

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 21, 2005, beginning at 9:30 o'clock a.m.

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

Commissioner Manuel 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

The County Commission minutes for the meeting held on Thursday, July 14, 2005 were laid over for a week.

In re: APPROVAL OF PURCHASE ORDERS

Motion by Corliss, second by Tabb to approve the following Purchase Orders for the Week of July 18, 2005, totaling \$15,963.86: 41294, 41561, 41562, 41507, 41508, 41510, 41181, 41700, 41313, 40944, 40945, 40120, 40122, 40121, 41497, 41501, 41612, 41468, 41469, 41470 and 41639. Motion carried.

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

The County Administrator informed the Commission that one application for appointment as an alternate member of the Board of Zoning Appeals had been received and that she would try and schedule an interview with the Commission.

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

The Commission agreed to meet with representatives from the Building Commission in a work session and ask the County Administrator to schedule a Thursday afternoon.

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

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

In re: WEST VIRGINIA EMPLOYERS' MUTUAL INSURANCE COMPANY - BOARD OF DIRECTORS BALLOT

The Commission took no action on this matter.

In re: RESOLUTION - INCREASING SERVICE OF PROCESS FEES

Motion by Tabb, second by Corliss to adopt the following Resolution to increase the service of process fees. Motion carried.

RESOLUTION

Whereas, effective July 1, 2005, HB 2296 amends West Virginia State Code §59-1-14;

Whereas, HB 2296 relates to increasing the Service of Process fees charged by the Sheriff and providing that two dollars of the fees charged and collected by the Sheriff be placed in the Deputy Sheriff's Retirement Fund and that three dollars of the increased fees be placed in the General Revenue Account of the County Commission;

Whereas, HB2296 gives the County Commission the authority to set the fees a sheriff may charge and raises the previous maximum that may be charged for the following services by \$5.00;

Whereas, for serving on any person, an order, notice, summons or other process where the body is not taken, except a subpoena served on a witness, and making return thereof \$25.00, for summoning a witness \$25.00, for serving on any person an attachment or other process under which the body is taken \$25.00, for levying an attachment on real estate and making return \$25.00, for making any other levy \$25.00, for serving a writ of possession \$25.00;

Therefore, Be It Resolved, that the County Commission of Jefferson County wishes to increase the Service of Process Fee to \$25.00 as permitted by State Code §59-1-14, amended, effective July 25, 2005.

/s/

A.M.S. Morgan, III

President

Jefferson County Commission

July 21, 2005

Date

In re: SHANNONDALE CITIZENS' COMMENT

Commissioner Surkamp provided the Commission with comments from citizens in Shannondale concerning a law enforcement/fire & EMS station on the mountain. Toni Milbourne, from the Parks and Recreation Commission, commented on the matter.

In re: EXONERATION

Upon recommendation from the Assessor, motion by Tabb, second by Corliss to approve the following Exoneration because of erroneous assessment for the year 2005. Motion carried.

NAME	DISTRICT	TYPE	AMOUNT	TICKET #
John F. Rentkewicz	Charles Town	Personal Property	\$34.66	306175

In re: EXONERATION

Upon recommendation from the Assessor, motion by Tabb, second by Surkamp to approve the following Exoneration because of erroneous assessment for the year 2005. Motion carried.

NAME	DISTRICT	TYPE	AMOUNT	TICKET #
Mark & Heather Werking	Harpers Ferry	Personal Property	\$298.30	308912

In re: BONDING

Upon recommendation from the Executive Director of Planning, Zoning and Engineering, motion by Tabb, second by Corliss to approve the complete release of a letter of credit for JDM Locust Hill, LLC in the amount of \$27,899. Motion carried.

Upon recommendation from the Executive Director of Planning, Zoning and Engineering, motion by Corliss, second by Surkamp to approve the complete release of a letter of credit for JDM Locust Hill, LLC in the amount of \$151,018. Motion carried.

Upon recommendation from the Executive Director of Planning, Zoning and Engineering, motion by Tabb, second by Corliss to approve the complete release of an escrow account for Kubic Construction in the amount of \$25,353. Motion carried.

Upon recommendation from the Executive Director of Planning, Zoning and Engineering, motion by Corliss, second by Surkamp to approve the partial release of a letter of credit in the amount of \$165,137 for RAI Group, with the County to retain \$129,372. Motion carried.

Upon recommendation from the Executive Director of Planning, Zoning and Engineering, motion by Tabb, second by Corliss to approve the partial release of a letter of credit in the amount of \$257,696 for Mission Mountain LLC, with the County to retain \$135,531. Motion carried.

In re: PLANNING COMMISSION ACTIVITY REPORT

The Executive Director of Planning, Zoning and Engineering appeared before the Commission to give the Planning Commission Activity Report.

In re: PUBLIC COMMENT

Toni Milbourne commented on the Parks and Recreation meeting.
Alice Chakmakian made comment.

In re: POTOMAC VALLEY AUDUBON SOCIETY - PRESENTATION AND REQUEST FOR FINANCIAL ASSISTANCE

Jean Neely and Kristin Alexander, from the Potomac Valley Audubon Society, appeared before the Commission to make a presentation on the Yankauer Nature Preserve's environmental education programs and to request financial assistance in the amount of \$5,000. After discussion, motion by Surkamp to allocate \$5,000 to the Potomac Valley Audubon Society. Motion failed due to a lack of a second.

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

Patricia Sanderson appeared before the Commission to discuss her denial of a variance by the Board of Zoning Appeals. After discussion, motion by Corliss, second by Surkamp to resolve that the Board of Zoning Appeals provide favorable consideration to the Sanderson request for a variance. Mike Thompson, Prosecuting Attorney, was present and informed the Commission that they have no jurisdiction and legally cannot direct the Board of Zoning Appeals in their decisions. After discussion, Commissioner Corliss withdrew the motion.

In re: MIKE THOMPSON, PROSECUTING ATTORNEY - OPINION LETTER REGARDING COUNTY CLERK'S SERVING LUNCHES TO POLL WORKERS

Mike Thompson, Prosecuting Attorney, appeared before the Commission to discuss his opinion concerning the County Clerk serving lunches to poll workers. Mr. Thompson informed the Commission that lunches should not be delivered to poll workers unsolicited. Poll workers may initiate a request to have food delivered but, that food can only be delivered to the door of the polling place. Mr. Thompson informed the Commission that the opinion on the reimbursement issues concerning the poll worker's lunches should come from the State Auditor's office. After discussion, motion by Corliss, second by Tabb to send a letter to the State Auditor, Glen Gainer, requesting an opinion whether the Commission has the authorization to reimburse the County Clerk for the lunches provided to the poll workers on the June 25, 2005 special election. Motion carried.

In re: QUARTERLY FIDUCIARY REVIEW

The time of the Commission was taken up this day with examination of sundry fiduciary accounts.

Motion by Tabb, second by Corliss to accept the fiduciary accounts presented.
Motion carried.

In re: ZONING AND SUBDIVISION RFP QUESTIONS AND ANSWERS

Paul Raco, Executive Director of Planning, Zoning and Engineering, appeared before the Commission to provide the Zoning and Subdivision RFP Questions and Answers as answered by the Commission during a work session. After discussion, motion by Corliss, second by Tabb to approve the Zoning and Subdivision RFP Questions and Answers as presented. Motion carried.

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

Motion by Corliss, second by Tabb to approve the following resolution in support of a DMV Office in Jefferson County. Motion carried.

**RESOLUTION
JEFFERSON COUNTY DMV OFFICE**

Whereas, the Eastern Panhandle has been, is and will continue to be the fastest growing area in the State of West Virginia; and

Whereas, new residents moving from out of state to Jefferson County require more time at the Department of Motor Vehicles (DMV) to transfer Titles and obtain new Drivers Licenses; and

Whereas, the Martinsburg DMV Office is the second busiest office in the state and services Jefferson, Berkeley and Morgan Counties, and

Whereas, recent data shows transactions at the Martinsburg DMV Office are 40% greater in dollars than the busiest DMV Office in the state - Kanawha City; and

Whereas, residents and businesses of Jefferson County and the Eastern Panhandle are losing many hours of productivity by waiting for numerous hours to be served at the Martinsburg DMV Office; and

Whereas, the addition of a new DMV Office in Jefferson County will not only help residents of Jefferson County, but the entire Eastern Panhandle; and

Whereas, Governor Joe Manchin, III declared West Virginia was "Open For Business";

Therefore, Be It Resolved, that the Jefferson County Commission fully supports the construction of the new Jefferson County DMV Office and encourages Governor Joe Manchin, III to prioritize and expedite this important project.

/s/

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

July 21, 2005

Date

In re: R. JEAN FINLEY - NOISE ORDINANCE - SUMMIT POINT RACE TRACK

The Commission discussed correspondence received from R. Jean Finley concerning the Noise Ordinance and if it was applicable to the Summit Point Race Track. The Commission agreed to have the County Administrator provide a reply that the Noise Ordinance is a residential noise ordinance and that the Summit Point Race Track is exempt from the ordinance.

In re: REQUEST FOR APPROVAL OF EMPLOYMENT - ANIMAL CONTROL OFFICER

Motion by Tabb, second by Corliss to approve the employment of Jessica Ebersole as an Animal Control Officer. Motion carried.

In re: DOWN UNDER, INC. - LEASING OF PARKING AREAS

The Commission agreed that they were not interested in the offer from Down Under, Inc. to lease parking spaces.

In re: PETITION TO ESTABLISH RURAL RETREAT ROAD MAINTENANCE ASSOCIATION

John Dorsey, attorney for residents from Rural Retreat, appeared before the Commission to present a petition to establish Rural Retreat Road Maintenance Association. Geraldine Herbert, a resident of Rural Retreat, was present and was opposed to the petition. Comments for the petition were heard from the following residents of Rural Retreat: Stewart Wharton, Harriet E. Bakeley, and Kay Ballenger. Assistant Prosecuting Attorney, Brandon Sims, was present and requested that the Commission allow time for the matter to be reviewed further. After discussion, the Commission agreed to continue the matter on August 11, 2005, at 1:30 p.m.

In re: DISCUSS LEGAL ACTION REGARDING COLLECTION OF RANSON IMPACT FEES

The Commission discussed legal action regarding the collection of Ranson Impact Fees. The County Administrator informed the Commission that some options were being worked on and should be ready by the middle of August.

In re: DISCUSS LEASE BUY OPTION VERSUS BID BUILD ALTERNATIVE FOR PUBLIC SERVICE BUILDING

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

In re: DISCUSS BURR WATER PARK SALE

Commissioner Surkamp presented the Commission with a letter of questions concerning the sale of the Burr Water System to be sent to William Hagy . After discussion, the Commission agreed to have Commissioner Surkamp make a few changes in the letter and bring it back for review later in the meeting.

The Commission recessed at 12:26 p.m.

The Commission reconvened at 1:30 p.m.

In re: PUBLIC HEARING - PROPOSED CHANGES TO THE JEFFERSON COUNTY ZONING AND LAND DEVELOPMENT ORDINANCE

The Commission took this time to hold a Public Hearing concerning the proposed changes to the Jefferson County Zoning and Land Development Ordinance. Paul Raco, Executive Director of Planning, Zoning and Engineering, was present. Public comment was received from Barbara Gibson and Joan O'Dell. After discussion, motion by Corliss, second by Tabb to refer the proposed changes to the Jefferson County Zoning and Land Development Ordinance to the Planning Commission to advise if the changes are consistent with the Comprehensive Plan. Motion carried.

In re: MARK SCHIAVONE - IMPACT FEE COORDINATOR - REQUEST FOR EXECUTIVE SESSION

Mark Schiavone, Impact Fee Coordinator, requested an Executive Session with the Commission to discuss personnel matters. Motion by Surkamp, second by Tabb to enter into Executive Session. Motion carried.

Motion by Tabb, second by Corliss to return to Regular Session. Motion carried.

In re: DOUGLAS S. ROCKWELL - CITY OF CHARLES TOWN - IMPACT FEE ORDINANCE FOR PARKS AND RECREATION AND FIRE AND EMERGENCY MEDICAL SERVICES

The Commission discussed correspondence received from Douglas S. Rockwell, attorney for the City of Charles Town, concerning the Impact Fee Ordinance for Parks and Recreation and Fire and Emergency Medical Services. Mark Schiavone, Impact Fee Coordinator, was present and commented on the matter. The Commission agreed to schedule a work session to review the matter further.

In re: DISCUSS BURR WATER PARK SALE

The Commission revisited the issue of the letter presented by Commissioner Surkamp to be sent to William Hagy with questions regarding the sale of the Burr Park Water System. After discussing the changes that were made to the letter, motion by Surkamp, second by Corliss to forward the letter with questions regarding the sale of the Burr Park Water System with enclosures. Motion passed by a 3-1 vote. Commissioner Tabb voted no.

In re: COUNTY COMMISSION REPORTS

Commissioner Morgan reported on a free clinic meeting.

Commissioner Morgan reported on a meeting in Winchester with the USDA.

Commissioner Tabb reported on an Agricultural Research Board tour of farms in Dover, Delaware.

The Commission received the following information:

Acceptance of Bond for PNGI Charles Town Gaming, LLC.

Information received on the status of the EPA Early Action Compact.

Correspondence received from Assistant Prosecuting Attorney, Brandon Sims, concerning status on iTown.

Minutes received from the Planning & Zoning Commission concerning the waiver of the site plan process for construction of concrete pad for outdoor pens.

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

Letter of Resignation received from Virginia Guynn from Emergency Communications.

Letter of Resignation received from Jennilee DePottie from the Department of Planning, Zoning and Engineering.

Notice received of the Jefferson County Farmers Market on Thursdays from July through October.

The Conservation Fund Annual Report received.

Correspondence received from Daniel P. Lutz, Jr. concerning the Freedom of Information Act.

Newspaper articles received concerning Cabell County's jail costs, the Greenbrier Annexation, and the Secretary of State seeking bids for voting machines.

Annual Budget for Fiscal Year 2006 received from the Harpers Ferry/Bolivar Public Service District.

Meeting minutes received from the Harpers Ferry/Bolivar Public Service District.

Correspondence received from William Hale concerning Burr/Bardane water system.

Copy of the Association Water or Sewer System Grant Agreement for the Jefferson County Building 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.

PRESIDENT