

Minutes

Jefferson County Commission

Thursday, June 9, 2011

A meeting of the Jefferson County Commission was held on Thursday, June 9, 2011 in the County Commission meeting room at the Old Charles Town Library located at 200 E. Washington Street, Charles Town, WV 25414. Present were Commissioners Dale Manuel, Frances Morgan, Lyn Widmyer and Walt Pellish; Sandra McDonald, Deputy County Administrator, Debbie Stellato, Administrative Assistant and Jimmy Eddy, Bailiff. Commissioner Patricia Noland and County Administrator Tim Boyde were absent with notification. (An audio tape of this June 9, 2011 meeting is available through the Jefferson County Commission Office.)

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

PLEDGE OF ALLEGIANCE

Commissioner Widmyer led the Pledge of Allegiance.

APPROVAL OF MINUTES

Motion by Ms. Morgan to approve the Minutes of the June 1, 2011 public hearing as amended. Motion seconded by Ms. Widmyer and unanimously approved.

Motion by Ms. Morgan to approve the Minutes of the June 2, 2011 regular meeting as amended. Motion seconded by Ms. Widmyer and unanimously approved.

APPROVAL OF PURCHASE ORDERS

Motion by Ms. Widmyer to approve Purchase Orders in the amount of \$38,208.88 minus purchase order number 52881 which was approved on May 19, 2011, making the corrected total \$36,895.62 and being purchase order numbers 52972, 48522, 48696, 48695, 52888, 52881, 52887, 52877, 49550, 49377, 49378, 49379, 49380, 49381, 48387, 49600, 52850, 52851, 52929, 52955, 49522, 49429, 49430, 49431, 49434, 52849, 48114, and 52930. 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 \$261,628.62. Motion seconded by Ms. Widmyer and unanimously approved.

PUBLIC COMMENT

Tom Trumble expressed his concerns with the West Virginia Board of Health and the Jefferson County Health Department because of the strict criteria imposed upon charities attempting to raise funds by selling cooked foods to the public at special events several times a year. Mr. Trumble requested that the Commission send a letter to the Health Department supporting the charities' positions and soliciting answers to their questions.

Ms. Widmyer suggested that Mr. Trumble's public comments be converted into an appointment so that the Commissioners could ask questions and make comments. It was unanimously agreed to do so.

Ms. Morgan volunteered to draft a letter to the Health Department and recommended that it be mailed out on this date. The Commissioners agreed.

Mr. Manuel suggested that this matter be placed on the June 23, 2011 agenda for further discussion. His suggestion received the unanimous consent of all Commissioners.

PRESENTATIONS:

1. **Jennifer Maghan, County Clerk**, presented her budget revisions for consideration.
2. **Mark Schiavone, Director of Capital Planning and Management**, requested approval for final budget revisions to the General Fund for FY 2011.

(A short power outage occurred.)

**The Commission took a break at 10:30 a.m.
The Commission reconvened at 10:40 a.m.**

Re: Revision 10 to the budget, motion by Ms. Morgan to approve the amendment to the budget (Revision 10) for the General Fund FY 2011. Motion seconded by Mr. Pellish and unanimously approved.

3. **Ralph Lorenzetti, County Prosecutor**, requested an Executive Session regarding a personnel matter. At 10:50 a.m., the Commission entered into an Executive Session pursuant to WV Code §6-9A-4. Mr. Manuel adjourned the Executive Session at 11:00 a.m. and reconvened the regular Commission meeting.

Mark Schiavone continued:

Re: Budget Revision C, motion by Ms. Morgan to approve the amendment to the budget (Revision C) for the General Fund FY 2011. Motion seconded by Mr. Manuel and unanimously approved.

4. **Roger Goodwin, Chief County Engineer**, request to approve complete release of the \$25,000.00 construction bond security for Southern States Cooperative, Inc.

Motion by Ms. Widmyer to approve the complete release of the remaining \$25,000.00 construction bond amount for Southern States Cooperative, Inc. Motion seconded by Mr. Pellish and unanimously approved.

Mr. Goodwin also reported on Westridge Hills, the water budget study project and Sheridan Subdivision homeowners' issues with the developer.

5. **Carolyn Zdziera, Director, Community Alternatives to Violence**, reported on program activities in Jefferson County and stated that CAV has achieved much success and continues to grow. She presented the Commission with a book entitled "It's A Wonderful World" totally written by school children sharing their ideas for a peaceful world.
6. **Ray A. Byrd, Esquire** – request for the Commission to convene as a Probate Court and address the Second Accounting by the Fiduciary Commissioner, David A. DeJarnett for the Estate of John J. Warfield and the Petitioners' Objections and Exceptions to same for the period ended 12-31-2008.

Mr. Manuel called the hearing to order.

Present were: David A. DeJarnett, Esquire, Fiduciary Commissioner
Ray A. Byrd, Esquire, Counsel for Petitioners
John K. Dorsey, Esquire, original counsel for the Estate of John J. Warfield
Stephanie Grove, Esquire, counsel for the Jefferson County Commission
Joe Smith, Bank of Charles Town, Administrator of the Estate of John J. Warfield
Commissioners Widmyer, Manuel, Pellish and Morgan, Sitting as a Probate Court

Mr. Byrd explained that Judge Sanders had issued an order on June 7, 2011 containing his directives and remanded the order back to the County Commission for compliance. He reported that Judge Sanders' order resolved the contested issues.

Mr. DeJarnett basically agreed with Mr. Byrd and, after discussion, the Commissioners agreed that they could rule on the First Accounting and sign the order prepared by Mr. Byrd incorporating Judge Sanders' directives. However, the Commissioners had not seen the Second Accounting and preferred to wait until the next meeting on June 23, 2011 to make a decision after having the opportunity to review same. In the meantime, Mr. Byrd will prepare a proposed order with regard to the Second Accounting incorporating Judge Sanders' directives and submit the order to the Commission for action on June 23, 2011.

Ms. Widmyer moved to enter the order prepared by Mr. Byrd and incorporate Judge Sanders' directives with regard to the First Accounting. Ms. Morgan seconded the motion and it was unanimously approved.

COPY

BEFORE THE COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA

IN RE: ESTATE OF JOHN J. WARFIELD, DECEASED

Date of Death: February 23, 2006

JAMES B. PACKARD-GOMEZ, ADMINISTRATOR CTA

**ORDER INCORPORATING THE JUNE 7, 2011, ORDER OF THE CIRCUIT COURT
OF JEFFERSON COUNTY**

On or about July 6, 2010, the Fiduciary Commissioner issued a Report of Fiduciary Commissioner with regard to the Petition and the Objections and Exceptions To First Accounting For The Period Ended January 31, 2008. On October 21, 2010, the Jefferson County Commission entered an ORDER ADOPTING, IN PART, AND MODIFYING, IN PART, THE REPORT OF FIDUCIARY COMMISSIONER, DAVID A. DeJARNETT DATED JULY 6, 2010.

John T. Buzek, Edmond Buzek, and Jeanne Busack presented and filed their Petition in Error with respect to the County Commission's order in the Circuit Court of Jefferson County on February 17, 2011 (civil action no. 11-C-54). James Packard-Gomez presented and filed his Petition for Appeal and Writ of Error with respect to the County Commission's order in the Circuit Court of Jefferson County on February 28, 2011 (civil action no. 11-C-70).

The Circuit Court of Jefferson County entered an ORDER on June 7, 2011, with respect to those petitions and that ORDER remanded the matter back to the Jefferson County Commission and directed the Jefferson County Commission to enter an Order incorporating the provisions of the June 7, 2011, ORDER of the Circuit Court of Jefferson County.

WHEREFORE, the Jefferson County Commission **ORDERS, ADJUDGES,** and

DECREES:

a. That Mr. Packard-Gomez is personally liable and required to repay and/or reimburse and/or account to the Estate of John J. Warfield the sum of \$1,117,030.09 for the loan to 1519 Wisconsin Avenue, LLC, together with interest at the legal rate (equaling \$1,269,206.31 as of January 8, 2009 plus \$298.38 per day after January 8, 2009);

b. That the Estate is liable to John T. Buzek, Edmond Buzek, and Jeanne Busack for their attorney fees, costs, and expenses because the actions of John T. Buzek, Edmond Buzek, and Jeanne Busack and their counsel have greatly benefitted the Estate and have resulted in an Order requiring substantial sums be paid to or delivered to the Estate; and

c. That Mr. Packard-Gomez is personally liable for and shall be required to repay and/or reimburse and/or account to the Estate of John J. Warfield the amount of John T. Buzek's, Edmond Buzek's, and Jeanne Busack's attorney fees, costs, and expenses.

The June 7, 2011, ORDER of the Circuit Court of Jefferson County is attached and, pursuant to the directive of the Circuit Court of Jefferson County, that ORDER is incorporated herein as an order of the Jefferson County Commission and made part of the record in this proceeding.

It is so **ORDERED.**

Dated: June 9, 2011


Patricia A. Nelson
President of Jefferson County Commission


Francis B. May
Member of Jefferson County Commission


Lynn Wrdinger
Member of Jefferson County Commission


Dale Manuel
Member of Jefferson County Commission


Keith Duchs
Member of Jefferson County Commission

Ms. Morgan made a motion to place the Second Accounting of the Estate of John J. Warfield prepared by David DeJarnett on the June 23, 2011 agenda for discussion/action. Mr. Pellish seconded the motion and it was unanimously approved.

Ms. Morgan made a motion to approve John Dorsey, Esquire's withdrawal from this matter as the attorney for the Estate of John J. Warfield. Mr. Pellish seconded the motion and it was unanimously approved.

The Probate Hearing was adjourned by Commissioner Manuel and the regular meeting of the Jefferson County Commission was reconvened.

COUNTY ADMINISTRATOR REPORTS:

Sandra McDonald, Deputy County Administrator

- Reminder that there will be no Commission meeting next Thursday, June 16, 2011.
- Reminder that the Commission Office will be closed on Monday, June 20, 2011 for West Virginia Day.

COUNTY COMMISSION REPORTS:

Commissioner Widmyer:

- Attended a Jefferson County Public Service District meeting.
- Attended a Phase II Water Implementation Plan Elected Officials Work Group.

Commissioner Morgan:

- No report this week.

Commissioner Pellish:

- No report this week.

Commissioner Manuel:

- Suggested inviting Bob Tabb to address the Commission regarding the Chesapeake Bay cleanup and agriculture's views on various aspects, such as nutrient management. This should be scheduled as soon as possible.
- Attended Bark in the Park to benefit the Animal Welfare Society of Jefferson County.
- Advised that there will be a Redistricting Meeting in the Commission meeting room on June 16, 2011 at 7:00 p.m. Three of the West Virginia delegates will be participating.

There being no further business, Ms. Morgan made a motion to adjourn the meeting. Mr. Manuel seconded the motion and it was unanimously approved. Upon rising the meeting was adjourned until Thursday, June 23, 2011.

PATRICIA A. NOLAND, PRESIDENT