

**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, August 24, 2006, beginning at 9:30 o'clock a.m.

**PRESENT:** Gregory Corliss, President;  
James Surkamp; A.M.S. (Rusty) Morgan, III;  
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 Morgan, second by Manuel to dispense with the reading of the Minutes for the meeting held on Thursday, August 17, 2006, and to approve the Minutes as amended. Motion carried.

**In re: APPROVAL OF PURCHASE ORDERS**  
Motion by Morgan, second by Tabb to approve the following Purchase Orders for the Week of August 21, 2006, totaling \$9,561.02: 43130, 42959, 42975, 43064, 42908, 42916, 43067, 43068, 43069, 43129, 42595, and 42575. Motion carried.  
The Commission also discussed a purchase order for a rental car and implementing a policy for rental cars. The Commission agreed to put the matter on next week's agenda.

**In re: PROCEDURAL MOTION**  
Motion by Manuel, second by Corliss to remove Old Business Items 9, 10 & 11 from the agenda. Motion passed by a 4-1 vote. Commissioner Surkamp voted no.

**In re: EXONERATION**  
Motion by Tabb, second by Manuel to approve the following Exoneration due to erroneous assessment. Motion carried.

Name	District	Type	Ticket #	Tax
Liza Jonczak	Shepherdstown Corporation	Personal	316621	\$67.90

**In re: BONDING**  
Upon recommendation from the Executive Director of Planning, Zoning and Engineering, motion by Tabb, second by Manuel to approve the partial release of a letter of credit for Bridgeforth RC Cola in the amount of \$421,173, with the County to retain \$50,000. Motion carried.

**In re: PLANNING COMMISSION ACTIVITY REPORT**  
Paul Raco, Executive Director of Planning, Zoning and Engineering, appeared before the Commission to give the weekly Planning Commission Activity Report.

**In re: ZONING ORDINANCE AMENDMENT REPORT FOR CHANGE IN AGRICULTURAL DEFINITION: RE: PROSPECT HALL (NEW BUSINESS #9) - WORK SESSION TO REVIEW ZONING AMENDMENTS TO RURAL AGRICULTURE DISTRICT, AS WELL AS RESIDENTIAL GROWTH/LIGHT INDUSTRIAL/COMMERCIAL**  
Motion by Corliss, second by Morgan to schedule a work session to review the zoning ordinance amendments to the agricultural definition, as well as residential growth/light industrial/commercial. Motion carried.

**In re: PUBLIC COMMENT**  
Public comment was made by the following:  
Curt Mason informed the Commission that the City of Charles Town had approved an allocation of \$15,000 for Happy Retreat.  
Ellen May commented on the proposed Evitts Run Sewer Plant Project.  
Pat Rissler commented on the proposed Evitts Run Sewer Plant Project and commented on the lawsuit for the removal of a Planning Commissioner.  
Jane Rissler commented on the proposed Evitts Run Sewer Plant Project.  
Catherine Smith commented on the proposed Evitts Run Sewer Plant Project.  
Jim Campbell confirmed with the Commission the removal of Old Business items 9, 10, and 11. Mr. Campbell also requested that he be heard if the Commission discusses Old Business #8 (Seek Md. Utility Lawyer's Advice on Md. Utility Case No. 8997 (Catocin Power LLC))

**In re: JEFFERSON COUNTY PUBLIC SERVICE DISTRICT - REQUEST FOR RESOLUTION WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT CONSOLIDATION COMMITTEE MEETING (NEW BUSINESS #8) - COUNTY COMMISSION RESOLUTION REGARDING SUPPORT FOR BUILDING TWO WASTE WATER TREATMENT PLANTS, I.E. FLOWING SPRINGS AND THORN HILL/HIGHLAND FARMS**

Marty Kable, from the Jefferson County Public Service District, appeared before the Commission to request the approval of a resolution in support of the applications for the Flowing Springs Waste Water Treatment Plant and the Evitts Run Waste Water Treatment Plant that was submitted by the Jefferson County Public Service District to the West Virginia Infrastructure and Jobs Development Consolidation Committee. Suzanne Lawton and Joe Hankins were present and commented on the matter. After discussion, motion by Surkamp, second by Morgan to support only the application for the Flowing Springs Waste Water Treatment Plant. Motion failed by a 2-3 vote. Commissioners Tabb, Manuel, and Corliss voted no. Motion by Manuel, second by Tabb to approve the resolution to the West Virginia Infrastructure and Jobs Development Council in support of the applications for Evitts Run and Flowing Springs Waste Water Treatment Plants and to have the Public Service District hold public hearings to receive input from the public. Motion passed by a 3-2 vote. Commissioners Surkamp and Morgan voted no.

**In re: GARRETT KY SAR - RECOGNITION AS 2006 WINNER OF THE 69<sup>TH</sup> RUNNING OF THE ALL-AMERICAN SOAP BOX DERBY**

Garrett Kysar appeared before the Commission with his parents. The Commission recognized Garrett for being the 2006 Winner of the 69<sup>th</sup> Running of the All-American Soap Box Derby. Garrett was presented with a certificate of recognition from the Commission for his achievement.

**In re: JAMES B. CRAWFORD - CHARLES TOWN ANNEXATION - PETTI PROPERTY**

James B. Crawford, Attorney for the City of Charles Town, appeared before the Commission concerning an annexation by the City of Charles Town of the Petti Property. Motion by Surkamp, second by Corliss to table the matter for one week in order to receive more information from legal counsel. Motion carried.

**In re: KELLIE BOLES - STINE CONSERVATION EASEMENT**

Kellie Boles appeared before the Commission concerning the Stine Conservation Easement. After discussion, motion Tabb, second by Manuel to approve the deed of conservation easement for the Stine property pending final review by the Department of Planning, Zoning and Engineering. Motion carried.

**In re: APPOINTMENT OF ALTERNATE MEMBER TO THE BOARD OF ZONING APPEALS**  
No action was taken on this item.

**In re: APPOINTMENT TO THE HARPERS FERRY/BOLIVAR PUBLIC SERVICE DISTRICT**  
No action was taken on this item.

**In re: APPOINTMENT TO THE JEFFERSON COUNTY BOARD OF HEALTH**  
No action was taken on this item.

**In re: LEGISLATIVE ISSUES**

Commissioner Manuel reported on a Town Meeting with Governor Manchin and his cabinet.

**In re: KENDIG KEAST UPDATE/ORDINANCE REWRITE DISCUSSION AND DIRECTION**

The County Administrator informed the Commission that the first 3 chapters of the draft zoning ordinance had been received from Kendig Keast and that Kendig Keast would be in Jefferson County on September 18-20, 2006. The Commission discussed the format for various meetings with Kendig Keast.

**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. Ms. Maghan reported on the meeting concerning retirement.

**In re: VOTER REGISTRATION LIST ADDRESSES**

Jennifer S. Maghan, County Clerk, informed the Commission the reasons why the voter registration list addresses are not 100% accurate.

The Commission took a 5 minute break at 11:05 a.m.

**In re: RECOMMEND 2 COMMISSIONERS TRAVEL TO CHARLESTON TO SPEAK TO GOVERNOR ABOUT COMBINED BOARD OF FIRE AND EMS**

The Commission agreed to take this matter off the agenda now, but agreed to bring the matter back up at a later date.

**In re: BENEFITS DISCUSSION AND INFORMATION**

The County Administrator provided the Commission with estimates of the cost to provide another benefit to employees who do not elect family health benefits.

**In re: BRANDON SIMS - LEGAL UPDATE & REPORT**

Brandon Sims, Assistant Prosecuting Attorney, appeared before the Commission to give an update and report on legal matters. Ms. Sims discussed the HSMM contract for the 911 building.

**In re: SEEK MD. UTILITY LAWYER'S ADVICE ON MD. UTILITY CASE NO 8997 (CATOCTIN POWER LLC)**

The Commission discussed this matter with Brandon Sims, Assistant Prosecuting Attorney. Ms. Sims agreed to follow up with the Commission after researching this matter.

**In re: MOTION "TO GUARANTEE LEGAL SUPPORT TO ANY VOLUNTEER APPOINTEE OF THE COUNTY COMMISSION TO A COUNTY BOARD OR COMMISSION, IF CHALLENGED ACTIONS ARE RELATED TO THEIR COUNTY ROLE AND DONE 'IN GOOD FAITH'"**

Motion by Surkamp to guarantee legal support to any volunteer appointee of the County Commission to a County Board or Commission, if challenged actions are related to their County role and done 'in good faith.' Motion failed due to a lack of a second.

**In re: MOTION THAT NO BZA MEETING WILL OCCUR W/O COUNTY LEGAL COUNSEL PRESENT. ANY PARTIES TO CASES MUST BE NOTIFIED AT LEAST TWO DAYS PRIOR TO MEETING OF COUNTY COUNSEL'S EXPECTED ABSENCE AT A MEETING, OR COUNTY PAYS THE LEGAL EXPENSE OF THE INJURED PARTY ATTORNEY'S PRESENCE AT THE UNSTAFFED BZA MEETING**

Stephanie Grove, Assistant Prosecuting Attorney, was present and informed the Commission that she was present at the Board of Zoning Appeals meetings. Motion by Surkamp that no BZA meeting will occur without county legal counsel present, any parties to cases must be notified at least two days prior to meeting of county counsel's expected absence at a meeting, or county pays the legal expense of the injured party attorney's presence at the unstaffed BZA meeting. Motion failed due to a lack of a second.

**In re: PROPERTY SAFETY HEARING - 06-001A (GRAHAM) AND CASE 006-001B (GRAHAM)**

The Commission conducted a hearing on a Property Safety Enforcement Agency Complaint on Cases 06-001A and 06-001B, property owned by Betty R. Graham. The President swore in the secretary and the following who would be providing testimony: Roger Goodwin, Fred Blackmer and Betty R. Graham. After testimony and discussion, motion by Morgan, second by Manuel to approve the orders for Case 06-001A and Case 06-001B as presented by the Property Safety Enforcement Agency. Motion carried.

**In re: APPOINTMENT TO THE JEFFERSON COUNTY BUILDING COMMISSION**

No action was taken on this item.

**In re: DR. STEVEN NICHOLS - REQUEST FOR A MEETING WITH THE BOARD OF EDUCATION AND COUNTY COMMISSION - RELEASE OF IMPACT FEES PROCEDURES DISCUSSION**

The Commission agreed to meet with the Board of Education on Wednesday, September 13, 2006, at 10:00 a.m. at the Board of Education office in order to discuss procedures for the release of impact fees.

**In re: RESOLUTION - LOCAL ECONOMIC DEVELOPMENT ASSISTANCE GRANT AWARD - EASTERN PANHANDLE TRANSPORTATION AUTHORITY**

Motion by Morgan, second by Manuel to approve the resolution for the Local Economic Development Assistance Grant Award for the Eastern Panhandle Transportation Authority. Motion carried.

**In re: RESOLUTION OF SUPPORT FOR THE PLANNING COMMISSION AND BOARD OF ZONING APPEALS**

Commissioner Morgan removed this agenda item in order to defer to New Business #7 on the same topic (Consideration of Resolution Concerning the Recent Petition for Removal of a Planning Commissioner).

**In re: CONSIDERATION OF RESOLUTION CONCERNING THE RECENT PETITION FOR REMOVAL OF A PLANNING COMMISSIONER**

Motion by Manuel, second by Morgan to approve the following resolution. Motion carried.

*Whereas, the current petition for removal of a seated planning commission member has created a chilling effect on the Commission's ability to retain and recruit volunteer members for boards and commissions necessary to carry on local government and*

*Whereas, participation from citizen members are both desirable and essential to attain the goals of representative democracy and*

*Whereas, volunteer members make large commitments of their time and their talent to make our community a better place to live and*

*Whereas, action by outside parties has created financial burdens to those who volunteer their time and talents and*

*Whereas, this Commission finds itself in a dilemma where the code does not address whether this body can provide finances to these individuals for their defense*

*Therefore, it shall be the position of this Commission to attempt to effect legislative change that protect the aforementioned citizens as they provide a necessary service to their government and their community.*

**In re: SET DATE AND TIME FOR PUBLIC "TOWN MEETING"**

The Commission discussed setting a date and time to hold a public town meeting. The Commission agreed to look at the schedule and work on setting a date and time for this.

**In re: INDOOR POOL FACILITY AT SAM MICHAELS PARK (MOTION TO PREPARE RFP FOR AN ARCHITECT)**

Motion by Manuel, second by Corliss to prepare a RFP for an architect for an indoor pool facility at Sam Michaels Park. Motion by Surkamp, second by Morgan to table the matter and readdress this issue within the month. Motion to table failed by a 2-3 vote. Commissioners Manuel, Corliss and Morgan voted no. The Commission then voted on the motion. Motion passed by a 4-1 vote. Commissioner Tabb voted no.

**In re: LEGAL SUPPORT TO THE PLANNING COMMISSION AND BOARD OF ZONING APPEALS**

This agenda item was taken care of under New Business #7 (Consideration of Resolution Concerning the Recent Petition for Removal of a Planning Commissioner).

**In re: JEFFERSON COUNTY MEETING ROOM POLICY**

Motion by Morgan, second by Surkamp to continue with the same meeting room policy. Motion carried.

**In re: COUNTY ADMINISTRATOR**

The County Administrator reminded the Commission of the following:

- Visit from Secretary of State Ireland on Tuesday, August 29, 2006, at 10:00 .am.
- Lunch at NCTC on Wednesday, August 30, 2006, at noon
- Council of Governments meeting on Wednesday, August 30, 2006, at 5:00 p.m.
- Representatives from the State Auditor's office will be here on August 28, 2006, to go over the 457(b) Deferred Compensation Plan.

The County Administrator also reported that she was working on setting up a work session with Matthew Grove and that the cost for a speed monitor is \$7,590.

**In re: COUNTY COMMISSION REPORTS**

Commissioner Surkamp commented on the NIMS testing.  
Commissioner Manuel reported on the Niagara Movement celebration.  
Commissioner Tabb reported on the ribbon cutting at the new DMV in Jefferson County.  
Commissioner Tabb reported on the West Virginia State Fair and the Jackson Mill Dairy Show.  
Commissioner Corliss reported on the Planning Commission meeting.

**In re: ROBERT PERRY - WEST VIRGINIA NATIONAL FLOOD INSURANCE PROGRAM COORDINATOR  
WERZYN FLOOD PLAIN VARIANCE REQUEST**

Robert Perry, West Virginia National Flood Insurance Program Coordinator, appeared before the Commission to discuss flood plain management issues. Roger Goodwin, Paul Raco, Mason Carter and Barbara Miller were present for the discussion. William and Robin Werzyn were also present and discussed the matter with the Commission and Mr. Perry. No action was taken.

**The Commission received the following information:**

Reminder of Council of Governments Meeting on Wednesday, August 30, 2006, at 5:00 p.m.

Acceptance of Bond in the amount of \$6,272,911.61 for PNGI Charles Town Gaming LLC, Waste Water Treatment Plant.

Notice of meeting with Representative from ING Financial to discuss the 457(b) Deferred Compensation Plan on Monday, August 28, 2006.

Correspondence received from Michael L. Manley, President of Software Systems, Inc., concerning billing for travel and expenses.

Information received from the following departments concerning document safeguarding:

Teresa Hendricks	Sheriff's Tax Office
Whitney Burch	Development Authority
Jeffrey A. Polczynski	Communications/Addressing
Patsy Noland	Circuit Clerk
F. Mark Schiavone	Department of Impact Fees

Copy of correspondence sent to Kendig Keast received from William G. Grantham concerning the language changes to the zoning ordinance in reference to agriculture.

Correspondence received from John Allen, Jr. concerning topics of discussion for the next meeting with Kendig Keast.

Invitation received from NCTC to attend a lunch on Wednesday, August 30, 2006, at noon.

Notice received from Darrell G. Penwell of CSX Transportation training and tabletop exercise on September 7, 2006 and September 20, 2006.

Secretary of State, Betty Ireland will be in Jefferson County on August 29, 2006, at 10:00 a.m.

Press Release received from the County Commissioners' Association of a grant opportunity from the Department of Homeland Security for Commercial Equipment Direct Assistance Program.

West Virginia Ethics Reporter received for August, 2006.

E-911 fees received from AT&T Communications of West Virginia.

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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GREGORY A. CORLISS, COMMISSION PRESIDENT