

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 27, 2006, beginning at 9:30 o'clock a.m.

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

In re: PLEDGE OF ALLEGIANCE

Commissioner Corliss conducted the Pledge of Allegiance.

In re: DISPENSE WITH READING OF MINUTES

Motion by Morgan, second by Tabb to dispense with the reading of the Minutes for the meeting held on Thursday, April 20, 2006, and to approve the Minutes as presented. Motion carried.

In re: APPROVAL OF PURCHASE ORDERS

Motion by Tabb, second by Manuel to approve the following Purchase Orders for the Week of April 27, 2006, totaling \$9,444.27: 42316, 42613, 42615, 42616, 42617, 42539, 42536, 42537, 42538, 42236, 42238, 42541, 42165 and 42242. Motion carried.

In re: BONDING AND ACTIVITY REPORT

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

Mr. Raco reported on the Planning Commission meeting of Tuesday, April 25, 2006 and the agenda for the staff review meeting scheduled for May 5, 2006.

In observance of "Take Your Child to Work Day", Paul Raco introduced his daughter, Marina Raco to the County Commissioners and staff.

In re: PUBLIC COMMENT

Ms. Jeanne Chebib appeared before the Commission to discuss her concerns regarding jurisdictional police issues with the City of Ranson and Charles Town.

Jane Rissler, Francis & Dick Latteral, Nancy Lutz, Catherine & Randy Funkhouser and Beth Haney appeared before the Commission to express their concerns and opposition with Charles Town's Urban Growth Boundary proposal with consideration to the affects it would have on Jefferson County.

In re: KIRK DAVIS - PRESENTATION OF COMMUNITY CENTER CHANGE ORDER - PREP WORK PROPOSAL FOR GENERATOR

Kirk Davis appeared before the Commission to discuss the change order for the Community Center and the proposal for generator preparations. Mr. Davis reported on the specifications and capabilities of the Community Center Generator.

Motion by Manuel, second by Morgan to approve the AIA Change Order #3 Contract for Palmer Construction Company, Incorporated as presented by Kirk Davis. Motion carried.

Motion by Manuel, second by Surkamp that \$16,500.00 for the Community Center Generator be appropriated by the County Commission out of the general revenue fund. Motion carried by a 3-2 vote, Commissioners Corliss and Morgan voted no.

In re: MARK SCHIAVONE - POLICY ON DISBURSEMENT OF IMPACT FEES

Motion by Morgan, second by Tabb to approve the Policy on Disbursement of Impact Fees as presented by Mark Schiavone, Impact Fee Coordinator. Motion carried.

In re: LYNN WALKER - PAN TRAN - BENCHES AT PAN TRAN BUS STOPS

On behalf of Pan Tran, Fred Blackmer appeared before the Commission to withdraw this agenda item.

In re: SHERIFF BOOBER - HOMELAND SECURITY GRANT RADIO EQUIPMENT UPDATE
Sheriff Boober appeared before the Commission with a presentation and report on the Homeland Security Grant application request.

Sheriff Boober reported that the application includes request for funding to enhance communications and radio equipment for the Jefferson County Sheriff's Office, the Office of Emergency Management and the Jefferson County Office of Homeland Security.

Jefferson County Office of Homeland Security Coordinator Barbara Miller was present for comments. Ms. Miller reported on her discussions with Darrell Penwell and discussed NIMS requirements.

Motion by Morgan, second by Corliss to approve the Homeland Security Grant Application as presented by Sheriff Ed Boober. Motion carried.

In re: JENNIFERS.MAGHAN - COUNTY CLERK'S REPORT - BUDGET REVISION REQUEST

There was no County Clerk's report for the week of April 27, 2006.

Motion by Surkamp, second by Corliss to approve the budget revision request by Jennifer S. Maghan, County Clerk, as presented. Motion carried.

In re: COUNTY CLERK'S OFFICE - EMPLOYMENT APPROVAL - ELIZABETH BOHRER

Motion by Morgan, second by Surkamp to approve the full-time employment of Elizabeth Bohrer in the County Clerk's Office to begin April 28, 2006. Motion carried.

In re: ESTATE OF ELEANOR D. COATES

David Camiletti, Esquire appeared before the Commission to request approval of an Order to remove John W. Askintowicz as co-executor of the Estate of Eleanor D. Coates.

Motion by Corliss, second by Manuel to approve the Order removing John W. Askintowicz as Co-Executor of the Estate of Eleanor D. Coates. Motion carried.

In re: APPOINTMENT TO THE JEFFERSON COUNTY AMBULANCE AUTHORITY

No action was taken on this agenda item.

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

No action was taken on this agenda item.

In re: LEGISLATIVE ISSUES

Commissioner Manuel reported that there were no new legislative issues to discuss for the week of April 27, 2006.

In re: PROPERTY PURCHASE DISCUSSION

This matter was discussed in Executive Session with Assistant Prosecuting Attorneys Brandon Sims and Stephanie Grove.

In re: BZA ALTERNATE RESIDENCY REQUIREMENT

Commissioner Surkamp discussed his concerns with regard to BZA alternate member residency requirements and referenced the transcript of the discussion with Mr. Tyler Quynn and the County Commission on April 20, 2006.

Commissioner Corliss recommended awaiting legal opinion regarding the termination of a BZA alternate member not meeting residency requirements.

Commissioner Manuel recommended suspending Mr. Quynn's membership to the BZA pending legal opinion from Brandon Sims, Assistant Prosecuting Attorney.

Motion by Surkamp to accept the verbal resignation offered by Mr. Quynn on April 20, 2006. Motion died to the lack of a second.

Based on new information as to the residency of Mr. Quynn that was discussed in the County Commission meeting on April 20, 2006 Motion by Surkamp, second by Morgan that the County Commission withdraw the appointment of Mr. Tyler Quynn as an alternate member to the Board of Zoning Appeals. Motion carried by a 4-1 vote, Commissioner Corliss voted no.

In re: APPOINTMENT TO TDR COMMITTEE

Motion by Tabb, second by Manuel to appoint Robert Glenn, Esquire to the TDR Committee. Motion carried.

In re: ACCEPTANCE OF OFFERED RESIGNATION OF BZA ALTERNATE

This matter was discussed under agenda item: "BZA ALTERNATE RESIDENCY REQUIREMENT".

In re: CREATION OF A HOME CONSORTIUM

Commissioner Manuel reported on the meetings held with Jefferson County, Berkeley County and Morgan County officials with regard to Creation of a Home Consortium.

Commissioner Manuel suggested scheduling a meeting with Pat McMillian from the City of Martinsburg to discuss the Home Consortium plan further prior to executing a resolution supporting the creation of a Home Consortium.

The Commission agreed by consensus to authorize Leslie D. Smith, County Administrator to schedule a meeting with Pat McMillian from the City of Martinsburg.

In re: APPROVAL OF EMPLOYMENT - AMY MARTIN - PUBLIC SAFETY DISPATCHER

Motion by Tabb, second by Manuel to approve the employment of Amy Martin as a Public Safety Dispatcher. Motion Carried.

In re: AC & T FUEL BILLS - MOUNTAIN FIRE

Leslie Smith, County Administrator reported on the fuel bills received and the Local and State Forestry's responsibility for the \$4,126.26 bill. Ms. Smith also reported on her discussions with Forestry officials.

Motion by Surkamp, second by Manuel to pay the \$4,126.26 fuel bill with future attempts to receive reimbursement funds from Forestry. Motion carried.

In re: GOVERNOR'S LOCAL ECONOMIC DEVELOPMENT ASSISTANCE PROGRAM - APPROVAL OF RESOLUTION AND CONTRACT - ELMWOOD CEMETERY ASSOCIATION, INC.

Motion by Tabb, second by Surkamp to approve the Governor's Local Economic Development Assistance Resolution and Grant in the amount of \$5,000.00 for Elmwood Cemetery Association Incorporated. Motion carried.

In re: GOVERNOR'S LOCAL ECONOMIC DEVELOPMENT ASSISTANCE PROGRAM - APPROVAL OF RESOLUTION AND CONTRACT - CASA OF THE EASTERN PANHANDLE

Motion by Tabb, second by Surkamp to approve the Governor's Local Economic Development Assistance Resolution and Grant in the amount of \$4,000.00 for CASA of the Eastern Panhandle. Motion carried.

In re: GOVERNOR'S LOCAL ECONOMIC DEVELOPMENT ASSISTANCE PROGRAM - APPROVAL OF RESOLUTION AND CONTRACT - LOCKE HOUSE

Motion by Tabb, second by Surkamp to approve the Governor's Local Economic Development Assistance Resolution and Grant in the amount of \$4,000.00 for the Locke House. Motion carried.

In re: GOVERNOR'S LOCAL ECONOMIC DEVELOPMENT ASSISTANCE PROGRAM - APPROVAL OF RESOLUTION AND CONTRACT - WEBB/BLESSING HOUSE

Motion by Tabb, second by Surkamp to approve the Governor's Local Economic Development Assistance Resolution and Grant in the amount of \$4,000.00 for the Webb/Blessing House. Motion carried.

In re: DISCUSSION OF CHARLES TOWN URBAN GROWTH BOUNDARY

Commissioner Morgan reported on his meeting with the Charles Town Council and expressed his concerns with their lack of communication with regard to the Urban Growth Boundary proposal.

Commissioner Manuel expressed his concerns with the process of Urban Growth Boundaries and stressed the importance of public participation and input.

Commissioner Surkamp express his opposition to the proposed Urban Growth Boundary as presented by Charles Town City Council.

Commissioner Tabb expressed concerns with Urban Growth Boundaries as proposed by Charles Town City Council and stressed the importance of public input.

Commissioner Corliss discussed annexation legalities and suggested legislative clarification on the proposed Urban Growth Boundary.

Commissioner Corliss requested a workshop with County Commission Counsel to discuss this matter further and to send a letter to Charles Town City Council requesting they delay the vote on the Charles Town Growth Boundary for 30 days.

Commissioner Morgan recommending sending a copy of the proposed Urban Growth Boundary as presented by Charles Town City Council to Lane Kending officials for review and opinion.

Motion by Corliss, second by Tabb to send a letter to the City of Charles Town expressing County Commission concerns and to request a 30 day delay in action for the proposed Urban Growth Boundary. Motion carried.

Motion by Surkamp to adopt the following resolution:

RESOLUTION

Whereas the West Virginia Constitution gives all County Courts and Commissions "superintendence and administration over the internal police and fiscal affairs of the County";

And whereas the Jefferson County Commission has in effect a comprehensive land use plan, zoning and subdivision ordinances governing the unincorporated territories of the County;

Resolve that the Jefferson County Commission opposes any attempt by any municipality in Jefferson County to exercise police power within the unincorporated territory of Jefferson County without full formal approval of the County Commission and its designated Commissions and Departments, including using the police power to govern land use within the unincorporated territory of Jefferson County.

And that the County Commission will utilize legal means, if necessary, to uphold that authority.

Motion failed due to the lack of a second.

Motion by Surkamp, second by Manuel to present the proposed resolution to Brandon Sims, Assistant Prosecuting Attorney for review and consideration and to schedule a workshop with legal counsel to discuss the legalities of the proposed Urban Growth Boundary. Motion carried.

In re: INVITATION TO JUDGE SILVER OF THE 23RD JUDICIAL CIRCUIT TO MEET WITH THE COUNTY COMMISSION

Motion by Manuel, second by Morgan to sent an invitation to Judge Silver to meet with the County Commission, Jefferson County Magistrates and other Circuit Court Judges to discuss Judicial space requirements. Motion carried.

In re: RESOLUTION OPPOSING ANY MUNICIPALITY'S ATTEMPT TO EXERCISE THE POLICE POWER WITHIN THE COUNTY'S UNINCORPORATED TERRITORIES

This matter was discussed under agenda item: "DISCUSSION OF CHARLES TOWN URBAN GROWTH BOUNDARY".

In re: DISCUSSION OF CONSOLIDATE LOCAL GOVERNMENT ACT

This matter was discussed under agenda item: "DISCUSSION OF CHARLES TOWN URBAN GROWTH BOUNDARY".

In re: DISCUSSION WV CODE RE DECREASING BOUNDARIES OF MUNICIPALITY

This matter was discussed under agenda item: "DISCUSSION OF CHARLES TOWN URBAN GROWTH BOUNDARY".

In re: BRANDON SIMS - ASSISTANT PROSECUTING ATTORNEY LEGAL COUNSEL UPDATE AND REPORT

Motion by Corliss, second by Morgan to enter into Executive Session as per West Virginia Code §6-9A-4 in order to receive a legal counsel update and to also discuss property purchase. Motion carried. Motion by Corliss, second by Morgan to return to Regular Session. Motion carried. For the record, no action was taken during Executive Session.

In re: COUNTY COMMISSION REPORTS

There were no County Commission reports for the week of April 27, 2006.

The Commission received the following information:

Correspondence received from Senator Robert C. Byrd concerning groundwater studies in the Eastern Panhandle.

Correspondence received from William E. Lewandowski to remove his name from consideration for reappointment to the Planning Commission and to also resign his current position with the Planning Commission.

Copy of correspondence sent to the Department of Impact Fees received from Stephen Mitchell, Christopher Shultz, and Carla Coffey concerning clarification on impact fee issues.

Correspondence received from Ellen May concerning economic development and infrastructure.

Correspondence received from the Secretary of State concerning HAVA.

Correspondence received from Insurance Services Office Inc. concerning the Community Rating System.

Correspondence received from Kellie Boles concerning the Jefferson Farmers Market.

Correspondence received from Kidde Fire Fighting, Inc. concerning an update schedule of layoffs for the closing of the Ranson facilities.

E-911 fee remittance received from Citizens Communication Company.

Copy of newspaper article concerning jail costs received from the County Commissioners' Association.

Notice received from the County Commissioners' Association of the 2006 Mental Hygiene Conference on June 7-9, 2006.

Correspondence received from the County Commissioners' Association concerning PSC Case No. 05-1303-C-GI/Enhanced 911 Fee for Prepaid Service.

West Virginia Ethics Act Draft guidelines concerning retirement gifts and events received from the County Commissioners' Association.

Oaths of Office received from Arnold W. Dailey, Jr. and Lynne Deming as members of the Planning Commission.

Oath of Office received from Terry L. Marcus as a member of the Development Authority.

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

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

GREGORY A. CORLISS, PRESIDENT