

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 Jefferson County Courthouse thereof on Thursday, August 10, 2006 beginning at 9:30 o'clock a.m.

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

IN RE: PLEDGE OF ALLEGIANCE

Commissioner Manuel conducted the Pledge of Allegiance.

IN RE: DISPENSE WITH READING OF MINUTES

Motion by Manuel, second by Corliss to dispense with the reading of the minutes for the regular meeting held on Thursday, August 3, 2006 and to approve the minutes as amended. Motion carried.

IN RE: APPROVAL OF PURCHASE ORDERS

Motion by Tabb, second by Manuel to approve the following Purchase Orders for the week of August 10, 2006 totaling \$169,992.33: 42877, 42970, 42934, 42935, 43053, 42636, 42933, 42491, 42493, 42494, 40705, 42939, 42944, 43051, 43052, 43055, 43057, 42600, 42602, 42569, 42571, 42568, 42573, 42574, 42798, 42800, 42978, 42979, 42981, 42982 and 42983. Motion carried.

IN RE: APPOINTMENT OF ALTERNATE MEMBER TO THE BOARD OF ZONING APPEALS

No action was taken on this agenda item.

IN RE: APPOINTMENT TO THE HARPERS FERRY/BOLIVAR PUBLIC SERVICE DISTRICT

No action was taken on this agenda item.

IN RE: APPOINTMENT TO THE JEFFERSON COUNTY BOARD OF HEALTH

No action was taken on this agenda item.

IN RE: LEGISLATIVE ISSUES

Commissioner Manuel reiterated the importance of setting a date for a legislative workshop concerning the development of an Annexation Bill.

IN RE: EXONERATIONS

Ginger Bordier, Assessor appeared before the Commission for an exoneration request. Motion by Tabb, second by Morgan to approve the exoneration for Kenneth J. and Mary Ann P. Valcourt in the amount of \$1,868.10. Motion carried.

<u>NAME</u>	<u>DISTRICT</u>	<u>TYPE</u>	<u>TICKET NO:</u>
Kenneth J. & Mary Ann P. Valcourt	Charles Town	Real Estate	6700

Ginger Bordier, Assessor commented on the aspects of the Morgan County Courthouse fire and expressed concerns with the stability of documents housed in the Jefferson County Courthouse in the event of a similar disaster.

IN RE: REQUEST FROM CHARLES TOWN MAYOR TO CLEAN UP COMMUNITY OIL SITE SOON

Commissioner Surkamp withdrew this agenda item.

IN RE: COMPLETE BOND RELEASE – CASH IN ESCROW – PNGI CHARLES TOWN GAMING, LLC

Upon recommendation from the Executive Director of Planning, Zoning and Engineering, motion by Morgan, second by Manuel to approve the complete release of cash in escrow account in the amount of \$5,075.00 for PNGI Charles Town Gaming, LLC. Motion carried.

IN RE: COMPLETE BOND RELEASE – LETTER OF CREDIT – PENN NATIONAL GAMING, INCORPORATED

Upon recommendation from the Executive Director of Planning, Zoning and Engineering, motion by Morgan, second by Manuel to approve the complete release of a letter of credit in the amount of \$312,921.00 for Penn National Gaming Incorporated. Motion carried.

IN RE: COMPLETE BOND RELEASE – IRREVOCABLE LETTER OF CREDIT – UNIWEST JEFFERSON, INCORPORATED/MARTINS REFUELING STATION

Upon recommendation from the Executive Director of Planning, Zoning and Engineering, motion by Tabb, second by Manuel to approve the complete release of an irrevocable letter of credit in the amount of \$151,072.00 for Uniwest Jefferson Incorporated/Martins Refueling Station. Motion carried.

IN RE: PARTIAL BOND RELEASE – LETTER OF CREDIT – WINDMILL CROSSING/NEW VISION PROPERTIES, II, INCORPORATED

Upon recommendation from the Executive Director of Planning, Zoning and Engineering, motion by Morgan, second by Tabb to approve the partial release of a letter of credit in the amount of \$368,857.00 for Windmill Crossing/New Vision Properties II, Incorporated with the County to retain \$745,471.00. Motion carried.

IN RE: PARTIAL BOND RELEASE – IRREVOCABLE LETTER OF CREDIT – GARY L. PATRICK/AVALANCHE SERVICES

Upon recommendation from the Executive Director of Planning, Zoning and Engineering, motion by Tabb, second by Morgan to approve the partial release of an irrevocable letter of credit in the amount of \$13,205.00 for Gary L. Patrick/Avalanche Services with the County to retain \$3,795.00. Motion carried.

IN RE: PAUL RACO – ZONING AMENDMENTS

Paul Raco, Director of Planning, Zoning and Engineering appeared before the Commission for a presentation and report on the Zoning Amendments, Article 5, Section 5.4(B): Residential Growth District, Height and Yard Requirements. Mr. Raco reported that the Planning Commission found the amendments to be consistent with the Jefferson County Comprehensive Plan.

After review and consideration of the proposed Zoning Amendments presented by Mr. Raco, motion by Surkamp, second by Morgan to adopt the amendments reflected as presented effective September 1, 2006. Motion carried.

IN RE: PAUL RACO – BONDING AND ACTIVITY REPORT

Mr. Paul Raco, Director of Planning, Zoning and Engineering appeared before the Commission for a bonding and activity report for the week of August 10, 2006. Commissioner Corliss reported on the Planning Commission meeting of August 8, 2006.

IN RE: PUBLIC COMMENT

No public comment was given.

IN RE: KENDING KEAST UPDATE/ORDINANCE REWRITE DISCUSSION AND DIRECTION

No action was taken on this agenda item.

IN RE: PARKS AND RECREATION SWIMMING FACILITY LEVY

The Commission agreed to table this matter until August 17, 2006.

IN RE: JEFFERSON COUNTY PUBLIC SERVICE DISTRICT – WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL CONSOLIDATION COMMITTEE MEETING

Ms. Sue Lawton appeared before the Commission for a report on the WV Infrastructure and Jobs Development Council Consolidation Committee meeting scheduled for August 28, 2006 at 1:30 p.m.

Ms. Lawton presented the Commission with copies of the Points for County Commission on Consolidated meeting report highlighting the goals and strategies for the upcoming WV Infrastructure and Jobs Development Council Consolidation Committee meeting.

IN RE: DPZE SUPPORT TOWARDS UPDATING THE PUBLIC SERVICE DISTRICT SUBDIVISION WORK SHEET AND A CONSOLIDATION COMMITTEE BRIEF REGARDING CURRENT AND PLANNED RESIDENTAL AND COMMERCIAL GROWTH IN JEFFERSON COUNTY

Motion by Morgan, second by Corliss requesting that Planning, Zoning and Engineering and Development Authority officials provide an overview brief regarding County growth and industrial needs in support of the August 28, 2006 WV Infrastructure and Jobs Development Council Consolidation Committee meeting scheduled.

Commissioner Tabb expressed an interest in scheduling a workshop on August 17, 2006 with Public Service District officials to discuss a proposed Resolution in support of West Virginia Infrastructure and Jobs Development Council Consolidation Committee meeting.

IN RE: COMMISSION SUPPORT TO THE PUBLIC SERVICE DISTRICT REGARDING 28 AUGUST JEFFERSON COUNTY VISIT OF THE CHARLESTON INFRA STRUCTURE JOBS AND DEVELOPMENT COUNCIL WWTP CONSOLIDATION COMMITTEE

This matter was discussed under agenda item: “Jefferson County Public Service District – WV Infrastructure and Jobs Development Council Consolidation Committee meeting”.

IN RE: SHERIFF BOOBER – HEALTH BENEFITS DISCUSSION

Sheriff Ed Boober appeared before the Commission to discuss concerns with the increased cost of health insurance premiums to county employees. Sheriff Boober recommended several cost effective strategies to decrease health insurance premiums for county employees.

Motion by Manuel, second by Morgan requesting Leslie D. Smith to acquire County’s cost of increasing benefits to a 75-80% paid package from the current 50% that is being paid by the County. Motion carried.

Motion by Tabb, second by Corliss amending the original motion to include an assessment of health care cost to the County at a projected 15% decrease in cost to county employees. Motion carried.

The Commission agreed to discuss this matter further at the afternoon workshop with the understanding that Jennifer S. Maghan would provide information regarding insurance premium coverage.

Jennifer S. Maghan, County Clerk was present for comments.

IN RE: ROBERT BECKETT NOMINATION TO STAKEHOLDER/FOCUS COMMITTEE

Commissioner Surkamp reported on the history of the Stakeholder/Focus Committee.

Motion by Surkamp, second by Morgan to nominate Willis Nowell as an additional member to the Stakeholder/Focus Committee and Robert Beckett as a new member to the Stakeholder Focus Committee.

Commissioner Surkamp withdrew his motion.

Motion by Manuel, second by Tabb to amend the original motion to remove nominee Willis Nowell as an additional member to the Stakeholders/Focus Committee. Motion carried by a 3 to 2 vote. Commissioner’s Surkamp and Morgan voted no.

Motion by Manuel, second by Tabb to remove Robert Beckett as a new member to the Stakeholder/Focus Committee nominee. Motion carried by a 4-1 vote. Commissioner Surkamp voted no.

Motion by Manuel, second by Tabb to appoint Willis Nowell to the Stakeholder/Focus Committee. Motion carried.

IN RE: ADDITIONAL FUNDING FOR SHEPHERDSTOWN EMS

Commissioner Morgan expressed an interest in providing the Ambulance Authority with \$100,000.00 to assist with EMS services and enhance EMS personnel in Shepherdstown.

Motion by Surkamp, second by Morgan to provide \$100,000.00 to the Ambulance Authority to support EMS services in Shepherdstown. Motion carried.

Amended motion by Manuel, second by Corliss to provide \$50,000.00 to the Ambulance Authority to support EMS services in Shepherdstown with the requirement that municipality of Shepherdstown provides a matching contribution of \$50,000.00. Motion failed by a 2-3 vote. Commissioner's Tabb, Morgan and Surkamp voted no.

IN RE: ADDITIONAL FUNDING FOR EMERGENCY SERVICES – SHEPHERDSTOWN AREA

This matter was discussed under agenda item: "Additional Funding for Shepherdstown EMS".

IN RE: JEFFERSON COUNTY PUBLIC SERVICE DISTRICT – OFFICE SPACE

Sue Lawton appeared before the Commission to report on the need for 2,000 square feet of office space to accommodate the Public Service District.

The Commission acknowledged Ms. Lawton's request and advised her that the needs of the public service district are being taken into consideration.

IN RE: JENNIFER S. MAGHAN – COUNTY CLERK'S REPORT

Ms. Jennifer S. Maghan appeared before the Commission to express her concerns with the agenda distribution and public release of information therein.

IN RE: BUDGET REQUEST - \$108,000.00 FROM THE UNEMCUMBERED FUND BALANCE TO PURCHASE NEW RECORDS MANAGEMENT SOFTWARE FOR THE COUNTY CLERK'S OFFICE

Ms. Jennifer S. Maghan, County Clerk appeared before the Commission to request \$108,000.00 to purchase new records management software.

Ms. Maghan expressed compassion for Morgan County officials with regard to the Morgan County Courthouse Fire of Monday, August 7, 2006.

Ms. Maghan expressed her concerns with the safety and security of Courthouse documents in the event of a fire or other disaster and expressed her opinion on the importance of document preservation.

Motion by Surkamp, second by Morgan to approve the budget request in the amount of \$108,000.00 for the purchase of new record management software.

Sheriff Boober was present to express his concerns with the compatibility of the new record management software against the current Tax Office software being used.

Commissioner Surkamp withdrew his motion and the Commission agreed by consensus to table this matter until the week of August 17, 2006.

IN RE: BRANDON SIMS – LEGAL UPDATE AND REPORT

Michael Thompson, Prosecuting Attorney appeared before the Commission for a legal update and report.

Mr. Thompson reported on the Attorney General's opinion received with regard to the Prosecuting Attorney representing a member of the Planning Commission.

Mr. Thompson reported on legal procedures necessary to represent active Planning Commission members. Mr. Thompson also offered his legal opinion with regard to the removal of Planning Commission members.

Stephanie Grove, Assistant Prosecuting Attorney appeared before the Commission to present the Commission with the report received from the Attorney General's Office regarding the removal of elected officials from Boards and Commissions.

Motion by Surkamp, second by Manual to enter into Executive Session to discuss matters currently under litigation. Motion carried.

Motion by Surkamp, second by Manual to return to regular session. Motion carried.

Commissioner Corliss reported that Planning Commissioner Todd Baldau would not be represented by the Jefferson County Prosecuting Attorney's office for any legal matters pertaining to the Jefferson County Planning Commission.

IN RE: ASSURANCE OF LEGAL COUNSEL TO PLANNING COMMISSION AND ITS MEMBERS

This matter was discussed under agenda item: "Brandon Sims – Legal Update & Report".

IN RE: REMOVAL OF MIRRORS IN BARDANE BUILDING

Leslie D. Smith, County Administrator reported on the request by New Hopewell Center for the Arts to remove the mirrors in the Bardane Building.

The Commission expressed their concerns with the removal of the mirrors from the existing structure.

No action was taken on this agenda item.

IN RE: COX HOLLIDA LLP – APPROVAL OF TERMS OF SERVICE

Motion by Manuel, second by Tabb to approve the Terms of Service contract as presented by Cox Hollida LLP. Motion carried.

IN RE: APPROVAL OF SPECIAL DEPUTY STATUS – BILLY CARPER & BILL CHRISTIAN

Motion by Tabb, second by Morgan to approve the Special Deputy status for Billy Carper and Bill Christian. Motion carried.

IN RE: APPROVAL OF TRIP/TRANSPORT SPECIAL DEPUTY – MARY MARGARET REAGAN

Motion by Manuel, second by Tabb to approve Mary Margaret Reagan as a Trip/Transport Special Deputy for the Jefferson County Sheriff's Department Reserves.

IN RE: AIR QUALITY PROGRAM – VEHICLE IDLING REDUCTION POLICY

Commissioner Tabb reported on the request received from the Air Quality Task Force to implement a Vehicle Idling Reduction Policy for County employees.

The Commission agreed by consensus to table this matter.

IN RE: APPROVAL OF SHERIFF'S TAX COMMISSION

Motion by Tabb, second by Morgan to approve the Sheriff's Tax Commission in the amount of \$15,000.00 as presented. Motion carried.

IN RE: DRAFT OF RANSON'S COMPREHENSIVE PLAN STAFF REVIEW – COUNTY COMMISSION COMMENTS

The Commission agreed to schedule a work session for review of Ranson's Comprehensive Plan.

IN RE: CHARLES TOWN ANNEXATION ON KEYES FERRY ROAD: NUMEROUS PARCELS AMONGST NON-ANNEXING PROPERTY OWNERS

This matter was discussed under agenda item: "Charles Town Annexation Petition – Staff Review – County Commission Comments".

IN RE: CHARLES TOWN ANNEXATION PETITION – STAFF REVIEW – COUNTY COMMISSION COMMENTS

Commissioner Tabb reported on her discussions with City of Charles Town Planner Jeremy Camp.

Commissioner Surkamp presented the Commission with a parcel map of Charles Town's proposed annexation.

Commissioner Corliss presented the Commission with copies of a draft document reiterating his concerns on Annexation requests and recommended a work session with legal counsel to discuss the matter.

Commissioner Surkamp reported on the City of Charles Town Council meeting he attended.

The Commission agreed by consensus to authorize Leslie D. Smith, County Administrator to schedule a work session with Planning Zoning and Engineering officials and legal counsel to discuss this matter further and to have Planning, Zoning and Engineering provide comments on the Shenandoah Crossing Annexation.

IN RE: RECOMMEND 2 COMMISSIONERS TRAVEL TO CHARLESTON TO SPEAK TO GOVERNOR ABOUT COMBINED BOARD FOR FIRE AND EMS

Commissioner Morgan requested that the Commission consider meeting with the Governor to discuss Fire and EMS needs in Jefferson County.

The Commission agreed by consensus to table this matter.

IN RE: SETTING THE DATE FOR A LEGISLATIVE WORKSHOP CONCERNING THE DEVELOPMENT OF AN ANNEXATION BILL

Commissioner Manual agreed to coordinate a time with Legislators to meet with them to discuss concerns on the implementation of an Annexation Bill.

IN RE: REQUEST IN WRITING FORMER STATE AUDITOR PAUL SCHROYER'S FINDINGS OF REVIEW OF CIRCUMSTANCES RE \$6,000.00 SHORTFALL

Commissioner Surkamp withdrew this agenda item.

IN RE: DISBURSAL OF \$10,000.00 TO NAACP ASAP FOR NIAGRA MOVEMENT THIS MONTH

No action was taken on this agenda item.

IN RE: NEW POLICY: INCLUDING APPROVED LETTERS SENT OUT IN SUBSEQUENT WORKBOOKS

The Commission requested that Leslie D. Smith, County Administrator include all correspondence approved by the County Commission in their weekly agenda workbooks.

IN RE: TOWNS' 20,000 ACRE INCORPORATIONS DO NOT COMPLY WITH WV CODE 8-2-1 "REQUIREMENTS FOR INCORPORATION; SIZE AND CHARACTER OF TERRITORY; POPULATION"

Commissioner Surkamp expressed his concerns with municipal Annexation policies and Incorporation procedures.

No action was taken on this agenda item.

IN RE: UPDATE ON COUNTY ACQUISITION OF A MOTOR VEHICLE MONITOR

Motion by Corliss, second by Tabb that Sheriff Ed Boober research information regarding the acquisition of a Motor Vehicle monitor and report the information to the Commission for consideration. Motion carried.

IN RE: COUNTY ADMINISTRATOR REPORTS

Leslie D. Smith, County Administrator reported that Secretary of State, Betty Ireland will be in Jefferson County Tuesday, August 29, 2006 at 10:00 a.m.

IN RE: COUNTY COMMISSION REPORTS

Commissioner Corliss reported on the Planning Commission meeting he attended.

The Commission recessed for lunch at 12:55 p.m. The Commission reconvened at 2:00 p.m.

IN RE: JEFFERSON COUNTY COMMUNITY CENTER – CHANGE ORDERS

Kirk Davis, Project Manager from the Department of Planning, Zoning and Engineering appeared before the Commission to report on the specifications of change orders 18 and 19. Mr. Davis reported on Community Center construction and design concepts.

Motion by Morgan, second by Tabb to approve Change Orders 18 and 19 as presented by Kirk Davis. Motion carried.

IN RE: COUNTY COMMISSION WORKSHOP – PLANNING COMMISSION DRAFT BY-LAWS

The Commission agreed to cancel this workshop.

IN RE: COUNTY COMMISSION WORKSHOP – CAPITAL BUDGET WORKSHOP

The County Commission met with County Clerk Jennifer S. Maghan and Sheriff Ed Boober to discuss capital budget, expenditures and health benefit premiums for County employees.

No action was taken during the County Commission workshop.

The Commission received the following information:

Acceptance of bond for Martins expansion at Jefferson Crossing and Word of Faith Tabernacle.

Memorandums received from the Department of Impact Fees concerning transfers of funds.

Correspondence received from the Prosecuting Attorney's office concerning newly enacted legislation.

Correspondence received from the Prosecuting Attorney's office concerning the Supreme Court of Appeals of West Virginia, June 29, 2006 decision on Weston v. Mineral County and County Commission of Mineral County.

Correspondence received from the Fire and Rescue Association concerning the 77th Annual WV State Firemen's Association Convention and Parade.

Correspondence received from the Berkeley County Health Department of a training class on August 16, 2006, on Roles and Responsibilities for Board of Health Members.

Correspondence received concerning a change in committee members on the Mountain Water Systems Fair Water Rate Committee.

Correspondence received from Dwayne Casteel concerning Happy Retreat.

Correspondence received from Patricia E. McMillan concerning a meeting for the Eastern Panhandle Home Consortium of West Virginia on August 28, 2006.

Letter of resignation received from John D. Sims as a member of the Planning Commission.

Invitation received to attend a ribbon cutting at the new Division of Motor Vehicles on August 21, 2006.

Invitation received from the National Parks Conservation Association to attend a reception celebrating the centennial anniversary of the Niagara Movement gathering at Harpers Ferry on Saturday, August 19, 2006.

Correspondence received from Senator Byrd concerning the Harpers Ferry Center.

Correspondence received from the Secretary of States office concerning poll worker appointment reminders.

Correspondence received from Auction Services Group concerning land auctions in the Eastern Panhandle.

Correspondence received from the Secretary of State's office concerning Emergency Absentee Voting Policy Reminder.

Correspondence received from the Division of Highways concerning Safe Routes to School Program Grants.

Correspondence received from the National Park Service concerning the Revolutionary War and War of 1812 Historic Preservation Study.

Correspondence received from Comcast concerning the transfer of the cable franchise to Comcast.

Meeting agenda received from the Jefferson County Public Service District.

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

Public Hearing notices received from Loudoun County.

Copies of correspondence received from Commissioner Surkamp of the letters of resignation from John Sims and Bill Lewandowski.

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

GREGORY A. CORLISS, COMMISSION PRESIDENT