

**Minutes**  
**Jefferson County Commission**  
**Thursday, February 10, 2011**

---

A meeting of the Jefferson County Commission was held on Thursday, February 10, 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 and Frances Morgan, Tim Boyde, County Administrator, Debbie Stellato, Administrative Assistant, and Louie Brunswick, Bailiff. (An audio tape of this February 10, 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 Morgan led the Pledge of Allegiance.

**APPROVAL OF MINUTES**

Motion by Ms. Morgan to approve the Minutes of the February 1, 2011 Board of Review and Equalization meeting Minutes as presented. Motion seconded by Mr. Manuel and unanimously approved.

Motion by Ms. Morgan to approve the Minutes of the February 3, 2011 regular meeting as amended. Motion seconded by Ms. Widmyer and unanimously approved.

**APPROVAL OF PURCHASE ORDERS**

Motion by Mr. Manuel to approve Purchase Orders in the amount of \$39,695.64, being purchase order numbers: 48953, 48796, 48673, 48680, 48682, 49096, 49367, 49277, 49279, 48940, 48942, 48943, 49133, 49134, 49135, 49136, 48926, 49196, 49195, 49194, 49193, 49191, 49190, 49189, 49188, 49187, 49186, 49185, 48927, 49276 and 4860 subject to review of purchase orders listed at the end of Mr. Manuel's copy which were not included on some of the other Commissioners' copies. Motion seconded by Ms. Widmyer and unanimously approved.

**APPROVAL OF ACCOUNTS PAYABLE**

Motion by Ms. Morgan to approve the accounts payable in the amount of \$205,633.24 subject to review of line item "Town Police Supply" in the amount of \$37,554.00. Motion seconded by Ms. Widmyer and unanimously approved.

**PUBLIC COMMENT**

Elizabeth "Budge" Blake of Bolivar, West Virginia recommended that the Commission appoint Vicky Eckert to a position on the Water Advisory Committee.

With regard to the question of the additional purchase orders listed on Mr. Manuel's copy of the List of Purchase Orders to be Approved, Tim Boyde, County Administrator explained that there were no purchase orders and the

original amount of \$39,162.69 is correct.

With regard to the question regarding the Accounts Payable line item for “Town Police Supply,” Mr. Boyde explained that the \$37,554.00 was an M6X grant to be used to purchase equipment, i.e. shotguns and materials for the Sheriff’s Office.

**NEW BUSINESS:**

• **Legislative Updates:**

**Mr. Manuel** participated in a legislative conference call wherein some of the issues discussed were:

- ✓ the compensation bill
- ✓ changes to the DUI with death bill, shale issue
- ✓ election dates, transfer tax
- ✓ homestead exemption
- ✓ risk pool
- ✓ certified mail costs
- ✓ Senate Joint Resolution 9
- ✓ \$25.00 lifetime membership fee for sportsmen 65 and older, and
- ✓ Bill 2400 which would allow certified appraisers access to residential review documents, taxes, for individual households.

• **Ms. Noland** attended:

- ✓ a West Virginia Association of County Commissions legislative meeting wherein there was discussion regarding regional jail issues. The jails are being filled by substance abusers getting high on synthetic and household items as well as the usual street drugs. A House bill has been introduced which attempts to broaden controlled use statutes to include these synthetic products.

• **Ms. Widmyer** advised:

- ✓ that the Brownfield legislation was amended to make the Bill even stronger.
- ✓ That the Public Service District is requesting that the County Commission work with Senator Snyder to promote his legislation regarding the Chesapeake Bay project. Ms. Widmyer suggested that the Commission support Senator Snyder and send him a letter of thanks for his diligent work. **It was recommended that this be placed on next week’s Agenda as a Resolution.**
- ✓ that there is apparently a movement by the West Virginia Department of Environmental Protection to defer implementation of the Nutrient Trading Program and that the Jefferson County Commission should fight the deferment.

**PRESENTATIONS:**

1. **Tim Boyde** advised that the Circuit Clerk’s presentation was moved to next week’s Agenda. Speaking on behalf of the County Clerk, Mr. Boyde voiced her request that the Commission approve the hire of Dennis Coen as an intern for six to eight weeks at \$9.00 per hour to assist while one employee is out for medical reasons and to help with preparations for the upcoming elections. The County Clerk informed Mr. Boyde that there is money in her budget to pay this intern. Mr. Boyde stated that he supports the hiring of the intern Dennis Coen.

Motion by Mr. Manuel to approve the hire of Dennis Coen as an intern in the County Clerk's Office for six to eight weeks at a rate of pay of \$9.00 per hour. Motion seconded by Ms. Morgan and unanimously approved.

**NEW BUSINESS continued:**

- **Mr. Boyde advised** that Ann Coulter of the League of Women Voters of Jefferson County had withdrawn her request to use the County Commission meeting room.
  
- **Mr. Boyde:**
  - ✓ advised that the Agenda item regarding the Commission's support of Senator Snyder to push the advancement of Legislation to Create Grant Pool for Chesapeake Bay Projects had previously been discussed by Ms. Widmyer.
  - ✓ advised that matching funds in the amount of \$30,000.00 for an Agriculture Development Grant were committed in 2008 by the County Commission to assist in funding a year-round Farmers Market. The funds would be deducted from either the General Fund or the Coal Severance Fund.

Motion by Mr. Manuel to allocate the \$30,000.00 previously committed by the Commission in 2008 for the Agriculture Development Grant and deduct \$30,000.00 from the Coal Severance Fund. Motion seconded by Ms. Morgan and unanimously approved.

**UNFINISHED BUSIENSS:**

- **Lynn Fields, Probate Office –Order Setting a Hearing for the Estate of Sallie Shepherd Spaulding.**

Ms. Fields advised that a separate date for a hearing would not be necessary. It could be a regular Agenda item and would only take twenty to twenty-five minutes. The Commission directed Ms. Fields to consult with Mr. Boyde to have the matter placed on the Agenda.

- **Appointments to the Water Advisory Committee.**

Vicky Eckert appeared in person and presented her qualifications to the Commission.

It was noted by Ms. Morgan that there are four positions available on the Committee. Motion by Ms. Morgan to appoint Vicky Eckert, Robert K. Denton, Jr., Mark Shields and Mary T. Sell to positions on the Water Advisory Committee. Motion seconded by Ms. Widmyer and unanimously approved.

**The Commission took a 10-minute break at 10:13 a.m.**

**The Commission reconvened at 10:23 a.m.**

**PRESENTATIONS continued:**

2. **Lynn Fields, Probate Office – Request to Probate Last Will and Testament of Mildred Valentine, Deceased**

Present were: Robert Barrat, Esquire and his clients Mary Strickland, Frances Harrell and Ann Sheffield.

John Dorsey, Esquire on behalf of his client, Charles Howard, Esq., Executor

Henry Morrow, Jr., Esquire, GAL appointed to represent unknown heirs

**Robert Barrat, Esq.** requested that the hearing in these proceedings be delayed at least a month to allow his client, Frances Harrell, to formally contest the Will, have Mr. Howard disqualified as Executor/Curator of the Will and submit her application to be named as Administrator of her aunt Mildred Valentine's estate.

**John Dorsey, Esq.** spoke briefly on behalf of his client.

**Henry Morrow, Esq.** commented that the hearing scheduled for this date should be continued.

The Commission requested that its own legal counsel be present at this and every hearing concerning the estate, however, Stephen Groh, attorney for Jefferson County, will research whether any statute or rule of ethics bars him from representing Jefferson County in these proceedings and will report back to the Commission later in this meeting.

3. **Jennifer Maghan, County Clerk**, presented an overview of upcoming election dates and deadlines as set forth below:

**2011 Special Gubernatorial Election - Jefferson County**

PRIMARY ELECTION	Feb '11	Mar '11	Apr '11	May '11	Jun '11	Jul '11	Aug '11	Sep '11	Oct '11	Nov '11
Candidate filing period begins	7									
Candidate filing period ends - by 5pm	12									
Drawing of ballot positions - at 5pm	13									
Last day to extend emergency absentee procedures	13									
First day to receive absentee applications from all voters	19									
Commission notifies executive committees: # of poll workers needed	19									
Secretary of State certifies and posts candidate names	19									
Last day for candidates to withdrawal		1								
County clerk estimates number of absentee ballots needed		5								
Executive committees submit names of poll workers & alternates		5								
Clerk notifies commission: # of emergency absentee commissioners		19								
Commission appoints poll workers and alternates		26								
Primary-First campaign report due		26	1							
Delivery of absentee ballots to clerk		28								
Sending of absentee ballots to overseas/military voters		29								
Poll worker training eligible dates			14	7						
Delivery of supplies to clerk			16							
Maintenance to clear out Early Voting (EV) room & remove hall benches			18							
Maintenance to bring EV equipment to courthouse - by 12pm			19							
EV staff to set up room for EV - after 12pm			19							
Poll clerk training - 9am			20							
Poll commissioner training - 6pm			20							
<b>EARLY VOTING PERIOD</b>			<b>22</b>	<b>11</b>						
Publish the sample ballots			18-24							
Voter registration deadline for Primary Election			25							
Supply clerk training - 9am			26							
Pre-Primary campaign finance report due			29	3						

Supply clerk training - 6pm				4						
Poll commissioner training - 9am				5						
Poll clerk training - 6pm				5						
Saturday Early Voting				7						
Receive emergency absentee ballot applications - by 12pm on last day				7-14						
Publish the sample ballots or official list of candidates				7-13						
Deadline to submit absentee ballot application				9						
Makeup/alternate training - 6pm				9						
Maintenance to pickup trucks in Halltown/equipment delivery to pcts				13						
Supply clerks pick up supplies at Bardane storage facility				13						
Last day to receive hand-delivered absentee ballots				13						
<b>PRIMARY ELECTION DAY</b>				<b>14</b>						
Equipment pick up from pcts/return trucks to Halltown				16						
Canvass begins - results declared at end of canvass				20						
Deadline for petition nominees to file certificate and filing fees				21						
Post-Primary campaign financial reports due				27	28					
Maintenance to return EV equipment to Bardane; set up mtg room/hall				31						
Deadline to transmit results to the Secretary of State					13					
<b>GENERAL ELECTION*</b>	<b>Feb '11</b>	<b>Mar '11</b>	<b>Apr '11</b>	<b>May '11</b>	<b>Jun '11</b>	<b>Jul '11</b>	<b>Aug '11</b>	<b>Sep '11</b>	<b>Oct '11</b>	<b>Nov '11</b>
Commission notifies executive committees: # of poll workers needed						12				
County clerk estimates number of absentee ballots needed						26				
Executive committees submit names of poll workers & alternates						26				
Clerk notifies commission: # of emergency absentee commissioners							9			
Commission appoints poll workers and alternates							16			
Delivery of absentee ballots to clerk							18			

Send absentee ballots to those requesting							19			
General-First campaign finance report due							22-26			
Last day to file write-in candidate certificate of announcement							23			
Poll worker training eligible dates								4-27		
Delivery of supplies to clerk								6		
Publish the sample ballots								8-14		
Voter registration deadline for General Election								13		
Publish notice of public test								14	1	
<b>EARLY VOTING PERIOD</b>								<b>14</b>	<b>1</b>	
Pre-General campaign finance report due								19-23		
Saturday Early Voting								24		
Publish the sample ballots or official list of candidates								27	3	
Deadline to submit absentee ballot application								28		
Last day to receive hand-delivered absentee ballots									3	
<b>GENERAL ELECTION DAY</b>									<b>4</b>	
Canvass begins - results declared at end of canvass									11	
Post-General campaign finance report due									17	15
Deadline to transmit results to the Secretary of State										3

\*Note: complete timeline as of the date below does not include certain items for the General Election with dates TBD.

4. **Tim Boyde** commented on the need for a work session regarding proposed changes in impact fees. He stated that Notices have to be placed and public hearings held before the deadline of April 1, 2011.

**Mark Schiavone** gave his comments.

**Commissioner Widmyer** recommended that the Commission begin right away with a work session. An amendment to the ordinance is needed. Ms. Widmyer suggested inviting municipalities to submit their positions on changing the impact fees.

**Commissioner Manuel** suggested communicating with the Development Authority to get its suggestions on commercial properties.

**Mr. Schiavone** recommended requesting a change of schedule from April 1, 2011 to July 1, 2011.

**Mr. Boyde** will schedule a work session for the week of February 14, 2011. The Commissioners agreed that the deadline to receive input from municipalities will be March 1, 2011.

5. **David Camilletti, Esq. - request that the Commission make a determination regarding Martin and Bill Lookingbill's Petition for Closing Unused Road, Streets & Travel Ways**

Motion by Ms. Widmyer to deny the Lookingbills' Petition to close the portion of the unused road, street, travel way or alley which begins at Washington Street and extends in a southerly direction to a point 255.83 feet from Washington Street – Charles Town. Motion seconded by Ms. Morgan and unanimously approved.

**NEW BUSINESS continued:**

• **Kirk Davis, Capital Projects Manager – presentation of request from Judge Sanders for Cushioning on Wooden Benches in the Circuit Courtroom**

Mr. Davis advised the Commission that he received two quotes for cushioning on the benches in the Circuit Courtroom. One with no fire retardant - \$11,920.00 and one with fire retardant - \$12,320.00.

**Ms. Noland** commented that she would like to see a written plan for all of the expenditures, upgrades and updates planned in the future for the Courthouse.

**Ms. Widmyer** would like to see the big picture as well as the individual items planned.

The Commissioners agreed that the cushions for the benches in the Circuit Courtroom would be included in upcoming budget discussions.

**PRESENTATIONS continued:**

6. **Warren Mickey and Robert Gruber, Jefferson County Conservation District:**

- Updated the Commission on the progress of the Elks Run Water Project
- Mr. Mickey presented a funding request on behalf of the Jefferson County Conservation District in the amount of \$10,000.00

7. **Estate of Mildred Valentine continued:**

**Stephen Groh, Esq.** reported that he spoke to the West Virginia State Bar and was advised that ethically he could not stand in for Jefferson County in the matter of the Estate of Mildred Valentine, Deceased. Mr. Groh suggested an “exchange” of attorneys between Jefferson County and Berkeley County in these situations would be beneficial to both counties. When an attorney was barred from acting in his/her own county for legal or ethical reasons, an attorney from the other county could act in his/her stead and vice versa. It would be a win-win situation.

**Ms. Morgan** suggested the need to immediately appoint a Fiduciary Commissioner in this matter.

**Henry Morrow, Esq.** stated the need to appoint an Administrator or Curator to take charge of the estate, but stated that a Fiduciary Supervisor has no authority to administer the case.

**Attorney Robert Barrat** objected to anybody being appointed as Administrator except for his client, Frances Harrell, one of the nieces of Mildred Valentine. He requested that the Commission appoint Ms. Harrell as the Administrator of the Estate of Mildred Valentine. Mr. Barrat also requested that Mr. Morrow provide him with an accounting of the estate.

**John Dorsey, Esq.** also stated the need to appoint a Curator for the estate.

Motion by Ms. Noland to appoint the Sheriff of Jefferson County as Curator of the Estate of Mildred Valentine until such time as someone else can qualify. Motion seconded by Mr. Manuel and unanimously approved.

Mr. Dorsey will prepare the Order. Mr. Boyde will work with Lynn Fields regarding the Curator appointment.

Motion to amend the motion to appoint the Sheriff as the Curator of the Estate of Mildred Valentine to add the words “and the Jefferson County Commission will obtain legal counsel.” Motion to amend seconded by Ms. Noland and unanimously approved.

8. **Joe Sacchet, Executive Director of the Berkeley-Jefferson Day Report Center**

Mr. Sacchet advised that there are currently 22 individuals from Jefferson County utilizing the Day Report Center. Financially, at \$48.50 per individual per day for incarceration in the regional jail, using the Day Report Center instead represents a savings to the County and the taxpayers of approximately \$1,100.00 per day.

Mr. Sacchet further advised the Commission that a location for a satellite Day Report Center has been located in Charles Town. The Center would be in the building that now houses the Probation Office on East Washington Street. The officials of the Berkeley-Jefferson Day Report Center would like to move in by April 2011.

Motion by Ms. Morgan that the County Commission allocate office space in Jefferson County for a Day Report Center. Motion seconded by Mr. Manuel and unanimously approved.

**UNFINISHED BUSINESS continued:**

- **Tom Bayuzik, Development Authority Director** – provided a brief update on his research with regard to the \$200,000 loan to the Economic Development Authority from the County Commission. Mr. Bayuzik reported that he had not learned much more than what he shared at the last meeting. He mentioned that he still had not spoken with David Ash, former County Administrator, who he felt might know something of the matter. It was agreed that the Commission staff, Tom Bayuzik and the Development Authority will continue to research and exhaust all avenues to locate information on the \$200,000.00 loan.

**Ms. Morgan** would like to receive a written request from the West Virginia Auditor’s Office seeking information about the \$200,000.00 loan.

**The Commission took a 5-minute break at 12:20 p.m.**

The Commission reconvened at 12:25 p.m.

**PRESENTATIONS continued:**

9. **Mark Schiavone, Director of Capital Planning & Management**

- **Request for approval of Revision A to the General Fund**

Motion by Ms. Morgan to approve Revision A to the General Fund as presented. Motion seconded by Mr. Manuel and unanimously approved.

- **Request for approval of Revision 007 to the General Fund**

Motion by Ms. Widmyer to approve Revision 007 to the General Fund as presented. Motion seconded by Mr. Manuel and approved 4 to 1. Ms. Noland voted “no.”

- **Request for approval of Revision 003 to the Coal Severance Fund**

Motion by Mr. Manuel to approve Revision 003 to the Coal Severance Fund as presented. Motion seconded by Ms. Morgan and unanimously approved.

**RESOLUTION**

At a regular session of the Jefferson County Commission, held 10th February, 2011, the following order was made and entered:

SUBJECT: The revision of the Coal Severance (Fund 002) Levy Estimate (Budget) for the County of Jefferson. The following resolution was offered:

RESOLVED: That subject to approval of the State Auditor as ex officio chief inspector of public offices, the county commission does hereby direct the budget be revised PRIOR TO THE EXPENDITURE OR OBLIGATION OF FUNDS FOR WHICH NO APPROPRIATION OR INSUFFICIENT APPROPRIATION CURRENTLY EXISTS, as shown on budget revision number 003, a copy of which is entered as part of this record.

The adoption of the foregoing resolution having been moved by Manuel, and duly seconded by Morgan, the vote thereon was as follows:

Noland	Yes
Manuel	Yes

Widmyer	Yes
Morgan	Yes
Pellish	(absent)

WHEREUPON, Patricia Noland, declared said resolution duly adopted, and it is therefore ADJUDGED and ORDERED that said resolution be, and the same is, hereby adopted as so stated above, and F. Mark Schiavone is authorized to fix his signature on the attached "Request for Revision to Approved Budget" to be sent to the State Auditor for approval.

RESOLUTION

At a regular session of the Jefferson County Commission, held 10th February, 2011, the following order was made and entered:

SUBJECT: The revision of the Coal Severance (Fund 002) Levy Estimate (Budget) for the County of Jefferson. The following resolution was offered:

RESOLVED: That subject to approval of the State Auditor as ex officio chief inspector of public offices, the county commission does hereby direct the budget be revised PRIOR TO THE EXPENDITURE OR OBLIGATION OF FUNDS FOR WHICH NO APPROPRIATION OR INSUFFICIENT APPROPRIATION CURRENTLY EXISTS, as shown on budget revision number 003, a copy of which is entered as part of this record.

The adoption of the foregoing resolution having been moved by Manuel, and duly seconded by Morgan, the vote thereon was as follows:

Noland	Yes
Manuel	Yes
Widmyer	Yes
Morgan	Yes

\_\_\_\_\_  
Pellish  
\_\_\_\_\_

\_\_\_\_\_  
(absent)  
\_\_\_\_\_

WHEREUPON, Patricia Noland, declared said resolution duly adopted, and it is therefore ADJUDGED and ORDERED that said resolution be, and the same is, hereby adopted as so stated above, and F. Mark Schiavone is authorized to fix his signature on the attached "Request for Revision to Approved Budget" to be sent to the State Auditor for approval.

RESOLUTION

At a regular session of the Jefferson County Commission, held 10 February, 2011, the following order was made and entered:

SUBJECT: The revision of the General Fund (Fund 001) Levy Estimate (Budget) for the County of Jefferson. The following resolution was offered:

RESOLVED: That subject to approval of the State Auditor as ex officio chief inspector of public offices, the county commission does hereby direct the budget be revised PRIOR TO THE EXPENDITURE OR OBLIGATION OF FUNDS FOR WHICH NO APPROPRIATION OR INSUFFICIENT APPROPRIATION CURRENTLY EXISTS, as shown on budget revision number 007, a copy of which is entered as part of this record.

The adoption of the foregoing resolution having been moved by Widmyer, and duly seconded by Manuel, the vote thereon was as follows:

_____ Noland _____	_____ No _____
_____ Manuel _____	_____ Yes _____
_____ Widmyer _____	_____ Yes _____

Morgan	Yes
Pellish	(absent)

WHEREUPON, Patricia Noland, declared said resolution duly adopted, and it is therefore ADJUDGED and ORDERED that said resolution be, and the same is, hereby adopted as so stated above, and F. Mark Schiavone is authorized to fix his signature on the attached "Request for Revision to Approved Budget" to be sent to the State Auditor for approval.

**The Commission adjourned for the day at 12:50 p.m.**

Upon rising the Commission recessed until Tuesday morning next beginning at 9:30 o'clock p.m., sitting as a Board of Review and Equalization.

\_\_\_\_\_  
PATRICIA NOLAND, PRESIDENT