

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, September 24, 2009 beginning at 9:30 o'clock a.m.

PRESENT: Dale Manuel; President;
James Surkamp, Patricia Noland, Lyn Widmyer
Frances B. Morgan; Commissioners

IN RE: PLEDGE OF ALLEGIANCE

Commissioner Morgan conducted the Pledge of Allegiance.

IN RE: CALL OF ORDER

Commissioner Morgan expressed concerns with Commission conduct of the previous week and requested the Commission President call to order proper conduct during Commission proceedings.

Commissioner Manuel reported on complaints received regarding the use of electronic devices during Commission proceedings and requested Commission members reframe from using any electronic devices during Commission proceedings.

IN RE: APPROVAL OF MINUTES

Motion by Surkamp, second by Morgan to dispense with the reading of the Minutes for the meeting held on Thursday, September 17, 2009 and to approve the Minutes as presented. Motion carried.

IN RE: APPROVAL OF PURCHASE ORDERS

Motion by Morgan, second by Manuel to approve the following Purchase Orders for the week of September 24, 2009 totaling \$27,697.90: 47473, 47569, 47571, 47562, 47148, 47183, 47184, 47563, 47564, 47565, 47570, 47028, 47029, 47030, 47031, 47032, 47033, 47034, 47035, 47036, 47566, 47568 and 47567. Motion carried.

IN RE: APPROVAL OF ACCOUNTS PAYABLE

Motion by Noland, second by Morgan to approve the list of Accounts Payable for September 24, 2009 totaling \$290,739.40. Motion carried.

CK#	DEPT	VENDOR	PO#	PO Amt	Amt wo PO	Ck Amount
059721	700	ALGERS AUTO RECYCLE	47559	\$120.00	\$0.00	\$120.00
059722	424	ALLEGHENY POWER		\$0.00	\$1,239.25	\$1,239.25
059722	425	ALLEGHENY POWER		\$0.00	\$10,230.43	\$10,230.43
059723	424	AMERICAN RED CROSS	47557	\$182.50	\$0.00	\$182.50
059724	GRANT	AFRICAN AMERICAN		\$0.00	\$12,670.00	\$12,670.00
059725	428	ACS GOVERNMENT SYS		\$0.00	\$11,923.70	\$11,923.70
059726	424	AUTOZONE		\$0.00	\$9.54	\$9.54
059726	700	AUTOZONE		\$0.00	\$150.28	\$150.28
059727	422	ASCE/AMERICAN	46787	\$90.00	\$0.00	\$90.00
059728	425	ABH SERVICES, INC.		\$0.00	\$90.00	\$90.00
059729	700	BANK OF C/T	47027	\$27.98	\$0.00	\$27.98
059730	425	B-K OFFICE SUPPLY INC	47554	\$556.09	\$0.00	\$556.09

059731	402	COMPLETE SYS SUPPORT	47459	\$11,100.00	\$0.00	\$11,100.00
059732	440	*CREAMERS AUTO	47561	\$57.38	\$0.00	\$57.38
059732	716	*CREAMERS AUTO	47561	\$27.00	\$0.00	\$27.00
059733	700	C.A.R.S	47558	\$841.60	\$0.00	\$841.60
059734	424	DAYCON	47555	\$253.98	\$0.00	\$253.98
059735	425	FARM PLAN/SO. STATE	47511	\$50.81	\$0.00	\$50.81
059736	405	STEPHANIE GROVE		\$0.00	\$445.23	\$445.23
059737	412	JEREMY HORVAT		\$0.00	\$90.75	\$90.75
059738	712	IKON OFFICE SOLUTIONS	47149	\$1,591.98	\$0.00	\$1,591.98
059739	413	JEFF CO PUBLIC SER		\$0.00	\$27.19	\$27.19
059739	425	JEFF CO PUBLIC SER		\$0.00	\$55.02	\$55.02
059740	700	JEFF CO DEP SHERIFF'S		\$0.00	\$31.41	\$31.41
059740	700	JEFF CO DEPSHERIFF'S		\$0.00	\$120.00	\$120.00
059741	406	JEFFERSON PUBLISH CO	47608	\$100.00	\$0.00	\$100.00
059742	712	DR ROBERT JONES		\$0.00	\$1,000.00	\$1,000.00
059743	700	DEBBIE LOWE		\$0.00	\$16.75	\$16.75
059744	403	MATTHEW BENDER/CO	47477	\$592.32	\$0.00	\$592.32
059744	405	MATTHEW BENDER/CO	47414	\$2,677.50	\$0.00	\$2,677.50
059745	712	MOTOROLA INC	46619	\$33,710.52	\$0.00	\$33,710.52
059746	700	MCKINNEY'S AUTO	47560	\$247.95	\$0.00	\$247.95
059747	424	RYAN MILBORNE		\$0.00	\$54.45	\$54.45
059748	401	NSVRC-NORTHERN SHEN		\$0.00	\$2,522.00	\$2,522.00
059749	716	NORTON EMBROIDERY	47324	\$312.40	\$0.00	\$312.40
059750	402	PIFER OFFICE SUPPLY,	47460	\$32.44	\$0.00	\$32.44
059750	403	PIFER OFFICE SUPPLY,	47483	\$158.57	\$0.00	\$158.57
059751	413	ALICE N. PAINTER		\$0.00	\$33.00	\$33.00
059752	403	PROGRESSIVE PRINTING	47485	\$90.00	\$0.00	\$90.00
059753	424	RCS SECURITY	47556	\$1,656.40	\$0.00	\$1,656.40
059753	425	RCS SECURITY		\$0.00	\$432.00	\$432.00
059754	405	SPECIALTY BUSINESS	47416	\$1,123.56	\$0.00	\$1,123.56
059755	704	ST/WV REGIONAL JAIL &	47604	\$92,150.66	\$0.00	\$92,150.66
059756	425	SHERWIN-WILLIAMS	47544	\$45.73	\$0.00	\$45.73
059757	PAYROLL	DEPUTY SHRF RETIRE		\$0.00	\$7,742.01	\$7,742.01
059758	PAYROLL	DEPUTY SHRF RETIRE		\$0.00	\$9,563.69	\$9,563.69
059759	424	SPRINT		\$0.00	\$91.50	\$91.50
059759	712	SPRINT		\$0.00	\$1,573.03	\$1,573.03
059760	422	TIGER DIRECT	46786	\$67.98	\$0.00	\$67.98
059761	712	VERIZON SELECT SRVCS		\$0.00	\$11,771.40	\$11,771.40
059762	PAYROLL	WV PUB EMP RETIRE SYS		\$0.00	\$20,584.65	\$20,584.65
059762	PAYROLL	WV PUB EMP RETIRE SYS		\$0.00	\$25.74	\$25.74
059763	PAYROLL	WV PUB EMP RETIRE SYS		\$0.00	\$62.93	\$62.93

059763	PAYROLL	WV PUB EMP RETIRE SYS		\$0.00	\$50,318.10	\$50,318.10
TOTALS				\$147,865.35	\$142,874.05	\$290,739.40

IN RE: EXONERATIONS

Upon recommendation from the Assessor, motion by Morgan, second by Widmyer to approve the following Exoneration because of erroneous assessment for the year 2009. Motion carried.

NAME	DISTRICT	TYPE	AMOUNT	TICKET NO
Picture Me Portrait Studio	Charles Town	Personal Property	\$51.46	303683

Upon recommendation from the Assessor, motion by Noland, second by Morgan to approve the following Exoneration because of erroneous assessment for the year 2009. Motion carried.

NAME	DISTRICT	TYPE	AMOUNT	TICKET NO
Gerald & Lisa Kingsbury	Shepherdstown	Personal Property	\$83.62	315631

IN RE: LAURA RATTENNI – SALARY ADJUSTMENT REQUEST

Laura Rattenni, Circuit Clerk appeared before the Commission to request Commission direction on salary equity adjustments for her employees. Ms. Rattenni requested the Commission set specific salary amounts to ensure equity among her employees to include additional funds totalling \$27,500.00.

Commissioner Morgan requested Ms. Rattenni’s request be converted into an agenda appointment. The Commission agreed by consensus to convert this matter into an agenda appointment in order to take appropriate action.

No action was taken on this agenda item, the Commission agreed to discuss it under agenda item: “Continuation of the Deliberations on the Salary Equity Issue and a Vote on an Equity Plan”.

IN RE: PUBLIC COMMENT

Kathy Waite appeared before the Commission to express her discord with Commission action with regard to the proposed termination of Leslie D. Smith, County Administrator.

Rose Stevenson appeared before the Commission to express her discord with Commission action with regard to public comment.

Ed Burns appeared before the Commission to express his discord with Commission action with regard to the proposed termination of Leslie D. Smith, County Administrator.

Debbie Royalty appeared before the Commission to commend the Commission for work they have done.

IN RE: BONDING AND ACTIVITY REPORT

Jennie Brockman, Planning and Zoning Director appeared before the Commission for the weekly Bonding and Activity report.

Ms. Brockman presented the Commission with a Resolution endorsing the proposed Zoning Ordinance. The Commission agreed by consensus to place the Resolution on October 8, 2009 agenda for further review and consideration.

Ms. Brockman provided a presentation and report of the outreach packet coordinated by Planning and Zoning staff including public information brochures, documents and flyers to enhance public awareness for the upcoming draft Zoning Ordinance and Referendum.

Commissioner Surkamp reported on the Planning Commission meeting he attended on Tuesday, September 22, 2009.

The Commission recommended several revisions agreed to review the materials presented by Ms. Brockman.

IN RE: RECOMMENDATION ON THE HIRING OF A ZONING ADMINISTRATOR FOR THE DEPARTMENT OF PLANNING

Ms. Brockman requested approval to hire Jennifer Snyder as the new Zoning Administrator for the Department of Planning.

Ms. Brockman reported on Ms. Snyder's credentials.

Motion by Noland, second by Morgan to approve the hiring of Jennifer Snyder as the new Zoning Administrator for the Department of Planning. Motion carried.

IN RE: RECOMMENDATION FOR RECOGNITION OF EXCEPTIONAL SERVICE

Ms. Brockman reported on the dedication and commitment of Planning and Zoning Department employees Jennilee Hartman, Christina Chalmers and Jennifer Snyder throughout the transition phase of the Department's reorganization and requested the Commission consider a one-time bonus of \$3,000.00 in recognition of their exceptional service.

The Commission declined authorizing a bonus for Planning and Zoning Department employees with consideration to policy and directed Ms. Brockman to draft a Resolution of Recognition for Commission review and consideration.

IN RE: REQUEST TO ADVERTISE FOR PLANNING AND ZONING ASSISTANT/OFFICE MANAGER POSITION

Ms. Brockman requested Commission approval to advertise for a new Assistant/Office Manager position in the Department of Planning and Zoning. Ms. Brockman reported the position was previously filled by Jennifer Snyder.

Motion by Widmyer, second by Morgan authorizing Ms. Brockman to advertise the position of Assistant/Office manager for the Department of Planning and Zoning at minimum salary grade as previously outlined. Motion carried.

IN RE: PAUL ROSA - EMERGENCY SERVICES AGENCY

- **TECHNICAL AMENDMENT TO THE JCESA ORDINANCE TO EXCLUDE THE COMMISSION AND FIRE ASSOCIATION MEMBERS FROM THE LIMIT OF THREE MEMBERS TO THE BOARD WHO MAY COME FROM ANY GIVEN MAGISTERIAL DISTRICT**

- **APPOINTMENT OF MEMBERS TO TERMS EXPIRING NOVEMBER 2, 2009**

Mr. Paul Rosa, Emergency Services Agency Committee Board member appeared before the Commission with a presentation and report on the technical amendments to the Jefferson County Emergency Services Agency Ordinance. Mr. Rosa reported on the draft amendments, objectives and the review by Jefferson County Assistant Prosecuting Attorney, Stephanie Grove.

Motion by Manuel, second by Morgan to adopt the Jefferson County Emergency Services Agency Ordinance as presented subject to legal review and approval. Motion carried.

Mr. Todd Wilt, Emergency Services Agency Committee Board member was present to report on the Committees proposal to hire paid Jefferson County Emergency Services officials. Mr. Wilt presented the Commission with a detailed Emergency Services Agency proposed staffing model for review and consideration.

IN RE: LEGISLATIVE ISSUES

Commissioner Noland reported on the agenda for the upcoming County Commission Association Regional meeting scheduled on September 28, 2009.

Commissioner Noland and Commissioner Surkamp expressed their concerns with the County Commission Association proposing the elimination of touch screen voting equipment.

Jennifer S. Maghan, County Clerk was present and reported on validity of touch screen voting equipment.

Motion by Widmyer, second by Morgan authorizing Commissioner Noland to draft a letter to the

County Commission Association reiterating concerns with the proposed elimination of touch screen voting equipment. Motion carried.

Commissioner Manuel expressed his concerns with the Public Service Commission's decision on PATH Intervener restrictions and regulations.

IN RE: REPORT OF FEDERAL STIMULUS FUNDS

Leslie D. Smith, County Administrator provided information regarding Stimulus Bonding.

Commissioner Surkamp requested the Commission's consideration to hire a technical Grant writer for Jefferson County to assist with grant applications and procedures.

IN RE: CONTINUATION OF THE DELIBERATIONS ON THE SALARY EQUITY ISSUE AND A VOTE ON AN EQUITY PLAN

Leslie D. Smith, County Administrator reported that she has not yet received an opinion from the Prosecuting Attorney's Office with regard to implementing retroactive salaries.

Ms. Smith reported she has received a few recommendations from Department Heads and Elected Officials regarding the Commission's proposed equity plan.

Sheriff Robert Shirley was present and reported on salary equity implementation within his Department.

Ms. Smith reported on the payroll timeline with consideration to the Commission's previous approval of retroactive salary equity for employees to be brought up to minimum salary range.

With consideration to pending legal review and recommendations the Commission authorized approving implementation of retroactive salary equity plan for this pay period for those Department Heads or Elected Officials in agreement.

Commissioner Manuel requested that the matter of sustaining equity outlined within the Jacob's Study be revisited in two weeks as well as bringing previously suspended motion for countywide salary equity back for reconsideration.

IN RE: APPROVAL OF EMPLOYMENT - ADAM WATSON - PART-TIME PUBLIC SAFETY DISPATCHER

Jeff Polczynski, Communications Director appeared before the Commission to request approval of Adam Watson as a part-time Public Safety Dispatcher.

Mr. Polczynski reported on Mr. Watson's credentials and previous employment as a full-time Dispatcher.

Motion by Surkamp, second by Noland to approve the Part-time employment of Adam Watson as a Public Safety Dispatcher.

IN RE: APPROVAL OF AUDIT SERVICES FOR THE FISCAL YEAR ENDED JUNE 30, 2009

Leslie D. Smith, County Administrator reported on the specifications of audit services conducted.

Motion by Widmyer, second by Morgan to approve and authorize the Commission President's signature upon the Audit Services agreement by the West Virginia State Auditor's Office. Motion carried.

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

No County Clerk's report was provided.

IN RE: STEPHANIE GROVE – LEGAL UPDATE AND REPORT – CONTINUED

Stephanie Grove, Assistant Prosecuting Attorney appeared before the Commission for the legal update and report.

Ms. Grove reported on her review and recommendations for the Jefferson County Emergency Services Agency Ordinance.

Ms. Grove provided the Commission with the weekly to do list.

Ms. Grove reported on the draft amendments to the Jefferson County Employee Handbook.

Ms. Grove reported on research conducted for the proposed retroactive salary equity and the opinion obtained by Kenneth Drain, Chief Auditor for the West Virginia State Auditor's Office.

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

Motion by Manuel, second by Noland to enter into Executive Session to discuss pending litigation. Motion carried.

Motion by Manuel, second by Noland to return to Regular Session. Motion carried.

No action was taken during Executive Session.

The Commission recessed for lunch at 11:55 a.m.

The Commission reconvened at 1:30 a.m.

IN RE: PATRICIA L. HAMILTON - WEST VIRGINIA ASSOCIATION OF COUNTIES - UPDATE ON LEGISLATIVE ISSUES AND THE WEST VIRGINIA COUNTIES RISK POOL

Patricia L. Hamilton, Executive Director from the West Virginia Association of Counties appeared before the Commission to provide an update on legislative issues and to report on the West Virginia County Risk Pool.

Ms. Hamilton extended an invitation to the Commissioners to attend the West Virginia Association of Counties Board meeting on October 4 and 5, 2009.

Ms. Hamilton reported on West Virginia County Risk Pool membership strategies and objectives.

Leslie D. Smith, County Administrator reported on quotes received from the WV County Risk Pool and BRIM and provided a differential report of quotes.

Motion by Morgan, second by Widmyer to authorize payment of premium for the current WV County Risk Pool plan. Motion carried.

IN RE: COMPARISON OF COVERAGE OF BRIM AND COUNTY RISK POOL

This matter was discussed under agenda item: "Patricia L. Hamilton - West Virginia Association of Counties - Update on Legislative Issues and the West Virginia Counties Risk Pool".

IN RE: MARK SCHIAVONE - BUDGET REVISION 004 GENERAL FUND

Mark Schiavone, Capital Planning and Management Director appeared before the Commission to withdraw this agenda item.

IN RE: ATTORNEY HAMMER - DISCUSS SCOPE OF REPRESENTATION GOING FORWARD

David Hammer, Esquire appeared before the Commission to report on the scope of services he would provide if directed by Commission members.

Motion by Morgan, second by Surkamp to expand the scope of services provided by Mr. David Hammer to include personnel matters, performance evaluations and employee handbook policies.

The Commission agreed by consensus to an amendment to the motion to include a proposal from Mr. Hammer outlining the expenses and detailed explanation of services to be provided as outlined by the Commission.

Ralph Lorenzetti, Prosecuting Attorney was present and reported on the capabilities and credentials of Jefferson County Assistant Prosecuting Attorneys to provide representation to the Commission with regard to personnel laws and policies.

The motion by Morgan, second by Surkamp to expand the scope of services provided by Mr. David Hammer to include personnel matters, performance evaluations and employee handbook policies and request that a proposal from Mr. Hammer be provided to the Commission

outlining the expenses and detailed explanation of services to be provided as requested. Motion carried by a 3-2 vote; Commissioners Noland and Manuel voted no.

IN RE: CONTINUATION OF EVALUATION OF COUNTY ADMINISTRATOR

Leslie D. Smith, County Administrator, appeared before the Commission for her Department Head Evaluation. Peter Chakmakian, legal counsel for Ms. Smith, was also present. Ms. Smith chose to have the evaluation in open session.

Mr. Chakmakian appeared before the Commission on Ms. Smith's behalf to address allegations put forth by Commission members during the previous week's evaluation of Ms. Smith's job description and work performance.

Motion by Morgan, second by Surkamp to enter into Executive Session with David Hammer, Esquire, counsel for the Commission to discuss personnel matters. Motion carried by a 3-2 vote; Commissioners Noland and Manuel voted no.

The Commission took a 5 minute break at 2:45 p.m.

Motion by Manuel, second by Morgan to return to Regular Session. Motion carried.

Motion by Surkamp, second by Morgan to enter into Executive Session with David Hammer, Esquire, counsel for Commission, excluding Leslie D. Smith, County Administrator to discuss personnel matters.

Peter Chakmakian, Esquire, counsel for the County Administrator expressed opposition to be excluded during Executive Session with consideration to Ms. Smith's evaluation.

Ralph Lorenzetti, Prosecuting Attorney was present for comments.

Mr. Hammer was present and reported on procedural rights and state code with regard to attorney client privilege.

Amended motion by Surkamp, second by Morgan to enter into Executive Session with David Hammer, Esquire, counsel for Commission, excluding Leslie D. Smith, County Administrator to discuss personnel matters not to include any substance relating to Ms. Smith's evaluation. Motion carried by a 3-2 vote; Commissioners Noland and Manuel voted no.

Motion by Morgan, second by Surkamp to return to Regular Session. Motion carried.

Motion by Widmyer, second by Morgan to terminate Leslie D. Smith's employment as County Administrator and place her on administrative leave with pay until October 11, 2009 to allow time for a severance package to be agreed upon between attorneys.

Amended motion by Morgan, second by Widmyer to terminate Leslie D. Smith's employment as County Administrator and place her on administrative leave with pay until October 24, 2009 to allow time for a severance package to be agreed upon between attorneys. Motion carried by a 3-2 vote; Commissioners Noland and Manuel voted no.

IN RE: ADJOURNMENT

Motion by Surkamp, Second by Widmyer to adjourn this week's County Commission Regular Session. Motion carried.

IN RE: DEPARTMENT HEAD EVALUATION

Due to the session being adjourned; this matter will be taken upon during the week of October 1, 2009.

IN RE: COUNTY COMMISSION REPORTS

Due to the session being adjourned no County Commission reports were provided.

IN RE: COUNTY ADMINISTRATOR REPORTS

Due to the session being adjourned no County Administrator reports were provided.

The Commission received the following information:

Reminder of Zoning Referendum on November 7, 2009.

Reminder of Council of Governments Meeting on Wednesday, September 30, 2009 at 3:00 p.m.
- Discussion: Urban Growth Boundaries

Reminder of Public Hearing on Proposed Increase to Emergency 911 Wireline Fee on Monday, October 5, 2009, at 7:00 p.m.

Appointment to be made to the Sheriff's Civil Service Commission on October 1, 2009.

Appointment to be made to the Eastern Panhandle Transit Authority on October 8, 2009.

Animal Control report received for August 2009.

Correspondence received from Congressman Nick J. Rahall, II concerning the invitation to attend the John Brown celebration on October 16, 2009.

Correspondence received from Ruth A. McQuade concerning an educational forum for the zoning referendum on Tuesday, October 20, 2009, at 7:00 p.m. at Jefferson High School.

Correspondence received from the Old Charles Town Library concerning their budget allocation.

Correspondence received from the West Virginia Division of Homeland Security and Emergency Management concerning grant programs.

Correspondence received from the West Virginia Housing Development Fund concerning the Neighborhood Housing and Economic Stabilization Program.

Minutes received from the Courthouse Committee.

Information received from the County Commissioners' Association concerning the Fall Board and Legislative Committee meeting on September 27-28, 2009.

Copy of an article received from the Association of Counties concerning tax laws.

Meeting minutes received from the Jefferson County Public Service District.

Weekly reports received for the Charles Town Races and Slots from the West Virginia Lottery.

Notice received of a tour of Beltsville Agricultural Research Center on November 4, 2009.

E-911 fees received from CTC of West Virginia.

The Commission received the following Correspondence:

Postcard received from Cathy K. Malast concerning library funding.

Correspondence received from Yves Tencalla concerning stolen PATH signs.

Correspondence received from Paula J. Fickey concerning neighbor issues.

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

DALE MANUEL, COMMISSION PRESIDENT