

Minutes
Jefferson County Commission
Thursday, December 1, 2011

A meeting of the Jefferson County Commission was held on Thursday, December 1, 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 Patricia Noland, Dale Manuel, Lyn Widmyer, Frances Morgan and Walt Pellish. Also present were Tim Boyde, County Administrator, Debbie Stellato, Administrative Assistant and Jimmy Eddy, Bailiff. (An audio tape of the December 1, 2011 meeting is available through the Jefferson County Commission Office.)

PLEDGE OF ALLEGIANCE

Commissioner Manurl led the Pledge of Allegiance.

APPROVAL OF MINUTES

Motion by Ms. Morgan to approve the Minutes of the November 17, 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 \$85,682.88, being purchase order numbers: 50548, 50637, 50618, 53180, 53190, 50638, 50639, 50640, 50641, 50642, 50435, 50434, 50436, 50438, 50479, 49539, 49540 and 48119. Motion seconded by Ms. Morgan and unanimously approved.

APPROVAL OF ACCOUNTS PAYABLE

Motion by Ms. Morgan to approve the December 1, 2011 accounts payable in the amount of \$62,290.88. Motion seconded by Mr. Manuel and unanimously approved.

Motion by Ms. Morgan to approve the November 23, 2011 accounts payable in the amount of \$242,343.69. Motion seconded by Mr. Manuel and unanimously approved.

PUBLIC COMMENT:

Roula Hammer, 10-year old student at Morgan Academy in Shepherdstown voiced support for the acquisition of the Cement Mill property and asked the Commission to grant the \$25,000.00 to the Jefferson County Historic Landmarks Commission as per its request to assist in the acquisition.

Debbie Royalty, Jefferson County Resident David Tabb, Jefferson County resident: commented on Cement Mill property acquisition.

David Tabb, Jefferson County resident: 1) impact fees, 2) Rt. 340 Corridor committee 3) Oversight Committee to monitor the work of the County Departments, and 4) his oral argument on January 10, 2012 to the West Virginia Supreme Court of Appeals.

PRESENTATIONS:

1. The Commission presented **Joseph A. Hankins** with a Resolution honoring his excellent service while on the Jefferson County Public Service District Board. Ms. Noland read the Resolution aloud for the benefit of the public.

NEW BUSINESS;

2. Request approval to reappoint **Chris Jackson** to the Jefferson County Civil Service Commission as recommended by the Jefferson County Deputy Sheriff's Association.

Mr. Manuel made a motion to reappoint **Chris Jackson** to the Jefferson County Civil Service Commission as recommended by the Jefferson County Deputy Sheriff's Association. Motion seconded by Mr. Pellish and it was unanimously approved.

PRESENTATIONS continued:

3. **John Allen of the Jefferson County Historic Landmarks Commission** requested a one-time grant of \$25,000.00 to cover the purchase price of the 18-acre Shepherdstown Cement Mill property.

Ms. Morgan made a motion to approve the allocation of \$25,000.00 to cover the purchase price of the Shepherdstown Cement Mill property and to direct County Administrator Tim Boyde to designate the account from which the funds will be deducted. Ms. Widmyer seconded the motion. The motion failed 3 to 2 with Ms. Noland, Mr. Manuel and Mr. Pellish voting against.

The Commission took a break at 10:15 a.m.

The Commission reconvened at 10:23 a.m.

4. **Mark Dyck of the Jefferson County Development Authority** requested that the Commission approve the suspension of impact fees on non-residential projects for a period of not less than twenty-four (24) months and not more than forty-eight (48) months in order to encourage businesses to locate in Jefferson County.

Mr. Pellish made a motion to approve the suspension of non-residential impact fees for a period of twenty-four (24) to forty-eight (48) months. Ms. Noland seconded the motion.

Stephanie Grove, legal counsel for the County Commission, requested time to research any adverse consequences of suspending non-residential impact fees while continuing to charge impact fees for residential projects.

Ms. Noland moved to postpone any decision on suspension of non-residential impact fees for two (2) weeks to allow counsel to conduct the requested research. Mr. Pellish seconded the motion.

Ms. Morgan amended the motion stating that the content of the original motion be stricken and replaced with "that the Commission postpone any decision on suspension of non-residential impact fees for two (2) weeks and require legal counsel to report back to the Commission with her findings on suspension of the impact fees." Ms. Widmyer seconded the amended motion and as a second amendment added "that a public hearing be scheduled on both non-residential and residential impact fees and that Mr. Schiavone and Mr. Boyde designate an appropriate date to on which to hold the public hearing." Amended motion failed 3 to 2 with Ms. Noland, Mr. Manuel and Mr. Pellish voting against.

Mr. Manuel made an incidental motion to postpone to a time certain any decision on suspension of the non-

residential impact fees, require legal counsel to provide the Commission with her research findings by the end of the two-week period and to schedule a public hearing only on the issue of the suspension of the non-residential impact fees for action by the Commission on December 15, 2011. Mr. Pellish seconded the motion. Ms. Grove stated that she will provide her findings at the Commission meeting on December 8, 2011.

Mr. Pellish withdrew his original motion.

Mr. Manuel's incidental motion carried 3 to 2 with Ms. Widmyer and Ms. Morgan voting against.

5. **Elizabeth Wheeler, Jefferson County Farmland Protection Board**, requested approval of three deeds of farmland conservation easements: 1) J. L. Burch Sr. property, 2) D. A. Gray property, and 3) J. H. Witt property.

Ms. Morgan made a motion to approve the three deeds of farmland conservation easements as outlined by Ms. Wheeler. Ms. Widmyer seconded the motion and it was unanimously approved.

Motion by Ms. Morgan that the Jefferson County Commission convene as a Fiduciary Review Board. Motion seconded by Mr. Manuel and unanimously approved. The Commission convened as a Fiduciary Review Board at 11:26 a.m.

6. **Lynn Fields, Office of the County Clerk, Probate Office** presented three estates for consideration and closing.

Motion by Mr. Manuel to approve the closing of the three estates as presented by Ms. Fields. Mr. Pellish seconded the motion and it was unanimously approved.

The Commissioners reconvened as the Jefferson County Commission at 11:30 a.m.

7. **Stephen Groh, legal counsel**, provided an update on Planning Commission legal issues and decisions, i.e. Faraway Farms and the James and Barbara Gibson property. Mr. Groh requested an Executive Session in order to explain in detail litigation pending regarding Faraway Farms.

Motion by Mr. Manuel to move into an Executive Session regarding pending litigation in connection with Faraway Farms. Motion seconded by Ms. Morgan and unanimously approved. The Commission commenced the Executive Session at 11:36 a.m.

Motion by Ms. Morgan to terminate the Executive Session. Motion seconded by Ms. Manuel and unanimously approved. The Executive Session was terminated at 11:45 a.m. and the Jefferson County Commission meeting reconvened.

8. **J. Michael Cassell, attorney for Dr. James and Barbara Gibson**, requested deliberation or a decision on the Gibson's request for an amendment to the Zoning Map, subsequent to the Planning Commission's public hearing on November 8, 2011 and Staff's completed report.

Motion by Ms. Widmyer that a public hearing be scheduled on January 5, 2012 at 7:00 p.m. with tentative action by the Commission to be taken on January 12, 2012. Motion seconded by Ms. Morgan and unanimously approved.

9. **Stephanie Grove, legal counsel**, updated the Commission on the status of pending legal issues.

10. **Roger Goodwin, Chief County Engineer**:

a) Requested approval of the complete release of the Construction Bond Security for Robert S. and Amy R. Leonard - Brookstone Subdivision, Lots 1-6 - Residue (File #06-37) in the amount of \$266,235.00 - Letter of Credit with Jefferson Security Bank, Shepherdstown, WV.

Motion by Ms. Morgan to approve the complete release of the Construction Bond Security for Robert S. and Amy R. Leonard - Brookstone Subdivision, Lots 1-6 - Residue (File #06-37) in the amount of \$266,235.00 - Letter of Credit with Jefferson Security Bank, Shepherdstown, WV. Motion seconded by Mr. Manuel and unanimously approved.

b) Provided an oral summary of his written report to the Commission on the Westridge Hills Test Wells Project. The report summary will be placed on the Jefferson County website for public viewing.

Mr. Manuel made a motion to break for lunch at 12:30 p.m. Motion seconded by Ms. Noland and unanimously approved. Meeting will reconvene at 1:30 p.m.

UNFINISHED BUSINESS:

11. Proposed change in Jefferson County Magisterial Districts.

Motion by Mr. Manuel to approve the magisterial districts and precinct alignment as necessary as presented by Todd Fagan, Director of the GIS Department and Nikki Painter, Chief Deputy Clerk of Elections. Motion seconded by Ms. Widmyer and unanimously approved.

COUNTY COMMISSIONER REPORTS:

Commissioner Morgan:

- Attended the Legislative Summit in Berkeley County, WV.
- Attended the Jefferson County Emergency Services Agency meeting.

Commissioner Pellish:

- Nothing significant to report this week.

Commissioner Widmyer:

- Attended the 10th Annual Volunteer Appreciation Dinner at the Eastern Panhandle Free Clinic.
- Reported that she read to students in Ranson for American Education Week.
- Attended the Legislative Summit in Berkeley County, WV.
- Attended the Jefferson County Emergency Services Agency meeting.
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Commissioner Manuel:

- Attended the Legislative Summit in Berkeley County, WV.
- Attended the Jefferson County Emergency Services Agency meeting.

Commissioner Noland:

- Attended the Legislative Summit in Berkeley County, WV.

- Attended the Jefferson County Emergency Services Agency meeting.
- Attended the Jefferson County Convention and Visitors Bureau meeting.

COUNTY ADMINISTRATOR REPORTS:

County Administrator Tim Boyde:

- Reported that the Animal Welfare rental property appraisal will be back shortly for review.
- Attended a Space Needs Committee meeting and presented the Commissioners with a chart of the status of space needs.
- Reported that he has prepared draft of a Taxable Fringe Benefits Policy and which will be presented to the Commission at the next meeting.
- Reported that the History Channel is filming a documentary entitled "The Men Who Built America" at the County Courthouse.
- Met with Bill Polk, Maintenance Director, the contractor and a structural engineer regarding how best to maintain the structural integrity of the columns at the Courthouse.
- Reported that he attended a "walk through" in the Magistrate's Building with members of the Supreme Court regarding a future office for Judge Yoder.
- Will soon be releasing applications for the video lottery money.
- Reported that in early January 2012, Angela Banks, County Assessor, will speak to the Commission about SB 401.
- Received a letter from Steptoe & Johnson regarding a possible conflict of interest. Steptoe and Johnson enclosed a Waiver and requested the Commissioners sign the Waiver so that the law firm may continue to represent the Commission. The Commissioners signed the Waiver.
- Mr. Boyde requested an Executive Session to discuss pending personnel matters.

Motion by Ms. Morgan to enter into an Executive Session. Mr. Manuel seconded the motion and it was unanimously approved. The Executive Session commenced at 2:05 p.m. Executive session ended at 2:30 p.m.

There being no further business the regular Commission meeting adjourned at the end of the Executive Session until Thursday next, December 8, 2011.

PATRICIA A. NOLAND, PRESIDENT