

SPECIAL SESSION:

State of West Virginia, County of Jefferson, to-wit:

At a Special Session of the County Commission of said County and State held at the Jefferson County Commission Meeting Room on the lower floor of the Old Charles Town Library at 200 E. Washington Street, on Tuesday, September 7, 2010 beginning at 1:00 o'clock p.m.

PRESENT: Lyn Widmyer; President
Patricia Noland, Commissioner
Dale Manuel, Commissioner
Tim Boyde, County Administrator
Steve Groh, Esquire - Attorney for Commission

SPECIAL NOTE: Stephanie Grove, Esquire, the Commission's regular attorney, is in Charleston, WV at the WV Supreme Court of Appeals. Steve Groh, Esq. is filling in for Ms. Grove.

David A. DeJarnett, Esquire - Fiduciary Commissioner
John K. Dorsey, Esquire (for David A. Camilletti, Esq.) - Attorney for Petitioner James Packard-Gomez
Ray A. Byrd, Esquire - Attorney for Beneficiaries
Beneficiaries: John t. Buzek
Edmund Buzek
Jeanne Buzek

Due to their participation at other meetings, Commissioner Frances Morgan arrived at 1:45 p.m. and Commissioner Jim Surkamp was absent.

In re: PUBLIC HEARING -PETITION OF JAMES B. PACKARD-GOMEZ, ADMINISTRATOR, c.t.a, OF THE ESTATE OF JOHN J. WARFIELD, DECEASED, TO RESIGN

Commissioner Widmyer convened the Hearing at 1:00 p.m.

Fiduciary Commissioner DeJarnett opened with an overview of the issues contained in his Fiduciary Report.

Following Mr. DeJarnett's presentation, attorney Byrd presented his objections to some of the items contained in Mr. DeJarnett's report and offered explanations for his objections.

Upon completion of Mr. Byrd's report, attorney Dorsey briefly expressed the Petitioner's desire to obtain a curator or administrator of the Estate as soon as possible.

Mr. Manuel made a motion, seconded by Ms. Widmyer, to approve James Packard-Gomez' Petition to Resign effective within sixty (60) days and, should a replacement not have been found within those sixty (60) days, then the Sheriff would assume the responsibilities of Administrator of the Estate of John J. Warfield, Deceased, which motion was unanimously approved.

More discussion followed regarding interest and interest calculations on misapplied items. The Commission directed that an Order be created that would address the issue of interest calculated from the date the funds were misapplied by Mr. Packard-Gomez.

Ms. Morgan moved that an order contain language to the effect that “statutory interest shall accrue on each of the items from the date they were misapplied until the date on which they were put back into the estate.” Ms. Noland seconded the motion, and it was unanimously approved.

It was discussed and decided that a second order should speak to the issue of attorney’s fees. Ms. Morgan moved that an award of attorney’s fees is justified from the estate for those fees incurred by the three beneficiaries represented by Mr. Byrd in this matter. Mr. Manuel seconded the motion. The motion was not voted on and more discussion ensued.

It was agreed that Ms. Morgan would withdraw her previous motion and Mr. Manuel would withdraw his second. Ms. Morgan made a new motion that the issue of attorney’s fees as chargeable to the estate, being those attorney’s fees incurred by the action of the beneficiaries represented by Mr. Byrd, be deferred and no decision be made until a subsequent accounting is taken up. Mr. Manuel seconded the motion and it was unanimously approved.

Prior to adjourning, the parties and the Commissioners discussed a time limit to prepare and submit the two orders. It was agreed that Mr. Byrd shall have two weeks from his receipt of the CD of this hearing to prepare and submit his proposed order to the Prosecuting Attorney, and the Prosecuting Attorney will have two weeks from the date Mr. Byrd’s proposed Order is received to revise, prepare and submit the Orders to the Commission for review.

There being no further business the hearing was adjourned.

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

LYN WIDMYER, COMMISSION PRESIDENT