

## Minutes

### Jefferson County Commission

Thursday, November 4, 2010

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A meeting of the Jefferson County Commission was held on Thursday, November 4, 2010 at the Old Charles Town Library meeting room located at 200 E. Washington Street, Charles Town, WV 25414. Present were Lyn Widmyer, President, Commissioners Patsy Noland, Dale Manuel, Jim Surkamp and Frances Morgan; Tim Boyde, County Administrator and Debbie Stellato, Administrative Assistant. (An audio tape of this November 4, 2010 meeting is available through the Jefferson County Commission Office.)

The Meeting was called to order at 9:35 a. m. by Commissioner Widmyer.

#### **PLEDGE OF ALLEGIANCE.**

#### **APPROVAL OF MINUTES.**

Motion by Ms. Morgan to approve the minutes of the October 28, 2010 meeting as amended. Motion seconded by Ms. Noland and unanimously approved. (An audio tape of the October 28, 2010 meeting is available through the Jefferson County Commission Office.)

#### **APPROVAL OF PURCHASE ORDERS**

Motion by Ms. Noland to approve Purchase Orders in the amount of \$1,745.91 being purchase order numbers: 48509, 48949, 48652, 48197, 49053, 48382 and 49054. Motion seconded by Ms. Morgan and unanimously approved.

#### **APPROVAL OF ACCOUNTS PAYABLE**

Motion by Mr. Manuel to approve \$72,856.72 in accounts payable. Motion seconded by Ms. Morgan and unanimously approved.

#### **PUBLIC COMMENT**

**Attorney Mike Cassell**, who represents certain landowners along the US 340 corridor, introduced **Barbara Gibson**. Mrs. Gibson and her husband James own property along the proposed rezoning sites. Mrs. Gibson read a letter prepared by her husband regarding their concerns with the proposed rezoning of Federal lands along the US 340 corridor.

Commissioner Widmyer commented that the Gibsons had some valid points and recommended that Planning Commission attorney Steve Groh or County Commission attorney Stephanie Grove research the answers to their concerns.

Attorney Mike Cassell stated that it was his belief that the Petition filed by the Planning Department does not comply with the current zoning ordinance.

**Walt Pellish** of 138 Tamarack Drive, Shepherdstown, WV spoke on several topics. First, he expressed his appreciation to Commissioner Surkamp for his service to the community.

Mr. Pellish will be sworn in as a Commissioner in January 2011. He stated that he has no prearranged agendas and that he will do the best that he can for the County.

Thirdly, he complimented County Clerk Jennifer Maghan for the excellent way the voting procedure was handled by her office.

With regard to the rezoning of Federal lands, Mr. Pellish is very concerned and would like to see this subject be tabled until the new County Commission is in place in 2011.

In concluding, he expressed his opinion that the present County Commission has been very dedicated and working hard and he suggested they take the next week off!

**John Maxey** of 335 Old Shenandoah Trail, Harpers Ferry, WV added his comments regarding the proposed public hearing on November 18, 2010 regarding the rezoning of Federal lands along the US 340 corridor. He stated that ads had been posted in the newspapers and on the web, signs had been posted, and binders had been placed at public libraries regarding the hearing. He recommended that the rezoning request go forward.

Mr. Maxey also advised that the Planning Commission will soon be making a recommendation to the County Commission regarding the cell tower ordinance.

## **COUNTY ADMINISTRATOR REPORTS**

### **County Administrator Tim Boyde:**

- (1) Reported that Global Data Systems is in the process of assessing our current IT problem.
- (2) Advised that he will update the Commission on TIF at the Commission's next scheduled meeting.
- (3) Reported that meeting dates for the County Commission for the remainder of 2010 are as follows: 11/18/10, 12/02/10, 12/09/10 (budget work session for FY 2012) and 12/16/10 (personnel policies and agenda items for 2011). Also, at the 12/16/10 meeting, department heads will present documents to the Commission outlining their present workloads and expected work plans for the future.

## **COUNTY COMMISSION REPORTS**

### **Commissioner Patricia Noland:**

- (1) Reported that she attended an Affordable Housing meeting on Wednesday night and stated that it is anticipated that applications will be taken commencing in January 2011.
- (2) Reported that she attended a benefit for Shepherdstown Day Care held at the Lewis Farm.

**Commissioner Dale Manuel:**

- (1) Reported that on October 29, 2010 he attended a meeting on Blue Ridge Mountain presented by DOH representatives. The meeting was sponsored by Delegate Lawrence and the importance of a second exit route from the area was discussed.
- (2) Reported that on October 30, 2010 he attended an Animal Welfare Society Dinner and Auction. He noted an increase in attendance and was hopeful that also meant an increase in donations.
- (3) Reported that also on October 30, 2010 he attended the Shepherdstown Fire Company Apple Butter Festival. He noted that the event was well attended and there were lots of great foods and craft items.

**Commissioner Jim Surkamp:**

- (1) Reported that he also attended the meeting on Blue Ridge Mountain on October 29, 2010.
- (2) Reported that he attended the WVDEP-EPA sponsored meeting concerning the Chesapeake Bay Clean Up at the Holiday Inn on Wednesday evening.

**Commissioner Frances Morgan:**

- (1) Reported that she also attended the Chesapeake Bay meeting at the Holiday Inn on Wednesday evening.
- (2) Stated to Mr. Boyde and Mr. Schiavone that she needs to understand what the Lottery Commission is doing with the table games revenue and table games reports.

**Commissioner Lyn Widmyer:**

- (1) Reported that she, too, attended the meeting on Blue Ridge Mountain on Wednesday evening.
- (2) Reported that she attended the Jefferson County Public Service District meeting.
- (3) Reported that she attended the Chesapeake Bay Stake Holders Committee meeting. Ms. Widmyer is a member of the Committee for Region 9.

**The Commission took a 5 minute break at 10:30 a.m.**

**PRESENTATIONS:**

**Lynn Fields, Probate: Re: Estate of John J. Warfield, Deceased**

Request that the Commission authorize Commission President Lyn Widmyer to sign a time sensitive Order of Appointment on the Commission's behalf directing that the Bank of Charles Town be appointed Administrator C.T.A., D.B.N. of the John J. Warfield Estate.

Ms. Morgan made a motion that the Commission authorize Commission President Lyn Widmyer to affix her signature to the Order of Appointment directing that the Bank of Charles Town be appointed Administrator C.T.A., D.B.N. of the John J. Warfield Estate. Motion seconded by Mr. Manuel and unanimously approved.

IN THE COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA

IN RE: ESTATE OF JOHN J. WARFIELD, DECEASED,  
DATE OF DEATH: FEBRUARY 23, 2006

ORDER OF APPOINTMENT OF ADMINISTRATOR C.T.A., D.B.N.

On the 4<sup>th</sup> day of November, 2010, came David S. Smith, Vice President and Trust Officer on behalf of the Bank of Charles Town, and tendered for filing his Petition, praying for, among other things, the appointment of the Bank of Charles Town as Administrator C.T.A., D.B.N. of the John J. Warfield Estate. The Court perceiving no objections thereto, does hereby ORDER such Petition filed herein.

It appearing to the Court that John J. Warfield died a resident of Jefferson County, West Virginia, on February 23, 2006, and that he had an estate of real and personal property in such county and state at the time of his death, the Court proceeded to hear the matters raised in said Petition.

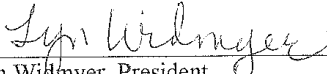
WHEREUPON, it was made known to the Court that James B. Packard-Gomez qualified and was appointed Administrator c.t.a. of the John J. Warfield Estate on March 3, 2006; that James B. Packard-Gomez filed a Petition in this Court on March 30, 2010, requesting that he be permitted to resign as Administrator c.t.a; that by Order of the Jefferson County Commission dated October 21, 2010, and entered in Order Book 29 at page 3, James B. Packard-Gomez was permitted to resign as Administrator c.t.a. effective September 7, 2010, and the appointment of a successor personal representative shall occur no later than November 8, 2010, when the Sheriff shall be appointed as personal representative if a successor personal representative is not appointed in the interim. Notwithstanding the appointment of a successor personal representative, the bond posted

by James B. Packard-Gomez is to remain in place until he completes the duties as Administrator c.t.a. and until all accountings through September 7, 2010 have been approved by the County Commission. It was also made known to the Court that the administration of the Estate of John J. Warfield has not been completed and the appointment of a successor personal representative is needed to complete the administration. It was further made known to the Court that all of the heirs-at-law of John J. Warfield and all of the beneficiaries under the Last Will and Testament of John J. Warfield have consented to the appointment of the Bank of Charles Town as the successor personal representative of this Estate. It is accordingly, therefore, based upon the testimony presented to the Court

ORDERED that the Bank of Charles Town be, and is hereby appointed Administrator C.T.A, D.B.N. of the John J. Warfield Estate.

THEREUPON, came David S. Smith, Vice President and Trust Officer on behalf of the Bank of Charles Town, who qualified as such Administrator C.T.A., D.B.N. by taking an oath.

ENTER this 4<sup>th</sup> day of November, 2010.

  
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Lyn Widmyer, President  
Jefferson County Commission, West Virginia

**Jennifer Maghan, County Clerk:**

Provided an update on the election held on November 2, 2010 and reported an increase in voter turnout. Reminded Commission of the canvass scheduled for Monday, November 8, 2010 at 9:30 a.m. at the County Commission Meeting Room in the Circuit Courthouse.

**Kirk Davis, Capital Projects Manager:**

- (a) Request approval to purchase accident insurance for Jefferson County volunteer workers and to commence coverage immediately. Details of the insurance and premium cost were provided to the Commissioners at last week's Commission meeting.

Ms. Morgan made a motion to approve the purchase of accident insurance for Jefferson County volunteer workers. Motion seconded by Ms. Noland and unanimously approved.

- (b) Mr. Davis provided the Commission with an update of active Jefferson County grants.

**Peter Fricke, Jefferson County Farmland Protection Board**

- (a) Request approval to make changes to the Jefferson County Farmland Protection Program Easement Amendment Policy. Explanation of changes to the easement amendment policy by Mr. Fricke.

Mr. Manuel made a motion to adopt the Jefferson County Farmland Protection Board's process for amending easements as presented to the Commission by Mr. Peter Fricke. Motion seconded by Ms. Morgan and unanimously approved.

- (b) **Saunders/Hockman Easement**

Dispute as to sale value of easement between Saunders/Hockman and the Farmland Protection Board. Present were Peter Fricke of the Farmland Protection Board, David DeJarnett, Esquire representing Mrs. Judy Hockman and Mrs. Margaret Saunders and husband, also present with their attorney. Testimony presented by David DeJarnett and Peter Fricke.

Motion by Mr. Surkamp, seconded by Mr. Manuel, that the County Commission approve the acquisition of the Saunders/Hockman easement on their property in the Shepherdstown District, Tax Map 22, Parcels 4 and 5 at the original appraised value of \$6,500.00 per acre.

Motion by Ms. Morgan to amend the acquisition amount to the more recent USDA/Natural Resources Conservation Service qualified appraisal value of \$562,400.00 or \$5,000.00 per acre.

Mr. Manuel withdrew his second to the original motion.

Ms. Morgan made a motion, seconded by Ms. Widmyer that the County Commission approve the purchase by the Jefferson County Farmland Protection Board of the conservation

easement on the Saunders/Hockman property in the Shepherdstown District, Tax Map 22, Parcels 4 and 5, at the USDA/Natural Resources Conservation Service qualified appraisal value of \$562,400.00. Motion carried 4 – 1 with Mr. Surkamp voting “no.”

**Barbara Miller, Director of Homeland Security and Emergency Management**

Ms. Miller requests approval of a revised Inclement Weather Policy which would replace the policy of February 16, 1996 and all amendments thereafter.

Motion by Ms. Morgan, seconded by Ms. Noland to approve the Office of Homeland Security and Emergency Management’s Inclement Weather Policy as revised. Motion was unanimously approved.

**COUNTY COMMISSION OF JEFFERSON COUNTY**

**POLICY TITLE: Inclement Weather Policy**

**POLICY NUMBER: 1996-1**

**ADOPTED: February 16, 1996**

**EFFECTIVE: February 16, 1996**

**REVISED: February 3, 2005; November 4, 2010**

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**Jefferson County Inclement Weather Policy – November 4, 2010**

This policy replaces the Inclement Weather Policy dated February 16, 1996, and all amendments thereafter.

According to statute and interpretation by the Prosecuting Attorney of Jefferson County, the Commission has the authority to set the Courthouse hours. Effective November 10, 2010, the following inclement weather policy will be in effect for Jefferson County Government Offices:

In the event that inclement weather necessitates closing, delayed opening or early closure of all Jefferson County Government Offices, the closure process will be made by the Director of Homeland Security and Emergency Management and the Director of Maintenance with consultation with the County Administrator, who will then notify the County Commission. If a decision is made to close, delay opening or early closure of Jefferson County Government Offices, all media will be notified by the Homeland Security and Emergency Management Department. In addition, an auto-attendant telephone answering service will be available for employees and citizens to obtain up-to-date emergency information concerning county office closing, delays or early closing, and current weather related conditions within Jefferson County by dialing 304-728-1983. Information will also be posted on the County Commission website at [www.jeffersoncountywv.org](http://www.jeffersoncountywv.org).

**Tim Boyde, County Administrator**

Mr. Boyde reported that pursuant to the Commission's request he reviewed the proposed split of job duties in the Ag Department. He found that the positions are consistent with a Grade 4, placing the positions on a salary scale of \$35,875.10 to \$61,756.69 for a 35-hour week. Mr. Boyde recommends the Commission approve the proposed job descriptions.

Mr. Manuel made a motion to approve the job descriptions for the Agriculture Department at Grade 4 as recommended by Mr. Boyde. Ms. Noland seconded the motion and it was carried 3 – 1 with Mr. Surkamp voting "no." Ms. Morgan had left the meeting before this item was discussed.

Ms. Morgan returned to meeting.

**Jeff Polczynski, ENP – Director of Communications (by Mr. Boyde)**

Request for approval to move Amy Martin from full-time Public Safety Dispatcher to part-time Public Safety Dispatcher, effective December 12, 2010.

Ms. Morgan made a motion to approve moving Amy Martin from full-time Public Safety Dispatcher to part-time safety dispatcher, effective December 12, 2010. Mr. Manuel seconded the motion and it was unanimously approved.

**Robert Shirley, Sheriff (by Mr. Boyde)**

Request for approval of employment of Robert Alan Rjasko as a Deputy in the Jefferson County Sheriff's Department filling a position vacated by Deputy Tennant.

Motion by Ms. Morgan to approve the hiring of Robert Alan Rjasko to the position of Deputy Sheriff. Motion seconded by Mr. Manuel and unanimously approved.

**The Commission broke for lunch at 12:15 p.m.**

**The Commission reconvened at 1:35 p.m.**

**Edward D. McDevitt, Esquire of Bowles Rice McDavid Graff & Love, PLLC**

Request approval and execution of contracts by Commissioners for Section 147(f) Commercial Development Revenue Bonds for the purposes of financing all or a portion of the costs of the acquisition, renovation, improvements and equipping of Affordable Housing as presented to the Commission on October 21, 2010 by attorneys McDevitt and Siegrist.

Motion by Ms. Morgan that the County Commission approve and execute contracts for Section 147(f) Commercial Development Revenue Bonds for the purposes of financing all or a portion of the costs of the acquisition, renovation, improvements and equipping of Affordable Housing as presented to the Commission on October 21, 2010 by attorneys McDevitt and Siegrist. Motion seconded by Mr. Surkamp and unanimously approved.

**Legal Update – Stephanie Grove, Assistant Prosecuting Attorney**

- (a) Reported that there will be five (5) more easements to be presented to the Commission for action by Peter Fricke.
- (b) Requested a short Executive Session at the end of the Commission meeting to discuss an issue concerning PATH Case No. 09-0770-E-CN,

**Craig Yohn, Extension Agent**

Mr. Yohn updated the Commission regarding the Nutrient Management Program and the Chesapeake Bay Program.

**Fred Blackmer of Shannoandale, WV**

As a concerned citizen, Mr. Blackmer attended the meeting on Wednesday evening, November 3, 2010 at the Holiday Inn regarding the Chesapeake Bay Initiative with speakers from the EPA and DEP. He recorded the presentation and brought each Commissioner a CD. Mr. Blackmer's opinion was that there were other options besides complying with the EPA regulations.

Ms. Widmyer inquired as to the timing of the public hearing on the proposed Federal lands rezoning.

- (a) On what day does the clock start running? Mr. Grove answered that it would start on Monday, November 1, 2010, the day the Petition was filed.
- (b) Is the Petition adequate in that it complies with the local zoning ordinance?

**The Commission took a ten minute break at 3:05 p.m.**

Ms. Widmyer advised that she will attend the Planning Commission meeting on November 9, 2010 and request that the Planning Commission hold off on the hearing and to amend or withdraw their Petition until the US 340 Comprehensive Study can be completed.

John Maxey commented that this should be done by a motion and vote by the County Commission.

Ms. Noland made a motion that the County Commission postpone or cancel the public hearing scheduled for November 18, 2010 due to technical deficiencies in the Planning Commission's Petition according to Section 12,3 of the zoning ordinance. Ms. Manuel seconded the motion and the motion was carried 3 – 1 with Mr. Surkamp voting "no." Ms. Morgan was not present at this time.

Mr. Manuel moved to go into an Executive Session pursuant to Stephanie Grove's request. Ms. Noland seconded the motion and it was unanimously approved.

The meeting was adjourned following the Executive Session.

Upon rising the Commission recessed until Monday morning November 8, 2010, sitting as a Board of Canvassers, beginning at 9:00 o'clock a.m.

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LYN WIDMYER, PRESIDENT