

SPECIAL SESSION

State of West Virginia, County of Jefferson, to-wit:

At a Special Session of the County Commission of said County and State continued and held at 100 E. Washington St., Charles Town WV and virtually via GoToWebinar on December 11, 2023 beginning at 9:30 o'clock a.m.

PRESENT: Steve Stolipher, President
Jennifer Krouse, Commissioner
Pasha Majdi, Commissioner
Jane Tabb, Commissioner
Nathan Cochran, Assistant Prosecuting Attorney
Nikki Painter, Chief Deputy Clerk/Elections
Jessica James, Asst. Deputy Co. Administrator

In re: Special Session – Fire Levy Workshop; Approval to Advertise for County Administrator Position; Consideration of Settlement Offer regarding Commission payment of attorney’s fees in *Lutman Land Development, LLC v. County Commission of Jefferson County (CC-19-2023-C-220)*

The meeting was called to order at 9:30 a.m. by President Stolipher, followed by the Pledge of Allegiance and a moment of silence.

1. Fire Levy Workshop – Adam Watson, Chief of Independent Fire Company, and Marshall Demeritt, EMS Chief of Shepherdstown Fire Department presented a draft fire levy Order to the Commission for their consideration. The Commission asked several questions regarding the timeline and next steps to ensure the proposed levy meets the Secretary of State’s requirements for placement on either the 2024 Primary Election ballot or the 2024 General Election ballot. It was the consensus of the Commission to direct counsel to review the Levy proposal and report back by the January 18, 2024 regularly scheduled County Commission meeting. Commissioner Krouse and others expressed interest in a fire levy work session for a citizen informational/Q&A session. Chiefs Watson and Demeritt stated a work session would be held at Independent Fire Company during the second week of January, with confirmation of date and time to follow.
2. Approval to Advertise for County Administrator Position
 - **Motion by Mr. Stolipher to advertise the vacant full-time County Administrator position beginning the week of December 18, 2023 for approximately sixty days, with a tentative closing date of Friday, February 16, 2024. Motion seconded and unanimously approved.**
3. Consideration of Settlement Offer regarding Commission payment of attorney’s fees in *Lutman Land Development, LLC c. County Commission of Jefferson County (CC-19-2023-C-220)*
 - Commissioner Krouse recused herself from the discussion/action of this item citing pending litigation against her.
 - **Motion by Mr. Stolipher to enter into Executive Session to receive legal advice concerning case CC-19-2023-C-220. Motion seconded and unanimously approved.**
 - **Motion by Mr. Stolipher to come out of Executive Session. Motion seconded and unanimously approved.**
 - **Motion by Ms. Tabb to approve the payment of attorney’s fees in *Lutman Land Development,***

LLC v. County Commission of Jefferson County (CC-19-2023-C-220) in the amount of \$17,937.75. Motion seconded and passes on a vote of 2-1 with Commissioner Stolipher opposing.

There being no further business, the meeting adjourned at 11:37 am.

Steve Stolipher, PRESIDENT

Respectively Submitted:

Jessica James

Assistant Deputy Co. Administrator

ORDER AND NOTICE OF ELECTION
FOR JEFFERSON COUNTY SPECIAL EXCESS LEVY

WHEREAS, West Virginia Code Chapter 7, Article 7, Section 1 et seq., provides for the creation and funding of fire departments through a levy on property, and;

WHEREAS, it is deemed necessary, appropriate, and in the best interest of the citizens, residents and visitors of Jefferson County to impose such reasonable fire service levy, and;

WHEREAS, the Jefferson County Fire and Rescue Association, Inc. (JCFRA), as the recognized governing body of all fire companies in Jefferson County, has presented a need and petition for such fire service funding, and;

THEREFORE, at a regular meeting of the County Commission of Jefferson County, West Virginia, held on the _____ day of _____, 202_, as provided by law, the following Order is hereby made and entered of record, to wit:

The Jefferson County Commission, being advised that funds are needed for the operation of the volunteer fire companies of Jefferson County, West Virginia, and having been requested by the Jefferson County Fire and Rescue Association, Inc. consisting of Friendship Fire Company, Citizens Fire Company, Shepherdstown Fire Department, Independent Fire Company, Blue Ridge Mountain Volunteer Fire Company, Middleway Fire Company, and Baketon Fire Department, to authorize a special levy election in order to obtain funds for the operation of said volunteer fire companies, it is hereby **ORDERED THAT**

1. The purpose of this Fire Levy is to create a means to adequately fund fire protection services within Jefferson County, West Virginia.
2. The member organizations of the JCFRA are hereby authorized and empowered to expend or carry over to the next fiscal year their shares of levy monies collected in any one fiscal year for the above stated purpose.
3. Revenues resulting from the Fire Levy collections shall not be used for the provision of emergency medical services (EMS) in Jefferson County, except for such ordinary expenses incurred by the JCFRA member department assisting the County in such provisions.
4. The charges imposed pursuant to this Fire Levy shall be imposed, assessed and collected as provided for herein.
 - a. That the total approximate amount needed for said purposes is **\$2,532,914** annually.
 - b. The projected sum of the collections over the five-year period of the proposed levy is **\$12,664,570** to be divided as herein described.

- c. That the separate and aggregate assessed valuation for each class of taxable property within Jefferson County, West Virginia, for the fiscal year 2024 (FY24) is as follows:

Property Classification	Assessed Valuation
CLASS I	0
CLASS II	\$3,595,050,380
CLASS III	\$1,093,719,455
CLASS IV	\$493,013,071
Aggregate	\$5,181,782,906

- d. The proposed additional rate of levies in cents on each class of property based upon FY26 valuation, is as follows:

Property Classification	Rate of Levies /\$100
CLASS I	\$0.2
CLASS II	\$0.4
CLASS III	\$0.8
CLASS IV	\$0.8

- e. The proposed years to which the special levy shall apply are the fiscal years beginning July 1, 2025, July 1, 2026, July 1, 2027, July 1, 2028 and July 1, 2029.
5. The Jefferson County Commission will not issue bonds upon approval of the proposed special levy.
6. The question of such additional levy shall be submitted to a vote at an election to be held on the ___ day of _____ 202__.
- a. Notice calling such election shall be given by the publication of this Order at least once each week for two successive weeks before said election in a newspaper of general circulation in the territory in which the election is to be held. All the provisions of a general election shall apply in so far as they are practicable, except that a separate ballot shall be used at such election when held in connection with any other election.
- b. The ballot to be used in such election shall be in the form as follows:

ORDER AND NOTICE OF ELECTION
FOR JEFFERSON COUNTY SPECIAL EXCESS LEVY

OFFICIAL LEVY BALLOT

Election to authorize additional levy for the fiscal years beginning July 1, 2025, July 1, 2026, July 1, 2027, July 1, 2028 and July 1, 2029 for the purpose of funding the volunteer fire companies of Jefferson County, West Virginia, entered on the _____ day of _____, 2023.

The total approximate amount for fiscal year 2026 shall be \$2,532,914 with an increase in each succeeding year based on the increased value of taxable property,

The additional levy on Class I property shall be 2.00 cents per \$100.00 of assessed value; the additional levy on Class II property shall be 4.00 cents per \$100.00 of assessed value; the additional levy on Class III & Class IV property shall be 8.00 cents per \$100.00 of assessed value.

For the Levy

Against the Levy

Instructions: Those favoring the additional Levy completely fill in the oval in the space before "For the Levy"; those against the Levy completely fill in the oval in the space before "Against the Levy".

7. The revenues from this fire Levy shall be dedicated to the Jefferson County Fire and Rescue Association and shall be used solely to defray the costs of continuing, maintaining, improving, regulating, and supervising fire protection services within Jefferson County, West Virginia.

- a. Funds shall be used to defray costs related solely too:
 1. Vehicles – Fuel, Maintenance, Procurement
 2. Business Operations – Insurance, Service Contracts, Training, Software
 3. Station – Utilities, Maintenance, Renovations, Procurement
 4. Equipment, Tools and Services – Procurement, Maintenance.
 5. Emergency Operation - expenses directly resulting from emergency response (e.g. crew nourishment)
- b. 2% of annual levy funds received shall be dedicated for use by the Association for operational expenses and training for the County's fire fighters. Expenditures shall be distributed and approved pursuant to the JCFRA Bylaws.

- c. 5% of annual levy funds received shall be dedicated to a Capital Improvement fund to fund future capital improvement needs as arise.
 - d. No funds shall be distributed to any department that is no longer in good standing with the West Virginia State Fire Marshall's Office and the Jefferson County Fire and Rescue Association. Furthermore, if a fire department is disqualified, the department shall retain "good standing" with the aforementioned entities prior to July 1 of the calendar year, or the remaining funds will be divided unto the number of departments remaining. If a department is closed and/or ceases to exist, and/or terminates emergency fire response, the same manner shall be applied for the re-calculation of remaining funds throughout the years the levy is in effect.
8. The proceeds from the imposition and collection of the Fire Levy shall be deposited in a distinct account(s) held by the Treasurer of Jefferson County and shall be dispersed to the JCFRA member companies to defray the costs of continuing, maintaining, improving, regulating, and supervising fire protection services within Jefferson County, West Virginia.
- a. Disbursements shall be equal shares of 12% to each of the seven (7) JCFRA Member Companies.
 - b. Additional funding shall be dispersed using the following formula:
 - i. FORMULA: $\text{Response Area Square Miles} \times (100 / \text{Number of departments}) = \text{Additional \%}$
 - 1. Example: $48\text{sq miles} \times .1428 = 6.85\%$
 - c. Remaining funding shall be transferred to the JCESA to support fire staffing located in volunteer firehouses – in addition to the staffing levels provided by the Jefferson County Commission for EMS system.

Done and entered on the ___ day of _____, 2023.

NOW THEREFORE, ENACTED AND ORDAINED BY MAJORITY VOTE OF THE COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA.

**ORDER AND NOTICE OF ELECTION
FOR JEFFERSON COUNTY SPECIAL EXCESS LEVY**

Appendix 1

Example Summary of all fund disbursements:

Dispersment Category	Total	Remaining	CO#	Sq. Miles	Dispers %	5 Year Total	Annual By Dept	5YR by Dept
Annual Levy Revenue	\$ 2,532,914.00					\$ 12,664,570.00		
Less 2% Training	\$ 50,658.28	\$ 2,482,255.72				\$ 253,291.40		
Less 5% Capital Improve	\$ 124,112.79	\$ 2,358,142.93				\$ 620,563.93		
FFC 12%	\$ 282,977.15	\$ 2,075,165.78				\$ 1,414,885.76		
CFC 12%	\$ 282,977.15	\$ 1,792,188.63				\$ 1,414,885.76		
SFD 12%	\$ 282,977.15	\$ 1,509,211.48				\$ 1,414,885.76		
IFC 12%	\$ 282,977.15	\$ 1,226,234.33				\$ 1,414,885.76		
BRM 12%	\$ 282,977.15	\$ 943,257.17				\$ 1,414,885.76		
MFC 12%	\$ 282,977.15	\$ 660,280.02				\$ 1,414,885.76		
BFD 12%	\$ 282,977.15	\$ 377,302.87				\$ 1,414,885.76		
FFC Response	\$ 5,933.57	\$ 371,369.30	1	11.0128	1.57%	\$ 29,667.85	\$ 288,910.73	\$ 1,444,553.61
CFC Response	\$ 21,509.78	\$ 349,859.52	2	39.9225	5.70%	\$ 107,548.92	\$ 304,486.94	\$ 1,522,434.68
SFD Response	\$ 23,497.59	\$ 326,361.93	3	43.6119	6.23%	\$ 117,487.95	\$ 306,474.74	\$ 1,532,373.71
IFC Response	\$ 19,004.31	\$ 307,357.62	4	35.2723	5.04%	\$ 95,021.55	\$ 301,981.46	\$ 1,509,907.31
BRM Response	\$ 14,709.46	\$ 292,648.15	5	27.301	3.90%	\$ 73,547.32	\$ 297,686.62	\$ 1,488,433.08
MFC Response	\$ 21,711.51	\$ 270,936.65	6	40.2969	5.75%	\$ 108,557.53	\$ 304,686.66	\$ 1,523,443.29
BFD Response	\$ 8,147.56	\$ 262,789.09	7	15.122	2.16%	\$ 40,737.80	\$ 291,124.71	\$ 1,455,623.56
JCESA	\$ 262,789.09	\$ -				\$ 1,313,945.43	\$ 262,789.09	\$ 1,313,945.43

DRAFT

CAMPBELL FLANNERY, PC
1602 Village Market Boulevard, Suite 225
Leesburg, VA 20175
Ph:703-771-8344 Fax:703-771-8345

Lutman Land Development, LLC
412 West Burr Blvd
Kearneysville, VA 25430

PREBILL

December 5, 2023

File #: 1860-003
Inv #: Sample

RE: Breach of Contract/ Milton's Land Subdivison Bond
No retainer but transfer fr 1860-001

DATE	ATTY	DESCRIPTION	HOURS	AMOUNT	AMOUNT
Oct-27-23	DMC	Call with Mr. Lutman and Mr. Rocco [REDACTED]	0.90	\$395.00	355.50
	DMC	Call with Jefferson County Commission re bond	0.70	\$395.00	276.50
Oct-31-23	DMC	Prepare email to CNB re bond	0.10	\$395.00	39.50
Nov-06-23	DMC	Prepare draft writ	1.20	\$395.00	474.00
Nov-07-23	DMC	Prepare draft writ	1.80	\$395.00	711.00
Nov-08-23	DMC	Prepare draft writ	1.70	\$395.00	671.50
	SLP	Review and revise Verified Writ of Mandamus	4.60	\$195.00	897.00
Nov-09-23	DMC	Prepare draft writ	0.60	\$395.00	237.00
	SLP	Brief conference with DMC; Edit Writ of Mandamus; compile exhibits	1.40	\$195.00	273.00
Nov-13-23	DMC	Finalize writ; file same	0.50	\$395.00	197.50

Invoice #:	Sample				
	EAL	Finalize, file, and serve complaint	0.75	\$195.00	146.25
Nov-14-23	DMC	Conference with Mr. Groh re potential resolution	0.30	\$395.00	118.50
Nov-15-23	DMC	████████████████████	0.50	\$395.00	197.50
Nov-20-23	DMC	Confer with SLP and Lis re preparation for hearing	0.20	\$395.00	79.00
	DMC	Preparation of subpoenas	0.40	\$395.00	158.00
	DMC	Meeting with Lis in preparation for writ hearing	0.40	\$395.00	158.00
	SLP	Office conference with DMC; prepare subpoenas and checks for show cause hearing; draft and file certificate of service	1.20	\$195.00	234.00
Nov-21-23	SLP	Call with clerk; upload subpoenas and proofs of service to E-file	0.90	\$195.00	175.50
Nov-27-23	DMC	Prepare draft Order	0.50	\$395.00	197.50
	DMC	Prepare exhibits for Writ	0.80	\$395.00	316.00
	DMC	Prepare hearing outline	0.80	\$395.00	316.00
	SLP	Office conference with DMC; Compile exhibits and documents for show cause hearing into electronic file and index	1.30	\$195.00	253.50
Nov-28-23	DMC	Confer with JPC re draft order	0.30	\$395.00	118.50
	DMC	Prepare draft order	0.30	\$395.00	118.50
	SLP	Review, finalize and submit 2 proposed orders	0.60	\$195.00	117.00
Nov-29-23	JPC	Hearing preparation	3.10	\$535.00	1,658.50
	DMC	Meeting in preparation for hearing	0.30	\$395.00	118.50
	DMC	Call with JPC and County Attorney in preparation for hearing	0.40	\$395.00	158.00
	DMC	Prepare for hearing.	1.90	\$395.00	750.50

	EAL	Revise and finalize Hearing Exhibits and Hearing Outline	2.00	\$195.00	390.00
	SLP	Conference with DMC, JPC and EAL re show cause hearing	0.30	\$195.00	58.50
Nov-30-23	JPC	Travel to Charles Town	0.80	\$535.00	428.00
	JPC	Attend County Commission meeting	0.90	\$535.00	481.50
	JPC	Preparation with DMC, EAL and client	0.60	\$535.00	321.00
	JPC	Attend hearing on Mandamus	2.20	\$535.00	1,177.00
	JPC	Return Travel	0.70	\$535.00	374.50
	DMC	Prepare for hearing.	1.00	\$395.00	395.00
	DMC	Attend hearing	6.00	\$395.00	2,370.00
	EAL	Attend hearing, and county commission meeting	5.00	\$195.00	975.00
	SLP	Research 5th amendment re civil proceedings	0.30	\$195.00	58.50
	Totals		48.25		<u>\$16,550.75</u>

DISBURSEMENTS

Nov-14-23	Costs advanced - US Courts	208.00
Nov-21-23	Costs advanced - Cavalier Courier - Service on Jacqueline C. Shadle, Clerk	195.00
	Costs advanced - Cavalier Courier - Service on Jennifer A. Krouse	195.00
	Costs advanced = Cavalier Courier - Service on Jane Tabb	195.00
	Costs advanced - Cavalier Courier - Service on Roger Goodwin	195.00
	Costs advanced - Cavalier Courier - Service on Stephen Stolipher	195.00
	Costs advanced- Cavalier Courier - Service on Tricia Jackson	195.00
Nov-22-23	Costs advanced - U.S. Courts (6 @ \$1.50)	9.00

Totals

\$1,387.00

Total Fee & Disbursements

\$17,937.75

Balance Now Due

\$17,937.75

TRUST STATEMENT

	Disbursements	Receipts
Nov-20-23	Received From: Transfer: 1860-001 To 1860-003 Transfer	124.41
	Paid To: Jacqueline C. Shadle, Clerk Subpoena	20.00
	Paid To: Roger Goodwin Subpoena	20.00
	Paid To: Stephen Stolipher Subpoena	20.60
	Paid To: Jennifer Krause Subpoena	22.16
	Paid To: Tricia Jackson Subpoena	21.02
	Paid To: Jane Toblo Subpoena	20.63
	<hr/>	<hr/>
	Total Trust	\$124.41
	Trust Balance	\$0.00

