

**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, July 14, 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 Manuel, second by Tabb to dispense with the reading of the Minutes for the regular meeting held on Thursday, June 30, 2005 and to approve the minutes as presented. Motion carried.

Motion by Tabb, second by Manuel to dispense with the reading of the Minutes for the Special Session held on Friday, July 1, 2005 and to approve the minutes as presented. Motion carried.

Motion by Manuel, second by Corliss to dispense with the reading of the Minutes for the Special Session held on Wednesday, July 6, 2005 and to approve the minutes as presented. Motion carried.

**In re: APPROVAL OF PURCHASE ORDERS**

Motion by Corliss, second by Manuel to approve the following Purchase Orders for the Week of July 11, 2005 totaling \$101,953.65: 41199, 41414, 41415, 41606, 41607, 41498, 41495, 41496, 41601, 41602, 41603, 41610, 41079, 41101, 41102, 41104, 41105, 41660, 41661, 41662, 41663, 41449, 41451, 41631, 41632 and 41636. Motion carried.

**In re: BONDING AND ACTIVITY REPORT**

Becky Burns appeared before the Commission to give the Planning Commission Activity Report. Mrs. Burns gave a Planning, Zoning and Engineering staff report, reported on Community Impact Statements and the Planning Commission meeting.

**In re: COMPLETE BOND RELEASE - CODEE MANOR SUBDIVISION**

Motion by Manuel, second by Tabb to approve the complete release of a Irrevocable Letter of Credit for Codee Manor Subdivision to Leroy L. Cook in the amount of \$5,750.00. Motion carried.

**In re: COMPLETE BOND RELEASE - EASTLAND SUBDIVISION, SECTION IIIC**

Motion by Tabb, second by Manuel to approve the complete release of a Irrevocable Letter of Credit for Eastland Subdivision, Section IIIC to Eastland Associates of West Virginia, Incorporated in the amount of \$41,890.00. Motion carried.

**In re: PUBLIC COMMENT**

Ann Dungan appeared before the Commission to express her opinion regarding the Poll Workers Luncheon.

Geraldine Willingham appeared before the commission to discuss the history of Jefferson County elected officials and how it may be reflecting upon Jennifer Maghan, County Clerk.

**In re: PETER L. CHAKMAKIAN - MARY FRANCES HOCKMAN OFFER TO SELL PROPERTY FOR PARKS AND RECREATION**

Peter Chakmakian appeared before the Commission to discuss the property location and explained the proposed property for sale by Mary Frances Hockman for the Parks and Recreation. Commissioner Manuel expressed that the proposal should be submitted to the Parks and Recreation Commission. For the record, Toni Milbourne was present and made comment.

**In re: DELEGATE TABB AND DELEGATE WYSONG - REPORT ON MEETING WITH DMV COMMISSION - DMV OFFICE FOR JEFFERSON COUNTY**

Delegate Bob Tabb, Delegate Locke Wysong and Senator John Unger appeared before the Commission to discuss the meeting with the DMV regarding the DMV office for Jefferson County. After discussion, the Commission supports a DMV office for Jefferson County and appreciates the Delegates and Senators supporting this matter. For the record, Jim Ruland was present and made comments.

**In re: JEFFERSON COUNTY DEVELOPMENT AUTHORITY - BURR/BARDANE WATER SYSTEM**

Jane Peters, Jefferson County Development Authority Executive Director appeared before the Commission to discuss the Burr/Bardane Water System. She discussed the adverse and negative emails and

correspondence received by the public. She explained the property management procedures and expenditures. For the record, William Chesley, President of the Jefferson County Development Authority made comments.

**In re: JEFF POLCZYNSKI - COMMUNICATIONS UPDATE**

Jeff Polczynski, Communications Director appeared before the Commission and discussed the following: Radio System Update, CAD System, Components of Emergency Communications Center, Redundancy to increase communication capabilities to Public Safety Personnel, Task Force Meeting in Charleston and Verizon's cost structure and proposal.

**In re: JENNIFER S. MAGHAN - COUNTY CLERKS REPORT  
REQUEST FOR APPROVAL OF EMPLOYMENT FOR VIVIAN FIELDS AND NIGEL JACKSON**

Jennifer S. Maghan, County Clerk appeared before the Commission to give the County Clerk's report.

Ms. Maghan requested approval of two new employees. Motion by Manuel, second by Corliss to approve employment of Vivian Fields and Nigel Jackson in the County Clerk's office. Motion carried.

Ms. Maghan reported on the legal opinion on Poll Workers luncheons that she received from Lew Brewer, Ethics Commission. Ms. Maghan requested reimbursement in the amount of \$1,952.00 for the luncheons and traveling expenses incurred at the election. Motion by Surkamp to authorize reimbursement as requested. Motion failed due to lack of a second. Commissioner Surkamp withdrew his motion.

Commissioner Corliss requested that a legal opinion be reviewed and schedule the matter for review next week.

**In re: PARKS AND RECREATION COMMISSION INTERVIEWS**

The Commission held interviews for the appointments to the Parks and Recreation Commission. Angela Lipsit and John Thomas, Jr. were present for the interviews.

After interviews, nomination by Surkamp to appoint Mike Jacobs. Nomination by Commissioner Corliss to appoint Daniel McVicar. Nomination by Commissioner Tabb to appoint John Thomas, Jr. Nomination by Commissioner Morgan to appoint Angela Lipsit and William Hoak.

Mike Jacobs, Daniel McVicar and William Hoak were appointed to the Jefferson County Parks and Recreation Commission for three year terms ending June 30, 2008.

**In re: ROB STEPTOE - USDA RURAL DEVELOPMENT STATE DIRECTOR - BURR/BARDANE WATER SALE**

Rob Steptoe and Randy Plum appeared before the Commission to discuss the Burr/Bardane Water Sale. The Commission discussed the matter. No action was taken.

For the record, Jane Peters, Executive Director of the Jefferson County Development Authority was present and made comments. Rob Steptoe requested that the County Commission put its inquiries in writing and send them to the USDA Counsel regarding the USDA involvement.

**In re: BURR/BARDANE WATER SYSTEM SALE - DISCUSS FISCAL AND FINANCIAL CONSIDERATIONS REGARDING PROPOSED SALE OF BURR PARK WATER SYSTEM**

The Commission discussed the fiduciary responsibility for the fiscal and financial considerations regarding the proposed sale of Burr Park Water System. Commissioner Corliss expressed his opposition of the sale due to the fiduciary consequences. The Commission also discussed the Development Authority revenues and operating expenses.

Motion by Corliss to encourage the Economic Development Authority to retain the cell tower revenues as a part of the Burr Park Water System sales agreement and that they answer the questions regarding the reserve funds. After discussion, motion by Surkamp, second by Corliss that the Jefferson County Development Authority consider retaining control over the lease and revenue of the communication dish as a part of the sale of the Burr Park Water System. After discussion, Commissioner Surkamp withdrew his motion. Motion by Corliss, second by Morgan to ask that the County Commission ask the Development Authority to consider retaining the Jefferson County revenue interest in the sale of the Burr Park Water System. Motion failed by a 2-3 vote. Commissioners Surkamp, Tabb and Manuel voted no.

**In re: UPDATE ON RANSON-COUNTY SCHOOL IMPACT FEE AGREEMENT**

Motion by Corliss, second by Manuel to request the Prosecuting Attorney advise the Commission on the best course of legal action with the Ranson Officials regarding the County School Impact Fee Agreement.

**In re: APPOINTMENT OF ALTERNATE MEMBERS TO THE BOARD OF ZONING APPEALS**

The Commission authorized Leslie D. Smith to schedule interviews with all interested candidates and to place this matter on the agenda at a later date.

**In re: PATRICIA M. SANDERSON - BOARD OF ZONING APPEALS DENIAL OF VARIANCE**

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

**In re: CONFLICTS OF INTEREST POLICY - UPDATE FROM PROSECUTING ATTORNEY'S OFFICE AND CONFLICTS OF INTEREST IN MINUTES POLICY**

The Commission discussed the Conflicts of Interest Policy. After discussion, motion by Surkamp, second by Corliss that the same motion of June 9<sup>th</sup>, 2005 be carried out and to vote to approve this policy effective upon receipt of a hard copy letter from the West Virginia Ethics Commission confirming the validity and then it will become our policy. Motion passed by a 3-2 vote. Commissioners Tabb and Manuel voted no.

**In re: MUTUAL AID AGREEMENT - CITY OF MARTINSBURG - FIRE, EMS, SPECIALIZED RESCUES AND DISASTERS**

Motion by Manuel, second by Corliss to approve the Mutual Agreement for the City of Martinsburg with the changes made. Motion carried.

**In re: I-TOWN STATUS REPORT - PROSECUTING ATTORNEY'S OFFICE**

The County Administrator reported that fact finding is ongoing.

**In re: IMMUNITY FOR PLANNING COMMISSION MEMBERS - REPORT FROM THE PROSECUTING ATTORNEY'S OFFICE**

The Commission discussed the immunity for Planning Commission members. Commissioner Corliss agreed to forward the correspondence to the Planning Commission.

**In re: PUBLIC SERVICE DISTRICT - ADDITIONAL MEMBERS RESEARCH FROM THE PROSECUTING ATTORNEY'S OFFICE**

The Commission acknowledged the opinion of the Prosecuting Attorney.

**In re: UPDATE ON SUBDIVISION AND ZONING ORDINANCE RFP**

Leslie D. Smith, County Administrator distributed the RFP Questions as compiled by Mr. Paul Raco to the Commissioners. The County Commission scheduled a workshop for Monday, July 18, 2005, at 1:00 p.m. to work on the responses.

**In re: REGIONAL WATER RESOURCES POLICY COMMITTEE - NOTICE OF USGS FUNDERS MEETING**

Commissioner Morgan informed the Commission that he would attend this meeting.

**In re: APPOINTMENT OF MUNICIPAL MEMBER TO THE MPO INTERSTATE COUNCIL**

The Commission agreed to place this matter on the agenda under Old Business at a later date.

**In re: HOUSE BILL 2296 – FEES TO BE CHARGED BY SHERIFF**

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

**In re: WEST VIRGINIANS UNITED TO PROTECT SOCIAL SECURITY – SOCIAL SECURITY RESOLUTION**

No action was taken on this matter.

**In re: WEST VIRGINIA HOUSING INSTITUTE, INC – IMPACT FEES**

Commissioner Morgan will respond to the West Virginia Housing Institute, Inc. by sending a letter and express that the Commission will not take action at this time.

**In re: THE HISTORY CHANNEL - REQUEST TO FILM DOCUMENTARY AT COURTHOUSE**

The Commission discussed the request received from the History Channel regarding filming a documentary at the Courthouse. The County Administrator will meet with the Judge and interested parties and report back to the Commission at a later date.

**In re: DEWBERRY - CONTRACT AMENDMENT - SAM MICHAELS PARK RECREATION CENTER**

Toni Milbourne, Member of the Jefferson County Parks and Recreation Commission made comments regarding the Contract Amendment with Dewberry regarding the Sam Michaels Park Recreation Center.

Tim Barr, Parks and Recreation Commission Director appeared before the Commission and commented on the Dewberry amendment. After discussion, motion by Manuel, second by Corliss to approve a \$20,000 Contract and Amendment with Dewberry. Motion carried.

**In re: PARKS AND RECREATION COMMISSION - REQUEST FOR WAIVER OF BOND - COMMUNITY CENTER**

After discussion, motion by Tabb, second by Manuel to approve the waiver of bond for the construction of the Community Center with the understanding that construction would follow all County ordinances and regulations. Motion carried.

**In re: ZONING AND SUBDIVISION RFP QUESTIONS AND ANSWERS**

Paul Raco, Director of Planning, Zoning and Engineering appeared before the Commission to give a detailed description of the RFP Questions. Mr. Raco also discussed Zoning and Ordinance variances.

After discussion, the Commission scheduled a work session for Monday, July 18, 2005 at 1:00 p.m. with Paul Raco.

**In re: COUNTY COMMISSIONERS' ASSOCIATION - SPECIAL ASSESSMENT FOR REIMBURSEMENT INCURRED BY THE CABELL COUNTY COMMISSION IN THE SUIT REGARDING REGIONAL JAIL EXPENSE**

The Commission discussed the correspondence received from the County Commissioners' Association regarding Special Assessment for reimbursement incurred by the Cabell County Commission in the suit regarding Regional Jail Expenses. No action was taken at this time, however, the Commission would like to be informed of any developments regarding this matter.

**In re: EARLY ACTION COMPACT WITH THE EPA**

Commissioner Tabb will acquire the contract for review and consideration for approval regarding the early action compact with the EPA.

**In re: APPOINTMENT TO THE POTOMAC HEADWATERS RC&D**

Motion by Corliss, second by Tabb to appoint Marian Buckner to the Potomac Headwaters RC & D Committee . Motion carried.

**In re: CONSIDER ALTERNATIVE SELECTION OF A LEASE BUY OPTION VERSUS BID BUILD METHOD FOR CONSTRUCTION OF PUBLIC SAFETY CENTER**

The Commission requested that a contractor/accountant brief the County Commission on optional financing alternatives.

The Commission recessed at 12:15 p.m.

The Commission reconvened at 1:30 p.m.

**In re: REQUEST A BRIEFING ON THE ROLE AND OPERATION OF THE JEFFERSON COUNTY BUILDING COMMITTEE/COMMISSION**

Commissioners would like more information about the Building Committee.

**In re: UPDATE ON OES CENTER CAPABILITIES IF ACTIVATED**

Leslie Smith, County Administrator distributed OES Procedures as prepared by Darrell Penwell, Emergency Services Director.

**In re: REPLACEMENT OF RANDY HILTON ON THE EASTERN PANHANDLE MPO**

The Commission agreed to place this matter on the agenda under Old Business at a later date.

**In re: CONSIDERATION OF A RESOLUTION IN SUPPORT OF A DMV OFFICE IN JEFFERSON COUNTY**

Motion by Manuel, second by Tabb to place this matter on the agenda next week for approval of a Resolution in support of a DMV Office in Jefferson County and forward the Resolution to the Governor's office. Motion carried.

**In re: COAL SEVERANCE BUDGET REVISION**

Motion by Tabb, second by Corliss to approve the Coal Severance Budget Revision as presented. Motion carried.

**In re: LEGALITY OF ACCEPTING SECOND LOWEST BID IN THE SALE OF A FEDERALLY FUNDED WATER SYSTEM**

Motion by Surkamp to ask our Prosecuting Attorney to rule on whether funded projects can be legally sold through a process of a competitive bid followed by an award that is not the highest bidder. Motion failed due to lack of a second.

**In re: COUNTY COMMISSION REPORTS**

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

Commissioner Tabb reported on the Clean Air Task Force meeting she attended.

Commissioner Tabb reported on the Farmer's Market scheduled to open every Thursday.

Commissioner Tabb expressed her opinion on the "Farm Day" article in the Spirit.

Commissioner Manuel reported on the Community Center Briefing meeting he attended.

Commissioner Morgan reported on the Library meeting he attended.

Commissioner Morgan reported on the Solid Waste Authority meeting he attended.

Commissioner Morgan reported on the Affordable Housing Committee meeting he attended.

Commission Corliss reported on the Planning Commission meeting he attended.

Commissioner Corliss reported on the Public Service District meeting he attended.

Commissioner Surkamp reported on the Historic Preservation meeting he attended.

**The Commission received the following information:**

Correspondence received from Sheriff Boober concerning Certificates of Deposit.

Impact Fee Status Report received for June 2005.

Correspondence received from the Department of Impact Fees concerning the status of Parks & Recreation and Fire & EMS Impact Fees.

Correspondence received from the Department of Impact Fees concerning funds transfers to the Sheriff's School Impact Fee Account and Law Enforcement Impact Fee Account.

Correspondence received from the Department of Planning, Zoning and Engineering concerning waiver from the site plan process for placement of office trailer for the Park and Recreation office.

Correspondence received from George Whalen concerning his positive experience with regards to the professional and pleasant responses from personnel of the Department of Planning, Zoning and Engineering.

Correspondence received from Carol Gallant concerning an advisory committee for conversion of the county jail.

Annual meeting registration form received from the County Commissioners' Association.

Correspondence received from Shepherdstown Day Care, Inc. concerning funding.

Notice received of the Regional Job Fair on Saturday, July 30, 2005.

Certificate of Liability Insurance received.

Correspondence received from the State Auditor concerning the annual in-service training program on August 7-9, 2005.

Correspondence received from the Department of Administration concerning Legislative Rules in regard to Leasing Space on Behalf of State Spending Units.

Copy received from the County Commissioners' Association of an order issued by the Public Service Commission with regard to HB 3208.

Copy of a newspaper article received from the County Commissioners' Association concerning annexation.

Correspondence received from the Association of Counties concerning bills that will become effective on or after July 1<sup>st</sup>, 2005.

Correspondence received from the Association of Counties concerning HAVA deadline.

Correspondence received from the County Commissioners' Association concerning the Secretary of State's Evaluation Committee for HAVA voting systems.

Information received from the County Commissioners' Association and the Association of Counties concerning the Cabell County jail bill suit.

Information received from the Association of Counties concerning the coal severance tax case.

Check received from the Public Service Commission for disbursement of Wireless E-911 subscriber fees.

West Virginia Ethics Reporter received for June, 2005.

Correspondence received from the following concerning sale of the Burr Industrial Park water system: Lynne Porges, Jack Kidwell, Will Nowell, Ronald G. Sikerica, Susan Kennison, Dale & Tara Oliver, Roger Ethier, Pete Smith, Jack Snyder, Barbara Benjamin, Dolly Nasby and Joe Coakley

Notice received from the Department of Planning, Zoning and Engineering of a Subdivision Work Session on Friday, July 15, 2005.

Notice received from the Department of Planning, Zoning and Engineering of Final Plat Public Hearings.

Minutes received from the Parks and Recreation Commission.

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

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

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A.M.S. MORGAN, III, PRESIDENT