

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, September 1, 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 Tabb conducted the Pledge of Allegiance.

In re: DISPENSE WITH READING OF MINUTES

Motion by Manuel, second by Morgan to dispense with the reading of the Minutes for the meeting held on Thursday, August 25, 2005, and to approve the Minutes as prepared. Motion carried.

In re: APPROVAL OF PURCHASE ORDERS

Motion by Corliss, second by Tabb to approve the following Purchase Orders for the Week of August 29, 2005, totaling \$23,602.01: 41313, 41192, 41802, 41707, 41729, 41730, 41805, 41806, 41481, 41671, 41673, 41674, 41675, 41450, 41654, 41431, 41733, 41734, 41735, and 41737. Motion carried.

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

The Commission agreed to advertise for another two weeks for the appointment of alternate members to the Board of Zoning Appeals.

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

Motion by Corliss, second by Manuel to appoint Mayor Peggy Smith, from the City of Charles Town, to the MPO Interstate Council. Motion carried.

In re: MANAGEMENT STUDY CONTRACT

The County Administrator informed the Commission that the Prosecuting Attorney was currently reviewing the Management Study Contract.

In re: EXONERATIONS

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

| NAME | DISTRICT | TYPE | AMOUNT | TICKET |
|------------------|-----------|-------------------|------------|--------|
| Gary & Sue Cogle | Middleway | Personal Property | \$1,055.36 | 311647 |

Upon recommendation from GERAL RAINES, from the State Tax Department, motion by Tabb, second by Manuel to approve the following exoneration because of erroneous assessment for the year 2005. Motion carried.

| NAME | DISTRICT | TYPE | AMOUNT | TICKET |
|------------|--------------|-------------------|-------------|--------|
| Dalb, Inc. | Charles Town | Personal Property | \$10,250.30 | 301481 |

In re: BONDING

Upon recommendation from the Executive Director of Planning, Zoning and Engineering, motion by Corliss, second by Tabb to approve the partial release of a letter of credit in the amount of \$63,971 for RAI Group, Inc. with the County to retain \$65,401. 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 a letter of credit for Windmill Crossing Subdivision in the amount of \$42,580.66. Motion carried.

Upon recommendation from the Executive Director of Planning, Zoning and Engineering, motion by Corliss, second by Tabb to approve the partial release of a letter of credit in the amount of \$481,619.89 for Windmill Crossing Subdivision, with the County to retain \$2,729,897. Motion carried.

In re: PLANNING COMMISSION ACTIVITY REPORT

Paul Raco, Executive Director of Planning, Zoning and Engineering, appeared before the Commission to give the Planning Commission Activity Report. Commissioner Morgan inquired about the proposal to close Huyett Road at the school property. After discussion concerning the proposed closing of Huyett Road, Commissioner Manuel agreed to take the matter before the Eastern Panhandle Transportation Authority.

In re: GEORGE AND EDNA ENOS - BONDING AMOUNTS - SUBDIVISION ROADS

Edna and George Enos appeared before the Commission to discuss bonding amounts for their subdivision road. After discussion and comments from Paul Raco, Ron Parr and Harry McMahon, motion by Tabb, second by Manuel to have the bonding for the Enos Subdivision calculated based on a 10 foot paved road with a guardrail. Motion by Surkamp, to amend the motion providing that the motion complies with the wording of the official decision of the Planning Commission. Amendment failed due to a lack of a second. After further discussion, Commissioner Tabb withdrew the motion and restated a new motion. Motion by Tabb, second by Manuel to set the bond for the original amount that was set for the entrance of the subdivision road of \$15,800 plus an additional \$4,400 for the guardrail. Motion carried.

In re: KAY BRESEE - JUNE 25, 2005 SPECIAL ELECTION

Kay Bresee appeared before the Commission to discuss the June 25, 2005 Special Election.

In re: FARMLAND PROTECTION BOARD - CONSERVATION EASEMENT - LEWIS PROPERTY

Kellie Boles and Peter Fricke appeared before the Commission to request the Commission's approval on a Conservation Easement for the Lewis Property. Eric Lewis, property owner, was present and commented on the matter. After discussion, motion by Tabb, second by Manuel to approve the Deed of Conservation Easement for the Lewis Property with the correction of the typographical errors that were noted after review by the Prosecuting Attorney. Motion carried.

In re: REVA MICKEY & MIKE CASSELL - JUNE 25, 2005 SPECIAL ELECTION

Reva Mickey and Mike Cassell appeared before the Commission to discuss the June 25, 2005 Special Election.

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

Jennifer S. Maghan, County Clerk, appeared before the Commission to give the County Clerk's report. After request from Ms. Maghan, motion by Corliss, second by Manuel to approve the employment of Sue Marshall in the Recording and Indexing Department of the County Clerk's office. Motion carried.

Ms. Maghan informed the Commission of a letter received from the Secretary of State concerning election information.

In re: ESTATE OF BILLY WAYNE CARROLL - PETITION FOR REMOVAL OF ADMINISTRATORS

Attorneys Robert Aitcheson and Chris Janelle appeared before the Commission and reported that this matter had been resolved between the parties involved and required no further action by the Commission.

In re: MAPDISTRICTING WORK SESSION

The County Administrator agreed to research this matter for the Commission.

In re: LEGAL OPINION REGARDING "GOVERNING AUTHORITY"

The Prosecuting Attorney's office is still reviewing this matter and will provide a legal opinion at a later date.

In re: JEFFERSON COUNTY DEVELOPMENT AUTHORITY - REQUEST FOR COMMISSION TO HOLD A MEETING OF THE LOCAL ROADWAY CONDUIT FUNDING COMMITTEE

After discussion, motion by Corliss, second by Manuel to appoint Commissioner Tabb and Bill Chesley to the Local Roadway Conduit Funding Committee. Motion carried.

In re: APPROVAL OF EMPLOYMENT - TRAVIS L. GRAY - DEPUTY SHERIFF

Motion by Manuel, second by Corliss to approve the employment of Travis L. Gray as a Deputy Sheriff. Motion carried.

In re: INFORMATION WORK SESSION WITH A GATEWAY COUNCIL COMMITTEE REGARDING THE IMPORTANCE OF COUNTY HIGH SPEED DATA SERVICES TO JEFFERSON COUNTY

The Commission agreed to have a work session on this matter.

In re: SCHEDULE WORK SESSION WITH TWO CONSTRUCTION MANAGERS TO EXPLAIN FUNCTIONS

The Commission discussed the scheduling a work session with construction managers. After discussion, the Commission agreed that a discussion during regular session would be sufficient.

In re: REQUIRE PSD TO SUBMIT ALL SB 700 APPLICATIONS FOR REVIEW BY COUNTY'S GOVERNING BODY

Motion by Surkamp, second by Manuel to request that the Public Service District provide for review all SB 700 applications prior to approval by the DEP. After discussion, Commissioner Manuel withdrew his second. Motion failed due to a lack of a second. Commissioner Corliss agreed to look into the matter at the next Public Service District meeting.

In re: SCHEDULE PUBLIC HEARING IN OCTOBER FOR FULL COST IMPACT FEE FOR SCHOOLS

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

In re: PROSECUTING ATTORNEY OPINION: CAN THE PLANNING COMMISSION, REPRESENTING THE COUNTY REQUIRE FULL SITE REVIEW FOR EITHER PUBLIC OR PRIVATE UTILITIES IN THE COUNTY, REGARDLESS OF ZONE?

Motion by Surkamp, second by Corliss to request the Prosecuting Attorney to provide an opinion on the following question: Can the Planning Commission, representing the County required full site review for either public or private utilities in the County, regardless of zone? Motion passed by a 4-1 vote. Commissioner Manuel voted no.

The Commission recessed at 12:20 p.m.

The Commission reconvened at 1:30 p.m.

In re: ESTATE OF RUBIE CORNELLA BRADY - PETITION TO REMOVE ADMINISTRATOR

James T. Katovil, Counsel for the Petitioner, appeared before the Commission concerning the Petition to remove the administrator on the Estate of Rubie Cornella Brady. Mr. Katovil recommended referring the matter to Fiduciary Commissioner, Ralph

Lorenzetti, in order to gather evidence in the matter. Norman Robert Brady was present and commented on the matter. After discussion, motion by Tabb, second by Manuel to refer the Petition to Remove Administrator on the Estate of Rubie Cornella Brady to Fiduciary Commissioner Ralph Lorenzetti in order to gather evidence in the matter and for Mr. Kratovil to prepare an order of referral for the President's signature. Motion carried.

In re: CORRESPONDENCE RE DEP APPROVALS AND SHPO APPROVALS OF PROPOSED WASTEWATER TREATMENT PROJECTS

The Commission discussed conducting a workshop with the Historic Landmarks Commission concerning this matter and Commissioner Surkamp agreed to contact the head of the DEP.

In re: COUNTY COMMISSION REPORTS

Commissioner Tabb reported on the Customs & Border Patrol Ribbon Cutting.

Commissioner Tabb reported on the Ribbon Cutting and Open House at the new 84 Lumber.

Commissioner Tabb reported on the Eastern Panhandle Transportation meeting.

Commissioner Manuel reported on the Eastern Panhandle Transportation meeting.

Commissioner Corliss reported on a Wastewater Treatment meeting.

Commissioner Surkamp discussed emergency planning.

The County Administrator reminded the Commission of the meeting with the municipalities on September 7, 2005 at 7:00 p.m.

The County Administrator informed the Commission of the resignation of John J. Quinn, Jr. from the Farmland Protection Board and informed the Commission that the vacancy would be advertised.

The County Administrator informed the Commission that Betty Ireland, Secretary of State, was scheduled to meet with the Commission on September 22, 2005, at 10:00, but Ms. Ireland could be here at 9:00 a.m. to meet with the Commission. The Commission agreed to change the meeting time for September 22, 2005 to begin at 9:00 a.m.

The County Administrator informed the Commission that the interviews for jail architects would be on September 19, 2005.

The County Administrator informed the Commission that the Ethics Commission Seminars will be on September 26th and September 27th.

In re: EDWARD DUNLEAVY - SHEPHERDSTOWN BATTLEFIELD PRESERVATION ASSOCIATION

Edward Dunleavy, from the Shepherdstown Battlefield Preservation Association, appeared before the Commission to make a presentation and to request Commission approval of a Resolution in support of the Shepherdstown Battlefield Preservation Association. The Commission agreed to put the Resolution on next week's agenda.

In re: SUZANNE MORGAN AND GARY DUNGAN - JUNE 25, 2005 SPECIAL ELECTION

Rose Wolfe appeared before the Commission and read a statement from Suzanne Morgan, who was unable to attend, concerning the June 25, 2005 Special Election. Gary Dungan also commented on the June 25, 2005 Special Election. After discussion, motion by Manuel, second by Tabb to send the audio recordings pertaining to the discussions on the June 25, 2005 Special Election to the Secretary of State's office for her review. Motion failed by a 1-4 vote. Commissioners Tabb, Morgan, Corliss and Surkamp voted no.

The Commission received the following information:

Reminder Courthouse is Closed Monday, September 5, 2005 - Labor Day.

Reminder of Meeting on Wednesday, September 7, 2005, at 7:00 p.m. with Municipalities.

Appointment to be made to the Sheriff's Civil Service Commission on September 29, 2005.

Various correspondence received from Brandon C.H. Sims, Assistant Prosecuting Attorney, concerning the following:

- **Competitive Bidding**
- **Requests for review of West Virginia Reports**
- **Opinion concerning Senate Bill 700**
- **Parks and Recreation Needs Assessment**

Letter of resignation received from John J. Quinn, Jr. as a member of the Farmland Protection Board.

Copy received from the Ambulance Authority of a thank you ad placed in the Spirit of Jefferson Newspaper.

Copy of correspondence sent to Governor Manchin received from James and Shirley Ferguson concerning property taxes.

Correspondence received from the Association of Counties concerning a Regional Jail Authority Meeting.

Information received from the Association of Counties concerning House Bill 3208.

Invitation received from BSR to attend an event at Summit Point Raceway on demonstrations involving antiterrorism and law enforcement maneuvers on September 21, 2005.

Invitation received from Bill Reichardt of Summit Point Raceway to attend an informal event at his home with Governor Manchin on September 23, 2005.

Harpers Ferry National Historical Park Community Bulletin received.

Meeting agenda received from the Jefferson County Public Service District for their meeting on September 1, 2005.

Notice received from the West Virginia University Local Government Leadership Academy of the Fall 2005 Conference on September 16-17, 2005

Notice received from the Department of Planning, Zoning and Engineering of a Subdivision Work Session.

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