

**Minutes**  
**Jefferson County Commission**  
**Thursday, January 20, 2011**

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A meeting of the Jefferson County Commission was held on Thursday, January 20, 2011 at the Old Charles Town Library meeting room located at 200 E. Washington Street, Charles Town, WV 25414. Present were Commissioners Patsy Noland, Lyn Widmyer, Dale Manuel, Frances Morgan and Walter Pellish; Tim Boyde, County Administrator, Debbie Stellato, Administrative Assistant, and Louie Brunswick, Bailiff. (An audio tape of this January 20, 2011 meeting is available through the Jefferson County Commission Office.)

The meeting was called to order at 9:30 a.m. by Commissioner Noland.

**PLEDGE OF ALLEGIANCE**

Commissioner Pellish who led the pledge reminded those present that today marked the 50<sup>th</sup> anniversary of the inauguration of President John F. Kennedy and asked that the President be remembered while reciting the Pledge of Allegiance.

**APPROVAL OF MINUTES:**

Motion by Ms. Morgan to approve the Minutes of the January 13, 2011 meeting as amended. Motion seconded by Mr. Manuel and unanimously approved.

**APPROVAL OF PURCHASE ORDERS:**

Motion by Mr. Manuel to approve Purchase Orders in the amount of \$117,144.34, being purchase order numbers: 49334, 49335, 48667, 48670, 49410, 49240, 48534, 49363, 49241, 49242, 48938, 49124, 49129, 49130, 49131, 49138, and 49230. Motion seconded by Ms. Morgan and unanimously approved.

**APPROVAL OF ACCOUNTS PAYABLE**

Motion by Ms. Morgan to approve the accounts payable in the amount of \$425,913.92. Motion seconded by Mr. Manuel and unanimously approved.

**PRESENTATIONS:**

**1. Interviews and Appointments to the Water Advisory Committee**

Requests for reappointment to the Water Advisory Committee were received by the Commission from Mark Shields, Robert Denton, Jr. and Susan Lawton. Mary T. Sell submitted her resume and appeared in person to be considered for one of the advertised expiring terms.

In a letter dated January 17, 2011, Ms. Lawton questioned whether or not the WAC functions under the direction of the County Commission as was her original understanding. There was a question as to whether the WAC should be dissolved by the Commission. Discussion followed.

Commissioner Noland terminated the discussion to be continued as an Agenda item for another week and requested Mary Sells to address the Commission. Ms. Morgan objected to the matter of dissolution of the WAC being placed on the Agenda for any reason. Mr. Manuel suggested the Commission should at the very least take a hard look at the Committee's objectives. Ms. Noland then asked Mr. Boyde to place the matter on next week's Agenda for discussion and requested that Ms. Sells address the Commission. Point of Order by Ms. Morgan that if a Commissioner makes a request to speak, that Commissioner should be allowed to speak. Ms. Noland noted the Point of Order and invited Ms. Sell to commence her presentation. Motion by Ms. Morgan that Commissioner Widmyer be recognized. Ms. Widmyer seconded the motion. The motion was denied by a vote of 2 - 3 with Ms. Morgan and Ms. Widmyer voting "yes" and Mr. Manuel, Ms. Noland and Mr. Pellish voting "no.")

Following Ms. Sells' presentation Ms. Widmyer reminded the Commission that she had just been appointed to the Water Advisory Committee and had not yet attended her first meeting. She asked the Commission to grant her the opportunity to attend a meeting in order to get a perspective as to the function of the Committee and report back to the Commission.

It was the general consensus that in three weeks, after review of information obtained and Ms. Widmyer's report, the Commission would consider whether to dissolve the Water Advisory Commission or retain the WAC under the direction of the County Commission and, if retained, approve the reappointment of Mr. Shields, Mr. Denton and Ms. Lawton, along with the appointment of Mary T. Sell to the Committee.

## **2. Interviews and Appointments to the Zoning Board of Appeals**

Requests for reappointment to the Zoning Board of Appeals were received by the Commission from Jon S. Brusco and Jeff D. Bresee.

Motion by Ms. Morgan to reappointment Jon S. Brusco and Jeff D. Bresee to the Zoning Board of Appeals each to a three-year term ending January 1, 2014. Motion seconded by Mr. Manuel and unanimously approved.

Mr. Pellish opined that it would be more appropriate for those individuals seeking reappointment to Boards, Committees and/or Commissions to appear before the County Commission in person. Ms. Noland agreed. Ms. Widmyer suggested that if appearing in person was difficult perhaps another alternative would be to appear by telephone.

## **3. Lynn Fields – Quarterly Estate Closings**

Motion by Ms. Morgan that the Commission convene as a Quarterly Fiduciary Review Board. Motion seconded by Mr. Manuel and unanimously approved.

Ms. Fields presented estate documents and requested approval for closure, stating that Staff has reviewed the documents and recommends that the estates be closed.

Motion by Ms. Morgan that, upon recommendation of Staff, the estates submitted for closure to the Quarterly Fiduciary Review Board by Probate Clerk Lynn Fields be approved and the Quarterly Fiduciary Review Board be adjourned. Motion seconded by Mr. Manuel and unanimously approved.

Following the motion the County Commission resumed its regular meeting.

**NEW BUSINESS:**

**4. Approval of Proclamation re: Eastern Panhandle Trailblazers**

Ms. Widmyer presented a Proclamation on behalf of the County Commission whereby the County Commission of Jefferson County, West Virginia proclaims that Groundhog Day, February 2, 2011, shall be celebrated as the first anniversary of the Eastern Panhandle Trailblazers and the birthday of the Eastern Panhandle Recreational Trail.

Motion by Ms. Morgan to approve the Proclamation as presented by Ms. Widmyer and authorize all Commissioners to sign. Motion seconded by Mr. Pellish and unanimously approved.

**PROCLAMATION**

**Whereas, the activities of walking, running, and bicycling have profound and positive impacts** on personal and social health, mobility, economic development, recreation, and tourism for people of all ages, skill levels, and economic circumstances;

**Whereas, a variety of convenient, safe, and attractive trails is required** to support walking, running, and bicycling activities;

**Whereas, the variety of such trails to, from, within and across** Jefferson, Berkeley, and Morgan Counties is currently quite limited;

**Whereas, all citizens and governments within Jefferson, Berkeley, and Morgan Counties,** plus numerous other constituents and organizations within and beyond these borders share an interest in improving walking, running, and bicycling opportunities in this region;

**Whereas, WV's Region 9 Planning and Development Council** assisted in creating the **Eastern Panhandle Trailblazers** to facilitate trail development to/from/within/across **Jefferson, Berkeley, and Morgan Counties** in order to improve walking, running, and bicycling opportunities in this region;

**Whereas, the *Eastern Panhandle Trailblazers*** has embraced the **Eastern Panhandle Recreational Trail** as it's signature project. This trail anticipates a safe, attractive, uninterrupted pathway for walking, running and bicycling from Harpers Ferry, WV to Berkeley Springs, WV (via Ranson, Martinsburg, and Hedgesville) utilizing trails already constructed or planned along WV Route 9, the Raleigh Street Extension, and Edwin Miller Boulevard, with connecting spurs to the Potomac and Shenandoah Rivers and from Martinsburg to Shepherdstown;

**Whereas, this Eastern Panhandle Recreational Trail** addresses the needs previously described, **provides critical access to/from such nearby assets** as the Appalachian Trail, the Tuscarora Trail, the Western Maryland Rail Trail, the C & O Canal Towpath, Fort Frederick, Harpers Ferry National Park, Antietam National Battlefield, and the Potomac Heritage Trail, and **provides the**

**necessary backbone for local trail networks** throughout Jefferson, Berkeley, and Morgan Counties;

**And whereas, the Eastern Panhandle Trailblazers** was formally organized on February 2, 2010;

**THEREFORE BE IT RESOLVED**, that the County Commission of Jefferson County, West Virginia, hereby proclaims that Groundhog Day, February 2, 2011 shall be celebrated as the first anniversary of the *Eastern Panhandle Trailblazers* and the birthday of the *Eastern Panhandle Recreational Trail*.

Date: \_\_\_\_\_

\_\_\_\_\_  
Patricia A. Noland, President

\_\_\_\_\_  
Lyn Widmyer

\_\_\_\_\_  
Frances Morgan

\_\_\_\_\_  
Walt Pellish

\_\_\_\_\_  
Dale Manuel

## 5. **Additional County Government Office Space**

Commissioners and County Administrator Tim Boyde discussed the need for additional office space to be utilized by County Government and the judiciary. Ms. Widmyer suggested that Kirk Davis and Mr. Boyde first research and prepare an inventory of existing office space, then explore real estate for sale that would be suited for the County's needs. Mr. Boyde would report back to the Commission with the findings.

Mr. Boyde requested that a Commissioner be appointed to a Building Space Assessment Committee. Both Mr. Manuel and Ms. Widmyer volunteered. Mr. Boyde advised that he would be attending a meeting with the judiciary regarding courthouse space on Friday, January 21, 2011 at 3:00 p.m. Mr. Manuel suggested that all Commissioners could be appointed to the Building Space Assessment Committee and would be a "committee in the whole." Mr. Boyde would keep the Commissioners informed of the meeting dates and times. Mr. Manuel and Ms. Widmyer could spearhead the Commissioners' group. The suggestion was accepted by unanimous consent of the Commissioners.

The Commission took a 10-minute break at 10:31 a.m.

The Commission reconvened at 10:40 a.m.

**6. Roger Goodwin, Chief County Engineer – request for bond reduction/bond release – WV Hunter LLC and National Land Partners LLC – The Point Subdivision, Lots 1-45 (File #04-42)**

Motion by Ms. Widmyer to approve the complete release of the construction bond for WV Hunter LLC and National land Partners LLC – The Point Subdivision, Lots 1-45 (File #04-42). Motion seconded by Ms. Morgan and unanimously approved.

**7. Restructuring County Government – Chief Financial Officer**

Motion by Mr. Manuel that the Commission task County Administrator Tim Boyde with developing a restructured model for county government which includes a chief finance officer who is in charge of all county finances and is under the direct supervision of County Administrator Boyde. Further that the possibility of a position having a human resource responsibility be explored. Motion seconded by Mr. Pellish for discussion purposes. Mr. Pellish stated that he has a problem with the second part of the motion. Mr. Manuel advised that the motion is divisible.

Ms. Noland and Ms. Morgan suggested that Mr. Boyde should be appointed as Director of Human Resources. Mr. Pellish is of the opinion that the County needs two separate positions and that Mr. Boyde does not have the appropriate background to assume the responsibility for human resources.

Mr. Boyde requested that he be given the opportunity to discuss these matters with the County Clerk to insure that the Commission would not be duplicating work and would be in compliance with West Virginia Codes.

Mr. Manuel divided his original motion as follows:

Motion by Mr. Manuel that the Commission task County Administrator Tim Boyde with developing a restructured model for county government which includes a chief finance officer who is in charge of all county finances and is under the direct supervision of County Administrator Boyde. Motion seconded by Mr. Pellish and approved 4 -1. (Ms. Morgan voted “no.”)

Motion by Mr. Manuel that the possibility of a position having a human resource responsibility be explored. Motion seconded by Mr. Pellish and approved 4-1. (Ms. Morgan voted “no.”)

**PRESENTATIONS continued:**

**8. Public Hearing on Petition for Closing Unused Road, Streets & Travel Ways by Martin and Brenda Lookingbill presented by David Camilletti, attorney for the Lookingbills**

At 11:00 a.m. Commissioner Noland convened a public hearing on the Petition of Martin and Brenda Lookingbill, which Petition requested permission to close an unused alleyway beside their property and 7-11’s. The only response to the Petition came from Susan Lawton, General Manager for the Jefferson County Public Service District. Ms. Lawton advised that a sewer line

runs the entire length of the subject property and that there is a need to keep the alley open for future maintenance of the line.

Paul Gray informed the Commissioners that his wife owns a house right behind 7-11 and her father owns a house beside hers. He stated that he lacked sufficient information to render a decision as to whether the alley should be closed and requested more time to speak to members of their family.

It was the unanimous consent of the Commissioners that this matter would remain open until February 3, 2011 in order to give Mr. Gray an opportunity to obtain more information and return on the 3rd to present further testimony. The Commission also requested that Mr. Camilletti prepare a Public Use Easement Agreement (PUE) to be executed by the Lookingbills and the JCPSD, and submit an executed copy of the PUE to the Commission. The parties were asked to return to the Commission on February 10, 2011 at which time the Commissioners would render their decision.

**9. Tom Bayuzik, Economic Development Authority Director – Discuss Forgiveness of \$200,000 Loan to the Economic Development Authority in 1989.**

Mr. Bayuzik, along with Mark Schiavone, Director of Capital Planning and Management, informed the Commission that apparently in 1989 a loan was made from the Jefferson County Commission to the Economic Development Authority in the amount of \$200,000. The loan has been flagged by the State of West Virginia auditor every year, but no records have been found that set forth the specifics of the loan or repayments, if any. Mr. Bayuzik, on behalf of the Economic Development Authority, requested that the County Commission write off the loan.

Ms. Noland stated the need for the Commission and the Economic Development Authority to do more research into the loan and begin by following the paper trail in the County Clerk's office where it should be recorded as an expenditure. The 1988 Commission minutes and records should be researched as well. More information is needed before any decision can be made.

Ms. Morgan opined that part of the responsibility for the loan repayment should fall to the Economic Development Authority.

It was the consensus of the Commissioners that the Development Authority's staff should research the loan and Commission staff would do likewise. Mr. Bayuzik should report back to the Commission with his findings in two weeks.

**10. Stephanie Grove, Assistant Prosecuting Attorney**

Ms. Grove presented an update of legal matters pending.

**OLD BUSINESS:**

**11. Roger Goodwin, Chief County Engineer, Request for Tolling of Construction Bond – Thorn Hill LLC – Thorn Hill Subdivision, Lots 1-179 (File #02-17)**

The consensus of the Commissioners was to postpone a decision for two weeks to allow time for

staff with legal assistance to prepare an amended agreement that addresses future payment of taxes, continuation as an LLC, what happens in the event of a tax sale to the state and receive confirmation from the State of West Virginia that Thorn Hill LLC is in good standing.

**PRESENTATIONS continued:**

**12. Stephanie Grove, Assistant Prosecuting Attorney and Brad Stephens, Esquire request for Executive Session pursuant to WV Code §6-9A-4.**

Motion by Ms. Morgan to enter into Executive Session pursuant to WV Code §6-9A-4 regarding pending litigation. Motion seconded by Mr. Manuel and unanimously approved.

The Commission entered into Executive Session at 11:55 a.m.

The Commission ended its Executive Session at 12:45 p.m. upon motion by Ms. Morgan, seconded by Mr. Pellish and unanimously approved.

The Commission reconvened its regular meeting at 12:46 p.m.

**COUNTY ADMINISTRATOR REPORTS:**

- The County Commissioner's Report will be postponed and placed on next week's Agenda.

**COUNTY COMMISSION REPORTS:**

**Commissioner Morgan:**

- Reported that she attended the Historic Landmarks Commission meeting.

**Commissioner Pellish:**

- Nothing to report this week.

**Commissioner Widmyer:**

- Reported that she attended the Citizens Fire Company Awards Banquet. She suggested that at least one Commissioner should attend each of the fire company banquets.
- Reported that she attended John Doyle's Town Hall meeting in Shepherdstown, West Virginia.

**Commissioner Manuel:**

- Reported that he attended an Economic Development Meeting. Governor Tomblin and Senator Rockefeller were present.
- Reported that he attended an Emergency Services Agency meeting.
- Reported that he attended the Homeland Security and Emergency Management luncheon and State of the Partnership presentation.
- Reported that he attended a Parks and Recreation Commission meeting.

**Commissioner Noland:**

- Reported that she attended a Jefferson County Council on Aging meeting.

Motion by Ms. Morgan to adjourn the meeting. Motion seconded by Mr. Manuel and the meeting was adjourned at 1:00 p.m.

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

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PATRICIA NOLAND, PRESIDENT