

REGULAR TERM:

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

At a Regular Term of the County Commission of said County and State continued and held at the Courthouse thereof on Thursday, April 7, 2005, beginning at 9:30 o'clock a.m.

PRESENT: A.M.S. (Rusty) Morgan, III, President;
James Surkamp; Greg Corliss;
Dale Manuel; Jane M. Tabb; Commissioners

In re: PLEDGE OF ALLEGIANCE

Commissioner Morgan conducted the Pledge of Allegiance.

In re: DISPENSE WITH READING OF MINUTES

Motion by Tabb, second by Manual to dispense with the reading of the Minutes for the meeting held on Thursday, March 31, 2005, and to approve the Minutes as presented. Motion carried.

In re: APPROVAL OF PURCHASE ORDERS

Motion by Manual, second by Tabb to approve the following Purchase Orders for the Week of April 4, 2005, totaling \$12,794.94: 40245, 40886, 41153, 41234, 40939, 41139, 41232, 41237, 41207, 41212, 40983, 41039, 41042 and 41043. Motion carried.

In re: APPROVAL OF PURCHASE ORDER

Motion by Manual, second by Corliss to approve Purchase Order 41214 totaling \$10,732.00 as presented by Paul Raco, Director, Planning, Zoning and Engineering. Motion carried by a 4 to 1 vote. Commissioner Surkamp voted no.

In Re: BONDING AND ACTIVITY REPORT

Paul Raco appeared before the Commission to give the Planning Commission Activity Report.

In Re: PUBLIC COMMENT

J. Michael Cassell appeared before the Commission expressing his concerns with Commissioner Surkamp publicly addressing legal inquiries on the agenda that directly relate to his representation of clients. Mr. Cassell discussed his prior commitment to the County Commission and reiterated his commitment now to private citizens and asked that no member of the Commission jeopardize his professional ethics by addressing matters relevant to his clients. Mr. Cassell also expressed his concerns with character attacks on other County officials and himself from Commissioner Surkamp.

Mike Shepp appeared before the Commission to express his concerns with creating additional members on the Planning Commission. Mr. Shepp asked that the Commission give it careful consideration before authorizing four additional members.

Peter Chakmakian appeared before the Commission to express his concerns with increasing the Planning Commission from nine members to thirteen. Mr. Chakmakian suggested forming a study group as opposed to adding more members to the Planning Commission.

In Re: MIKE THOMPSON - KLETTER AND JEFFERSON UTILITIES

Michael Thompson, Prosecuting Attorney appeared to request that the Commission cease all inquiries in reference to the Board of Zoning Appeals and Kletter appeal. Mr. Thompson advised the Commission that questions and inquiries could create a conflict of interest in the cases and advised the Commission of alternative means of acquiring information.

In Re: DEVELOPMENT AUTHORITY INTERVIEWS - SHEPHERDSTOWN REPRESENTATIVE

Howard Mills appeared before the Commission for the Development Authority Interview.

The Commission recessed at 10:15 a.m.

The Commission reconvened at 10:30 a.m.

In Re: DEVELOPMENT AUTHORITY INTERVIEWS - COUNTY APPOINTMENTS

The Commission conducted interviews with the following Development Authority applicants present: William Buettin, Bill Chesley, Conrad Hammann, Kevin Hopkins, Mark Dyck and Scott Faulkner.

In Re: PROPERTY SAFETY HEARING - JOSEPH O'BRYAN

Roger Goodwin, Jefferson County Engineer appeared before the Commission to request the Commission to issue an Order to comply with the Petition Case 04-005 (O'Bryan). Mr. Fred Blackmer and Mr. Joseph O'Bryan were also present for comment.

After testimony was taken motion by Corliss for removal of front deck within sixty days. Motion failed due to lack of a second.

Motion by Surkamp, second by Tabb for removal or repair of front deck compliant with Jefferson County Ordinances by May 9, 2005 subject to inspection by a Planning, Zoning and Engineering Inspector. Motion carried.

JEFFERSON COUNTY PROPERTY SAFETY ENFORCEMENT AGENCY

Petitioner/Complainant

VS

JOSEPH A. O'BRYAN

Respondent/Owner

ORDER

This matter came before the County Commission of Jefferson County for a hearing on the 7th day of April 2005 upon request of the Respondent/Owner. Therefore, at the time and place for hearing, testimony was received by the County Commission of Jefferson County. Therefore, upon the facts, determinations, and considerations of law, presented by the Property Safety Enforcement Agency, The County Commission of Jefferson County does find that:

1. The Respondent/Owner is the owner of a parcel of land located on Wild Rose Lane in Shannondale Subdivision, designated as Deed Book 503, Page 92 and Tax Map 23B, Parcel 197; and Deed Book 642, Page 670, Parcel 198 both in the Charles Town Tax District; and
2. The investigation report (Case 04-005) and the evidence and testimony submitted by the Property Safety Enforcement Agency represented the true condition of the property; and
3. The dwelling on the property with its dilapidated front porch deck is an attractive nuisance, unsafe and an accident hazard and therefore presents an unsafe condition detrimental to the public safety and welfare; and
4. The property will remain an attractive nuisance, unsafe, an accident hazard and detrimental to the public welfare until the front porch deck on the dwelling is either:
 - a. removed/demolished and all trash and debris are removed from the site; or
 - b. The front porch deck is repaired such that it meets the requirements of the current Jefferson County Building Code Enforcement Ordinance, and a building inspection is performed by the Office of Permits and Inspections to verify that the repaired front porch deck is in compliance with the building code.

5. The property owner did not remove the unsafe condition and accident hazard from the property within the reasonable amount of time granted by the Property Safety Enforcement Agency.

THEREFORE, it is ADJUDGED and ORDERED that the Respondent/Owner, Joseph A. O'Bryan be given until midnight, May 7, 2005, to either:

- a. remove/demolish the front porch deck and remove all trash and debris from the site; or
- b. the front porch deck is repaired such that it meets the requirements of the current Jefferson County Building Code Enforcement Ordinance, and a building inspection is performed by the Office of Permits and Inspections, and said inspection finds the repaired front porch deck to be in compliance with the building code.

That upon satisfying the above conditions, this case shall be dismissed.

That in the event these conditions are not met on this date and time certain, that:

1. The County Commission of Jefferson County, West Virginia shall hire a contractor to make the ordered removal of the front porch deck and dispose of all trash and debris from the property; and
2. The County Commission of Jefferson County, West Virginia brings a civil action in the Circuit Court of Jefferson County against the Respondent/Owner, seeking an order to:
 - a) Grant the contractor right of entry onto the property to remove the front porch deck and to dispose of all trash and debris from the property; and to
 - b) Subject the Respondent/Owner, jointly and severally, to a daily civil monetary penalty of twenty-five dollars (\$25.00) per day after the time limitation has passed and until the front porch deck on the dwelling, and trash and debris, are removed from the property, to the satisfaction of this County Commission; and to
 - c) Subject the property to a lien to satisfy the contractor's costs in performing the ordered removal of the front porch deck and to dispose of all trash and debris from the property; and reasonable attorney's fees and court costs; and to
 - d) Have the property in question sold to satisfy the lien on the property; and to
 - e) Grant such other relief as permitted by law.

Dated this 7th Day of April, 2005

/s/

A. M. S. Morgan, III, President

In Re: JENNIFER S. MAGHAN - COUNTY CLERK'S REPORT

Jennifer S. Maghan, County Clerk, appeared before the Commission to give the County Clerk's weekly report. Mrs. Maghan's report included an update on the Elections Advisory Committee and the Document Preservation Committee. Discussion also included precinct changes and polling places, copies of all precinct changes were provided to the Commission.

After discussion, motion by Manual, second by Tabb to approve the Precinct changes as presented by the County Clerk. Motion carried.

Precinct Number	Old Precinct	New Precinct
3	St. Thomas Lutheran Church	Charles Town Baptist Church
15	Bolivar Community Center	Harpers Ferry Middle School

23A	Seventh Day Adventist Church	City of Charles Town Office Building located in Tuscowilla Hills
23B	Seventh Day Adventist Church	City of Charles Town Office Building located in Tuscowilla Hills
35A	Shepherdstown Fire Hall	Butcher Center @ Shepherdstown University
35B	Shepherdstown Fire Hall	Butcher Center @ Shepherdstown University

In Re: PLANNING COMMISSION INTERVIEWS

The Commission conducted interviews with the following Planning Commission applicants present: Otis C. James, Joel H. Garner, Fred Blackmer, and Bryan Everhart.

In Re: APPOINTMENT TO THE SOLID WASTE AUTHORITY

No applications were received for appointment to the Solid Waste Authority.

In Re: APPOINTMENTS TO THE PLANNING COMMISSION

Nomination by Tabb to appoint Scott Baldau and Fred Blackmer to the Jefferson County Planning Commission for a three year term ending March 31, 2008. Nomination by Manual to appoint Thomas Kane to the Jefferson County Planning Commission for a three year term ending March 31, 2008. Nomination by Morgan to appoint John Sidor to the Jefferson County Planning Commission for a three year term ending March 31, 2008. Nomination by Corliss to appoint Rosella Kern, Mary Lehman, Brian K. Everhart and Peter Kubic to the Jefferson County Planning Commission for a three year term ending March 31, 2008. Nomination by Surkamp to appoint Vicki Faulkner, Wm. Kelly Baty and Frederick J. Wells to the Jefferson County Planning Commission for a three year term ending March 31, 2008. Motion by Tabb, second by Corliss to close nominations. Motion carried.

	Tabb	Manual	Morgan	Corliss	Surkamp
Wm. Kelly Baty					✓
Scott Baldau	✓	✓			✓
Fred Blackmer	✓	✓			
Brian K. Everhart				✓	
Vicki Faulkner					✓
Thomas Kane	✓	✓	✓		
Rosella Kern		✓	✓	✓	
Peter Kubic			✓	✓	
Mary Lehman	✓			✓	
John Sidor			✓		
Frederick J. Wells					✓

	Tabb	Manual	Morgan	Corliss	Surkamp
Fred Blackmer	✓	✓			
Peter Kubic			✓	✓	
Mary Lehman					✓

	Tabb	Manual	Morgan	Corliss	Surkamp
Fred Blackmer	✓	✓			
Peter Kubic			✓	✓	✓

Peter Kubic was appointed to the Jefferson County Planning Commission for one two year term ending March 31, 2007.

Roselia Kern was appointed to the Jefferson County Planning Commission for one three year term ending March 31, 2008.

Thomas Kane was appointed to the Jefferson County Planning Commission for one three year term ending March 31, 2008.

Todd Baldau was appointed to the Jefferson County Planning Commission for one three year term ending March 31, 2008.

In Re: SET DATE FOR PARKS AND RECREATION IMPACT FEE PUBLIC HEARING

The Commission agreed to place this on the agenda next week.

In Re: MANAGEMENT STUDY REQUEST FOR PROPOSALS

After discussion the Commission agreed to table this matter for further consideration.

In Re: RESCHEDULING MEETING DATE - FIRE AND AMBULANCE FEES

After discussion the Commission authorized the County Administrator to reschedule the meeting date and advise the Commission.

In Re: APPOINTMENTS TO THE DEVELOPMENT AUTHORITY

Nomination by Tabb to appoint Mark Dyck to the Jefferson County Development Authority for a three year term ending April 5, 2008. Nomination by Manual to appoint William Buettin to the Jefferson County Development Authority for a three year term ending April 5, 2008. Nomination by Corliss to appoint Conrad Hammann to the Jefferson County Development Authority for a three year term ending April 5, 2008. Nomination by Morgan to appoint Bill Chesley to the Jefferson County Development Authority for a three year term ending April 5, 2008. Nomination by Surkamp to appoint Edward Dunleavy and Scott Faulkner to the Jefferson County Development Authority for a three year term ending April 5, 2008. Motion by Tabb, second by Corliss to close nominations. Motion carried.

	Tabb	Manual	Morgan	Corliss	Surkamp
William Buettin		✓			
Bill Chesley	✓	✓	✓	✓	✓
Mark Dyck	✓	✓	✓	✓	
Edward Dunleavy					✓
Scott Faulkner					✓
Conrad Hammann	✓		✓	✓	

Bill Chesley was appointed to the Jefferson County Development Authority for a three year term ending April 5, 2008.

Mark Dyck was appointed to the Jefferson County Development Authority for a three year term ending April 5, 2008.

Conrad Hammann was appointed to the Jefferson County Development Authority for a three year term ending April 5, 2008.

In Re: APPOINTMENTS TO THE DEVELOPMENT AUTHORITY - SHEPHERDSTOWN REPRESENTATIVE

Motion by Corliss, second by Manual to appoint Howard Mills to the Development Authority as the representative of Shepherdstown. Motion carried by a 4 to 1 vote. Commissioner Surkamp voted no.

In Re: RESOLUTION - EMERGENCY MANAGEMENT PERFORMANCE GRANT

Motion by Tabb, second by Corliss to approve the Emergency Management Performance Grant Resolution as presented by Darrell Penwell, Director, Office of Emergency Services. Motion carried.

RESOLUTION

On the 7th day of April, 2005, the Jefferson County Commission passed the following resolution as set forth below:

RESOLVED, that Darrell G. Penwell shall Hereby be legally authorized to enter into agreements with West Virginia Office of Emergency Services for the Emergency Management Performance Grant (EMPG). This authority will exist until transferred or rescinded by act of this body.

/S/

A.M.S. Morgan III, President

In Re: INCLUSION OF \$1,000,000 LAND ACQUISITION FUND IN PARKS AND RECREATION IMPACT FEE CALCULATION

The Commission agreed to place this on the agenda next week for further discussion and consideration of legal review.

In Re: CITY OF CHARLES TOWN - EVITTS RUN PARK

The Commission directed that the information be sent to the Parks and Recreation Board.

In Re: APPROVAL OF EMPLOYMENT - MONICA DUNCAN - CIRCUIT CLERK'S OFFICE

Motion by Corliss, second by Manual to approve the employment of Monica Duncan in the Circuit Clerk's Office. Motion carried.

In Re: APPROVAL OF EMPLOYMENT - CHAD ALDRIDGE - PART-TIME PUBLIC SAFETY DISPATCHER

Motion by Tabb, second by Manual to approve the employment of Chad Aldridge as a part-time public safety dispatcher at the Jefferson County Communications Center. Motion carried.

In Re: OPPOSED TO WORK SESSION ON PUBLIC SAFETY CENTER WITHOUT PUBLIC HEARING

Commissioners discussed the importance of public input with regard to construction of the new Public Safety Center in Bardane. After discussion the Commission decided to schedule a workshop on Thursday, April 14, 2005 with associates from HSMM Architects to acquire information regarding design of the center and to hold a public hearing in the future.

In Re: MICHAEL CASSELL QUESTIONS REGARDING LEGAL ETHICS, BOARD OF ZONING APPEALS AND KLETTER

Commissioner Surkamp withdrew this agenda item.

In Re: WORK SESSION TO DISCUSS ABOLISHING PUBLIC SERVICE DISTRICT

Commissioner Surkamp withdrew this agenda item.

In Re: PRIOR TO VOTE ON APPOINTMENTS, CREATE PLANNING COMMISSION WITH 13 MEMBERS FROM 9, AS ALLOWED BY SECTION 8A WV CODE

Motion by Surkamp to authorize the appointment of four additional Planning Commission members to better facilitate the needs of the County. Motion failed due to lack of a second.

In Re: RECOMMEND TO PLANNING COMMISSIONER CREATION OF LONG-TERM PLANNING COMMISSION INCLUDES APPLICANTS FOR PLANNING COMMISSION

Commissioner Surkamp withdrew this agenda item.

In Re: COUNTY COMMISSION REPORTS

Commissioner Tabb reported on the Region 9 Executive Committee meeting she attended.

Commissioner Tabb reported on the Federal Reserve meeting in Baltimore she attended.

Commissioner Manual reported on the Legislative Session he attended.

Commissioner Morgan reported on the Legislative Session he attended.

Commissioner Surkamp reported on the Legislative Session he attended.

The Commission received the following information:

Acceptance of bonds for Cave Quarter Estates, Summit Point Automotive Research Center, Colonial Hills Subdivision Phase I, PNGI/Charles Town Races, Colonial Hills Subdivision Phase II.

Correspondence received from Sheriff Boober concerning Regional Jail costs.

Correspondence received concerning parking in County lots.

Impact Fee Status Report received for March 2005.

Copy of newspaper article concerning 911 fees.

Copy of newspaper article concerning hotel/motel tax.

Legislative information received from the County Commissioners' Association.

The County Legislative Line received from the Association of Counties.

Information received from the Association of Counties concerning HB 3358 and SB 684.

Information received from the Association of Counties concerning the Coal Severance Tax Amicus Brief.

Invitation received to attend the 12th Annual Telecommunications Banquet on April 15, 2005.

Notice received of a Vendor Showcase on April 11 & 12, 2005 in the Jefferson County Courthouse.

Notice received from the Jefferson County Public Service District of a change in meeting from April 4, 2005 to April 11, 2005.

Notice of Special Meeting on April 6, 2005, received from the Jefferson County Public Service District.

Correspondence received from PanTran thanking the Commission for funding.

Correspondence received from Governor Manchin concerning Medicaid MRDD waiver programs.

Correspondence received from the Division of Criminal Justice Services concerning the request for grant funds for Enforcing the Underage Drinking Laws Grant.

Community Bulletin received from the Harpers Ferry National Historical Park.

Weekly settlement for the Charles Town Races received from the West Virginia Lottery.

Oath of Office received from Jason S. Ahalt as an Animal Control Officer.

Miscellaneous

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

A.M.S. MORGAN, III, PRESIDENT