

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, May 19, 2005, beginning at 9:30 o'clock a.m.

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

Commissioner Tabb was absent due to a prior commitment.

In re: PLEDGE OF ALLEGIANCE

Commissioner Morgan conducted the Pledge of Allegiance.

In re: DISPENSE WITH READING OF MINUTES

Motion by Corliss, second by Manuel to dispense with the reading of the Minutes for the meeting held on Thursday, May 12, 2005, and to approve the Minutes as amended. Motion carried.

Motion by Manuel, second by Corliss to dispense with the reading of the Minutes for the special meeting held on Thursday, May 12, 2005, and to approve the Minutes as prepared. Motion carried.

In re: APPROVAL OF PURCHASE ORDERS

Motion by Corliss, second by Manuel to approve the following Purchase Orders for the Week of May 16, 2005, totaling \$13,721.18: 41381, 41377, 41378, 41382, 40660, 40661, 40663, 41323, 41376, 41379, 41380, 41381, 41219, 41222, 41090, 41092, 41093, 41094, 41095 and 40436. Motion carried.

In re: BOARD OF ZONING APPEALS - DRAFT NOTICE OF INTENT TO HIRE

The Commission discussed the draft Notice of Intent to Hire for the Board of Zoning Appeals. After discussion, the Commission agreed to place the matter on next weeks agenda and to invite the Board of Zoning Appeals to the meeting to discuss the matter.

In re: BONDING AND ACTIVITY REPORT

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

Motion by Corliss, second by Manuel to have the Planning Commission with the assistance of the Development Authority to send notification to the adjacent landowners of the O'Day Farm relative to the hearing on June 9, 2005. Motion carried.

In re: PUBLIC COMMENT

James Whipple commented on the Courthouse tours. Commissioner Morgan informed Mr. Whipple that the maintenance department was working on the floor repairs in the Courthouse and that he could meet with Mr. Polk, Maintenance Director along with Commissioner Morgan to be informed when the work is complete so that Courthouse tours could be scheduled.

In re: MANAGEMENT STUDY PROPOSALS RECEIVED

The County Administrator informed the Commission that she had received One (1) Submission for the Management Study. Motion by Corliss, second by Manuel to advertise the Management Study RFP for another two (2) weeks and mail out again. Motion carried.

In re: IT COMMITTEE REPORT

Neil Nilsen appeared before the Commission and gave a report on the IT Committee Meetings.

In re: GERALD MACFARLANE - APPEAL OF THE DEPARTMENT OF PLANNING ZONING AND ENGINEERING DECISION OF NOT MEETING THE MINIMUM REQUIREMENTS OF THE COMMUNITY IMPACT STATEMENT

Gerald McFarlane appeared before the Commission to discuss his appeal to the Department of Planning, Zoning and Engineering regarding not meeting the minimum requirements of the Community Impact Statement. Greg Jones, Assistant Prosecuting Attorney was present and made comments. After discussion, motion by Manuel, second by Surkamp to delay the decision until Counsel clarifies the motion. Motion carried.

After the review of the position of the Assistant Prosecuting Attorney, Greg Jones, motion by Corliss, second by Surkamp that for the purpose of grand fathering in the old requirement of the Zoning Ordinance as it pertains to the subdivision of land, the filing of an application for a waiver of a Community Impact Statement prior to 5:00 p.m. on April 8, 2005 will be considered the same as the filing of a complete Community Impact Statement prior to that time only if the Planning Commission grants the waiver. If the Planning Commission does not grant the waiver of a Community Impact Statement then the applicant would

be in the position as he or she was prior to the filing of an application for a waiver and would be subject to the requirements of the new ordinance. Motion carried.

In re: LESLIE WILLIAMS - LEDGE LOWE ESTATES - NOISE FROM LOWES PRODUCTS

Commissioner Surkamp discussed the information received from a neighbor of Lowe Products regarding loud equipment. After discussion, Commissioner Surkamp will contact the neighbor, Leslie Williams.

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. Ms. Maghan reported on the Special Election and that 93 poll workers are needed. She also announced the new employment of Justin Bradshaw in the County Clerk's Office. Ms. Maghan reported that Courthouse Tours will be given on Saturday, May 21, 2005 from 1:00 p.m. until 3:00 p.m.

In re: MARK SCHIAVONE - THIRD LEGAL OPINION ON IMPACT FEE ADJUSTMENT FREQUENCY

Mark Schiavone, Impact Fee Coordinator appeared before the Commission to discuss the Impact Fee Adjustment Frequency and to request expenditure of funds in order to obtain a third opinion on the adjustment frequency for impact fees. Motion by Corliss, second by Surkamp to authorize the Impact Fee Coordinator to hire Robin Kramer, the lawyer who authored the Impact Fee Procedures Ordinance and to obtain a third opinion on the adjustment frequency for impact fees and not to exceed \$2,000.00. Motion carried.

In re: BRANDE LARRIMORE - CHARLES TOWN HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION

Brande Larrimore appeared before the Commission to discuss the decision made at the meeting held by the Charles Town Horsemen's Benevolent and Protective Association regarding the closure of the race track and barns for a 6-9 month timeline for the purpose of the enlargement of the racetrack. Ms. Larrimore informed the Commission that the decision by the CTHBPA was that it is not acceptable to close the track for that long time period. The CTHBPA voted to not have the track lengthened.

John Finamore, Senior Vice President of Regional Operations, PNGI was present and made comments.

In re: APPROVAL OF APPLICATION FOR ADMISSION TO BASIC POLICE TRAINING SCHOOL - JAMES CHRISTOPHER TENNANT

Motion by Manuel, second by Corliss to approve the Application for Admission to Basic Training School for James Christopher Tennant. Motion carried.

In re: ACTION ON A RESOLUTION HONORING DR. JAMES MOLER

Motion by Manuel, second by Morgan to approve the following Resolution Honoring Dr. James Moler: Motion carried.

**RESOLUTION
HONORING DR. JAMES MOLER'S COMMITMENT TO HIS COMMUNITY**

Whereas, Dr. James Moler served the Children of Jefferson County for many years by providing them with outstanding educational opportunities as both a teacher and school administrator;

Whereas, Dr. James Moler co-founded and served as the executive officer for the Shepherd College Foundation thus helping to provide a college education for many of our county's young people;

Whereas, Dr. James Moler served with honor as a member of the West Virginia House of Delegates representing our County's interest statewide;

Whereas, Dr. James Moler played a critical part in organizing the Charles Town and Ranson Board of Trade and served as its secretary, this organization evolved into today's Chamber of Commerce;

Whereas, Dr. James Moler served on the original committee to build Jefferson Memorial Hospital which provides quality health care for our community;

Therefore, Be it Resolved, the County Commission of Jefferson County on this 19th day of May, 2005, joins with the Charles Town Kiwanis in honoring Dr. James Moler an outstanding educator, legislator, and citizen of our community. Further, we recognize and salute his outstanding contribution to our County.

/S/

A.M.S. Morgan, III, Commission President

In re: PRESENTATION BY KUBOTA MBR TREATMENT PLANT REPRESENTATIVE

Commissioner Surkamp discussed the Kubota Treatment Plant and the Commission agreed to have Commissioner Surkamp receive more information regarding this matter.

In re: RAYMOND J. (RANDY) FUNKHOUSER - DISCUSSION ON CHARLES TOWN RACES' PROPOSAL TO ENLARGE THE SIZE OF THE CURRENT RACING SURFACE

Mr. Randy Funkhouser appeared before the Commission to discuss the proposal to enlarge the size of the current racing surface. For the record, John Finamore, Senior Vice President of Regional Operation for PNGI was present and made comments. No action was taken.

The Commission took a 5-minute break from 11:50 a.m. until 11:55 a.m.

In re: PROSECUTING ATTORNEY REVIEW OF ETHICS COMMISSION ADVISORY OPINION NO. 2005-07 AS IT WOULD APPLY TO PLANNING COMMISSION MEMBERS - CONFLICTS OF INTEREST POLICY AND COUNTY POLICY FOR PLANNING COMMISSION REGARDING CONFLICTS OF INTEREST ADDRESSED IN RECENT ETHICS COMMISSION OPINION

Commissioner Corliss discussed the motion from last week's meeting regarding Prosecuting Attorney review of Ethics Commission Advisory Opinion No. 2005-07. After discussion, motion by Corliss, second by Surkamp to ask the Prosecuting Attorney to draft a conflict of interest policy for Boards that take into account the recent Ethics decision for 2005 provided to the County Commission and reference the policy 158-9-1. Amended motion by Surkamp, second by Corliss to ask the Prosecuting Attorney to draft a conflict of interest policy for Boards that take into account the recent Ethics decisions for 2005 provided to the County Commission and reference the policy 158-9-1 and to reflect the reason for recusal, and to include the conflict, leave the room and include all of the above in the minutes. After discussion, Commissioner Manuel stated that the code dictates ethics and that the Ethics Commission has in-service training for Boards. Commissioners Surkamp and Corliss withdrew the amended motion.

Motion by Manuel, second by Corliss to postpone action and to place this matter on next week's agenda. Motion carried.

In re: APPROVAL OF EMPLOYMENT - VICTORIA MYERS - COUNTY MAPPER - ASSESSOR'S OFFICE

Motion by Morgan, second by Manuel to approve the employment of Victoria Myers - County Mapper for the Assessor's Office. Motion carried.

In re: APPROVAL OF EMPLOYMENT - JUSTIN BRADSHAW - COUNTY CLERK'S OFFICE

Motion by Corliss, second by Manuel to approve the employment of Justin Bradshaw in the County Clerk's Office. Motion carried.

In re: COUNTY COMMISSION REPORTS

Commissioner Surkamp reported on the fire chief grant and data being collected by Barb Miller.
Commissioner Surkamp reported on the E-911 meeting he attended.
Commissioner Surkamp reported on the Corporation of Ranson Meeting he attended.
Commissioner Manuel reported on the Parks and Recreation Commission Meeting he attended.

The Commission received the following information:

Reminder of Pre Bid Conference on Wednesday, May 25, 2005, 10:00 a.m. Jail, 2:00 p.m. Public Safety Building.

Notice of Public Hearing - Proposed Changes to the Jefferson County Zoning and Land Development Ordinance/Map on Thursday, June 9, 2005 at 7:00 p.m.

Appointments to be made to the Planning Commission on May 26, 2005 and June 2, 2005.

Notice of meeting room change beginning June 2, 2005 through June 30, 2005, the County Commission will meet at the Old Charles Town Library meeting room for their regular meetings.

Appointment of alternate members to the Board of Zoning Appeals to be made on June 23, 2005.

Memorandum received from the Department of Impact Fees concerning a transfer of funds.

Memorandum received from the Department of Impact Fees concerning significant dates for Parks & Recreation and Fire & EMS Impact Fee Ordinances.

Memorandum received from the Department of Impact Fees concerning Fire & Emergency Medical Services Impact Fee.

Copies received of Ordinance No. 2005-2, Parks and Recreation Impact Fee, and Ordinance No. 2005-3, Fire and Emergency Medical Services Impact Fee.

Correspondence received from Jefferson County Community Ministries concerning their allocation of funds from the County.

Correspondence received from the Wood County Commission concerning the search for professional services for the Public Safety Building.

Permit Activity Report received from the Department of Planning, Zoning and Engineering.

Correspondence received from the Board of Risk and Insurance Management Underwriting Department concerning the Loss Run Report.

Correspondence received from the Worker's Compensation Commission concerning July 1, 2005 - December 31, 2005 Rate Notification.

Franchise Fee check received from Adelphia in the amount of \$68,719.74.

Notice of Adjournment until October 12, 2005 received from the United States Bankruptcy Court concerning Adelphia Communications.

911 Fees received from Vartec, Excel and Citizens Telecommunications.

Legislative Lineup received from the County Commissioners' Association.

Harpers Ferry/Bolivar PSD meeting minutes received.

Correspondence received from the County Commissioners' Association of West Virginia regarding the Judges' salaries of focus of session.

Information received regarding Title 158 - Legislative Rules - West Virginia Ethics Commission.

Correspondence received from the Animal Welfare Society of Jefferson County regarding the Video Lottery proceeds allocation.

Correspondence received from Congresswoman Shelly Moore Capito regarding the funding for Resource Conservation and Development (RC&D) programs.

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

Correspondence received from the West Virginia Association of Counties regarding summaries of Legislation 2005.

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

A.M.S. (RUSTY) MORGAN, III, PRESIDENT