve the complete release of the remaining \$53,244.00 construction bond amount for Mark D. Zwilsky – Potomac Metals, Inc. (File #S07-04). Motion seconded by Ms. Morgan and unanimously approved.

- (3) **Kari Hugel, U.S. Dept. of Commerce** – request to use County Commission Meeting Room for all day testing and interviewing session to fill some vacancies for the position of Field Representative on October 13, 2010 from 9:00 a.m. to 5:00 p.m.

Motion by Ms. Morgan to approve the use of the County Commission Meeting Room by the U.S. Dept. of Commerce for the purpose of all day testing and interviewing to fill some vacancies for the position of Field Representative on October 13, 2010 from 9:00 a.m. to 5:00 p.m. Motion seconded by Ms. Noland and unanimously approved.

- (4) Proclamation – Public Transit Month – October 2010** – Mr. Boyde read a Proclamation to be issued by the Jefferson County Commission proclaiming October 2010 as Public Transit Month.

Motion by Ms. Noland and seconded by Ms. Widmyer to approve the Proclamation designating October 2010 as Public Transit Month.

Ms. Morgan suggested amending the motion and striking the word “wonderful” in the Proclamation. Amended motion unanimously approved.

**The Commission took a 5 minute break.**

- (5) Legal Update: Jefferson Utilities, Inc. (JUI) Rate Increase Case No. 10-1329-W-42T**

**Chris Cody, Jefferson County resident and member of Citizens for Fair Water** commented on the proposed water rate hike by JUI and presented documentation to substantiate the concerns. On behalf of Citizens for Fair Water he requested that attorney James Casimiro remain in the case on behalf of the citizens of Jefferson County.

James Casimiro and Ralph Lorenzetti reported the status of the litigation to the Commissioners and residents in attendance. Mr. Casimiro stated that the old case had been closed, however, there was a new case which incorporated much of the issues in the old case. After discussion, it was agreed that the Jefferson County Commission would intervene in the new case and that would be accomplished by Mr. Casimiro who would remain as legal counsel on behalf of the Commission.

Motion by Ms. Morgan to approve the intervention of the Jefferson County Commission in Case #10-1329-W-42T and that James Casimiro, Esq. be designated as lead counsel in the case. Mr. Surkamp seconded the motion and unanimously approved.

Mr. Manuel moved that the County Commission send a formal request to the PSC requesting that a public hearing be held in Jefferson County, West Virginia. Ms. Morgan seconded the motion and unanimously approved.

Motion by Mr. Manuel that the Jefferson County Commission send letters to our delegation in Charleston asking for support in the Commission’s request to have the PSC schedule a public hearing in Jefferson County, West Virginia. Motion seconded by Mr. Surkamp and unanimously approved.

Ms. Widmyer suggested sending a letter to the WV Development Authority inquiring as to what its position is with regard to the water utilities. Unanimous consent was given.

**Legal Update: Lawsuit filed against Commission by former County employee** – Ralph Lorenzetti and Mr. Boyde reported that copies have been sent to both liability insurance companies and it is likely that the Commission will be represented by one of these companies in this litigation.

**Legal Update by Stephanie Grove** – Ms. Grove reported that she met with Parks and Recreation on Wednesday evening, September 29, 2010, and the department has reinstated Jennifer Myers. Ms. Myers will be in charge of the department until a new Director can be hired.

- (6) **Charlotte Hernandez-Velez, IT Specialist** – presented the Commission with IT Blue Ribbon Panel By-Laws, First Report to Commission and list of perspective panel members. The Commissioners suggested some minor changes to the By-Laws and a change of name.

Motion by Mr. Surkamp to approve the submitted documents with comments noted and change the name of the panel to “IT Advisory Committee.” Motion seconded by Ms. Noland and unanimously approved.

- (7) **Mark Schiavone, Director of Capital Planning and Management** – requested approval of network assessment contractor Global Data Consultants to provide an Information Technology Assessment for Jefferson County.

Motion by Ms. Morgan to approve the request for approval of network assessment contractor Global Data Consultants to provide an Information Technology Assessment for Jefferson County pending approval and signature of Commission legal counsel, Stephanie Grove. Motion seconded by Ms. Widmyer and unanimously approved.

Mr. Schiavone requested the Commission to approve Budget Revision 004 to the General Fund.

Motion by Mr. Manuel to approve Budget Revision 004 to the General Fund. Motion seconded by Ms. Noland and approved 4 – 1. Mr. Surkamp voted “no.”

Mr. Schiavone requested approval to release \$15,648.67 from Department 428 (Data Processing) to purchase one year IBM maintenance on the iSeries computer.

Motion by Ms. Noland to approve release of \$15,648.67 from Department 428 (Data Processing) to purchase one year IBM maintenance on the iSeries computer. Motion seconded by Ms. Morgan and unanimously approved.

- (8) **Jennifer Brockman, Director Planning & Zoning Department** – requested that the Commission schedule a public hearing regarding the Planning Commission’s Petition to Rezone Certain Federal Lands.

Commissioners agreed to tentatively schedule a public hearing on November 18, 2010 beginning at 7:00 p.m. in the County Commission Meeting Room.

Jennifer Brockman requested that the Commission schedule a joint meeting of the Planning Commission and the County Commission regarding the Vision Statement for the Blue Ridge Mountain Communities Watershed Project.

Commission agreed to schedule a joint meeting on December 7, 2010 beginning at 7:00 p.m. to be held on the mountain, weather permitting. Exact location to be determined.

**Commission broke for lunch until 1:30 p.m.**

- (9) **Tim Boyde – Employee Handbook and Personnel Policies**

Mr. Boyde offered a brief overview of the draft of the Employee Handbook and Personnel Policies. Commissioners reviewed pages 1 through 14 of the Employee Handbook, suggesting revisions. Review will be ongoing during the course of upcoming Commission meetings.

- (10) **Budget Work Session**

Mark Schiavone opened the session with a summary of budget decisions to date.

Mr. Manuel made a motion to take \$500,000.00 of the \$970,056.00 remaining in the budget and move it into the Contingency Fund immediately. Ms. Noland seconded the motion and unanimously approved.

Ms. Widmyer suggested funding the following:

JCDA Revolving Fund Proposal	\$125,000.00
Recycling Event WAC	50,000.00
Claymont Society	30,000.00
Summit Point Library	10,000.00
Blue Ridge Community Center	2,500.00
US 340 Grant	5,000.00
AHA Request	15,000.00
PATH litigation	<u>32,000.00</u>
<b>TOTAL</b>	<b>\$269,500.00</b>

Motion by Ms. Morgan to approve Ms. Widmyer’s list for funding in the amount of 269,500.00 and add \$35,000.00 to the Water Advisory Committee for their water budget study in conjunction with Shepherd University, bringing the total funding to **\$304, 500.00.**

Mr. Surkamp moved to amend the motion on the floor to increase the funding to AHA from \$15,000.00 to \$18,000.00, bringing the total funds allocated to **\$307,500.00**, and direct that the additional \$3,000.00 be used to help fund its Youth Program. Ms. Noland seconded the amended motion and unanimously approved.

Roger Ethier of the Water Advisory Committee spoke about the water study.

Paul Pritchard, President of AHA, spoke about AHA's Youth Program.

Motion by Mr. Manuel that \$100,000.00 be deducted from the budget fund and placed in the Capital Building Fund, bringing the total in the Capital Building Fund up to \$275,000.00. Ms. Morgan seconded the motion and unanimously approved.

Ms. Widmyer moved that \$250,000.00 from the Capital Building Fund be allocated to fund the installation of an elevator in the Mason Building. Ms. Noland seconded the motion and unanimously approved.

**Consideration of Previously Submitted Personnel Related Requests:**

- a. **Todd Fagan** – request to approve position reclassification in GIS office.

Motion by Mr. Surkamp to approve the position reclassification in the GIS office.  
Motion seconded by Ms. Noland and unanimously approved.

- b. **Ralph Lorenzetti, Prosecuting Attorney** – request for additional prosecutor and an upgrade in salary for receptionist.

Motion by Mr. Manuel to approve Mr. Lorenzetti's request to hire an additional prosecutor and fund a starting salary of \$55,000.00 to \$60,000.00 from the Prosecuting Attorney's budget. Motion seconded by Ms. Noland and approved 4 – 1. Mr. Surkamp voted "no."

The Commission agreed to hold over until next week's meeting any discussion or decision on an salary upgrade for the Prosecuting Attorney's receptionist, when they will consider all personnel requests at the same time.

- c. **Angie Banks, Assessor** – request for additional funds

The Commissioners agreed to hold over Ms. Banks' request for additional funds until next week's meeting.

- **Tim Boyde** – request to expand vacant part-time position in Commission office to full time and post.

Motion by Mr. Surkamp to approve the expansion of the vacant part-time position in the County Commission Office to full time and post. Motion seconded by Ms. Morgan and unanimously approved.

Motion by Mr. Manuel to adjourn the meeting. Second by Ms. Widmyer and the meeting was adjourned.

Upon rising the Commission recessed until Thursday morning next beginning at 9:30 o'clock a.m.

---

LYN WIDMYER, PRESIDENT



# THE COUNTY COMMISSION OF JEFFERSON COUNTY

P.O. Box 250  
124 East Washington Street  
Charles Town, WV 25414

Phone: 304-728-3284

[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)

Fax: 304-725-7916



October 8, 2010

John Maxey  
335 Old Shenandoah Trail  
Harpers Ferry, WV 25425

RECEIVED

OCT 12 2010

JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

COPY

Dear Mr. Maxey and members of the Jefferson County Planning Commission:

At last week's County Commission meeting, the Commission discussed the date for the public hearing on the petition by the Planning Commission to rezone certain federal lands in the US 340 Corridor. A tentative date in November has been selected.

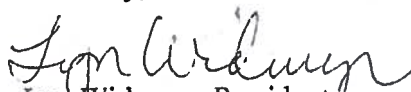
However, the Commission would like the Planning Commission to reconsider the timing of the petition and postpone its consideration until completion of the US 340 Corridor plan.

The US 340 Plan is in the Planning Commission's work program. The County Commission has approved the local match for a \$100,000 transportation analysis of the US 340 Corridor to be done in conjunction with the plan. Senator Herb Snyder has received a commitment from the WV DOH to re-examine bypass alternatives around Harpers Ferry. The cities of Ranson and Charles Town are evaluating "form based codes" for their municipalities and these codes may have merit in terms of the US 340 Plan.

We expect to receive other requests for rezoning if the rezoning petition goes forward. These requests will be made at the Public Hearing and require a response. The County Commission suggests any rezoning of properties in the US 340 Corridor should await completion of the plan for that corridor. This approach will allow all property owners to submit their requests at one time, rather than in a piecemeal fashion.

On behalf of the County Commission, I would like to extend our appreciation to the work you do and hope you will agree to defer the petition for rezoning of federal lands until completion of the US 340 Corridor Plan.

Sincerely,

  
Lyn Widmyer, President

## MINUTES

### JEFFERSON COUNTY PLANNING COMMISSION

OCTOBER 12, 2010

PAGE 5 of 5

Amendments to have a draft completed in November. Discussion ensued regarding priorities in presenting the Zoning Ordinance Text Amendments. Ms. Brockman also explained that the presentation of Fees and work on the Federal Rezoning Petition were also being done.

- e. **Draft Policy on meeting involving PC members without a quorum present.** Ms. Brockman presented the draft policy. Mr. Maxey moved to approve the memo, as written by staff (attached), as an additional item to Planning Commission policy. Mr. Trumble seconded the motion which carried unanimously.
- f. **Informational Item: Recent Internal Policy on application of the word "days" for the purpose of public notice requirements.** Ms. Brockman presented a staff policy to interpret the word "days", in regards to any public notice requirement, to mean calendar days.
- g. **Report on Urban Growth Boundary meetings.** Ms. Brockman stated that she had attended a Harpers Ferry Town Council Meeting where she explained the purpose of the Urban Growth Boundary to be shown on the County map. She stated that she had requested to attend the next Shepherdstown Town Meeting; however there had been no response. Ms. Brockman reported that staff was close to completing the updated draft zoning map which she hoped to be able to present at the December 14, 2010 Planning Commission meeting.
- h. **Upcoming meetings.** Ms. Brockman reported that there would be a National Trust for Historic Preservation meeting November 12, 2010. She stated that the County Commission had tentatively scheduled a public hearing for the Federal Lands Rezoning for November 18, 2010 at 7 PM. She presented a letter from County Commission requesting for the Planning Commission to delay or withdraw the petition for the Federal Lands Rezoning until the 340 Corridor Plan had been drafted. Mr. Maxey stated that he felt the Planning Commission should continue to move forward with the petition. Discussion ensued on drafting a response to County Commission. Mr. Maxey offered to draft a response for review at the October 26, 2010 meeting.

10. **County Commission Liaison Report.** None.

11. **Planning Commission Exchange.** None.

12. **President's Report.** None.

13. **Actionable Correspondence.** None.

14. **Non-Actionable Correspondence.** None.

Mr. Maxey moved to adjourn at 10:39 PM. Mr. Trumble seconded the motion, which carried unanimously. A detailed transcript of the meeting, which was recorded by Julie Quodala, Office Manager, may be found on our website. These minutes were prepared by Amy Puetz, Planning Clerk.

# JEFFERSON COUNTY, WEST VIRGINIA

## Department of Planning

116 East Washington Street, 2<sup>nd</sup> Floor

P.O. Box 338

Charles Town, West Virginia 25414

Email: [planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org)

Phone: (304) 728-3228

Fax: (304) 728-8126

October 26, 2010

Lyn Widmyer, President  
Jefferson County Commission  
124 East Washington Street  
Charles Town, WV 25414

Dear Commissioner Widmyer and members of the Jefferson County Commission,

We appreciate the support that the County Commission has shown for the Planning Commission's efforts this year, and we look forward to continuing the progress we have made together to improve planning in Jefferson County.

The Planning Commission received your October 8<sup>th</sup> letter regarding our recent petition for rezoning at our meeting on Tuesday October 12<sup>th</sup>. We agree that the 340 Gateway/Commercial Corridor planning project is of crucial importance to Jefferson County. We are convinced that cleaning up the zoning map and properly zoning the Federal parcels is an important first step in this project.

The uncertainty surrounding the future of the Old Standard Brown Field Development project underlines the importance of making certain that parcels in this area are assigned the correct zoning category. County ordinances require that the zoning category of surrounding parcels be considered when evaluating requests for Conditional Use Permits or requests for rezoning of parcels. Some parcels now within the Harpers Ferry National Park and the U.S. Customs facility are currently zoned Industrial-Commercial, Residential-Growth, and Residential-Light Industrial-Commercial. Potential purchasers of property in this area may mistakenly believe that these assignments are intended, and may base investment decisions on this incorrect information.

In addition, required buffer zones vary depending on the zoning classification of adjoining properties. In order to require buffers that are appropriate for National Park or U.S. Customs property we need to have these parcels zoned rural.

The Planning Commission understands the County Commission's concerns, but we believe for the reasons mentioned in this letter that the public hearing on our rezoning petition should proceed as scheduled for Thursday November 18<sup>th</sup>.

Sincerely,



John Maxey, President  
Jefferson County Planning Commission



**CAMPBELL  
FLANNERY**  
A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW

201 North George Street  
Suite 202  
Charles Town, West Virginia 25414  
Telephone: (304) 725-5325  
Facsimile: (304) 724-8009

**J. Michael Cassell, Esq.**  
Principal

JCassell@CampbellFlannery.com

October 19, 2010

**Hand Delivery**

John Maxey, President  
Jefferson County Planning Commission  
Mason Building  
Charles Town, WV

***Re: Proposed US 340 Federal Lands Rezoning***

Dear Mr. Maxey:

Old Standard, LLC and Eugene Capriotti retained me to represent them regarding the above-captioned proposal. Please place my name on the Agenda for the regular Jefferson County Planning Commission Meeting on October 26, 2010. My clients are adjoining landowners to various parcels owned by the Federal Government. We wish to lodge our objection to the proposed rezoning.

The proposal is to rezone all Federal Property as Rural or Agricultural, as I understand it. At a presentation before the County Commission you indicated to the Commission and the public that the purpose of the rezoning was to conform the zoning classification to the actual use of the property by the Federal Government. The proposal fails to accurately describe the use of the property under consideration.

The Customs and Border Protection Facility is a multi-use training complex. It includes shooting ranges, classrooms, residential facilities, food service, and parking. There may be other uses which are not apparent to public view for security reasons. This facility is clearly not Rural or Agricultural in nature.

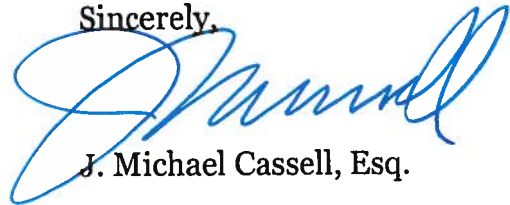
The basic purpose of the National Park Service Property is to generate tourism. The Harpers Ferry National Park is often used as an example of an "economic engine" which generates vast amounts of commercial tourism for Jefferson County. It is inconsistent to characterize the National Park as an agricultural concern.

There has been very little discussion of the effect of this large scale rezoning on adjacent landowners and other landowners in this part of the County. There should be a full disclosure of all predictable impacts on adjoining property. The Planning Commission Staff should prepare an Impact Study which would provide information to adjoining landowners on the expected effect that this proposal might have on their property.

There should also be a full disclosure of all information and communications between the Planning Commission, the Staff, and the participants in this Proposal from the Federal Government side. The public has no information from the Planning Commission or the Staff regarding the origination of this Zoning Proposal. A full disclosure of all information is necessary before there can be an informed discussion.

On its face, the Rezoning Proposal appears to be overly broad and heavy handed. There appears to be little or no thought given to a careful study of the impact that this massive rezoning may have on adjoining landowners. The Commission should be more forthright with the public and clearly delineate the objectives that this proposal is intended to accomplish.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Michael Cassell", written in a cursive style.

J. Michael Cassell, Esq.

*J. Maghan*  
Jennifer S. Maghan, County Clerk  
P. O. Box 208  
Charles Town, WV 25414

## JEFFERSON COUNTY PLANNING COMMISSION

116 East Washington Street  
P.O. Box 338  
Charles Town, West Virginia 25414

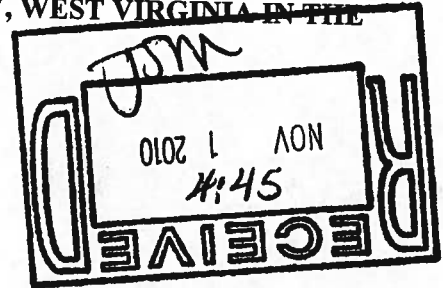
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Phone: (304) 728-3228

Fax: (304) 728-8126

**BEFORE THE COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA IN THE  
MATTER OF:**

### Rezoning of Certain Federal Lands



### ORDER

On this 1<sup>st</sup> day of November, 2010 the Planning Commission of Jefferson County West Virginia hereby petitions the County Commission of Jefferson County West Virginia to rezone certain Federal lands, along US Route 340 that are currently zoned Industrial-Commercial; Residential-Growth and Residential-Light Industrial-Commercial, to Rural. These properties comprise a total of approximately 929 acres, of which 701 acres are owned by the Harper's Ferry National Park Service and 228 acres are owned by the U.S. Customs and Border Patrol. The specific parcel information with referenced tax district, map and deed book numbers are included as an attachment to this Order.

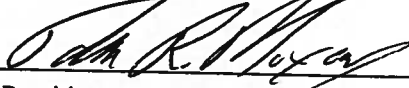
In August 2010, during a concentrated effort on Staff's part to perfect the zoning map, the Planning Commission inquired about the underlying zoning of the Federal lands on the zoning map, as they were merely designated "park land". At the August 24, 2010 Planning Commission meeting Jennifer Brockman, Director of the Department of Planning and Zoning made a presentation to the Planning Commission. During the presentation, Director Brockman stated that almost all the Federal lands located within Jefferson County are zoned Rural, with the exception of the Federal lands located along US Route 340, as they were zoned prior to becoming Federal land.

At their September 14, 2010 Planning Commission meeting, the Planning Commission voted to approve a Resolution to petition the County Commission to rezone the Federal lands along US Route 340. Additionally, the Planning Commission directed Staff to submit an Agenda Request Form on their behalf in order to retain an appointment to present their proposal to the County Commission. On September 23, 2010, after receiving the Planning Commission's presentation, offered by Planning Commission President, John Maxey, the County Commission moved to set a Public Hearing date at their September 30, 2010 meeting.

At their September 30, 2010 meeting, the County Commission tentatively scheduled the US Route 340 Federal Lands Rezoning Public Hearing for November 18, 2010 at 7:00 p.m. in the County Commission meeting room. At their regularly scheduled Planning Commission meeting on October 12, 2010, the Planning Commission received correspondence from County Commission President, Lyn Widmyer. Also, at the October 12, 2010 meeting, the Planning Commission moved that President John Maxey draft a response to County Commission President, Lyn Widmyer. Mr. Maxey's drafted response was approved at the Planning Commission meeting on October 26, 2010.

The Planning Commission believes that this rezoning is compatible with the Comprehensive Plan due to the significant changes within the area along US Route 340. As the Comprehensive Plan is currently written, there are key components within the Comprehensive Plan that support the rezoning. Additional Federal lands, along US Route 340, have been purchased since 2002. Of the 929 total acres owned by Federal agencies, 701 acres have been conserved by the Harpers Ferry National Park Service. A large portion of the remaining 228 acres, owned by the U.S Customs and Border Patrol, have been used for their own private educational facility.

It is therefore ORDERED that the Jefferson County Planning Commission petition regarding the Rezoning of Federal Lands along US Route 340 to the Jefferson County Commission be recorded and filed on this date, November 1, 2010.

Dated 11/1/2010 By   
President, Jefferson County Planning Commission

Owner	Tax District	Tax Map	Tax Parcel	Full Parcel	Deed Book	Deed Page
National Park Service	4	6	7	04000600070000	1065	710
	4	6	7.2	04000600070002	1065	710
	4	6	7.3	04000600070003	974	426
	4	7	1	04000700010000	905	328
	4	7	2	04000700020000	733	148
	4	7	3	04000700030000	1049	292
	4	7	5.2	04000700050002	488	146
	4	7	6	04000700060000	960	546
	4	7	31	04000700310000	405	30
	4	9	36	04000900360000	1016	675
	4	9	37.1	04000900370001	1065	710
	4	9	38	04000900380000	1011	49
	4	9	40	04000900400000	694	540
	4	9	68	04000900680000	968	641
	4	11	25	04001100250000	694	540
US Customs & Border Protection	4	9	12.1	04000900120001	1044	201
	4	9	13	04000900130000	957	603
	4	9	13.3	04000900130003	1037	510
	4	9	15	04000900150000	1036	158
	4	9	17	04000900170000	1033	389
	4	9	18	04000900180000	1033	389
	4	9	19	04000900190000	1037	680
	4	9	19.1	04000900190001	1036	152
	4	9	19.3	04000900190003	1033	389
	4	9	19.4	04000900190004	1056	592
	4	9	19.5	04000900190005	1037	680
	4	9	19.6	04000900190006	1056	592
	4	9	20	04000900200000	1056	592
	4	9	21	04000900210000	957	120
	4	9	39	04000900390000	1055	457
	4	9	39.2	04000900390002	1064	184
	4	9	39.3	04000900390003	1061	618
	4	9	40	04000900400000	694	540
	4	9	40.1	04000900400001	1056	592

**Resolution to Petition the Jefferson County Commission to Amend the Zoning Map**

WHEREAS the existing Jefferson County Zoning map indicates parcels along Route 340 now owned by the National Park Service and U.S. Customs and Border Patrol as either their original zoning classification or as "National, State and County Facilities"; and

WHEREAS the Jefferson County Planning Commission wishes to revise the zoning map so that it reflects the true underlying zoning classification rather than parcel ownership; and

WHEREAS the current use of these parcels fits the rural zoning classification; and

WHEREAS rezoning these parcels to reflect a rural classification would be consistent with the Jefferson County Comprehensive Plan;

THEREFORE BE IT RESOLVED that the Jefferson County Planning Commission petition the Jefferson County Commission under the provisions of WV Code §8A-7-9 paragraph B to rezone the parcels owned by either the National Park Service or the U.S. Customs and Border Patrol along Route 340 from the current zoning classification to rural.

On September 14, 2010 at the regularly scheduled Planning Commission meeting, the Planning Commission decided with a 5-0 vote to petition the County Commission to rezone Federal Lands along the Route 340 Corridor.

X 

John Maxey  
President, Jefferson County Planning Commiss...

# Federal Properties on 340 Corridor with Zoning Overlay DRAFT

N

