

**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 Old Charles Town Library meeting room thereof on Thursday, October 9, 2008, beginning at 9:30 o'clock a.m.**

**PRESENT: Frances B. Morgan, President;  
James Surkamp; A.M.S. (Rusty) Morgan, III;  
Dale Manuel; Greg Corliss; Commissioners**

**In re: PLEDGE OF ALLEGIANCE**

**Commissioner Corliss conducted the Pledge of Allegiance.**

**In re: DISPENSE WITH READING OF MINUTES**

**Motion by R. Morgan, second by Manuel to dispense with the reading of the Minutes for the meeting held on Thursday, October 2, 2008, and to approve the Minutes as amended. Motion carried.**

**In re: APPROVAL OF PURCHASE ORDERS**

**Motion by Manuel, second by Corliss to approve the following Purchase Orders for the Week of October 6, 2008, totaling \$23,365.95: 46273, 45910, 46197, 46198, 45966, 45942, 45944, 45593, 75594, 46076, 46081, 46274, 45940, 45644, 45645, 45646, 45647, 45648, 45649, 44541, and 46079. Motion carried.**

**In re: RECONSIDER THE MOTION TO DISPENSE WITH READING OF MINUTES**

**Motion by Manuel, second by Surkamp to reconsider the motion to dispense with the reading of the minutes of the meeting held on Thursday, October 2, 2008, and to approve the minutes as amended. Motion passed by a 4-1 vote. Commissioner Corliss voted no.**

**Motion by Manuel, second by F. Morgan to dispense with the reading of the Minutes for the meeting held on Thursday, October 2, 2008, and to approve the Minutes as further amended. Motion passed by a 4-1 vote. Commissioner Corliss voted no.**

**In re: APPROVAL OF ACCOUNTS PAYABLE**

**Motion by R. Morgan, second by Manuel to approve the list of Accounts Payable totaling \$71,139.50 dated October 9, 2008 as presented by the County Clerk and reviewed by the County Commission. Motion carried.**

CK#	Dept	Vendor	PO#	PO Amt	Amt wo PO	CK Amt
056846	413	ALLEGHENY POWER		\$0.00	\$58.43	\$58.43
056847	716	ANIMAL CARE EQUIP&SERVIC	46107	\$256.28	\$0.00	\$256.28
056848	PAYROLL	BRICKSTREET MUTUAL INSUR		\$0.00	\$19,941.25	\$19,941.25
056849	406	*CREAMERS AUTO SERVICE	46067	\$57.99	\$0.00	\$57.99
056849	406	*CREAMERS AUTO SERVICE	46082	\$35.95	\$0.00	\$35.95
056849	700	*CREAMERS AUTO SERVICE	46068	\$47.95	\$0.00	\$47.95
056849	711	*CREAMERS AUTO SERVICE	46082	\$12.00	\$0.00	\$12.00
056850	424	CHARLES TOWN WATER DEPT		\$0.00	\$150.60	\$150.60
056850	425	CHARLES TOWN WATER DEPT		\$0.00	\$891.89	\$891.89
056851	406	DANKA OFFICE IMAGING	44439	\$302.34	\$0.00	\$302.34
056852	425	DAYCON	46066	\$90.18	\$0.00	\$90.18
056853	712	EARTHLINK INC		\$0.00	\$21.95	\$21.95
056854	425	GRAINGER, INC	46037	\$643.68	\$0.00	\$643.68
056855	440	ROGER GOODWIN		\$0.00	\$50.00	\$50.00
056856	403	GREENLINE DATA INC.	46141	\$305.85	\$0.00	\$305.85
056857	424	HASLER INC.	45737	\$264.00	\$0.00	\$264.00
056858	413	INTAB	45899	\$43.54	\$0.00	\$43.54
056859	439	IKON OFFICE SOLUTIONS	45934	\$1,261.41	\$0.00	\$1,261.41
056859	439	IKON OFFICE SOLUTIONS	45943	\$3,161.19	\$0.00	\$3,161.19
056859	440	IKON OFFICE SOLUTIONS	45943	\$1,000.00	\$0.00	\$1,000.00
056859	401	IKON OFFICE SOLUTIONS		\$0.00	\$2,300.18	\$2,300.18
056860	439	JEFFERSON PUBLISH CO INC	45938	\$232.70	\$0.00	\$232.70
056861	439	JEFFERSON COUNTY SCHOOLS	45931	\$75.00	\$0.00	\$75.00
056862	405	DANIEL M. JAMES		\$0.00	\$141.58	\$141.58
056863	406	MATTHEW BENDER & CO	44440	\$74.85	\$0.00	\$74.85
056863	401	MATTHEW BENDER & CO		\$0.00	\$72.63	\$72.63
056864	700	MCKINNEY'S AUTO REPAIR	46069	\$12.00	\$0.00	\$12.00
056864	700	MCKINNEY'S AUTO REPAIR	46078	\$44.45	\$0.00	\$44.45
056864	700	MCKINNEY'S AUTO REPAIR	46080	\$66.28	\$0.00	\$66.28
056865	401	NAT'L ASSN OF COUNTIES		\$0.00	\$839.00	\$839.00
056866	401	OLD OPERA HOUSE		\$0.00	\$150.00	\$150.00
056867	402	PIFER OFFICE SUPPLY, INC	45881	\$26.53	\$0.00	\$26.53
056868	402	PARAGON PRINT SYSTEMS IN	45882	\$43.82	\$0.00	\$43.82
056869	700	QUARTER MASTER	45643	\$87.96	\$0.00	\$87.96
056870	424	LANDMARK ELEVATOR INC.	45740	\$80.00	\$0.00	\$80.00
056870	425	LANDMARK ELEVATOR INC.	45740	\$240.00	\$0.00	\$240.00
056871	424	ROACH OIL COMPANY		\$0.00	\$81.75	\$81.75
056871	425	ROACH OIL COMPANY		\$0.00	\$492.43	\$492.43
056872	425	RCS SECURITY	46064	\$54.00	\$0.00	\$54.00
056873	401	ROBERT R. RODECKER		\$0.00	\$323.75	\$323.75
056874	402	RECORD MANAGEMENT SOLUT	45872	\$35.00	\$0.00	\$35.00
056875	976	SOFTWARE SYSTEMS, INC	46138	\$3,660.94	\$0.00	\$3,660.94
056875	976	SOFTWARE SYSTEMS, INC	46143	\$563.12	\$0.00	\$563.12
056875	401	SOFTWARE SYSTEMS, INC		\$0.00	\$1,588.00	\$1,588.00
056875	402	SOFTWARE SYSTEMS, INC		\$0.00	\$1,560.00	\$1,560.00
056875	403	SOFTWARE SYSTEMS, INC		\$0.00	\$3,557.46	\$3,557.46
056875	404	SOFTWARE SYSTEMS, INC		\$0.00	\$759.00	\$759.00
056875	428	SOFTWARE SYSTEMS, INC		\$0.00	\$14,835.42	\$14,835.42
056875	433	SOFTWARE SYSTEMS, INC		\$0.00	\$61.00	\$61.00

056875	440	SOFTWARE SYSTEMS, INC		\$0.00	\$122.00	\$122.00
056876	405	SPECIALTY BUS SUPPLIES	45848	\$718.85	\$0.00	\$718.85
056877	402	STAPLES CREDIT PLAN		\$0.00	\$99.98	\$99.98
056877	412	STAPLES CREDIT PLAN		\$0.00	\$322.51	\$322.51
056877	422	STAPLES CREDIT PLAN		\$0.00	\$60.98	\$60.98
056877	424	STAPLES CREDIT PLAN		\$0.00	\$17.28	\$17.28
056877	700	STAPLES CREDIT PLAN		\$0.00	\$455.98	\$455.98
056877	711	STAPLES CREDIT PLAN		\$0.00	\$38.97	\$38.97
056877	712	STAPLES CREDIT PLAN		\$0.00	\$1,504.94	\$1,504.94
056878	425	SHERWIN-WILLIAMS	45770	\$70.08	\$0.00	\$70.08
056879	425	SHENANDOAH VALLEY WATER		\$0.00	\$530.30	\$530.30
056880	425	SOUTHERN REFRIGERATION	46055	\$86.90	\$0.00	\$86.90
056881	425	HAGEMEYER	46024	\$1,744.41	\$0.00	\$1,744.41
056882	402	UNITED SYSTEMS & SOFTWARE		\$0.00	\$195.00	\$195.00
056882	403	UNITED SYSTEMS & SOFTWARE		\$0.00	\$167.00	\$167.00
056883	425	VITAL SIGNS	46077	\$60.00	\$0.00	\$60.00
056884	716	VALLEY PET CEMETERY		\$0.00	\$460.00	\$460.00
056885	405	WEST PAYMENT CENTER	45847	\$2,423.38	\$0.00	\$2,423.38
056886	425	WM OF WEST VIRGINIA, INC		\$0.00	\$668.52	\$668.52
056886	716	WM OF WEST VIRGINIA, INC		\$0.00	\$95.33	\$95.33
056887	PAYROLL	WORKTECH		\$0.00	\$100.00	\$100.00
056888	412	CRAIG W YOHN		\$0.00	\$541.76	\$541.76
<b>TOTAL</b>				<b>\$17,882.63</b>	<b>\$53,256.87</b>	<b>\$71,139.50</b>

DEPT	NAME	DEPT AMTS
401/COM	CO. COMMISSION	\$5,273.56
402/CCLK	CO. CLERK	\$1,960.33
403/CIR CLK	CIRCUIT CLERK	\$4,030.31
404/TAX	TAX OFFICE	\$759.00
405/PA	PROS ATTY	\$3,283.81
406/ASSR	ASSESSORS	\$471.13
408/GOV	ST.COMPNET CHG BO GOV UNIT	
412/AG	AG AGT	\$864.27
413/ELE	ELECTION	\$101.97
415/MAG CT	MAGISTRATE COURT	
415/	GENERAL SCHOOL/CO TRANSFER	
422/CP&M	CAPITAL PLANNING & MNGMNT	\$60.98
424/CTHS	COURT HOUSE	\$593.63
425/OB	OTHER BUILDING	\$5,572.39
428/DATAP	DATA PROCESSING	\$14,835.42
430/HLS	HOMELAND SEC	
431/ECON DEV	ECON DEV	
433/GIS	GIS/ADDRESSING	\$61.00
439/PZ	PLANNING ZONING	\$4,730.30
440/ENG.	DEPT OF ENGINEERING	\$1,172.00
451/ZONING	ZONING DEPT	
700/SHRF	SHERIFF DEPT	\$714.62
701/SHRF	SHERIFF DEPT	
704/WV JAIL	ST/WV REGIONAL JAIL	
711/OES	EMERG SVC	\$50.97

712/911	911 COMMUNICATION	\$1,526.89
716/A/C	ANIMAL CONTROL	\$811.61
801/MTL HLTH	MENTAL HEALTH TRANS TO ENTITIE	
808GOV UNIT	SWA CONTRIB OTHER GOV UNIT	
975/CAP OTL	CO. CLERK / CAPITAL OUTLAY	
976/CAP/CIR	CIRCUIT CLERK/CAPITAL OUTLAY	\$4,224.06
978/CAP/PA	PROS ATTY/CAPITAL OUTLAY	
979/CAP/TAX	TAX OFFICE/CAPITAL OUTLAY	
980/CAP/SRF	SHERIFF DEPT/CAPITAL OUTLAY	
983/CLK ELEC	CO CLERK ELECTION/CAP OUTLAY	
986/CAP/COMM	CO. COMMISSION/CAPITAL OUTLAY	
988/CAP/OB	OTHER BUILDING/CAPITAL OUTLAY	
989/CAP/AGT	AG AGT/CAPITAL OUTLAY	
992/CAP/911	911 COMMUNICATION/CAP OUTLAY	
ALLOC	ALLOCATIONS	
GRANTS	GRANTS	
PAYROLL	PAYROLL	\$20,041.25
<b>TOTALS</b>		<b>\$71,139.50</b>

**In re: LEGISLATIVE ISSUES**

No action was taken on this agenda item.

**In re: BONDING AND ACTIVITY REPORT**

Roger Goodwin, Chief County Engineer appeared before the Commission to report on the following:

- Workshop for the Mountain Water Study - the Commission agreed to hold a workshop to discuss the Mountain Water Study.
- Performance Evaluations

**In re: ZONING AND SUBDIVISION ORDINANCE AMENDMENTS DISCUSSION/  
REQUEST FOR PC REVIEW OF CONSISTENCY OF ZONING ORDINANCE  
AMENDMENTS WITH THE COMPREHENSIVE PLAN**

Tony Redman, Director of Planning and Zoning appeared before the Commission to discuss the Zoning Ordinance Amendments. Mr. Redman requested that a Public Hearing be held in November regarding the Zoning Amendments. By consensus, the Commission agreed to hold a public hearing on November 17, 2008 at 7pm and to leave the written comments open for one week after the public hearing.

Mr. Redman discussed the Subdivision Regulations and that there are two options for the adoption of the Subdivision Regulations. Mr. Redman distributed handouts regarding the amendments to the Subdivision Regulations. This agenda item was deferred until the afternoon session.

**In re: PLANNING DEPARTMENT TRANSITION/DISCUSSION**

The Commission discussed the Planning Department Transition and the

management of the office in the interim. The Commission agreed to discuss this agenda item at 1:30 p.m.

**In re: PUBLIC COMMENT**

Fred Blackmer appeared before the Commission and commented on the Subdivision Regulations.

**In re: BOB REYNOLDS - PLANNING COMMISSION REQUEST FOR OUTSIDE COUNSEL**

Bob Reynolds, President Jefferson County Planning Commission appeared before the Commission to request outside counsel for the Planning Commission.

Clarence Martin, Attorney for Mike Thompson was present and commented on behalf of Mike Thompson regarding this matter. Motion by Corliss, second by Manuel to table this matter for a week. Motion passed by a 3-2 vote. Commissioners F. Morgan and R. Morgan voted no. Renewed motion by Corliss, second by Manuel to table this matter for a week. Motion failed by a 2-3 vote. Commissioners F. Morgan, Surkamp and R. Morgan voted no.

After further discussion, motion by F. Morgan, second by R. Morgan to permit the Planning Commission to hire independent counsel not to exceed \$5,000. Amended motion by F. Morgan, second by R. Morgan to permit the Planning Commission to hire independent counsel not to exceed \$5,000 and be limited to Far Away Farms issues. Commissioners R. Morgan and F. Morgan withdrew the motion.

Motion by R. Morgan, second by Corliss to provide funding to the Planning Commission to seek an opinion on the Far Away Farms Supreme Court Case with regard to the US Supreme Court. The motion was withdrawn.

Motion by R. Morgan, second by Surkamp to provide funding to the Planning Commission regarding legal issues surrounding Far Away Farms. Motion passed by a 4-1 vote. Commissioner Manuel voted no.

For the record, Mike Thompson, Prosecuting Attorney, Ed Dunleavy, Planning Commissioner, John Maxey, Planning Commissioner and Ralph Lorenzetti, Assistant Prosecuting Attorney were present and made comments.

The Commission took a 15-minute break at 11:35 a.m.

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

Karen Olden, Probate Deputy Clerk appeared before the Commission to give the County Clerk's Report. Ms. Olden gave an Elections update.

**In re: PROBATE - ACCOUNTS AND WAIVERS  
- RESIGNATION OF FIDUCIARY COMMISSIONER - JO ANN PERKINS**

Karen Olden, Probate Deputy Clerk appeared before the Commission to inform the Commission that Jo Ann Perkins resigned as Fiduciary Commissioner. Motion by Surkamp, second by R. Morgan to replace Jo Ann Perkins as Fiduciary Commissioner with James Casimiro. Motion passed by a 4-1 vote. Commissioner F. Morgan voted no.

**IN RE: QUARTERLY FIDUCIARY REVIEW**

Karen Olden, Probate Deputy Clerk appeared before the Commission for presentation of Accounts and Waivers for Commission review and consideration.

The time of the Commission was taken up this day with examination of fiduciary accounts. Motion by R. Morgan, second by Corliss to accept and authorize the President's signature upon all fiduciary accounts as presented by Ms. Karen Olden. Motion carried. For the record, Commissioner Manuel recused himself from this vote and discussion due to a possible conflict.

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

In re: **APPROVAL OF GRANT CONTRACT AND RESOLUTION - GOVERNOR'S COMMUNITY PARTICIPATION GRANT - BLUE RIDGE ACRES COMMUNITY CLUB**

Motion by Manuel, second by R. Morgan to approve the Governor's Community Participation Grant Contract and Resolution for the Blue Ridge Acres Community Club and to authorize the President of the Commission to affix her signature to the appropriate documents. Motion carried.

***RESOLUTION***

WHEREAS, The Jefferson County Commission has agreed to assist the Blue Ridge Acres Community Club to assist in the renovation of the river park restrooms with funds made available through the Governor's Community Participation Grant program and the West Virginia Development Office in the amount of \$2,000.

NOW, THEREFORE BE IT RESOLVED, that the Jefferson County Commission does hereby accept the conditions of the contract between the West Virginia Development Office and the Jefferson County Commission and does hereby authorize the signatures of the President of the Commission.

/s/

Frances B. Morgan, President  
Jefferson County Commission

Date: 10/8/2008

In re: **PROPOSAL TO REORGANIZE JEFFERSON COUNTY GOVERNMENT AS FOLLOWS:**

- 1. TRANSFER BUDGET MANAGEMENT FROM THE OFFICE OF THE COUNTY**

ADMINISTRATOR TO THE DEPARTMENT OF CAPITAL PLANNING AND MANAGEMENT. BUDGET MANAGEMENT FOR THE 2009 BUDGET WILL REMAIN WITH THE COUNTY ADMINISTRATOR UNTIL THE 2009 BUDGET IS CLOSED. BUDGET PLANNING AND SUBSEQUENT EXECUTION, FOR THE 2010 BUDGET WILL BE, WITH ASSISTANCE FROM THE COUNTY ADMINISTRATOR, THE RESPONSIBILITY OF THE NEW FINANCIAL OFFICER.

2. CREATE A PURCHASING AGENT TO CENTRALIZE PURCHASING BY JEFFERSON COUNTY. THE CURRENT CONSTRUCTION MANAGER WILL ASSUME THESE NEW DUTIES 1 DECEMBER 2008.
3. CREATE A HUMAN RESOURCE DEPARTMENT UNDER THE COUNTY COMMISSION TO BE FUNDED UNDER THE 2010 BUDGET.

The Commission agreed by consensus to table this matter for one week.

In re: REQUEST FROM TERI PICARD TO CHANGE EXCESSIVE NOISE ORDINANCE

The Commission agreed to ask Stephanie Grove, Assistant Prosecuting Attorney to review this agenda item and give an update and comments at next week's meeting.

In re: STEPHANIE GROVE - LEGAL UPDATE AND REPORT

Stephanie Grove, Assistant Prosecuting Attorney appeared before the Commission for the legal update and report on the following:

- To Do List
- Attended an unemployment hearing with the Assessor
- Health Department lawsuit
- Age restricted meeting request for Ms. Grove to attend. By consensus, the Commission agreed for Ms. Grove to attend the meeting and to give a report to the Commission regarding the meeting.
- Subdivision Regulations and Amendments

In re: REQUEST FROM RUTH WAGNER, AARP PRESIDENT FOR A RESOLUTION TO STAND WITH AARP'S DIVIDED WE FAIL INITIATIVE ON HEALTH CARE AND FINANCIAL SECURITY

After discussion, the Commission agreed to place the item on next week's agenda.

In re: LEGAL UPDATE AND REPORT

James Casimiro, Assistant Prosecuting Attorney appeared before the Commission to report on the following:

- Election pay issue
- Appointment as Fiduciary Commissioner
- JUI rate case

**In re: GRANT REQUEST - COURTHOUSE FACILITIES IMPROVEMENT AUTHORITY**  
Motion by Manuel, second by Surkamp to approve the Courthouse Facilities Improvement Authority Grant request and to authorize the President of the Commission to affix her signature to the appropriate documents. Motion carried.

**In re: REQUEST FOR VARIANCE FEE REFUND - CHRISTOPHER AND TRUDIE STONER**  
Motion by Manuel, second by Corliss to approve the request for a variance fee refund in the amount of \$100.00 for Christopher and Trudie Stoner. Motion carried.

**In re: FRANK KUBIC - REQUEST TO USE COUNTY MEETING ROOM**  
Upon request from Frank Kubic to use the County Meeting room, motion by F Morgan, second by Manuel to deny the request and to direct the County Administrator to send a letter to Mr. Kubic informing him of the denial. Motion passed by a 4-1 vote. Commissioner Corliss voted no.

**In re: BARKING, HOWLING, YELPING DOG ORDINANCE**  
Motion by R. Morgan, second by Surkamp to approve the Barking, Howling, Yelping Dog Ordinance effective in 30 days. Motion passed by a 4-1 vote. Commissioner Manuel voted no.

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### **ORDINANCE**

WHEREAS, the County Commission of Jefferson County, West Virginia regularly receives numerous public comments and complaints pertaining to barking, howling or yelping dogs and further that these complaints pertain directly to health, safety and welfare of the citizens of Jefferson County, and

WHEREAS, the County Commission of Jefferson County does hereby determine that barking, howling or yelping dogs constitute a public nuisance whenever two or more persons living in different households file or register their complaints about the same owner or custodian of barking, howling or yelping dogs, and

WHEREAS, Chapter 7, Article 1, Section three-k-k of the West Virginia Code of 1931, (W.Va. Code § 7-1-3-kk) as amended, authorizes county commissions to enact ordinances and issue orders for the elimination of hazards to public health and safety of the community and to abate or cause to be abated anything, which the county commission determines to be a public nuisance and further authorizes that such ordinances may provide for a misdemeanor penalty for violation thereof.

**BE IT THEREFORE ENACTED AS FOLLOWS:**

**Section 1.** Definitions.

For purposes of this ordinance only the following items are defined:

- (a) “Complaint” shall mean a written statement of the essential facts constituting the offense charged. It shall be made upon the oath of a law enforcement officer before a magistrate. The complaint shall set forth the facts of the allegation of disturbance of the peace caused by a barking, yelping, or howling dog, name the complainants with complete address and telephone number; name the owner or owners of the barking dog; and his or her complete address and telephone number; set forth the names, addresses, and telephone numbers of all persons who are impacted by the alleged barking dog and the approximate area of impact.
- (b) “Residential area” shall mean any subdivision, development or other area used primarily for residential purposes located in Jefferson County but which is not within the boundaries of any municipality therein.
- (c) “Public Nuisance” shall mean any dog or dogs that excessively bark, howl, or yelp intermittently or continuously for more than fifteen minutes in a fashion which creates unreasonably loud and disturbing noises of such a character, intensity, and duration as to disturb the peace, quiet, and good order and which gives rise to complaints from at least two persons, living in different households, regarding a breach or disturbance of the peace of others.
- (d) “Household” shall mean any apartment, townhouse, unit, or freestanding home which serves as a residence of persons who live in that same dwelling, sharing its furnishings, facilities, accommodations, and expenses. A building with multiple apartments, townhouses, or units may, accordingly, contain multiple households.
- (e) “Legal Hunting Activity” shall mean hunting of game that is in season by persons properly licensed to do so, unless exempted by law. Legal hunting activity may only occur on property which does not prohibit the same.

Section 2.     Procedures

- (a) It shall be unlawful for any person who is the owner or custodian of any dog or dogs in any residential area to allow or cause said dog or dogs to bark, howl, or yelp in a fashion which rises to the level of a public nuisance as defined herein.
- (b) Any person complaining of a violation of this Ordinance may contact local law enforcement officers who may then investigate the complaint’s report and, if appropriate, such officers may file a complaint with the Jefferson County Magistrate Court. If it appears from the complaint that there is probable cause to believe an offense has been committed and that the defendant has committed it, a summons shall issue to any officer

authorized by law to execute it. The summons shall issue in the same form as a warrant, except that it shall summon the defendant to appear before a magistrate at a stated time and place. An authorized person shall cause a copy of the complaint and summons to be served upon the alleged perpetrator or upon each of the alleged perpetrators.

- (c) The Clerk of the Jefferson County Magistrate Court shall notify the assigned Jefferson County Magistrate when any complaint has been filed and when service thereof has been made. The assigned Magistrate shall schedule a hearing on the complaint and notify the complainant or complainants and alleged perpetrator or perpetrators of the hearing date and time.
- (d) Upon request by the defendant, a hearing on the complaint shall be heard by the assigned Jefferson County Magistrate according to the West Virginia Rules of Criminal Procedure for Magistrate Courts.

### Section 3. Nuisance Abatement and Penalties.

- (a) The Jefferson County Magistrate, having found that the owner or custodian of any dog or dogs has allowed said dog or dogs to become a public nuisance as defined herein, may order the owner or custodian to abate the public nuisance.
- (b) The Jefferson County Magistrate, having found that the owner or custodian of any dog or dogs has failed to comply with an order of abatement, may order the owner or custodian to pay to the State of West Virginia a fine of not less than \$50 nor more than \$300.
- (c) A second or subsequent violation of this ordinance within any six month period shall subject the owner or custodian of any dog or dogs to a fine of not less than \$100 nor more than \$500.
- (d) A third or subsequent violation of this ordinance within any six month period shall subject the owner or custodian of any dog to a fine of not less than \$200 nor more than \$500.
- (e) Repeated similar violations of this Ordinance which occur beyond twenty-four hours of the initial incident shall be considered separate offenses. Accordingly, an owner or custodian of any dog or dogs may receive one violation per twenty-four hour period.

### Section 4. Exempted Activities.

- (a) All activities within the boundaries of any municipality are exempt from the application of this ordinance.

- (b) This Ordinance is not enforceable against any dog which is exempted from the same by State or Federal law.
- (c) This Ordinance is not enforceable against any dog which is engaged in any legitimate farming activity, including but not limited to herding of livestock.
- (d) This Ordinance is not enforceable against any dog which is engaged in any legal hunting activity.

Section 5. Severability.

The several sections and subsections of this ordinance are severable, and if any section or subsections hereof shall be held unconstitutional, all the remaining sections or subsections shall remain valid.

Section 6. Purpose.

It is the purpose of this Ordinance to promote the public health and safety of the community and as such it should be liberally construed to give effect to the purposes hereof.

Section 7. Appeals

Appeals to the Circuit Court shall be made pursuant to the West Virginia Rule of Criminal Procedure for Magistrate Courts 20.1.

Section 8. Civil Cause of Action not Precluded.

Nothing contained in this Ordinance shall be construed to limit or preclude the right of any individual or entity from pursuing any civil cause of action otherwise authorized by law for either injury or damage arising from any noise which creates either a public or private nuisance under law.

**In re: ACCEPTANCE OF COPS TECHNOLOGY GRANT**

**Motion by Manuel, second by Corliss to approve and accept the COPS Technology Grant and to authorize the President of the Commission to affix her signature to the appropriate documents. Motion carried.**

**The Commission recessed for lunch at 12:30 p.m. The Commission reconvened at 1:30 p.m.**

**In re: PLANNING DEPARTMENT TRANSITION/DISCUSSION - CONTINUED**

**The Commission discussed appointing an interim Director of Planning and Zoning. Roger Goodwin, Chief County Engineer and Kirk Davis, Capital Projects Manager were**

present and commented. After discussion, motion by Corliss, second by Surkamp to appoint Kirk Davis as Interim Director of Planning and Zoning after the departure of Tony Redman. Motion carried.

**In re: VOTE ON SUBDIVISION REGULATIONS AND POSSIBLE AMENDMENTS**

Motion by Corliss, second by R. Morgan to adopt the Subdivision Regulations effective November 1, 2008 and to approve the following Resolution: Motion carried. For the record, Tony Redman, Director of Planning and Zoning and Stephanie Grove, Assistant Prosecuting Attorney were present and made comments and recommendations.

**Resolution Adopting Subdivision & Land Development Regulations  
with Effective Date of November 1, 2008**

*Whereas, the process of review of the current Jefferson County Subdivision & Land Development Regulations began in 2003; and*

*Whereas, the Jefferson County Planning Commission and the County Commission of Jefferson County have prepared numerous studies and reports over the past five years to document many considerations made by both the County Commission, Planning Commission, and the citizens of Jefferson County; and*

*Whereas, numerous public hearings have been held by both the Planning Commission and County Commission in various geographic locations throughout the County to solicit public comment on the draft ordinance; and*

*Whereas, the County Commission has revised the draft Subdivision & Land Development Regulations multiple times to address concerns expressed by the public during these forums; and*

*Whereas, the County Commission finds that adoption of the draft Subdivision & Land Development Regulations in the best interests of the County and its citizens, and that it will ensure the health, safety, and welfare of Jefferson County citizens.*

**Now therefore be it resolved, that the County Commission of Jefferson County hereby replaces the current Subdivision Ordinance with the Subdivision & Land Development Regulations, dated August 28, 2008, as of the date of this Resolution, and the Subdivision & Land Development Regulations shall become effective November 1, 2008. On the effective date, the Subdivision & Land Development Regulations adopted herein shall replace the current Subdivision Ordinance**

*in its entirety*

*Approved this 2nd day of October, 2008*

*By vote of the County Commission of Jefferson County*

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*Frances Morgan, President*

**In re: VOTE ON SUBDIVISION REGULATIONS AND POSSIBLE AMENDMENTS - CONTINUED**  
Motion by Corliss, second by R. Morgan to schedule a Public Hearing on the amendments to the Subdivision and Land Development Regulations for November 20, 2008 at 1:30 p.m.  
Motion carried.

**In re: STEPHANIE GROVE - LEGAL UPDATE AND REPORT - CONTINUED**  
Stephanie Grove, Assistant Prosecuting Attorney appeared before the Commission to report on the City of Charles Town case regarding attorney's fees.

**In re: TASK STAFF TO OBTAIN DETAILS OF PRESCRIPTION DRUG BENEFIT OFFERED BY CCAWV AND/OR NACO FOR COMMISSION REVIEW AND DECISION**  
Commissioner F. Morgan discussed the prescription drug benefit offered by the CCAWV and/or NACO. Leslie Smith, County Administrator discussed the plan and will bring back a description of the program and a fact sheet at next week's meeting.

**In re: TASK STAFF TO COMMUNICATE WITH CCAWV AND NACO STAFF TO FIND OUT WHAT IT WILL TAKE FOR JEFFERSON COUNTY TO BE COMPETITIVE AS A MEETING SITE FOR THESE ORGANIZATIONS**  
Commissioner F. Morgan discussed Jefferson County to become a competitive site for meetings with the CCAWV and NACO. The Commission directed that Leslie Smith, County Administrator look into this matter.

**In re: TASK STAFF TO INVESTIGATE WV RISK POOL AS SOURCE OF INSURANCE FOR THE COUNTY; AND PREPARE TO OBTAIN COMPETITIVE BIDS FROM CURRENT INSURER, THE RISK POOL, AND OTHER INSURERS FOR UPCOMING YEAR**  
Commissioner F. Morgan discussed the WV Risk Pool as source of insurance for the County and directed that staff to look into it. This request is listed on Stephanie Grove's To Do List.

**In re: COUNTY ADMINISTRATOR REPORTS**

Leslie D. Smith, County Administrator reported on the following:

- Meeting with Jacobs Consulting on 10/14/08
- Comcast getting ready to file application
- Received invoice from Northern Shenandoah Valley Regional Commission \$2522.00 - Commission agreed to place this on next week's agenda
- Reminder of upcoming Public Hearing 10/21/08 - Joint Emergency Services Agency
- Upcoming appointments to the Jefferson County Ambulance Authority and North Eastern Regional EMS, Inc.

In re: COUNTY COMMISSION REPORTS

Commissioner Corliss reported on the Region 9 meeting he attended.

Commissioner Corliss reported on the MPO meeting he attended.

Commissioner Surkamp reported on the Transmission Corridor meeting he attended.

Commissioner R. Morgan reported in the budget cycle.

Commissioner R. Morgan discussed the Solid Waste Authority meeting he attended.

Commissioner Corliss discussed a 4 day work week and would like to look into that.

The Commission received the following information:

Reminder - Courthouse is closed Monday, October 13, 2008 in Observance of Columbus Day.

Notice of Public Hearing - Ordinance Creating the Jefferson County Emergency Services Agency - October 21, 2008.

Appointments on November 6, 2008 to the following:

Jefferson County Ambulance Authority - Three 3-year terms ending November 2, 2011

North Eastern Regional EMS, Inc. - One 2-year term ending October 31, 2010

Correspondence received from the County Commission of Berkeley County regarding MARC Train - Eastern Panhandle.

Correspondence received from Lyle C. Tabb & Sons, Inc. regarding tax appraisals - Petition to Sheriff.

Correspondence received from the Eastern Panhandle Free Clinic regarding \$10,000 contribution and continued support.

Memorandums concerning transfers of funds received from the Department of Capital Planning and Management.

Impact Fee Status Report received for September 2008.

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

Invitation for Gang & Youth Violence Prevention & Intervention Training on Thursday, October 23, 2008 at the National Conservation Training Center - 8am - 5pm.

Press Release - Art in the Library series hosted by the South Jefferson Public Library from September 30<sup>th</sup>, 2008 through October 30<sup>th</sup>, 2008.

Invitation to attend a Ribbon Cutting at AAAA Ranson Self Storage on Wednesday, October 15<sup>th</sup>, 2008 at 1:00 pm located at 1186 N. Mildred Street, Ranson, WV.

Invitation to attend the Chamber of Commerce Unsung Heros Recognition Banquet on Tuesday, October 14, 2008 at the Charles Town Races and Slots.

#### CORRESPONDENCE

Correspondence received from John Piwowarski.

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

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PRESIDENT