

**AGENDA FOR THURSDAY, JANUARY 7, 2010**

Old Charles Town Library Meeting Room  
200 E. Washington Street, Charles Town, WV

**APPOINTMENTS:**

- ☐☐☐ 1. 9:30 a.m. - Pledge of Allegiance  
County Commission Organization
  - a. Selection of President
  - b. Selection of Vice President
  - c. Committee AssignmentsApproval of Minutes  
Approval of Purchase Orders  
Approval of Accounts Payable
  
- ☐☐☐ 2. 9:40 a.m. - Public Comment
  
- ☐☐☐ 3. 9:45 a.m. - Bonding and Activity Report
  
- ☐☐☐ 4. 10:00 a.m. - E-911 Addressing Ordinance Amendments Public Hearing
  
- ☐☐☐ 5. 10:15 a.m. - Angela Banks - Assessor - Real Estate Assessments
  
- ☐☐☐ 6. 10:30 a.m. - Lori Robertson - Request for Funding and Letter of Commitment from the County for the Greater Shepherdstown Biking Loop
  
- ☐☐☐ 7. 10:45 a.m. - Barbara J. Miller - FY09 Homeland Security Grant Eligibility Certification - Discussion/Action  
- Update from December 19/20, 2009 Snowstorm
  
- ☐☐☐ 8. 11:00 a.m. - Jennifer S. Maghan - County Clerk's Report
  
- ☐☐☐ 9. 11:15 a.m. - Jimmy Pierson - Park Manager, City of Ranson - Request Funding for the Purchase of Tables and Chairs for the Ranson Civic Center
  
- ☐☐☐ 10. 11:30 a.m. - Stephanie Grove - Legal Update and Report
  
- ☐☐☐ 11. 1:30 p.m. - Senator Snyder and Delegate Lawrence - Legislative Update  
  
- Randall Reid-Smith, Commissioner of the West Virginia Division of Culture and History - West Virginia/Virginia Line Presentation
  
- ☐☐☐ 12. 2:30 p.m. - County Commission Workshop - Discussion of Commission Priorities for Upcoming Quarter

**OLD BUSINESS:**

- 13. Legislative Issues
- 14. Jefferson County Health Department - Request for Christmas Bonuses for Health Department Employees - Discussion/Action
- 15. Kirk Davis, Sr., Capital Projects Manager - Grants Update  
- Shepherdstown Civil War Battlefield Transportation Enhancement Program - Grant Extension - Discussion/Action
- 16. Mark Schiavone - Budget Updates –  
- Decision on Unemployment Insurance - Discussion/Action  
- Grant Agreement - West Virginia Department of Health and Human Resources -  
→ Discussion/Action

**NEW BUSINESS:**

- 17. Approval of Board of Review and Equalization Notice - Discussion/Action
- 18. Discuss 2010 County Commission Meeting Schedule - Discussion/Action
- 19. Discuss County Commission Preparation of Minutes and Turnaround - Discussion/Action
- 20. Discuss Final Distribution of the Remaining Allocated Longevity Funds
- 21. Appointment to the Jefferson County Planning Commission
- 22. Sheriff Robert E. Shirley - Request for Approval of Employment - Crystal Tharp and James Eddy - Part-Time Bailiffs/Trip Guards
- 23. Proposed Earthen Dams or Impoundment(s) Construction to Enhance Spring Flow - US Geological Survey Leetown Science Center - Kearneysville, WV - Discussion/Action
- 24. Authorize Formal Approval for Roger Goodwin, County Engineer to release a Request for Proposal to Drill Test Wells on the Mountain to Include an Engineer and a Hydrologist (JS) - Discussion/Action
- 25. Requirements to Store Historic Landmarks Commission Data on County Server (JS) - Discussion/Action

- 26. Request to Reschedule the Date of the County-wide Coalition Sewer Meetings (JS) - Discussion/Action
- 27. Revised Moving Expenses Policy - Discussion/Action
- 28. County Administrator Reports
- 29. County Commission Reports

**INFORMATION:**

- 30. Correspondence received from the West Virginia Division of Culture and History concerning the consideration to nominate Beverly to the National Register of Historic Places.
- 31. Correspondence received from the Historic Landmarks Commission regarding storage space and applications necessary to store data on the County's network.
- 32. Correspondence received from the County Commission of Berkeley County concerning the November 3, 2009 Legislative Summit.
- 33. Appointment to be made to the Jefferson County Zoning Board of Appeals on January 14, 2010.
- 34. Press release received concerning PATH.
- 35. Correspondence received from FEMA concerning revalidated letters of map change for Jefferson County.
- 36. Copy of a newspaper article received from the Association of Counties concerning voting issues.
- 37. Correspondence received from the Jefferson County Emergency Services Agency regarding the retirement of Ed Smith and hiring Douglas Pittinger as his replacement.
- 38. Resignation as a Water Advisory Committee member received from Virginia Graf.
- 39. Meeting minutes received from the Jefferson County Public Service District.
- 40. Community Bulletin received from the Harpers Ferry National Historical Park.
- 41. E-911 fees received.

- 42. Oath of Office received from Peter Appignani as a member of the Jefferson County Public Service District
  
- 43. Weekly settlement report for the Charles Town Races received from the Charles Town Races and Slots.
  
- 44. West Virginia Ethics Reporter received.
  
- 45. Miscellaneous

**CORRESPONDENCE:**

- 46. Correspondence received from Richard A. Zigler concerning the annexation of Shepherd University dormitories to Shepherdstown.

*At all times the County Commission reserves the right to rearrange agenda times because of time constraints and to accommodate the Commission schedule or the public.*

**Amendments - December 10, 2009**

**BEFORE:**

**In re: KELLIE BOLES – EASEMENT ACQUISITION**

Kellie Boles, Ag Development Officer reported changes to the Easement due to Farmstead Complex exception.

**AFTER:**

**In re: KELLIE BOLES – EASEMENT ACQUISITION**

Kellie Boles, Ag Development Officer reported changes to the Easement on the Roger Rissler Property which includes 154 acres due to the need to accommodate the Farmstead Complex exception.

**BEFORE:**

**In re: LEGISLATIVE ISSUES**

Commissioner Noland reported on the Regional Jail Fee is going to increase.

Commissioner Manuel reported on Legislative Summit he attended at the Wood's Resort on Tuesday, November 3, 2009.

Commissioner Morgan reported on the Legislative Summit she attended at the Wood's Resort on Tuesday, November 3, 2009.

**AFTER:**

**In re: LEGISLATIVE ISSUES**

Commissioner Noland reported that Regional Jail Fee is going to increase.

Commissioner Noland reported on Legislative Summit she attended at the Wood's Resort on Tuesday, November 3, 2009.

Commissioner Manuel reported on the Legislative Summit he attended at the Wood's Resort on Tuesday, November 3, 2009.

**BEFORE:**

**In re: APPROVAL OF BLUE RIDGE MOUNTAIN STUDY GRANT IN THE AMOUNT OF \$30,000**

Motion by Widmyer, second by Noland to move approval of the Grant agreement for the National Fishery and Wildlife Foundation for a total of \$30,000.00. Motion carried.

**AFTER:**

**In re: APPROVAL OF BLUE RIDGE MOUNTAIN STUDY GRANT IN THE AMOUNT OF \$30,000**

Motion by Widmyer, second by Noland to approve the Grant agreement for the National Fish and Wildlife Foundation for a total of \$30,000.00. Motion carried.

**BEFORE:**

**In re: MARK SCHIAVONE – BUDGET UPDATE**

Mark Schiavone, Director of Capital and Planning Management appeared before the Commission to request if they wanted to invite groups in for presentations before starting the budgets to complete applications.

**AFTER:**

**In re: MARK SCHIAVONE – BUDGET UPDATE**

Mark Schiavone, Director of Capital and Planning Management appeared before the Commission to discuss inviting groups in for presentations before starting the budgets to complete applications.

**BEFORE:**

**In re: JEFFERSON COUNTY COMPENSATION AND CLASSIFICATION STUDY – LONGEVITY PAY FOR PART-TIME EMPLOYEES**

Motion by Morgan, second by Widmyer to table this discussion of longevity pay for part-time employees indefinitely. Motion failed.

**AFTER:**

**In re: JEFFERSON COUNTY COMPENSATION AND CLASSIFICATION STUDY – LONGEVITY PAY FOR PART-TIME EMPLOYEES**

Motion by Morgan, second by Surkamp to table this discussion of longevity pay for part-time employees indefinitely. Motion failed.

**BEFORE:**

**In re: TODD FAGAN – ADDRESSING ORDINANCE, ENFORCEMENT AND POLICY WORKSHOP PART II**

A unanimous consent to move forward with Enforcement Plan on distributing and giving out information about 911 addressing.

Mr. Fagan reported that the policy change does not match name to who actually resides at a residence.

**AFTER:**

**In re: TODD FAGAN – ADDRESSING ORDINANCE, ENFORCEMENT AND POLICY WORKSHOP PART II**

Unanimous consent was given to move forward with Enforcement Plan on distributing and giving out information about 911 addressing.

Mr. Fagan reported that the new policy change will not reflect who owns the property but will not show who actually resides at a residence.

**BEFORE:**

**In re: DISCUSSION AND ACTION FOR 50 PERCENT OF ANY REVENUES THAT MAY BE GENERATED BY A POSITIVE VOTE ON TABLE GAMES BY THE CITIZENS OF JEFFERSON COUNTY BE ALLOCATED TO FIRE AND EMS SERVICES AND LAW ENFORCEMENT**

Motion by Manuel, second by Noland to approve a portion of money from the revenues of Table Games by the Citizens of Jefferson County be allocated to Fire and EMS services in Jefferson County to alleviate fees.

**AFTER:**

**In re: DISCUSSION AND ACTION FOR 50 PERCENT OF ANY REVENUES THAT MAY BE GENERATED BY A POSITIVE VOTE ON TABLE GAMES BY THE CITIZENS OF JEFFERSON COUNTY BE ALLOCATED TO FIRE**

**AND EMS SERVICES AND LAW ENFORCEMENT**

Motion by Manuel, second by Noland to approve a portion of money from the revenues of Table Games by the Citizens of Jefferson County be allocated to Fire and EMS services in Jefferson County to alleviate fees. Motion carried 4-0. Commissioner Morgan was not present.

**BEFORE:**

**In re: APPROVAL OF 2010 HOLIDAY SCHEDULE**

Motioned by Noland, second by Manuel to approve 2010 Holiday schedule per WV state code as presented. Motion carried.

Commissioner Manuel suggested to place the meeting schedule of the January 7<sup>th</sup>, 2010 Agenda.

**AFTER:**

**In re: APPROVAL OF 2010 HOLIDAY SCHEDULE**

Motion by Noland, second by Manuel to approve 2010 Holiday schedule per WV state code as presented. Motion carried.

Commissioner Manuel suggested to place the meeting schedule on the January 7<sup>th</sup>, 2010 Agenda.

**BEFORE:**

**In re: COUNTY COMMISSION MEETINGS – LOCATION**

Motioned by Noland, second by Widmyer to keep the meetings in the Old Charles Town Library meeting room.

**AFTER:**

**In re: COUNTY COMMISSION MEETINGS – LOCATION**

Motion by Noland, second by Widmyer to keep the meetings in the Old Charles Town Library meeting room. Motion carried 4-0. Commissioner Morgan was not present.

**BEFORE:**

**In re: SCHEDULE INTERVIEWS FOR COUNTY ADMINISTRATOR**

Commissioner Widmyer suggested to hold interviews on January 13 and 20, 2010 in the morning. Commissioner Noland suggests that staff sit with each applicant to have input as well.

**AFTER:**

**In re: SCHEDULE INTERVIEWS FOR COUNTY ADMINISTRATOR**

Commissioner Widmyer suggested to hold interviews on January 13 and 20, 2010 in the morning. Commissioner Noland suggests that staff meet with each applicant to have input as well.



**SPECIAL SESSION:**

State of West Virginia, County of Jefferson, to-wit:

At a Special Session of the County Commission of said County and State continued and held at the Old Charles Town Library thereof on Friday, December 11, 2009, beginning at 9:30 o'clock a.m.

**PRESENT:** Dale Manuel, President;  
James Surkamp; Frances Morgan;  
Patsy Noland; Lyn Widmyer; Commissioners

The County Commission of Jefferson County, sitting as a Board of Canvassers, met this 11<sup>th</sup> day of December, 2009 at 9:30 a.m. for the purpose of canvassing ballots cast in the December 5<sup>th</sup>, 2009 Special Election on Table Games.

Jennifer Maghan, County Clerk, was present for the Canvass. Nikki Painter and Wendy Evangelisti, from the County Clerk's office, was also present and assisted with the Canvass.

The Commission randomly selected precincts 7 and 22B to be hand counted. The hand count was performed by a counting board consisting of the following: Tim Collins, Marsha Gardner, Anita Fleshman, Jennifer Schultz, Ann Dungan, and Gary Dungan.

The Commission proceeded with the Canvass by reviewing each precinct one at a time, checking to make sure the counts were accurate and to review the provisional ballots from the polls. The Commission reviewed each provisional ballot to determine if the ballot could or could not be accepted to be counted.

**Precinct 2:**

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Gary Tingley	Morgan	Noland	✓		Voter was correctly registered	Motion carried
Barbara Burwell	Morgan	Noland	✓		Voter changed address and voted correctly in new precinct	Motion carried
Tonya Racanelli	Widmyer	Noland		✓	Not registered	Motion carried

**Precinct 3:**

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Abner Riddleberger	Morgan	Noland	✓		Voter was correctly registered	Motion carried
Kelly Edwards	Morgan	Noland	✓		Voter changed address and voted correctly in new precinct	Motion carried
James Hefflebower	Morgan	Noland	✓		Voter was correctly registered	Motion carried
James Thomas, Jr.	Morgan	Noland	✓		Absentee ballot received in time to count	Motion carried

**Precinct 4A:**

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Kathryn Howard	Morgan	Noland		✓	Voted at the incorrect precinct	Motion carried
Ronald Anthony	Morgan	Noland		✓	Not registered	Motion carried
Nicole Bogden	Morgan	Noland	✓		Voter changed address and voted correctly in new precinct	Motion carried
Marshall Barron	Morgan	Noland	✓		Voter was correctly registered	Motion carried
Priscilla Anthony	Noland	Widmyer		✓	Not registered	Motion carried
Karen Camp	Morgan	Noland	✓		Voter was correctly registered	Motion carried
Jane Burns Mary Cave Juanita Dempsey Janice Fakhouer Victor Hott	Morgan	Noland	✓		Absentee ballots received in time to count	Motion carried

Precinct 4B:

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Angela Breeden	Morgan	Noland	✓		Poll worker	Motion carried
Catina Steen	Noland	Morgan		✓	Not registered	Motion carried
Mildred Schuler	Noland	Widmyer	✓		Absentee ballot received in time to count	Motion carried

Precinct 6:

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Daniel Stotler	Morgan	Manuel		✓	Not registered	Motion carried
Vivian Robinson	Widmyer	Noland		✓	Not registered	Motion carried

Precinct 12:

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Marquez King	Morgan	Manuel	✓		Voter was correctly registered	Motion carried
Jason Cooley	Noland	Widmyer	✓		Voted changed address and correctly voted at new precinct	Motion carried

Precinct 13A:

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Kimberly Holding	Morgan	Noland	✓		Poll worker	Motion carried

Precinct 13B:

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Donna Woodrom	Morgan	Widmyer	✓		Voter changed address and correctly voted at new precinct	Motion carried

Robert Woodrom	Morgan	Noland	✓		Voter changed address and correctly voted at new precinct	Motion carried
Amanda Sites	Noland	Morgan	✓		Voter changed address and correctly voted at new precinct	Motion carried
Gary Rutherford	Morgan	Noland		✓	Not registered	Motion carried
Linda Myers	Noland	Widmyer	✓		Precinct changed by County, voter went to old precinct	Motion carried

**Precinct 14:**

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Therese Alexander	Noland	Widmyer	✓		Voter correctly registered	Motion carried

**Precinct 15:**

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Paul Wilt	Morgan	Noland	✓		Poll worker	Motion carried
Leon Taulton	Noland	Widmyer	✓		Voter correctly registered	Motion carried

**Precinct 16:**

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Michael Matise	Morgan	Noland	✓		Voter correctly registered	Motion carried

**Precinct 17:**

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Gilbert Cook	Morgan	Widmyer	✓		Voter correctly registered	Motion carried
David Clevenger	Noland	Widmyer		✓	Voter registration cancelled for inactivity	Motion carried

Sunshine Drummond	Morgan	Widmyer	✓		Poll worker	Motion carried
Christine Springman	Morgan	Widmyer	✓		Voter correctly registered	Motion carried

Precinct 19: No provisional ballots were cast.

Precinct 20:

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Ronnie Matney	Manuel	Noland		✓	Not registered	Motion carried
John Considine	Morgan	Noland	✓		Voter changed address and voted correctly at new precinct	Motion carried
Daniel Lutz	Noland	Morgan	✓		Poll worker	Motion carried

Precinct 21A:

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Kevin Hanigan	Morgan	Noland	✓		Voter changed address and voted correctly at new precinct	Motion carried
Hoyt Clance	Morgan	Noland	✓		Voter correctly registered	Motion carried
Alfredo Arganda Jr.	Morgan	Noland	✓		Voter correctly registered	Motion carried
Monique Hope	Morgan	Widmyer	✓		Voter correctly registered	Motion carried

Precinct 21B: No provisional ballots were cast in this precinct.

Precinct 22A:

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Mercie Turner	Widmyer	Noland	✓		Poll worker	Motion carried
Christina Franz	Noland	Widmyer		✓	Not registered	Motion carried

Chad Dinges	Morgan	Noland	✓		Voter changed address and voted correctly at new precinct	Motion carried
Christopher Clendening	Noland	Widmyer	✓		Voter changed address and voted correctly at new precinct	Motion carried
Jeffrey Good	Morgan	Noland	✓		Voter changed address and voted correctly at new precinct	Motion carried
Donald Thomas	Widmyer	Noland	✓		Voter correctly registered	Motion carried
Dennis Chamblin	Noland	Widmyer		✓	Voter registration cancelled due to inactivity	Motion carried

**Precinct 7:**

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Scott Riley	Morgan	Manuel	✓		Precinct changed by County, voter went to old precinct	Motion carried
Sharon Riley	Morgan	Noland	✓		Precinct changed by County, voter went to old precinct	Motion carried
Raul Carvajal	Noland	Morgan		✓	Voted at the incorrect precinct	Motion carried
Maryann Smith	Morgan	Widmyer	✓		Voter correctly registered	Motion carried
Ronald Lloyd	Morgan	Widmyer		✓	Not registered	Motion carried
Prince Thangaraj	Noland	Widmyer	✓		Voter correctly registered	Motion carried
Kerry Shock	Noland	Widmyer		✓	Voted at the incorrect precinct	Motion carried

Precinct 22B:

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Bjorn Nilson	Noland	Widmyer	✓		Voter changed address and voted correctly at new precinct	Motion carried
Michael Vaughn	Morgan	Widmyer	✓		Voter changed address and voted correctly at new precinct	Motion carried
Carol Landmesser	Noland	Morgan	✓		Voter changed address and voted correctly at new precinct	Motion carried
Brenda Hart	Noland	Widmyer	✓		Emergency hospital voted	Motion carried

Precinct 23A:

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Jolene Haymaker	Noland	Widmyer		✓	Voted at incorrect precinct	Motion carried
Vickie Drummond	Morgan	Noland	✓		Poll worker	Motion carried
Patrick Dolin	Widmyer	Noland		✓	Not registered	Motion carried
Elizabeth Hottel	Morgan	Widmyer	✓		Voter changed address and voted correctly at new precinct	Motion carried
Heather Halter	Morgan	Widmyer	✓		Voter registered at DMV in time to vote	Motion carried
Andrew Evans	Morgan	Noland	✓		Absentee ballot received in time to count	Motion carried

Precinct 23B:

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Maria Saliba	Noland	Widmyer		✓	Not registered	Motion carried

Precinct 25A: No provisional ballots were cast in this precinct.

Precinct 25B:

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Kevin Lancaster	Widmyer	Manuel	✓		Voter correctly registered	Motion carried
	Noland	Widmyer	✓		Ballot from early voted that should have been counted in precinct 26 but was not due to sorting error	Motion carried

Precinct 26:

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Allen Dove	Morgan	Widmyer	✓		Voter changed address and correctly voted at new precinct	Motion carried
Alex Brown	Noland	Manuel		✓	Voted at incorrect precinct	Motion carried
Deborah Longo	Morgan	Noland	✓		Poll worker	Motion carried
David Sarver	Noland	Widmyer		✓	Not registered	Motion carried

Precinct 27:

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Robin Painter	Morgan	Noland	✓		Poll worker	Motion carried
Robin Carper	Widmyer	Morgan	✓		Poll worker	Motion carried
Terry Roberts	Morgan	Widmyer	✓		Poll worker	Motion carried
Brian Hanna	Widmyer	Morgan	✓		Poll worker	Motion carried
Oscar Sanchez	Noland	Widmyer		✓	Registered in Berkeley County	Motion carried

Willard Liston	Noland	Morgan	✓		Voter directed by poll workers to go to incorrect precinct.	Motion carried
Mary Ridgeway Edgar Ridgeway	Widmyer	Noland	✓		Absentee ballots received in time to count	Motion carried

**Precinct 28:**

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Kristin Jones	Noland	Morgan	✓		Voter correctly registered	Motion carried
Sara Dutrow	Morgan	Widmyer		✓	Not registered	Motion carried
Michael Hammer	Noland	Widmyer		✓	Not registered	Motion carried
Steven Crow	Noland	Widmyer	✓		Poll worker	Motion carried
Richard Moffett	Widmyer	Morgan	✓		Poll worker	Motion carried
Kelly Moffett	Noland	Widmyer	✓		Poll worker	Motion carried

**Precinct 31:**

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Ian Lukens	Morgan	Widmyer		✓	Not registered	Motion carried
Victoria Quinn	Noland	Widmyer	✓		Voter changed address and voted correctly at new precinct	Motion carried
Sandra Moffett	Noland	Manuel	✓		Poll worker	Motion carried
Cheryl Huff	Morgan	Noland	✓		Poll worker	Motion carried
Patricia Willauer	Noland	Widmyer	✓		Absentee ballot received in time to count	Motion carried

Precinct 32:

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Christopher Stoner	Noland	Widmyer	✓		Voter correctly registered	Motion carried
Carl Kautz	Noland	Morgan		✓	Registered in Morgantown, WV	Motion carried
Hubert Brown Jr.	Morgan	Widmyer	✓		Voter correctly registered	Motion carried
Dawn Fauble	Noland	Widmyer	✓		Voter correctly registered	Motion carried
Michael Fauble	Noland	Widmyer	✓		Voter correctly registered	Motion carried.
Frances Ramsburg	Noland	Widmyer	✓		Absentee ballot received in time to count	Motion carried

Precinct 33:

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Gary Lam	Morgan	Manuel	✓		Voter changed address and voted correctly at new precinct	Motion carried
Delores Allen	Widmyer	Noland	✓		Poll worker	Motion carried
April Wright	Morgan	Noland	✓		Voter changed address and voted correctly at new precinct	Motion carried
Ethel Grantham	Noland	Morgan	✓		Absentee ballot received in time to count	Motion carried
Kenneth Barron	Morgan	Noland	✓		Emergency hospital ballot	Motion carried

Precinct 34:

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Eric Peterson	Morgan	Noland	✓		Voter changed address and voted correctly at new precinct	Motion carried
Debra Cornwell	Noland	Widmyer	✓		Poll worker	Motion carried
Carlos Pena	Morgan	Widmyer	✓		Voter changed address and voted correctly at new precinct	Motion carried
Suzanne Jones	Morgan	Noland		✓	Not registered	Motion carried
David Walsh	Noland	Widmyer	✓		Voter changed address and voted correctly at new precinct	Motion carried
Joyce Marken	Noland	Widmyer		✓	Voter registration cancelled due to inactivity	Motion carried
Heston Van Evera	Noland	Morgan	✓		Absentee ballot received in time to count	Motion carried

Precinct 35A:

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Trevor Craker	Widmyer	Noland	✓		Poll worker	Motion carried
Rebecca Conrad	Noland	Morgan		✓	Voted at incorrect precinct	Motion carried
Justin Ashlock	Noland	Widmyer		✓	Voter registration cancelled due to inactivity	Motion carried
Bethany Alexander Tyler Goodell	Noland	Widmyer	✓		Absentee ballots received in time to count	Motion carried

**Precinct 35B:**

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
Andrew Thomann	Widmyer	Morgan	✓		Voter correctly registered	Motion carried
Michelle Thomann	Widmyer	Noland	✓		Voter correctly registered	Motion carried
Harriett Staffa	Noland	Widmyer		✓	Not registered	Motion carried
Florence Vickers	Noland	Morgan	✓		Poll workers	Motion carried

**Early Voting:**

NAME OF VOTER	Motion	Second	Accept	Reject	REASON ACCEPTED OR REJECTED	VOTE
DC Vargo	Morgan	Noland		✓	Voter had previously voted	Motion carried
Kimberly Vestal	Noland	Widmyer	✓		Voter registered at DMV in time to vote	Motion carried
Isaac Alexander	Noland	Widmyer		✓	Registered in Berkeley County	Motion carried
Richard Wagner	Morgan	Noland		✓	Not registered	Motion carried
	Noland	Morgan		✓	Absentee ballot received unsigned and form blank	Motion carried

After all provisional and absentee ballots were reviewed, the Commission added 94 ballots to the count.

The hand counts that were conducted on Precincts 7 and 22B were determined to be acceptable.

Motion by Noland, second by Morgan to set the bond amount for requesting a recount to \$300 and to set the date to Certify the Results of the Election to Thursday, December 17, 2009, at 9:45 a.m. Motion carried.

The Commission recessed as a Board of Canvassers at 11:35 a.m.

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DALE MANUEL, COMMISSION PRESIDENT

**REGULAR TERM:**

State of West Virginia, County of Jefferson, to-wit:

At a Regular Term of the County Commission of said County and State continued and held at the Old Charles Town Library meeting room thereof on Thursday, December 17, 2009 beginning at 9:30 o'clock a.m.

**PRESENT:** Dale Manuel; President;  
James Surkamp, Patricia Noland, Lyn Widmyer  
Frances B. Morgan; Commissioners

**In re: PLEDGE OF ALLEGIANCE**  
Commissioner Widmyer conducted the Pledge of Allegiance.

**In re: APPROVAL OF MINUTES**  
Motion by Noland, second by Manuel to dispense with the reading of the Minutes for the meeting held on Thursday, December 10, 2009 and to approve the Minutes as amended. Motion carried.  
Commissioner Morgan noted several corrections to the minutes.  
Commissioner Widmyer requested that the January 7, 2010 agenda include a discussion on the timeframe for preparation of the minutes, noting staff is currently preparing minutes on a weekly basis and this is not very much time.

**In re: APPROVAL OF PURCHASE ORDERS**  
Motion by Morgan, second by Manuel to approve the following Purchase Orders for the week of December 3, 2009 totaling \$111,958.04: 47868, 47500, 47659, 47660, 47667, 47744, 47679, 46628, 47145, 47167, 47768, 47771, 48001, 48002, 47873, 47870, 47871, 47365, 47439, 47869, 47875, 47876, 47644, 47874. Motion carried.

**In re: APPROVAL OF ACCOUNTS PAYABLE**  
Motion by Noland, second by Morgan to approve the list of accounts payable for December 17, 2009 as presented by the County Clerk. Motion carried.

CK#	DEPT	VENDOR	PO#	PO Amt	Amt wo PO	CK Amount
060415	PAYROLL	AMERICAN FAMILY LIFE ICU		\$0.00	\$5,087.54	\$5,087.54
060416	712	APCO INTERNATIONAL INC	47166	\$582.08	\$0.00	\$582.08
060417	428	ACS GOVERNMENT SYSTEMS	47756	\$301.18	\$0.00	\$301.18
060418	425	COMCAST		\$0.00	\$89.95	\$89.95
060419	424	AT&T/NJ		\$0.00	\$0.41	\$0.41
060420	424	AUTOZONE		\$0.00	\$57.95	\$57.95
060420	700	AUTOZONE		\$0.00	\$63.46	\$63.46
060420	716	AUTOZONE		\$0.00	\$99.96	\$99.96
060421	700	AMERITEL CORP	47702	\$979.00	\$0.00	\$979.00
060422	413	APPLE VALLEY OFF.PRODUCT	47645	\$799.00	\$0.00	\$799.00
060422	413	APPLE VALLEY OFF.PRODUCT	47646	\$34.00	\$0.00	\$34.00
060423	716	BRIGGS WELD & RAD REPAIR	47872	\$6.88	\$0.00	\$6.88
060424	440	REBECCA F. BURNS		\$0.00	\$7.00	\$7.00
060425	701	BATTERY MART	47697	\$23.66	\$0.00	\$23.66
060426	PAYROLL	BUREAU FOR CHILD SUPPORT		\$0.00	\$72.00	\$72.00

060427	439	B-K OFFICE SUPPLY INC	47364	\$190.00	\$0.00	\$190.00
060428	424	BOLAND SERVICES	47288	\$270.00	\$0.00	\$270.00
060428	425	BOLAND SERVICES	47288	\$871.00	\$0.00	\$871.00
060429	PAYROLL	BUREAU F/CHILD SUPPORT		\$0.00	\$49.85	\$49.85
060430	PAYROLL	BUREAU F/CHILD SPPRT ENF		\$0.00	\$212.31	\$212.31
060431	PAYROLL	BUREAU OF CHILD SUPPORT		\$0.00	\$576.92	\$576.92
060432	424	CREAMERS AUTO SERVICE	47866	\$113.68	\$0.00	\$113.68
060433	413	CHARLES TOWN COPYING	47663	\$338.58	\$0.00	\$338.58
060434	PAYROLL	CHILD SUPPORT ENFORCE AG		\$0.00	\$27.69	\$27.69
060435	700	CARS/COMPLETE AUTO REPAI	47865	\$741.67	\$0.00	\$741.67
060436	PAYROLL	COLONIAL LIFE		\$0.00	\$1,529.82	\$1,529.82
060437	403	DAYTON LEGAL BLANK	47495	\$361.29	\$0.00	\$361.29
060438	433	ESRI	47902	\$4,725.00	\$0.00	\$4,725.00
060439	439	EXPLORE MAPS	47363	\$64.90	\$0.00	\$64.90
060440	701	EMERGENCY EQUIP	47694	\$1,034.50	\$0.00	\$1,034.50
060441	401	FEDEX		\$0.00	\$24.12	\$24.12
060442	412	FRONTIER		\$0.00	\$421.46	\$421.46
060442	415	FRONTIER		\$0.00	\$339.03	\$339.03
060442	424	FRONTIER		\$0.00	\$16,041.24	\$16,041.24
060442	712	FRONTIER		\$0.00	\$1,166.82	\$1,166.82
060443	700	GALLS,AN ARAMARK CO	47058	\$2,465.40	\$0.00	\$2,465.40
060443	701	GALLS,AN ARAMARK CO	47058	\$355.87	\$0.00	\$355.87
060444	415	GENERAL COUNTY FUND-J FE		\$0.00	\$15,404.95	\$15,404.95
060445	440	ROGER GOODWIN		\$0.00	\$64.90	\$64.90
060446	413	STEPHANIE GROVE		\$0.00	\$8.25	\$8.25
060447	406	GUTTMAN OIL CO		\$0.00	\$63.66	\$63.66
060447	424	GUTTMAN OIL CO		\$0.00	\$890.74	\$890.74
060447	440	GUTTMAN OIL CO		\$0.00	\$388.49	\$388.49
060447	700	GUTTMAN OIL CO		\$0.00	\$7,284.97	\$7,284.97
060447	711	GUTTMAN OIL CO		\$0.00	\$137.35	\$137.35
060447	712	GUTTMAN OIL CO		\$0.00	\$430.78	\$430.78
060447	716	GUTTMAN OIL CO		\$0.00	\$564.54	\$564.54
060448	712	DALE HETHERINGTON		\$0.00	\$120.00	\$120.00
060449	700	I-NATIONAL POLYGRAPH	47059	\$200.00	\$0.00	\$200.00
060450	440	INTERNAT'L CODE COUNCIL	47102	\$100.00	\$0.00	\$100.00
060451	PAYROLL	ING NATIONAL TRUST		\$0.00	\$660.00	\$660.00
060452	413	JEFF CO PUBLIC SER DEPT		\$0.00	\$27.40	\$27.40
060452	425	JEFF CO PUBLIC SER DEPT		\$0.00	\$55.24	\$55.24
060453	700	JEFFERSON CO HEALTH DEPT	47698	\$75.00	\$0.00	\$75.00
060454	402	JEFFERSON PUBLISH CO INC	47758	\$369.00	\$0.00	\$369.00
060454	413	JEFFERSON PUBLISH CO INC	47666	\$121.92	\$0.00	\$121.92
060454	401	JEFFERSON PUBLISH CO INC		\$0.00	\$81.16	\$81.16
060455	413	JEFFERSON UTILITIES INC		\$0.00	\$20.12	\$20.12
060455	425	JEFFERSON UTILITIES INC		\$0.00	\$261.61	\$261.61
060456	712	DR ROBERT JONES		\$0.00	\$1,000.00	\$1,000.00
060457	701	K9 GUARDIAN, INC	47695	\$2,112.00	\$0.00	\$2,112.00
060458	712	KATHRYN KING		\$0.00	\$120.00	\$120.00
060459	700	LAW ENFORCEMENT SYS INC	47700	\$81.00	\$0.00	\$81.00

060460	712	LANGUAGE LINE SERVICES		\$0.00	\$166.15	\$166.15
060461	712	SARAH LANNING		\$0.00	\$120.00	\$120.00
060462	424	HOME DEPOT CREDIT SERVIC		\$0.00	\$69.18	\$69.18
060462	425	HOME DEPOT CREDIT SERVIC		\$0.00	\$29.28	\$29.28
060462	425	HOME DEPOT CREDIT SERVIC		\$0.00	\$101.96	\$101.96
060463	413	JENNIFER S. MAGHAN		\$0.00	\$28.60	\$28.60
060464	405	JENNIFER E. MAY-SANNER		\$0.00	\$42.90	\$42.90
060465	440	MICHAEL MONAGHAN		\$0.00	\$99.00	\$99.00
060466	PAYROLL	MD CHILD SUPPORT		\$0.00	\$18.46	\$18.46
060467	PAYROLL	NATIONWIDE RETIREMENT		\$0.00	\$735.21	\$735.21
060468	425	NICK'S APPLIANCE REPAIR	47864	\$75.00	\$0.00	\$75.00
060469	ALLOC	JEFF CO PARKS &		\$0.00	\$18,842.60	\$18,842.60
060470	402	PIFER OFFICE SUPPLY, INC	47743	\$27.09	\$0.00	\$27.09
060471	403	LAURA RATTENNI	47497	\$92.61	\$0.00	\$92.61
060472	413	SHEP-TOWN CHRONICLE	47664	\$111.32	\$0.00	\$111.32
060473	402	SOFTWARE SYSTEMS, INC	47757	\$245.00	\$0.00	\$245.00
060474	405	SPECIALTY BUS SUPPLIES	47437	\$653.38	\$0.00	\$653.38
060474	978	SPECIALTY BUS SUPPLIES	47437	\$265.57	\$0.00	\$265.57
060475	700	SUPERIOR AUTO BODY	47060	\$4,550.17	\$0.00	\$4,550.17
060476	424	SPRINT		\$0.00	\$91.39	\$91.39
060476	712	SPRINT		\$0.00	\$1,717.66	\$1,717.66
060477	700	DANA SAFETY SUPPLY INC.	47691	\$129.12	\$0.00	\$129.12
060478	424	SHANNON BUSINESS SYS		\$0.00	\$541.82	\$541.82
060479	700	SHI INTERNATIONAL CORP	47699	\$2,755.60	\$0.00	\$2,755.60
060480	424	THOMASSEN FORD MERCURY	47867	\$48.92	\$0.00	\$48.92
060481	PAYROLL	TREASURER OF VIRGINIA		\$0.00	\$161.51	\$161.51
060482	425	HAGEMEYER	47824	\$1,579.08	\$0.00	\$1,579.08
060483	401	TIGER DIRECT	46790	\$259.45	\$0.00	\$259.45
060484	433	URISA/URBAN REG INFO SYS	47901	\$175.00	\$0.00	\$175.00
060485	711	UNITED BANKCARD CENTER	47183	\$984.74	\$0.00	\$984.74
060485	401	UNITED BANKCARD CENTER		\$0.00	\$395.00	\$395.00
060485	402	UNITED BANKCARD CENTER		\$0.00	\$614.12	\$614.12
060485	402	UNITED BANKCARD CENTER		\$0.00	\$29.95	\$29.95
060485	422	UNITED BANKCARD CENTER		\$0.00	\$353.46	\$353.46
060485	422	UNITED BANKCARD CENTER		\$0.00	\$39.97	\$39.97
060485	433	UNITED BANKCARD CENTER		\$0.00	\$94.44	\$94.44
060485	439	UNITED BANKCARD CENTER		\$0.00	\$92.98	\$92.98
060485	440	UNITED BANKCARD CENTER		\$0.00	\$60.00	\$60.00
060485	440	UNITED BANKCARD CENTER		\$0.00	\$50.86	\$50.86
060485	440	UNITED BANKCARD CENTER		\$0.00	\$196.05	\$196.05
060485	440	UNITED BANKCARD CENTER		\$0.00	\$324.75	\$324.75
060485	700	UNITED BANKCARD CENTER		\$0.00	\$31.21	\$31.21
060485	700	UNITED BANKCARD CENTER		\$0.00	\$81.50	\$81.50
060485	700	UNITED BANKCARD CENTER		\$0.00	\$59.45	\$59.45
060485	700	UNITED BANKCARD CENTER		\$0.00	\$491.75	\$491.75
060485	700	UNITED BANKCARD CENTER		\$0.00	\$19.35	\$19.35
060485	711	UNITED BANKCARD CENTER		\$0.00	\$214.79	\$214.79
060485	712	UNITED BANKCARD CENTER		\$0.00	\$165.79	\$165.79

060485	712	UNITED BANKCARD CENTER		\$0.00	\$11.66	\$11.66
060485	712	UNITED BANKCARD CENTER		\$0.00	\$228.58	\$228.58
060485	712	UNITED BANKCARD CENTER		\$0.00	\$178.80	\$178.80
060485	716	UNITED BANKCARD CENTER		\$0.00	\$460.70	\$460.70
060486	425	VALLEY HARDWARE CO	47823	\$26.32	\$0.00	\$26.32
060487	700	VALLEY TWO-WAY, INC	47701	\$1,106.45	\$0.00	\$1,106.45
060487	712	VALLEY TWO-WAY, INC	45503	\$275.00	\$0.00	\$275.00
060487	712	VALLEY TWO-WAY, INC	47129	\$125.00	\$0.00	\$125.00
060487	712	VALLEY TWO-WAY, INC	47766	\$37.50	\$0.00	\$37.50
060488	ALLOC	JEFFERSON CO CONVENTION		\$0.00	\$22,431.66	\$22,431.66
060489	701	VITAL SIGNS	47696	\$295.00	\$0.00	\$295.00
060489	716	VITAL SIGNS	47332	\$250.00	\$0.00	\$250.00
060490	712	WV STATE POLICE ACCT OFC	47774	\$6.50	\$0.00	\$6.50
060491	989	WVU	46942	\$2,179.40	\$0.00	\$2,179.40
060492	701	WEST VIRGINIA UNIFORM-52	47692	\$249.96	\$0.00	\$249.96
060493	424	WALMART BUSINESS		\$0.00	\$5.94	\$5.94
060493	716	WALMART BUSINESS		\$0.00	\$115.97	\$115.97
060494	PAYROLL	WV CPRB/LOAN DIVISION		\$0.00	\$166.50	\$166.50
060495	PAYROLL	WV CPRB/LOAN DIVISION		\$0.00	\$133.20	\$133.20
060496	700	WV SIGNAL & LIGHT, INC.	47693	\$1,073.00	\$0.00	\$1,073.00
060497	712	ADAM WATSON		\$0.00	\$120.00	\$120.00
060498	413	JEAN L ROBERTS		\$0.00	\$6.60	\$6.60
060499	413	JAMES EDDY		\$0.00	\$13.20	\$13.20
060500	413	CHARLES HENRY		\$0.00	\$2.75	\$2.75
060501	413	NANCY JO UPWRIGHT		\$0.00	\$6.60	\$6.60
060501	413	NANCY JO UPWRIGHT		\$0.00	\$12.10	\$12.10
060502	413	NORA DRISH		\$0.00	\$24.75	\$24.75
060503	413	MARY R. RING		\$0.00	\$22.00	\$22.00
060504	413	PAUL WILT		\$0.00	\$15.40	\$15.40
060505	413	VIVIAN HENRY		\$0.00	\$6.60	\$6.60
060506	413	GARY HENRY		\$0.00	\$5.50	\$5.50
060507	413	CATHRYN JACKSON		\$0.00	\$7.70	\$7.70
060508	413	PATRICIA BLEVINS		\$0.00	\$34.10	\$34.10
060509	413	VIRGINIA M. KEENEY		\$0.00	\$24.20	\$24.20
060510	413	ANITA FLESHMAN		\$0.00	\$26.40	\$26.40
060511	413	ROBERT GRAF SR.		\$0.00	\$24.20	\$24.20
060512	413	ELIZABETH COYLE		\$0.00	\$22.00	\$22.00
060513	413	MELINDA MAYE		\$0.00	\$22.00	\$22.00
060514	413	NANCE BRISCOE		\$0.00	\$6.60	\$6.60
060515	413	JEFF BRESEE		\$0.00	\$20.35	\$20.35
060516	413	REBECCA JONES		\$0.00	\$11.00	\$11.00
060517	413	CHRISTINE WOLF		\$0.00	\$14.85	\$14.85
060518	413	DEVON ENGLE		\$0.00	\$19.80	\$19.80
060519	413	DEBRA CORNWELL		\$0.00	\$29.70	\$29.70
060520	413	RONDA LEHMAN		\$0.00	\$24.75	\$24.75
060521	413	DEBORAH LONGO		\$0.00	\$25.85	\$25.85
060522	413	KIM HOTALING		\$0.00	\$18.70	\$18.70
060523	413	LAUREN JONES		\$0.00	\$15.40	\$15.40

060524	413	NANCY SCHAFFER		\$0.00	\$13.75	\$13.75
060525	413	JENNIFER SCHULTZ		\$0.00	\$22.55	\$22.55
<b>TOTAL</b>				<b>\$34,892.79</b>	<b>\$103,885.24</b>	<b>\$138,778.03</b>

**In re: PUBLIC COMMENT**

Lori Robertson, Recorder for the City of Shepherdstown reported on a city grant application for a bike trail in Shepherdstown.

Ms. Robertson requested the County Commission consider allocating \$38,000.00 to complete the trail.

Unanimous consent was given to move this item to an agenda item.

**In re: LORI ROBERTSON – SHEPHERDSTOWN BIKE TRAIL**

Lori Robertson, Recorder for the City of Shepherdstown requested time on the January 7, 2010 agenda to bring forth a formal presentation of the Bike Trail and request for funds.

**In re: PUBLIC COMMENT CONTINUED**

Ed Burns, Chairman of Citizens for a Better Government requested postponement of the Adoption of Subdivision and Land Development Regulation Amendments proposed in October 2008 until it has been brought back before the public since it has been over a year ago that changes were made.

Mark Schiavone, Coordinator of Capital Planning and Management reported that the JUI Mountain Water study website is up and running. The web address is [jui-psdmountainwaterproject.com](http://jui-psdmountainwaterproject.com)

**In re: CERTIFICATION OF TABLE GAMES ELECTION RESULTS**

Motion by Noland, second by Morgan to approve certification of the Table Games Referendum results as provided by the County Clerk. Motion carried.

**In re: BONDING AND ACTIVITY REPORT REQUEST EXTENSION TO THE BONDING AGREEMENT FOR THE PRESERVE AT BARLEYWOOD – WILLIAM H. GORDON ASSOCIATES, INC. – DRAFT AMENDMENT TO THE BONDING POLICY – DISCUSSION/ACTION**

Upon recommendation from Roger Goodwin, Chief County Engineer the Commission voted on the following bonding:

Motion by Morgan, second by Manuel to approve the complete release of a letter of credit for Michael M. Johnson – Blue Ridge Mini Storage, Building II in the amount of \$9,470.00. Motion carried.

Motion by Morgan, second by Manuel to approve the complete release of a letter of credit for Michael M. Johnson – Blue Ridge Storage, Building III in the amount of \$35,182.00. Motion Carried.

Motion by Manuel, second by Noland to approve the partial release of a letter of credit for George R. and Eda Enos – Anglers Ridge Subdivision in the amount of \$13,645.00, with the County to retain \$7,108.00. Motion carried.

Motion by Morgan, second by Widmyer to approve the partial release of a letter of credit for Bakerton Fire Department, Inc – Bakerton Fire Department in the amount of \$5,148.00, with the County to retain \$16,988.00. Motion carried.

**In re: ADOPTION OF SUBDIVISION AND LAND DEVELOPMENT REGULATIONS AMENDMENTS PROPOSED IN OCTOBER 2008 - WILLIAM H. GORDON ASSOCIATES, INC. – DRAFT AMENDMENT TO THE BONDING POLICY – DISCUSSION/ACTION**

Larry Rosenberg of William H. Gordon Associates, Inc. requested the Commission consider adopting amendments to the Bonding Policy. These amendments would provide developers of platted subdivisions an alternative approach to assuring amenities are completed.

Mr. Goodwin reported on the Bonding Committee's review of the Bonding Policy.

By unanimous consent of the Commissioners, Kirk Davis, Sr. was added to the Bonding

Committee.

Jennifer Brockman, Planning & Zoning Director shared her opinions on the language and the effects the Bonding Policy would have on the public.

Ms. Brockman reported on the minor changes to the Subdivision and Land Development Regulations Amendments proposed in October 2008.

Unanimous decision to rollover action on the Subdivision and Land Development Regulations Amendments until after first of the year was given

Ms. Brockman reported on Dalb, Inc. pending expansion project, noting staff was working with them to expand their operations.

**In re: REQUEST EXTENSION TO THE BONDING AGREEMENT FOR THE PRESERVE AT BARLEYWOOD**  
Motion by Manuel, second by Morgan to grant an extension to the Bonding Agreement for the Preserve at Barleywood, based upon recommendation from Roger Goodwin, Chief County Engineer. Motion carried.

**In re: WALTER WASHINGTON COUNSEL FOR HOME HILL CORPORATION – RELEASE OF REMAINING BALANCE OF BOND FOR NORTH HILL SUBDIVISION – DISCUSSION/ACTION**

Walter Washington, Counsel for Home Hill Subdivision reported on the need for an extension of the Construction Bond.

Motion by Morgan, second by Noland to approve a six month extension of the Construction Bond for the Home Hill Corporation, as recommended by staff. Motion carried.

**In re: ED DUNLEAVY – SHEPHERDSTOWN BATTLEFIELD PRESERVATION ASSOCIATION, INC. – REQUEST APPROVAL OF A 2010 TRANSPORTATION ENHANCEMENT GRANT APPLICATION**

Ed Dunleavy, President of Shepherdstown Battlefield Preservation Association Inc. reported on the application of the 2010 Transportation Enhancement Grant in the amount of \$250,000.

Motion by Morgan, second by Manuel to approve an application for a Transportation Enhancement Grant and authorize signature of the President. Motion carried 4-1. Commissioner Noland voted no.

Commissioner Widmyer noted that she would like to thank Mr. Dunleavy for his years of service on the Planning Commission.

**In re: STEPHANIE GROVE – LEGAL UPDATE AND REPORT**

Stephanie Grove, Assistant Prosecuting Attorney distribute her to do list, which included preparation of court briefs and that she is working on reviewing documents for Farmland Protection.

Ms. Grove reported on a pending issue with the Development Authority and a water bottling plant, named Haji that wants to open in the industrial park. The company wants to drill a well and sell the bottled water.

Thomas Bayuzik, Development Authority Director, appeared before the Commission to report on the additional jobs Haji would provide the county and about the income for renting space in the Industrial Park.

Amy Jones, Director of the Jefferson County Health Department reported that the Jefferson County Health Department Board voted 5-0 no to the proposal.

**The Commission took a 15-minute break at 11:10 a.m.**

**In re: JENNIFER S. MAGHAN - COUNTY CLERK'S REPORT**

Jennifer S. Maghan, County Clerk reported on the final election results from the Table Games Referendum. The results were 6,338 yes votes and 4,377 no votes.

Ms. Maghan reported on the BB&T reduction of collateral letter that needs signing in order to be released.

Motion by Morgan, second by Noland to authorize the president's signature on the BB&T release of collateral. Motion carried.

**In re: LEGISLATIVE ISSUES**

Commissioner Manuel reported that the delegation will be present on January 7, 2010 at 1:30 p.m.

Commissioner Manuel reported that a delegation from Culture and History will be coming January 7, 2010 at 1:30 p.m. with a display regarding the delineation of the Virginia/West Virginia line.

**In re: KIRK DAVIS, SR., CAPITAL PROJECTS MANAGER – GRANT UPDATES – APPROVAL OF RFP'S – DISCUSSION/ACTION – HVAC – HISTORIC COURTHOUSE – HISTORIC COURTHOUSE EXTERIOR**

Kirk Davis, Sr., Capital Project Manager reported on grant transfer of State Criminal Alien Assistance Program funds for the Sheriff's Department training.

Mr. Davis reported on the Energy Grants.

Mr. Davis requested a release of the RFP for the HVAC system.

Motion by Morgan, seconded by Noland to release the RFP on the HVAC systems subject to legal review. Motion carried.

Mr. Davis reported on the Historic Courthouse Grant.

Motion by Manuel, second by Noland to continue to move forward with the RFP for the Historic Structures Report for the Courthouse. Motion carried.

Mr. Davis reported on the Chesapeake Bay Settlement Control Grants that are available.

Commissioner Widmyer stated she would like to see Mr. Goodwin and Mr. Davis work together on this grant application.

Mr. Davis reported on the approval Shepherdstown Battlefield Extension and the alternative site.

Motion by Morgan, second by Manuel to bring the matter of the RFP for the Jefferson County Parks and Recreation back before the Commission. Motion Carried.

Motion by Morgan, second by Noland to authorize Mr. Davis to work with the Jefferson County Parks and Recreation Commission and Staff to develop an RFP for the potential acquisition and negotiations of the Bolklers Cement Knowles properties for Parks and Recreation purposes. Motion carried.

Mr. Davis reported on the possibility of adding 5,000 to 6,000sq ft of storage space.

Mr. Davis reported on the possibility of having the John Brown Museum on the 1<sup>st</sup> floor of the Courthouse.

Mr. Davis reported on the Economic Recovery Bonds.

**In re: JEFFERSON COUNTY HEALTH DEPARTMENT – REQUEST FOR CHRISTMAS BONUSES FOR HEALTH DEPARTMENT EMPLOYEES – DISCUSSION/ACTION**

Commissioner Morgan stated she would like to extend a bonus to all employees who did not receive longevity pay.

Amy Jones, Director of the Jefferson County Health Department requested that the Health Department employees receive a bonus from the County.

Commissioner Noland noted that the Health Department is not operated by the County and that they are not County employees.

Unanimous consent to defer action until legal counsel, finance department and staff can analyze the budget impacts.

**In re: MARK SCHIAVONE – BUDGET UPDATES**

Mark Schiavone, Coordinator of Capital Planning and Management reported on the revenues and expenditures for 2009 verses 2008.

**In re: JEFFERSON COUNTY COMPENSATION AND CLASSIFICATION STUDY – LONGEVITY FOR PART-TIME EMPLOYEES – DISCUSSION/ACTION**

Motion by Widmyer, second by Morgan to approve the part-time longevity pay based on the criteria of working more than one-quarter time in the past 2 years at a rate of \$100.00 per year of service as recommended by staff. Motion passed 4-1. Commissioner Surkamp voted no.

**In re: AGENDA FOR COUNCIL OF GOVERNMENTS MEETING – JANUARY 27, 2010 – DISCUSSION/ACTION**

Commissioner Morgan, will not be attending the meeting as she is scheduled to be in Romney.

Commissioner Widmyer stated she would like to see greater definition of the group.

Commissioner Surkamp suggested the topics on Urban Growth Boundaries and the Census.

Commissioner Widmyer would like to discuss the Hagerstown Eastern Panhandle Metropolitan Planning Organization long range transportation study.

Commissioner Manuel reported on the opening of dual lanes on Route 340 to Route 7.

Commissioner Manuel reported that he would like to discuss the cooperative efforts with Jefferson County Parks and Recreation.

Commissioner Surkamp reported he would like to have Lori Robertson to discuss the Bike Trail.

Commissioner Widmyer suggested a name change to Jefferson County Roundtable.

**In re: DEBBIE ROYALTY – REQUEST FOR USE OF COUNTY MEETING ROOM FOR PATH MEETINGS**

Motion by Surkamp, second by Manuel to approve the use of the County Meeting room for PATH meetings. Motion carried.

Commissioner Noland expressed concerns about outside agencies using the meeting room and the liability to the county in the event of injuries or accident during those meetings and that those agencies be required to sign an agreement releasing the county of any liability prior to using the meeting room.

**In re: ESTABLISH POLICY GUIDELINES FOR AGENCIES THAT REQUEST FUNDING FROM THE COUNTY COMMISSION DURING THE BUDGET HEARINGS FOR FISCAL YEAR 2011 AND THEREAFTER – DISCUSSION /ACTION**

Commissioner Noland reported that she contacted other racetrack counties to determine what guidelines they use to fund outside agencies and requested that this commission establish similar guidelines prior to 2010 budget deliberations.

The Commission asked that Mark Schiavone would send emails and letters to all outside agencies requesting funds which will include a draft of the criteria that will possibly be used in the budget process.

**In re: JEFFERSON COUNTY HEALTH DEPARTMENT – REQUEST FOR CHRISTMAS BONUSES FOR HEALTH DEPARTMENT EMPLOYEES – DISCUSSION /ACTION CONTINUED**

Mark Schiavone, Coordinator of Capital Planning and Management reported that Sally Gran, Payroll officer is out today and will return on Friday.

Motion by Widmyer, second by Noland to retain \$27,000.00 in the Salary Equity Account and to discuss its distribution after January 7, 2010. Motion carried.

**In re: COMMENDATION FOR BOY SCOUT ERIC J**

Commissioner Manuel commended Boy Scout Erik J for his thoughtful letter on the Table Games Referendum.

**In re: COUNTY ADMINISTRATOR REPORTS**

Sandy Slusher McDonald, Interim County Administrator reported that two invitations for the Citizen's and Independent Fire Company's have been received.  
Ms. McDonald reported on the Grant for Conservation.  
Commissioner Surkamp thanked Ms. McDonald for helping during this transition.

**In re: COUNTY COMMISSION REPORTS**

Commissioner Noland reported that that Farmers Market Committee meeting was postponed.  
Commissioner Noland reported that she enjoyed the Holiday Party and thanked staff for their efforts.  
Commissioner Noland reported that there still has been no word on whether Jefferson County is to receive stimulus money for the Partnership for Affordable Housing.  
Commissioner Widmyer thanked staff for a nice Holiday Party.  
Commissioner Widmyer reported she attended a meeting on long range transportation plan.  
Commissioner Widmyer reported that she completed the Jingle Bell 2 mile run.  
Commissioner Widmyer reported on the Hite Road ball field plan.  
Commissioner Widmyer reported on the commemoration of the hanging of four of John Brown's conspirators' and that there will be one more hanging in March 2010.  
Commissioner Manuel reported on a Safety and Security meeting.  
Commissioner Manuel reported on the status of hiring a new director with Emergency Services.  
Commissioner Manuel reported on the Jefferson County Council on Aging.  
Commissioner Surkamp reported on the Board of Health meeting.  
Commissioner Surkamp reported on the meeting with the PSD and Glen Haven residents on the capacity of water.  
Commissioner Surkamp reported on the African American History meeting.  
Commissioner Noland reported that the Partnership for Affordable Housing money is forthcoming.

**The Commission received the following information:**

Reminder that County offices will be closed December 24<sup>th</sup>, December 25<sup>th</sup> will close at noon on December 31<sup>st</sup> and closed on January 1<sup>st</sup>, 2010.

Reminder the Commission will not meet on Thursday, December 24<sup>th</sup> and Thursday, December 31<sup>st</sup>.

Memorandum received from Roger Goodwin concerning bonding for Cambridge Manufactured Home Development.

Memorandum received from the Department of Capital Planning and Management concerning the closure of their office on December 22, 2009, from 12:00 p.m. to 2:00 p.m.

Animal Control report received for November 2009.

Copy of correspondence sent to Jeffrey Polczynski from Nikki Painter recognizing the addressing office for their assistance with voter registration records.

Correspondence received from FEMA concerning the Flood Plain Management Ordinance.

Correspondence received from the Kanawha County Commission concerning mammograms and cervical cancer testing for women.

Information received from the County Commissioners' Association concerning the legislative association meeting and education training on January 31, 2010 - February 2, 2010.

Correspondence received from Comcast concerning rate changes.

E-911 fees received.

West Virginia Ethics Reporter received for November 2009.

Potomac Valley Audubon Society newsletter received.

Weekly settlement report for the Charles Town Races received from the West Virginia Lottery.

Copy of a newspaper article concerning tax legislation received from the Association of Counties.

Miscellaneous

**The Commission received the following correspondence:**

Correspondence received from James A. Walker concerning the mountain water system replacement project.

Correspondence received from Anthony L. Hose concerning the Water Advisory Committee meeting.

Correspondence received from Gil N. Garcia concerning the addition of a staff person to the Planning Department.

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

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PRESIDENT

# 1. C

ASSIGNMENT TO BOARDS, COMMISSIONS & ORGANIZATIONS  
FOR CALENDAR YEAR 2010

ORGANIZATION:	2009:	2010:
Approval of Bills	Noland	
Board of Health	Surkamp/Manuel	
Building Repair	Manuel/Widmyer	
Community Corrections Committee	Morgan	
Development Authority	Manuel	
Fire/Ambulance/Rescue	Manuel/Noland	
Local Emergency Planning Committee	Surkamp/Manuel	
Emergency Services Council	F. Morgan	
E-911 Council	Surkamp	
Extension Service	Noland	
Farmland Preservation Board	Morgan	
Historic Landmarks	Morgan	
Jefferson County Convention & Visitors Bureau		
Legislative Liaison	Noland/Manuel	
Mental Health Center	Prosecuting Attorney	
<u>MPO Interstate Council</u>	Widmyer	
Parks & Recreation	Manuel/Widmyer	
Planning Commission	Surkamp	
Public Service District Liaison	Widmyer	
Region 9	Widmyer	
Solid Waste Authority	Widmyer/R. Morgan	
Workforce Investment Act Liaison	Morgan	
Commerce Corridor Council	Widmyer/Manuel	
Homeland Security	Surkamp/Manuel	
Water Advisory Committee	Noland/Widmyer	
Affordable Housing	Manuel/Noland	
Air Quality Control Board	Widmyer/Surkamp	

Appointments



Rec'd  
12/10/09  
DMM

37 Washington Court, Harpers Ferry, WV 25425 • 304.535.2627 • 866.HELLO-WV • fax 304.535.2131 • email: visitors@hello-wv.com

Revised Bylaw  
December 1, 2009

### Article I – General

#### Section 1 – Name

This organization is incorporated under the laws of West Virginia and the name for day-to-day operations shall be known as the Jefferson County Convention and Visitors Bureau of the Jefferson County CVB. The official incorporated name of the organization is Visitor's Bureau for the Promotion of Tourism in Jefferson County, Inc.

#### Section 2 – Purpose

The purposes for which the corporation is organized are:

- a. To promote tourism and to attract conventions, conferences and visitors to Jefferson County West Virginia.
- b. To exercise all rights and powers conferred by the laws of the State of West Virginia upon non-profit corporations including, without limiting the foregoing, to acquire, by bequest, gift, purchase, lease or otherwise, any property of any sort or nature, without limitation as to its amount or value, and to hold, invest, reinvest, manage, use, apply, employ, sell, expand, disburse, lease, mortgage, convey, option, donate or otherwise dispose of such property and the income, principal and proceeds of such property, for any purpose set forth herein.
- c. To do such other things as are incidental to the purpose of the Corporation or necessary or desirable in order to accomplish them.

#### Section 3 – Limitations of Methods

- a. The Jefferson County CVB shall observe all the local, state and federal laws which apply to non-profit organizations as defined in section 501c6 of the Internal Revenue Code.
- b. The Jefferson County CVB shall be non-profit, non-partisan and non-sectarian.
- c. There shall be no discrimination in the operation of the organization because of race, religion, or sex.

#### Section 4 – Legal Powers

The Board of Directors shall have the power to purchase, hold, sell, lease or mortgage real estate; to incur debt, to borrow money and to enter into contracts of any kind furthering the purposes of

the Jefferson County CVB; and to exercise any and all power permitted and granted by the laws of the state of West Virginia and/or corporations organized for non-profit.

## Article II – Board of Directors

### Section 1 – Composition of the Board

The government of the corporation and the direction of its work shall be vested in the Board of Directors consisting of representatives from any room tax paying establishments whose room tax contributes to the revenues of the Jefferson County CVB. The government sector consisting of the county and any municipality which collects room tax from lodging businesses and pays it to the Jefferson County CVB are encouraged and requested to send an elected official or duly appointed representative to serve as a voting director on the Board. In addition, up to five (5) “at large” directors from the non-lodging community may be selected by the room-tax generating directors and will serve three (3) year terms. The Executive Director shall be a non-voting member of the Board.

### Section 2 – Policy

The Board of Directors shall have the power to formulate and adopt policies for conducting the operations of the Jefferson County CVB. These policies shall be implemented by the Executive Director.

### Section 3 – Quorums/Voting

Each Director shall have one vote except for the President and the Executive Director. A majority of votes is needed to pass a motion. In case of a tie, the President shall make the deciding vote. At least 5 (five) Directors are needed for a quorum.

## Article III – Officers

### Section 1 – Executive Committee

The Officers of the Board of Directors plus the Executive Director shall make up the Executive Committee and shall be a standing committee. It shall act for and on behalf of the Board of Directors when the Board is not in session, but shall be accountable to the Board for its actions. The Officers shall include: President, 1<sup>st</sup> Vice-President, 2<sup>nd</sup> Vice-President, Secretary and Treasurer. The terms of each office shall be three years. Officers may serve more than one term at the pleasure of the Board of Directors.

### Section 2 – Election of Officers

The Board of Directors at its annual meeting shall elect officers and reorganize for the upcoming year. At this meeting, the Board shall elect a President, 1<sup>st</sup> Vice-President, 2<sup>nd</sup> Vice-President, Secretary and Treasurer.

### Section 3 – Duties of the Officers

- a. President The President shall preside at all meetings of the Board of Directors, the Executive Committee, as well as any other meetings determined by the Board. He/she shall perform other duties incumbent to this office. He/she shall appoint all committees subject to the approval of the Board of Directors.
- b. 1<sup>st</sup> Vice-President The 1<sup>st</sup> Vice-President shall exercise the powers and authority and perform the duties of the President in his/her absence or disability.

- c. 2<sup>nd</sup> Vice-President The 2<sup>nd</sup> Vice-President shall exercise the duties of the Secretary of Treasurer in their absence or disability. In addition, the 2<sup>nd</sup> Vice-President will perform the duties of the President in the absence or disability of both the President and the 1<sup>st</sup> Vice-President.
- d. Treasurer The Treasurer shall be responsible for overseeing and safeguarding all the funds received by the Jefferson County CVB and for their proper disbursement. Such funds shall be kept on deposit in financial institutions, or invested in a manner approved by the Board of Directors.
- e. Secretary The Secretary shall maintain an accurate record of all the proceedings of the Board of Directors meetings and see that a copy of the minutes are on file with the Executive Director.
- f. Executive Director The Executive Director shall be the chief administrative officers of the Jefferson County CVB. Board policies shall be carried out by the Executive Director. The Executive Director has the responsibility and accountability for the development and implementation of effective promotion and marketing of tourism.
- g. Other duties of the Executive Director include executing and operating within a budget, facilitating community relations, writing and administering grants, as well as overseeing human resource duties.

#### Article IV – Meetings

##### Section 1 – Board of Directors meetings

- a. Notice of this meeting shall be sent 7 (seven ) days in advance by fax or e-mail.
- b. At least four Board of Directors meetings and one general tourism meeting and reception for all tourism partners and Board of Directors shall be scheduled each calendar year. Time and place shall be fixed by the Board of Directors.
- c. Agendas for the meetings shall be prepared for all meetings when appropriate.
- d. Additional Board meetings may be scheduled by the Board of Directors.
- e. Special meetings may be called by the President or the Board of Directors.

#### Article V – Finances

##### Section 1 – Fiscal Year

The fiscal year of the Jefferson County CVB shall run from January 1 to December 31.

##### Section 2—Audits

Audits shall be conducted as required by the State of West Virginia. A complete corporate audit or review will be conducted at least every 4 (four) years.

##### Section 3 – Funds

All money paid to the Jefferson County VB shall be placed in a general operating, capital improvement or reserve fund.

##### Section 4 – Disbursements

- a. Upon approval of the budget, the Executive Director is authorized to make disbursements on accounts and expenses provided for in the budget without additional approval from the Board of Directors. Disbursements shall be by check.
- b. Checks shall be signed by one Director from the Executive Committee.

## Article VI – Committees

### Section 1 –

The Board of Directors shall authorize and define the powers and duties of all committees.

### Section 2 –

The President shall appoint all committees, subject to the approval of the Board of Directors.

### Section 3 –

It shall be the function of the Committees to investigate and make recommendations. No Committee, standing or special, shall have power to commit the Jefferson County CVB on any matter of general policy. It is the intent of this action to provide that Committees shall have the authority to decide matters of interest to such Committees only, and will recommend to the Board of Directors for decision on all matters affecting the community or the Jefferson County CVB as a whole. Meetings of Committees shall be called by the President or the Chairman of the Committee. In the event any Committee fails to discharge the duties assigned to it with reasonable promptness, such Committee may be discharged by the Executive Board, who shall report his/her action to the Board of Directors, and thereupon appoint a new Committee.

## Article VII – Parliamentary Procedure

All questions of parliamentary procedure shall be determined by Roberts Ruels of Order.

## Article VIII – Amendments

These By-laws may be amended by a two-thirds vote of those present at any Board of Directors meeting, provided notice of the proposed change shall have been given to all members not less than 7 (seven) days prior to such meeting.

## Article IX – Dissolution

The Corporation shall use its funds solely for the purpose of accomplishing the objectives and purposes specified in these By-laws, and no part of the said funds shall insure or be distributed to the members of the Jefferson County CVB. In the event of dissolution of the Corporation, any funds remaining on hand shall be distributed to one or more charitable organizations as directed by the Broad of Directors/

#4

**NOTICE OF PUBLIC HEARING  
COUNTY COMMISSION OF JEFFERSON COUNTY  
AMENDMENTS TO THE E9-1-1 ADDRESSING ORDINANCE**

The County Commission of Jefferson County will hold a public hearing concerning Amendments to the E9-1-1 Addressing Ordinance on Thursday, January 7, 2010 at 10:00 a.m. in the Old Charles Town Library meeting room 200 East Washington Street, Charles Town, West Virginia. At this hearing the Commission will receive public comment concerning amendments to the E9-1-1 Addressing Ordinance.

Anyone wishing to provide written or oral comment may do so at this meeting. A copy of the proposed ordinance may be obtained at the offices of the County Commission of Jefferson County, 124 E. Washington Street, Charles Town, WV, or on the County website at: [www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)

**By Order of The County  
Commission of Jefferson County  
Dale Manuel, President**

**Sandy McDonald**

---

**From:** "Nance L. Briscoe" <briscoen@frontiernet.net>  
**To:** <sandy@jeffersoncountywv.org>  
**Sent:** Wednesday, December 16, 2009 1:55 PM  
**Attach:** Nance L. Briscoe.vcf  
**Subject:** comment E-911 Amendment

Hi sandy,

Just received the E-911 Amendment - you are working too hard kiddo!

Wanted to mention that even though it states it is our responsibility to change the addresses thru the post office I have paid dearly for business & personal stationary, business cards, envelopes and more than FIVE different times - not to mention the maps for this little community and bla bla bla - I am certain you can understand folks are going to balk at this and I'm in just one development.

here's my example: I live on Cloverdale Place which intersects with Cloverdale Road so the suffix will be challenged by the new amendment - were there any options to be considered grandfathered ?

I am not complaining - just sharing my two cents.

Have a less busy day,  
Nance


**Re: E-911 Addressing Ordinance Amendment Public Hearing**

 Delete

 Reply

 Reply All

 Forward

 Move/Copy

[Print](#) [Hide Envelope](#)

[Show Header](#)

From: Pete Smith [Add to Address Book](#)  
To: [info@jeffersoncountywv.org](mailto:info@jeffersoncountywv.org), [oj](#)  
Date: Wednesday, December 16, 2009 3:15:26 PM  
Subject: Re: E-911 Addressing Ordinance Amendment Public Hearing

The draft set of amendments, as presented in [http://www.jeffersoncountywv.org/addressing%20amendments%203/Jefferson\\_County\\_Addresssing\\_Ordinance\\_Amendment3\\_Draft\\_rev1.pdf](http://www.jeffersoncountywv.org/addressing%20amendments%203/Jefferson_County_Addresssing_Ordinance_Amendment3_Draft_rev1.pdf), is not very helpful because it does not indicate the language that is being replaced, which should be done with the use of strikeovers.

The proposed amendment, in addition to all the usual, emergency-related reasons for disapproving a road name, allows the GIS/Addressing Coordinator the power to disapprove a new road name that is "...deemed inappropriate" by it. This is discretion not previously granted, and in my view is itself inappropriately broad unless an appeal procedure to the County Commission is provided.

Please make this comment part of the official record of the public hearing.

Sincerely,

Peter G. Smith  
Kearneysville

On 12/16/2009 1:35 PM, Jefferson County Alerts wrote:

## NOTICE OF PUBLIC HEARING

### COUNTY COMMISSION OF JEFFERSON COUNTY

### AMENDMENTS TO THE E9-1-1 ADDRESSING ORDINANCE

The County Commission of Jefferson County will hold a public hearing concerning Amendments to the E9-1-1 Addressing Ordinance on Thursday,

January 7, 2010 at 10:00 a.m. in the Old Charles Town Library meeting room

200 East Washington Street, Charles Town, West Virginia. At this hearing the

Commission will receive public comment concerning amendments to the E9-

1-1 Addressing Ordinance.

Anyone wishing to provide written or oral comment may do so at this meeting. A copy of the proposed ordinance may be obtained at the offices of

the County Commission of Jefferson County, 124 E. Washington Street, Charles Town, WV, or on the County website at:

<http://www.jeffersoncountywv.org/addressing%20amendments.html>

By Order of The County

Commission of Jefferson County

Dale Manuel,

<http://www.jeffersoncountywv.org/addressing%20amendments.html>

\*\*\*\*\*Please do not reply to this email. If you have questions or need assistance, please email [info@jeffersoncountywv.org](mailto:info@jeffersoncountywv.org) or call the County Commission office at 304-728-3284. \*\*\*\*\*

**Re: [OJ] Re: E-911 Addressing Ordinance Amendment Public Hearing**

 Delete

 Reply

 Reply All

 Forward

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[Show Header](#)

[Print](#) [Hide Envelope](#)

From: cmasonwhf@aol.com [Add to Address Book](#)  
To: n4zr@contesting.com, info@jeffersoncountywv.org, OJ@yahoogleroups.com  
Date: Wednesday, December 16, 2009 10:37:17 AM  
Subject: Re: [OJ] Re: E-911 Addressing Ordinance Amendment Public Hearing

Whenever the issue of new road names come up, I can't help but recall the name of a rural road that appeared in Albemarle County, VA ( Charlottesville ) when that jurisdiction was getting its new road names organized some years ago: "Pinch Em Slyly Lane." Certainly amusing, but perhaps to some not so clearly appropriate. I believe it has stood the test of time.

Let's not let some bureaucrat try to impose his/her opinion of what is appropriate or not, but rather be as flexible as we can be to allow creative naming of roads which may have history all their own to celebrate, provided they are well within the boundaries of 1st amendment rights.

Curt Mason



# Jefferson County Emergency Communications

## DEPARTMENTAL MEMORANDUM

TO: Jefferson County Commission

CC: Jeff Polczynski, Director of Communications  
Leslie Smith, County Administrator

FROM: Todd Fagan, GIS Specialist

DATE: September 10<sup>th</sup>, 2009

SUBJECT: Amendment #3 to E9-1-1 Addressing Ordinance 01-2002

The Jefferson County Addressing Ordinance was last amended July 24<sup>th</sup>, 2003. Since that time, the Countywide Re-Addressing Project has been completed and the GIS/Addressing Office is working on assignment of new addresses, correction of past addressing errors and enforcement of the ordinance. Staff recommends an amendment to the ordinance to close some loopholes and clarify some items that have been limiting or confusing. The recommendations below should improve the ordinance and make it a stronger document in support of Emergency Services and other County Ordinances.

This memorandum provides the Commission, legal counsel and the public with the plain language reasoning or insight into each recommended change, highlighted accordingly in the accompanying marked-up draft Amendment #3.

### Overview of Amendment #3

Various Sections (Modified) ...Jefferson County **Addressing** Office... updated to ...Jefferson County **GIS/Addressing** Office.

*Updates all references to the new division name throughout the ordinance.*

Section 1.2 (Appended) ...**defined as an “Addressable Structure” in this Ordinance. At any time that three or more addressable structures exist or plan to exist on a right-of-way, a road name shall be applied.**

*Clarifies conditions that generate a new road name.*

Section 1.2.1 (New) **The Jefferson County Addressing Coordinator, or his/her duly authorized agent, is hereby authorized to approve, assign or change a name to any street, road or subdivision in the County, as defined in the Jefferson County Subdivision Ordinance, in order to eliminate duplicate names or confusing similarity. The Jefferson County GIS/Addressing Office, or the duly authorized agent, shall have the authority to refuse registration of any name already in use, confusingly similar to a name already registered, deemed confusing for purposes of emergency response, or deemed inappropriate by the Jefferson County GIS/Addressing Office or by the County Commission.**

*Introduces authority to approve subdivision names under similar criteria as road name approvals*

Section 1.4 (Appended) ... The initial costs of such signs and installation **were** funded by the Jefferson County Commission for all unincorporated areas of Jefferson County **only during the countywide readdressing project which ended August 2008. All sign installation, relocation or repair costs for newly created or impacted roads after the date of the third ordinance amendment shall be borne by the owner, Homeowners Association (HOA), resident or land development (subdivision) applicant creating the road name.**

*Declares re-addressing project as completed (past tense) and establishes that date as a milestone,*

*after which all new signs costs are the responsibility of the owner, applicant or HOA. Removes burden of cost to the County for all future signage installations that are not repairs.*

Section 1.5.1 (New) **The Subdivision Name List shall be adopted by the County Commission and filed and maintained in the Jefferson County GIS/Addressing Office. This listing shall be the official listing of names for subdivisions and historic structures in Jefferson County and such subdivision names are hereby substituted the names listed therein.**

*Introduces authority to approve subdivision names under similar criteria as road name approvals*

Section 1.5.2 (New) **The Jefferson County Addressing Coordinator, or his/her duly authorized agent, shall review all requests for new subdivision names within thirty (30) days of receipt in the Jefferson County GIS/Addressing Office. The Jefferson County Addressing Coordinator, or his/her duly authorized agent, shall provide approval or rejection for subdivision names within thirty (30) days of receipt of the request**

*Introduces authority to approve subdivision names under similar criteria as road name approvals*

Section 2.2 (Appended) **Numbers are always whole. "Half" numbers are not valid, i.e. 515 ½ Example Street**

*Half numbers are a problem for computer systems and emergency services and were not explicitly prohibited in previous amendments.*

Section 2.2.1 (New) **"Physical Location Address" is defined as the full address designation of a structure based upon its physical location. It comprises a Primary Address Number, Street Name, Street Suffix, Directional Prefixes or Suffixes (if applicable), Sub-Address (if applicable), and Postal Community (zip code), i.e. 123 South Example Street, Unit 100, Ranson, WV 25438.**

*Definition added to list all possible components of full address.*

Section 2.2.2 (New) **"Primary Address Number" is defined as the principal address number of a structure preceding the Street Name in its full address designation, i.e. "123" Example Street. Each separate structure shall have its own separate and unique primary address number. Separate primary address numbers may be provided for units comprising a complete, contiguous structure, (i.e. townhomes or duplexes that span multiple parcels/lots, commercial centers or retail complexes, or similar types)**

*Definition added to explain primary number assigned to single structure.*

Section 2.2.3 (New) **"Sub-Address" is defined as a number or letter within the main address of a structure for a unit, suite, apartment, or room number following the Street Name in its full address designation, i.e. 123 Example Street, "Apartment 202", "Unit 100" or "Suite 105." Structures that are sublet or divided into multiple, distinct units shall share a common primary address but distinguish themselves by a unit, apartment or suite sub-address. Sub-Addresses will replace any invalid "half" address number. Sub-Addresses are not necessary for townhomes, duplexes, or similar types of dwelling units that span multiple parcels or lots.**

*Definition added to explain unit addresses assigned within the primary structure. We work closely with the USPS and do not wish to undermine their policies regarding secondary addresses, which is that if one sub-address exists, all units under that primary address must be designated with a sub-address.*

Section 2.3.1 (New) **"Street Suffix" is the suffix of the road or street and the only suffixes eligible for use shall be those listed on the "Jefferson County Street Suffix Definitions" document maintained in the Jefferson County GIS/Addressing Office.**

*Definition added to reference policy on allowable suffixes.*

Section 2.3.2 (New) **"Postal Community" is defined as a United States Postal Service (USPS) Zip Code that**

provides rural delivery. Access to the structure within such a USPS Zip Code will determine the “Town” portion of the physical location address, not municipal boundaries, unincorporated villages or even State jurisdiction, i.e. *123 South Example Street, Unit 100, Ranson, WV 25438*.

If a property is accessed from a Virginia zip code, that structure will have a Virginia physical location address. The Tax Map and Tax records will verify Jefferson County and West Virginia jurisdiction or citizenship.

*Definition added to explain components of full address, including postal community v. municipal entity. Also explains potential disparity between physical location address and parcel location description.*

Section 2.4 (Modified) Beginning from the road’s point of origin a structure number shall be assigned...

*Minor clarification from original text.*

(Appended) Any road not having an intersecting road along its length, also known as a dead end road, shall be assigned the point of origin at the entry point of the road. Address numbers must be sequential relative to neighboring address numbers on both sides of the road

*Description of dead-end road, how it is numbered and additional defense to change numbers that are out of sequence.*

Section 2.7.1 (New) “Addressable Structure” is defined as any place a person would “live”, “work”, “worship” or “play”. The structure must be permitted, permanently anchored, and in compliance with all applicable impact fee, subdivision, and/or zoning regulations. It shall be the responsibility of the Addressing Coordinator to interpret this definition in accordance to the stipulations of this Ordinance and the Jefferson County Addressable/Non-Addressable Structure Guide.

*Definition added to clearly explain which structures are addressable and which are not. We don't wish to conflict with or undermine other County Ordinances (Subdivision, Zoning or Impact Fees), Municipal regulations or US Postal Service policies. The Structure Guide is a “living” document that will contain examples of structures that require addresses.*

Section 2.9 (Appended) ... illegal or non-approved road signs, or illegal attachments to road signs.

*Non-Compliance definition focused on address numbers, but should also include some reference to non-compliant signage.*

Section 2.12 (New) “Addressing Office”, “GIS Office”, or “Geographic Information Systems” is the County-staffed office responsible for managing and maintaining the responsibilities for addressing, road naming and mapping in Jefferson County. The Addressing Coordinator will work within the confines of this office or department.

*Definition added to clarify new identity of the formerly-named Addressing Office.*

Section 3.1 (Modified) ...each house or building controlled by him/her...

*In the interest of political correctness.*

Section 3.1.1 (New) Any structure situated on a “corner lot” and having roads along two sides of the structure may have two possible access points. Consequently, that structure may be addressed from the street facing the primary entry to the center of the structure, or from where the driveway leading to the structure intersects the right-of-way, whichever is more appropriate. It shall be the responsibility of the Addressing Coordinator to determine the appropriateness in this instance.

*Clarifying the logic behind assignment of number to a structure on a corner lot.*

Section 3.2 (Modified) The address shall be issued not later than thirty (30) days following identification of address and must be installed on the structure prior to final inspection from the Jefferson County Engineering

Department.

*Reduced the time period for us to issue an address from 60 days to 30 days. Beefed up the requirement to post newly assigned numbers by including it on the inspection performed by Engineering (formerly DPZE).*

Section 3.2.1 (New) **An occupancy permit for any structure erected or repaired shall be withheld until the permanent and proper address numbers have been affixed to such structure in accordance with the requirements of this Ordinance.**

*Trying to put some teeth into the posting of these numbers.*

Section 3.4 through Section 3.9  
(Renumbered)

*Original ordinance omitted Section 3.4, so we renumbered sections and shifted them up in sequence.*

Section 3.7 (Modified) **The combination of such an address number, the road or street name, applicable sub addresses, and the postal community shall be the official address of such primary structure.**

*Reinforces all components of full address.*

Section 3.9 (New) **Effective with amendment #3, all sub-address numbers assigned to a unit, suite, apartment, etc. shall follow the Jefferson County Addressing Model Guidelines.**

*Reference to policy document guiding assignment of unit numbers according to floor level and deign of structure.*

Section 3.10 (New) **Temporary addresses will be available only for construction trailer offices and for similar purposes. Anyone desiring a temporary address shall execute an agreement with the GIS/Addressing Office that acknowledges that the address being provided is a temporary address to be used for not more than one year from the date of issuance.**

**To obtain a temporary address, the applicant shall provide a small area map which contains the location of the temporary addressable structure, the nature of the structure and the vehicular path by which on accesses the temporary structure from the closest named road.**

*Allowance for temporary addresses to facilitate construction trailers and delivery points for new developments. Must jive with current Zoning and Subdivision Ordinances which don't allow for a construction trailer. I believe this is an oversight that the Zoning Administrator is checking into.*

Section 4 (Modified) **ROAD AND SUBDIVISION NAMING**

*Re-titled Section 4 to include Subdivision naming rules.*

Section 4.1.1 (New) **Road names listed as "reserved" on the "Jefferson County Road Name Index" shall be held in reserve status for no longer than five years from the date the road name was approved and placed into reserve. After such time, the reserving entity will be notified of pending removal whenever possible; then the name shall be removed from the official road name list and placed into the expired reserved status list.**

*We are trying to prevent road name reservation for indefinite periods, especially when the project falls through or is never built.*

Section 4.2 and  
Section 4.3

(Combined) **No street within the County, currently shown on a recorded subdivision plat or assigned to a new subdivision plat, shall be considered official until such name is registered with the Jefferson County GIS/Addressing Office, approved, and added to the Jefferson County Road Name**



Section 4.5 (Appended) A road shall have only one name throughout its entire length unless approved as an exception by the County Commission. **A road name can only change names at defined intersections where a traffic control device exists, such as at an intersection controlled by a stop light or an intersection controlled by stop signs where the road bearing the name is controlled by the stop sign. An example of this is a 4-way stop sign controlled intersection. The Jefferson County Addressing Coordinator, or his/her duly authorized agent, shall have the authority to interpret and apply as appropriate.**

*Formerly section 4.6, we added detail to prohibit instances where a continuous road changes names in the middle of nowhere.*

Section 4.5.1 (New) **Wherever possible, a road name shall continue directly straight across at any intersection and not turn right or left on a different path or direction as it approaches the intersection. Road names that are not continuous in a direct and straight forward path, but rather turn at intersections are opportunities for confusion when travelling along the road.**

*We want to prohibit directional changes in a continuously named roadway. If the road name doesn't go straight through an intersection, often there is confusion.*

Section 4.5.2 (Moved portion from Section 5.2.1 and modified) **The third addressable structure built on a right-of-way not otherwise named causes the right-of-way to be named. The GIS/Addressing Office shall coordinate and oversee the naming of the right-of-way. The owner of any parcels accessing a right-of-way required to be named have the naming rights of the right-of-way.** The GIS/Addressing Office shall provide road name petitions to all owners of parcels affected by the road name change and shall provide a specific timeframe for response. Through majority vote and within the stipulated timeframe per the petition, the owners of parcels affected by the road name change shall agree upon a road name and submit the road name for approval. **The County requires proof that all parties involved have a part in the petition process.** If agreement of a road name does not occur within the stipulated timeframe, the County shall have the authority to name the road

*Designed to tighten up the petition process so no adjacent property owners are left out of the process and everyone has equal opportunity and reasonable timeline to respond.*

Section 4.6 (Appended) Upon approval of the name change, the petitioner shall be obligated to pay to the County for the actual costs incurred by the name change, **including the total costs for all road signs affected by the name change..**

*Formerly section 4.7, sometimes there are additional signs that are affected or relocated and the party responsible for all of the changes is liable for all of the costs.*

Section 4.7 (New) **Subdivision name approval is required for all "conventional" subdivision projects as defined by the Jefferson County Subdivision Ordinance. Subdivision names are not required for "minor" or family subdivisions as defined by the Subdivision Ordinance. The Jefferson County GIS/Addressing Office shall have final authority for all subdivision naming within the entire County in order to ensure that subdivision names are not duplicated or confusingly similar to a name already registered, deemed confusing for purposes of emergency response, or deemed inappropriate by the Jefferson County GIS/Addressing Office or by the County Commission.**

*The Planning Department has added to their application checklist the requirement for approval of new subdivision names so they are not confusingly similar to existing subdivision, landmark, historic resource or road names. Previously, the subdivision name became "institutionalized" along the application process and it was often too difficult to deny or change it after time and resources were invested. We are now more formally involved in subdivision name approvals, like we have been doing for road names.*

Section 4.7.1 (New) **No subdivision name currently shown on a subdivision plat or land development application filed with the County shall be implemented by a subdivision owner or developer until such name has been registered with the Jefferson County GIS/Addressing Office, approved, and added to the Jefferson County Subdivision Name Index. The Jefferson County GIS/Addressing Office, or the duly authorized agent, shall have the authority to refuse registration of any name**

already in use, confusingly similar to a name already registered, deemed confusing for purposes of emergency response, or deemed inappropriate by the Jefferson County GIS/Addressing Office or by the County Commission.

*Similar language to Section 4.2 on road names, but applies to subdivision names*

Section 4.7.2 (New) **The Jefferson County Addressing Coordinator or his/her duly authorized agent, shall review all requests for new subdivision names within thirty (30) days of receipt in the Jefferson County GIS/Addressing Office. The Jefferson County Addressing Coordinator or his/her duly authorized agent shall provide approval or rejection for subdivision names, within thirty (30) days from receipt of the request.**

*Similar language to Section 4.2.2 on road names, but applies to subdivision names.*

Section 5.1 (modified) All new street signs erected within Jefferson County shall be in conformance with the specifications of this section. **Basic dimensions are illustrated in the Jefferson County Subdivision Ordinance Standard Details.** A typical street sign installation will designate two streets using four nameplates.

*Referenced Engineering Dept.'s Standard Details so all future subdivision applications and plats contain the detail illustration and comment holding the applicant accountable for adhering to ordinance requirements on road signage.*

Section 5.2.1 (moved first portion to Section 4.5.2 )  
(modified) The owner of the newly built addressable structure **or newly subdivided lot** shall be responsible for any and all fees to install any and all signs on the newly named road.

*Added condition of third buildable lot to responsibility of applicant to pay for required signage.*

Section 5.2.2 (modified) Except as approved by the County Commission, no other **object** or sign of any type shall be attached, permanently or temporarily, to any road name signpost.

*Adds mail boxes, newspaper boxes, etc to list of things prohibited as attached to our signs.*

Section 5.2.3 (New) **Any sign displaying the name of a subdivision, property name, family name, or structure name (i.e. historic structure) shall not resemble a street name sign and in any way be confused with a Jefferson County street sign. Any such sign shall not have in it any street name suffix.**

*Expands authority to remove private signage that is potentially confused with a legitimate road sign.*

Section 5.3 and  
Section 5.3.1 (modified) ...as published in the **current edition** of the Manual of Uniform Traffic Control Devices ~~Millennium Edition~~....

*Replaced "Millennium Edition" with "current edition".*

Section 5.3.3 (Appended) **Where possible, the County or its contractor shall place signs within established right-of-ways. Signs may be placed on private property at the County's discretion.**

*We've had complaints about the location of signs, which are usually extensions of disputes between neighbors. We want to limit any unnecessary sign relocations because a property owner doesn't like the location on or near their property.*

Section 7.2.1 (New) **If at any time an error, oversight, or violation is identified, the Jefferson County Addressing Coordinator, or his/her duly authorized agent, is authorized to correct the error.**

*We had to beef up our authority to correct mistakes or inconsistencies and defend that action when affected citizens counter, "it's always been that way" or "you've changed us twice now".*

Section 7.2.2 (New) **The County is not obligated to compound or repeat past errors, oversights, or violations. Past mistakes shall not set precedence for continued, future practice or application of those mistakes.**

*We don't want past errors to dictate that we have to repeat the pattern or address someone similarly. We have explicitly or implicitly given exemptions in the past and that is bad practice that should not be repeated.*

Section 7.6 (New) **Relationship between physical location address and tax map or legal Deed description – The physical location address is a label to identify an addressable structure or unit(s) within a structure. This address may function as a mailing address for onsite or rural delivery services. It does not legally designate a property, parcel or lot by itself. It may support the identity of a property in conjunction with the Tax District, Map and Parcel number of the lot as defined by the Jefferson County Assessor's Office. The legal description of a property shall be identified by the boundary description in the Deed first and then the Tax District, Map and Parcel number second. The physical location address of any structure on said lot is non-essential to the legal description. Where a physical location address exists in any legal document that does not match the correct physical location address, the GIS/Addressing Office can provide the correct address to the proper authority.**

*We have encountered many inconsistencies between legal documents, like Deeds, real estate closing papers, tax maps, plats, surveys, etc. Often, the lot number is the proxy address in other documents. Here we are trying to explain the relationship between the physical E9-1-1 location address and any other designation or description. Our data should correct and preside over old addresses or descriptions and we can provide an affidavit to the court or legal counsel to clarify that.*

Section 7.7 (New) **Cross References –  
National Emergency Number Association (NENA) Standard Guidelines  
BOCA National Property Maintenance Code, Section PM-303.3  
Standards for the Design and Installation of Road Name Signing (March 1999 Appendix A).  
Standard Alphabets for Highway Signs (FHWA)  
Manual of Uniform Traffic Control Devices (USDOT, FHWA)  
Jefferson County Subdivision Ordinance  
\*Jefferson County Addressable/Non-Addressable Structure Guide  
\*Jefferson County Addressing Model guidelines.  
\*Jefferson County Street Suffix Definitions  
\*Jefferson County Road Name Index  
\*Jefferson County Subdivision Name Index  
\* maintained as policy documents in the Jefferson County GIS/Addressing Office**

*List of referenced documents, policies, documents, regulations, publications, etc.*

Section 9.1 (Appended) Amended on the XX<sup>th</sup> day of Month, 2009.

*Line for amendment of ordinance,*

Amended this \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_  
President of the Commission



# Jefferson County Emergency Communications

## DEPARTMENTAL MEMORANDUM

TO: Jefferson County Commission

CC: Jeff Polczynski, Director of Communications  
Sandy McDonald, Acting County Administrator

FROM: Todd Fagan, GIS Specialist

DATE: December 10<sup>th</sup>, 2009

SUBJECT: Amendment #3 to E9-1-1 Addressing Ordinance 01-2002, **FOLLOW UP on Commission Comments from First Workshop, 10/22/09**

During our first workshop, the County Commission and Legal Counsel requested some changes to the proposed amendment to our County E9-1-1 Addressing Ordinance. This memorandum documents those changes as they will appear in the final ordinance amendment.

### Overview of October 22 edits to Amendment #3

Various Sections (Modified) The Jefferson County GIS/Addressing Office, or the duly authorized agent, shall have the authority to ... by the Jefferson County GIS/Addressing Office ~~or by the County Commission.~~

*Strike the phrase, "by the County Commission," wherever it appears and let the appeal process remove explicit responsibility of the County Commission to administer any part of the ordinance.*

Section 1.4 (Appended) ... The initial costs of such signs and installation were funded by the Jefferson County Commission for all unincorporated areas of Jefferson County only during the countywide readdressing project which ended August 2008. All sign installation, relocation or repair costs for newly created or impacted roads after the date of the third ordinance amendment, **<insert actual signing date>** shall be borne by the owner, ~~Homeowners Association (HOA)~~, resident or land development (subdivision) applicant creating the road name.

*Reference actual signing date of Amendment #3 and remove HOAs from the text since it is difficult to manage, track and contact these groups; some neighborhoods do not have HOAs. As policy, we will bill for new installations only and bear responsibility for repairs, replacements and relocations within the County's jurisdiction.*

Section 2.2.3 (New) "Sub-Address" is defined as a number or letter within the main address of a structure for a unit, suite, apartment, or room number following the Street Name in its full address designation, i.e. 123 Example Street, "Apartment 202", "Unit 100" or "Suite 105." Structures that are sublet or divided into multiple, distinct units shall share a common primary address but distinguish themselves by a unit, apartment or suite sub-address. **Sub-Addresses must be Alpha ("Unit A") or Numeric ("Suite 105"), but cannot be a combination of both, i.e. ("Apartment 202A," "Unit 100-B", and "Suite A-2").** Sub-Addresses will replace any invalid "half" address number. Sub-Addresses are not necessary for townhomes, duplexes, or similar types of dwelling units that span multiple parcels or lots.

*Definition added to explain unit addresses assigned within the primary structure. We work closely with the USPS and do not wish to undermine their policies regarding secondary addresses, which is that if one sub-address exists, all units under that primary address must be designated with a sub-address that is not a combination of alpha-numeric characters.*

*to re-address anyone. We had to beef up our authority to correct mistakes or inconsistencies and defend that action when affected citizens say, "it's always been that way" or "you've changed us twice now".*

Section 7.2.2

**(New) Past decisions by the Addressing Coordinator do not set precedent for future determinations in mapping, addressing or administration of this ordinance.**

*The Commission requested more diplomatic language.*

~~(Deleted and added to supporting policy documents) The County is not obligated to compound or repeat past errors, oversights, or violations. Past mistakes shall not set precedence for continued, future practice or application of those mistakes.~~

*This content will move to a policy document, serving as more plain language guidance if we have to explain why past practice does not set precedent if that past decision was in error. We don't want past errors to dictate that we have to repeat the pattern or address someone similarly. We have explicitly or implicitly given exemptions in the past and that is bad practice that should not be repeated.*

Commission Office Use Only

Date on Agenda: 1/7/10

Appt Time or New Business: 10:15

#5

AGENDA REQUEST FORM

Name: Angela Banks

Department or Entity: Assessor

Estimation of amount of time needed for appointment: 20 minutes

Date Requested – 1<sup>st</sup> Choice: January 7, 2010

Date Requested – 2<sup>nd</sup> Choice: \_\_\_\_\_

If a specific date is needed, please provide reason for specific date:

Subject: Real Estate Assessments

Please provide the County Commission with a description of your request or presentation, including any background information: **Just a small presentation to give the County Commission on current values and the sales ratio study.**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve):

Attachments:



#16

## CORPORATION OF SHEPHERDSTOWN

104 NORTH KING STREET  
P.O. Box 248  
SHEPHERDSTOWN, WEST VIRGINIA 25443-0248  
TEL: (304)876-2312  
FAX: (304) 876-1473

December 21, 2009

**RECEIVED**

TO: County Commissioners  
Jefferson County, West Virginia

DEC 28 2009

RE: Greater Shepherdstown Biking Loop

Jefferson County Commission

Dear Commissioners,

My name is Lori Robertson, the Recorder for the Corporation of Shepherdstown. On November 10, 2009 the Council voted to commit funds as a part of the twenty per cent (20%) match required for requests for funding from the State's Transportation Enhancement Program. Our object is to complete what we have called the Greater Shepherdstown Biking Loop that connects communities, schools, Morgan's Grove Park, Shopping areas and our downtown with a biking path 2 miles in length when completed. The last leg of the loop is .5 miles in length, to run from Lowe Drive to the stop light at Morgan's Grove Park.

We will be before you January 7, 2010 asking if the Commission will share the costs of the twenty per cent (20%) match required in this undertaking. If Shepherdstown and the County were to split the 20% match required for this grant evenly we are asking that you commit \$38,000 to achieve this end. The deadline for the grant is January 15. As part of the partnership with the County, the Corporation of Shepherdstown would ask for assistance from the County to oversee the grant and putting out bids for the project. This will allow the project to be cost effective and benefit taxpayers.

I have included a letters of support from Freedom's Run, The Shepherdstown Men's Club, Lyn Widmyer, Shepherdstown Business Association, Delegate Herb Snyder, Delegate John Doyle and the Corporation of Shepherdstown. Also, a preliminary estimate from Alpha Associates, the Intent - to -Apply, an article by Delegate Doyle, a map showing the Loop, names of supporters from the town and the county and a letter from a resident that lives along the proposed path.

We would like this to be the first of many successful joint projects with the County. We believe that having a County wide master plan for biking trails is much needed and would greatly benefit Shepherdstown and the County. Thank you for your time.



Arthur J Auxer, III, Mayor of Shepherdstown



Lori Robertson, Recorder for Shepherdstown

Updated  
August  
2009

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION  
DIVISION OF HIGHWAYS

 **COPY**

TRANSPORTATION ENHANCEMENT PROGRAM  
INTENT-TO-APPLY FORM

(NOTE: Must be received no later than November 15<sup>th</sup>.)  
No faxed or e-mailed Intent-to-Apply forms will be accepted.

**Instructions for using this electronic version of this form:**

- 1) Press the Tab key to move to each field.
- 2) Completed forms may be submitted either in black-and-white or in color.
- 3) For Help information press (F1) while in a specific field (not available in all fields).
- 4) Some fields limit the length of your response. Include as much information as possible to provide a clear description of the proposed project. More detailed information should be provided in the actual Application Package.

**Fiscal Year:** 2010 (due by 11-16-2009)

**County(ies):** Jefferson

**Project Name:** Rt. 480 Bike Path To Morgan's Grove Park

**CONTACT INFORMATION:**

**Date of Application:** November 10, 2009

**Name of Sponsor's Organization:** Corporation of Shepherdstown

**Contact Person and Title:** Lori Robertson, Town Recorder

**Address:** P.O. Box 248

**City:** Shepherdstown

**State:** WV

**Zip:** 25443-248

**Telephone:** (304)876-2398

**Alternate Telephone:** (540)336-4737

**Fax:** (304)876-1473

**E-mail Address:** clerk@shepherdstown or lahraven@comcast.net

**FUNDING INFORMATION:**

- **Approximate amount of Federal funds you will be requesting:** \$303,853  
*a--Construction costs should be computed using Davis-Bacon and/or West Virginia Prevailing Wages, as applicable.*  
*b--Federal funds may be reimbursed up to 80% of the total project cost.*

- **Is the required 20% match now available? If not, explain:**  Yes  No\*  
*c--20% minimum Sponsor's match must be available at the time of application.*

\*If no, explain: \_\_\_\_\_

**PROJECT INFORMATION:**

- **Is this a continuation of a project previously approved for funding?**  Yes  No
- **Does your proposal include land acquisition?**  Yes\*  No

Y900 D

\*If yes, is it from a willing seller/lessor?

Yes

No

TRANSPORTATION ENHANCEMENT PROGRAM  
INTENT-TO-APPLY FORM - Continued...

♦ Has an appraisal been prepared?

Yes\*

No

\*If yes, what is the appraisal amount: \$ \_\_\_\_\_

\*When was the appraisal performed? \_\_\_\_\_

• Does your proposed project impact a historic and/or archaeological site?

Yes\*

No

\*If yes, has the State Historic Preservation Officer (SHPO) been notified?

Yes

No

• Please summarize the proposed project (see Application Process Step #1):

The bike path will go from the edge of Lowe Drive on the west side of Rt. 480 to the intersection of Rt. 480 and Alt. 45. The bike path which will be one-half mile long will include a 5' buffer off of the soft shoulder of Rt. 480 then will extend 8' from the 5' buffer. The estimate from Alpha Associates includes silt fence, excavation, stonebase course, asphalt paving, fence relocation, rebuild brick wall, power pole relocation, seed and mulch, driveway repair, culvert extensions. The estimate also includes design, engineering, administrative fees and a project contingency of 15%. This bike path will connect with the path currently on Alt. 45 which connects the bike path from Rt. 45. This will complete the loop to Morgan's Grove Park back to Shepherdstown.

• Please identify the public benefit and the relationship to transportation of this project including economic and tourism development. Indicate if this project contributes to existing or proposed transportation/community development plans:

The public benefit is with the construction of the Rt. 480 bike path, people will be able to get to Morgan's Grove Park without driving if they choose. Walking or riding a bike along Rt. 480 to Morgan's Grove Park is hazardous due to the limited space along the shoulder, driving has been a necessity. The proposed bike path will connect to the current path along Alt. 45.

Shepherdstown has a large biking population coming off the C & O Canal Towpath along the river as well as biking tourists that come to Shepherdstown from Sharpsburg and Antietam Battlefield. Events that are held at Morgan's Grove Park attract large groups of people for athletic games, fundraisers and concerts. These events are currently accessed from the Shepherdstown residents as well as local neighboring communities in Jefferson County. The proposed bike path will contribute to existing community development by allowing Colonial Hills access to Shepherdstown via Rt. 45 or Rt. 480. It also contributes by connecting Shepherdstown to Chaplin's Choice, Heatherfield, Maddex Farm and Colonial Hills.

In November of this year, 3,000 people visited our community to participate in the Freedom's Run marathon and other running events proving an ever growing interest in biking, walking and running and will offer a one mile loop to this event. The Bike Path will contribute to community development by connecting Shepherdstown, Chaplin's Choice, Heatherfield and Colonial Hills to the proposed Library at the Brownfield Dump Site. The Clarion's training facility brings in a lot of visitors that frequent downtown Shepherdstown but currently have to drive to the Park and would bike or walk if safe to do so.

In closing, Shepherdstown is a small town and the oldest town in West Virginia with a diverse population that encourages the town government to provide alternatives to the congested traffic conditions we have. This bike path will provide just that alternative.

**NOTE: Intent-to-Apply forms must be returned either by mail or delivered. Faxed or e-mailed forms will NOT be accepted.**



## CORPORATION OF SHEPHERDSTOWN

104 NORTH KING STREET  
P.O. BOX 248  
SHEPHERDSTOWN, WEST VIRGINIA 25443-0248  
TEL: (304)876-2312  
FAX: (304) 876-1473

November 10, 2009

Ms. Lori Robertson, Town Recorder  
Shepherdstown Town Council  
Shepherdstown, WV 25443

Dear Ms. Robertson:

The Corporation of Shepherdstown would like to express its support for the Rt. 480 Bike Path to Morgan's Grove Park. This bike path will provide a safe and accessible route to the Park and provide a continuous loop for bikers from Rt. 45 to Rt. 480. This will also provide access to Morgan's Grove Park as well as the future Shepherdstown Public Library. Shepherdstown has traffic problems and this bike path will help ease them as well as provide a more attractive tourist destination.

Sincerely,

Arthur J. Auxer, III

Mayor



November 8, 2009

Lori Robertson

Shepherdstown, WV

Dear Ms. Robertson,

I am writing in support of the "Bike Path to the new Library and Morgan Grove Park" project being proposed for the community of Shepherdstown. As the director of Freedom's Run, the project fits with our larger mission of building more trails in the community linking green spaces and engaging families in active transportation. The benefactor of our race is to begin the movement to more trail building within the schools, parks, neighborhoods, and linking routes. RT 480 is a critical first step. We are fortunate to have a splendid Park at Morgan's Grove which has a nice one mile loop. Unfortunately families need to drive there, limiting its spontaneous accessibility.

What we witnessed October 3 with Freedom's Run was an extreme collaborative effort from a community: Shepherd University Students and Faculty, National Park Rangers, local citizens, businesses, elected officials from 2 states, police and EMS, and an extremely passionate all-volunteer race organizing committee. Thanks to over 300 volunteers, 1700 runners from 36 states experienced our area in an active endeavor. For many locals this was a first experience in a walking and running event.

The momentum from the event can be brought to greater good by further community action and the RT 480 trail project is a perfect fit. We are already building a grassroots group of believers in our vision of linking schools, neighborhood, and Parks together with active transportation. In future years our event can be used to raise additional funds and awareness for the RT 480 trail and others.

Sincerely,

Mark Cucuzzella MD

Race Director Freedom's Run

*Lyn Widmyer*  
County Commission Jefferson County

---

Lyn Widmyer, Commissioner • 1434 Cattail Run Road, Charles Town, WV 25414 • 304 -279-3201 • lynwidmyer@gmail.com

November 10, 2009

Ms. Lori Robertson, Councilmember  
Shepherdstown Town Council  
Shepherdstown, West Virginia

Dear Ms. Robertson:

I enthusiastically support the construction of a bikepath to provide safe access to Morgan Grove Park.

This segment of bike path is one element in a larger bikeway network that will one day link key community destinations, including downtown Shepherdstown, the future library, Shepherdstown Middle School and the C&O Canal towpath. Morgans Grove Park is an essential stop on this network.

As a retired park planner, I know how important bikepaths are to a sense of community and to outdoor recreation. Shepherdstown has a wealth of community destinations and a population interested in walking and biking to them. This segment of bikepath along Rt 480 will allow people to move throughout the community without using their cars.

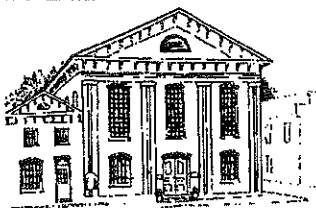
In November, over 3000 people visited Jefferson County to participate in the Freedoms Run marathon and other running events. There can be better evidence that interest in running, walking, jogging and biking is growing.

I applaud the Shepherdstown Council's commitment to making this segment of a broader bikeway network a reality. As a member of the Jefferson County Commission, I assure you I will seek a commitment from my fellow Commissioners to help fund this project.

One of my campaign promises when running for the office of County Commissioner was to make sure we left no child inside. This project is a wonderful way to make that happen!

Sincerely,

  
Lyn Widmyer  
County Commissioner



Diana Sutterfield

# The Shepherdstown Men's Club

*Men and Women Dedicated to Community Service*

War Memorial Building  
Mayor Jim Auxer  
Corporation of Shepherdstown  
104 North King Street  
P.O. Box 248  
Shepherdstown, W.V. 25443

Dear Jim:

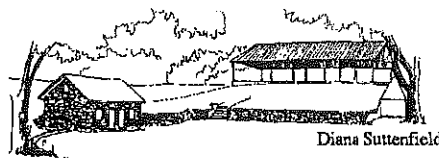
I understand that the Corporation of Shepherdstown is considering launching an initiative to develop a bike path along Rt. 480 from the town out to Morgan's Grove Park. I wanted you to know that the Shepherdstown Men's Club strongly supports such an effort. We will be happy to work with you in promoting this important enhancement of our public infrastructure in the greater Shepherdstown area. As you know, the two focal points of our Club's involvement in the community are the War Memorial Building on German Street and Morgan's Grove Park. A bike bath would serve two critical points:

1. It would improve access to and therefore utilization of Morgan's Grove, and
2. It would significantly improve the safety of the many people who reach the park by biking or walking along Rt. 480.

At the present time, there are portions of this route that do not even have a sidewalk or path thus bike riders and pedestrians are forced to walk on the narrow shoulders of the road and with their back to vehicle traffic.

Further out of practical management and economic concerns, it would make sense to provide for a bike path ahead of other inevitable infrastructure enhancements along Rt. 480. At an absolute minimum, we need to make sure it is an integral part of any community utilities and transportation developmental planning and aggressively seek appropriate funding. All too often such important facilities enhancements never get accomplished because they are considered out of phase with other improvements. The cost of "after the fact" installation is too disruptive and not cost effective. We have a chance to get it right this time.

Please keep us advised as this important initiative progresses and let us know how we can help. As an additional consideration, the Jefferson County Parks and Recreation



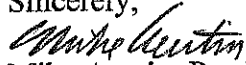
Diana Sutterfield

P.O. Box 463, Shepherdstown, WV 25443 (304) 876-3323

Morgan's Grove Park

Commission may also be willing to lend their support since they operate Morgan/s Grove under a lease arrangement with the Men's Club. I am sure that some of the young people involved in their very active recreation programs already walk or bike to the park. Many more would undoubtedly do so if there was an attractive and safe bike bath to use.

Sincerely,



Mike Austin, President

(304) 876-0598

November 6, 2009

Re: New biking path

The Shepherdstown Business Association would like to express our support for the development of a path from Lowe Drive to Morgan Grove Park. This would be an exciting opportunity for the community of Shepherdstown to begin to incorporate paths around the

town.

Please feel free to approach our organization should you need anything more.

Sincerely,

Meredith Wait  
President, Shepherdstown  
Business Association



The Senate of West Virginia  
Charleston

HERB SNYDER  
P.O. Box 400  
SHENANDOAH JUNCTION 25442

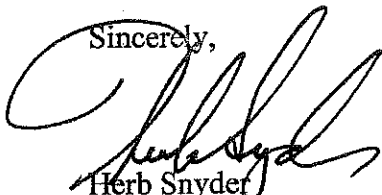
COMMITTEES:  
GOVERNMENT ORGANIZATION  
(VICE CHAIR)  
INTERSTATE COOPERATION  
(VICE CHAIR)  
AGRICULTURE  
ECONOMIC DEVELOPMENT  
HEALTH & HUMAN RESOURCES  
JUDICIARY  
LABOR

November 10, 2009

To Whom It May Concern:

As a lifelong resident of Jefferson County West Virginia and an alumnus of Shepherd University, I can attest to the charming, old-town feel of the town of Shepherdstown. Tourists and locals alike are fortunate to be able to walk the streets of the town and experience the many restaurants and unique gift shops as well as cultural events at the University. Unfortunately, the small-town feel often suffers from traffic congestion, especially at the four-way stop on the corner of Route 480 and Route 45. I firmly believe that the town of Shepherdstown could benefit by adding a pedestrian and bicycle path along West Virginia Route 480 to provide residents and tourists a safe path to walk and bike to and from the nearby Morgan Grove Park. I wish to strongly support the Town of Shepherdstown in their efforts to apply for funding for this worthwhile project that will be sure to add to the allure of our oldest town in state of West Virginia.

Sincerely,



Herb Snyder  
Senator 16<sup>th</sup> District



**HOUSE OF DELEGATES  
WEST VIRGINIA LEGISLATURE**

BUILDING 1, ROOM 202-E  
1900 KANAWHA BLVD., EAST  
CHARLESTON, WV 25305-0470  
PHONE (304) 340-3184

JOHN DOYLE  
MEMBER  
BOX 1607  
SHEPHERDSTOWN, WV 25443  
PHONE: (304) 876-6472 (H)  
(304) 876-1648 (O)

Committees:  
Finance  
Constitutional Revision  
Political Subdivisions  
Enrolled Bills

November 9, 2009

TO WHOM IT MAY CONCERN:

I strongly support the application by the Town of Shepherdstown for Federal transportation and possibly other funds to construct an independent pedestrian and bicycle path along WV Route #480 between the town and WV Alternate #480 at Morgan's Grove Park. Shepherdstown has severe traffic problems and I'm convinced this path will help ease them. I also think such a path will make Shepherdstown even more attractive as a tourist destination than it already is.

Sincerely,

A handwritten signature in cursive script that reads "John Doyle".

John Doyle



**Fax Cover** This is a confidential message, intended solely for the person to whom it is addressed. If you receive this message in error, please forward it to the correct person, or mail it back to us. Thank you.

**To:** Ms. Lore Robertson, Corp. of Shepherdstown

**Fax No.:** 304-876-1473

**From:** Dick Klein

**Cc:**

**Date:** 11/3/09

**Subject:** Rt. 480 Bike Path; Project Cost Estimate

**Total Pages:** 2

For your use in Grant Application



ARCHITECTS • ENGINEERS • SURVEYORS

**SHEPHERDSTOWN BIKE PATH  
CONSTRUCTION COST ESTIMATE FOR GRANT APPLICATION**

3-Nov-09

ITEM NO.	DESCRIPTION OF ITEM	UNIT	QUANT.	COST/UNIT	TOTAL COST
1	SILT FENCE	LF	2250	\$4.00	\$9,000.00
2	UNCLASSIFIED EXCAVATION	CY	2300	\$12.00	\$27,600.00
3	STONE BASE COURSE	TON	525	\$30.00	\$15,750.00
4	ASPHALT PAVING	TON	370	\$85.00	\$31,450.00
5	FENCE RELOCATION	LF	900	\$35.00	\$31,500.00
5	REBUILD BRICK WALL	LS	1	\$15,000.00	\$15,000.00
6	POWER POLE RELOCATION	EA	15	\$10,000.00	\$150,000.00
7	SEED AND MULCH	AC	1	\$2,750.00	\$2,750.00
8	DRIVEWAY REPAIR	SY	100	\$30.00	\$3,000.00
9	MISCELLANEOUS CULVERT EXTENSIONS	LF	50	\$75.00	\$3,750.00
					<b>\$289,800.00</b>
DESIGN SURVEYING					\$4,250.00
ENGINEERING					\$30,429.00
ADMINISTRATIVE FEES					\$5,796.00
SUB-TOTAL					<b>\$330,275.00</b>
PROJECT CONTINGENCY (15%)					<b>\$49,541.25</b>
TOTAL ESTIMATED PROJECT COST					<b>\$379,816.25</b>

2090.75,943.25

Jefferson County Commission

December 22, 2009

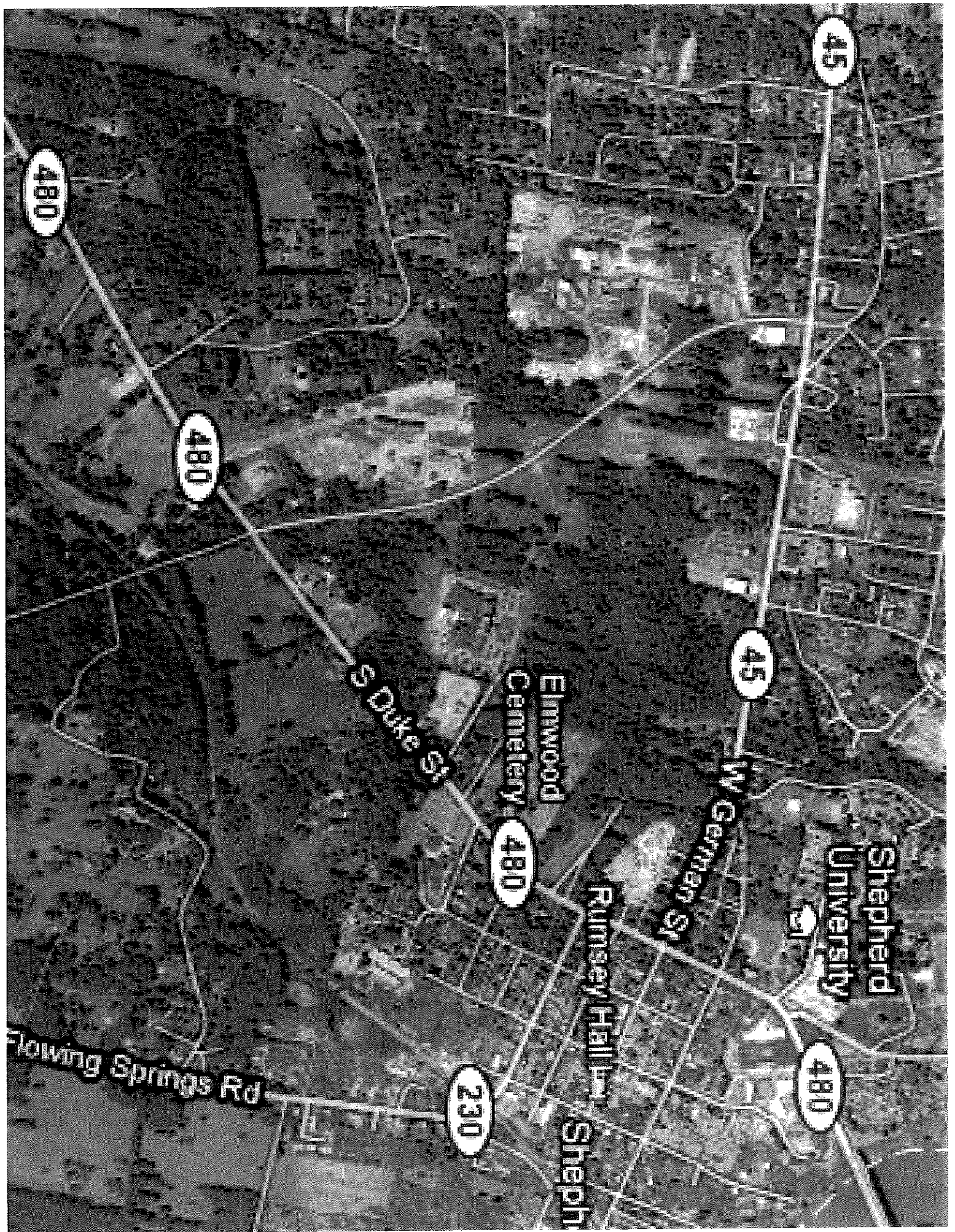
To Whom It May Concern:

I am writing in support of county funding for the proposed bike path from Shepherdstown along 480 to Morgan Grove Park. I live on 480 in between town and the park, and therefore the bike path would be a direct route to both the park and to town. I have utilized Morgan Grove frequently as a play space for my son, for events in the pavilion, and as an attendee at Earth Day and other events. I am sure I will be there even more often as my son grows and joins organized sports. Likewise, we are frequently in town to go to restaurants, shops, and the farmer's market. I have tried walking in both directions, which is very unsafe, as the curbs are small and often there is a ditch. In fact, it is so dangerous in the direction of the park that we will only drive there, even though it is only  $\frac{1}{4}$  of a mile distance! I would love to have a safe path to both places; I would even bike to Food Lion and Maggie's Organic Grocery via the "bypass" if there was a route from my house to it.

Obviously the benefits to me, personally, would be enormous, but I also feel that the town and the park would benefit as well. Many mothers have stated to me that they wish there was a walking route to the park. On nice days, parking at Morgan Grove can be an issue, and that would be alleviated if more people were walking or biking. It would provide an opportunity for fitness to town residents. I can foresee a larger potential audience for large events such as Earth Day. There have even been events in the past that involve both town and the park, e.g. the July 4<sup>th</sup> Parade in town followed by a community picnic in the park, and perhaps having a path between the two would help to facilitate more of those events.

Therefore, again, I wholly support the construction of a path along 480 from Shepherdstown to Morgan Grove Park, and I hope that the Commission will grant the request for funding.

Jennifer Janus  
4540 Kearneysville Pike  
Shepherdstown WV



45

480

480

S Duke St

Elmwood  
Cemetery

480

Rumsey Hall

W German St

45

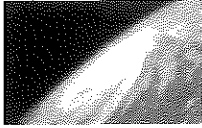
Shepherd  
University

480

Flowing Springs Rd

230

Sheph



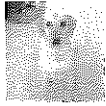
Invite Friends - 198

# Support 480 Bike Path to Morgan's Groove Park

Let's get support for this needed bike path, saving gasoline, energy, safety for bikers and walkers!!

## Positions

1. Safety
2. Bike instead of driving, save resources
3. Connect Shepherdstown to Park



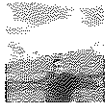
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[Sarah Chapin](#) Joined Dec 15, 11:35AM

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[Kelly Kowalski](#) Joined Dec 15, 08:08AM

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[Jennifer Haynes](#) Joined Dec 15, 03:34AM  
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[Dylan Petrohilos](#) Joined Dec 16, 02:49AM

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[Andrew Ford](#) Joined Dec 16, 02:48AM

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[Buck Flowens](#) Joined Dec 16, 02:23AM  
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[John Meeker](#) Joined Dec 16, 01:49AM  
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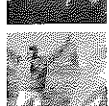
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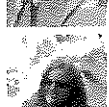
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[Satch Alwin](#) Joined Dec 15, 10:53PM

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[Sally Kimmel](#) Joined Dec 15, 10:43PM

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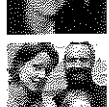
[Sarah Carter](#) Joined Dec 15, 10:26PM

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[Barbara Crowley Riddleberger](#) Joined Dec 15, 09:39PM

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[Elizabeth Ann Wisecarver](#) Joined Dec 15, 09:26PM

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[Candace Adams](#) Joined Dec 16, 03:08PM

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[Elisabeth Longmire](#) Joined Dec 16, 02:44PM

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[Olivia Maxwell](#) Joined Dec 16, 01:57PM

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[Ken Cowher](#) Joined Dec 16, 01:44PM

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[Christine Nolan](#) Joined Dec 16, 01:28PM

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[Shane Hovatter](#) Joined Dec 16, 01:17PM

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[Laura Harbaugh Stottlemeyer](#) Joined Dec 16, 01:16PM

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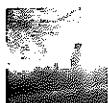
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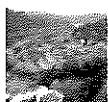
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[Pang Tubhirun](#) Joined Dec 16, 12:20PM

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[Jen Janus](#) Joined Dec 16, 11:44AM  
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[Simon Robinson](#) Joined Dec 16, 07:06AM  
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[Paul Pfau](#) Joined Dec 16, 06:26AM

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[Don Austin Eddy](#) Joined Dec 16, 04:43AM

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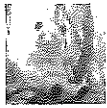
[Paula Tremba](#) Joined Dec 16, 03:59AM  
Has recruited 2 people

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[Nate Tremba](#) Joined Dec 16, 03:25AM

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[Luddy Redden](#) Joined Dec 16, 10:47PM  
Has recruited 1 person

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[Stephanie Unger](#) Joined Dec 16, 10:21PM  
Has recruited 9 people

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[William Lauffer](#) Joined Dec 16, 09:44PM

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[Cahil A Converse](#) Joined Dec 16, 09:43PM

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[Amy Dawson Robertson](#) Joined Dec 16,  
09:01PM

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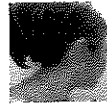
[Amanda Tremba](#) Joined Dec 16, 07:48PM

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[Tracey Stevens Moody](#) Joined Dec 16,  
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[Chelsea McBee](#) Joined Dec 16, 06:58PM

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[Rana Oktay Harmon](#) Joined Dec 16,  
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Has recruited 1 person

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[Amanda Mullins](#) Joined Dec 16, 05:01PM  
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[Callie Hildreth](#) Joined Dec 16, 04:34PM

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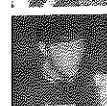
[Natalia Eyestone](#) Joined Dec 16, 04:18PM  
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[Kristi Custer](#) Joined Dec 16, 03:56PM

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[Jason T Harding](#) Joined Dec 16, 03:30PM

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[Sandy Dubay Sponaugle](#) Joined Dec 17, 03:01AM

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[Bryan Stottlemeyer](#) Joined Dec 17, 02:58AM  
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[Coley Kilroy](#) Joined Dec 17, 02:24AM

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[Michael Cardis](#) Joined Dec 17, 02:01AM  
Has recruited 2 people

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[Harry Longerbeam](#) Joined Dec 17, 01:45AM

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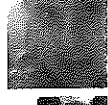
[Sarah Cosgrove](#) Joined Dec 17, 01:31AM

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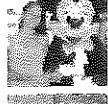
[Emily Covington](#) Joined Dec 17, 01:21AM

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[Shannon Holliday](#) Joined Dec 17, 12:48AM

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[Stephanie Shields](#) Joined Dec 17, 12:45AM

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[Ben Jones](#) Joined Dec 17, 12:41AM

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[Bianca March Hare Stevens](#) Joined Dec 17, 12:35AM

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[Bf Keefer](#) Joined Dec 17, 12:29AM  
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[Aria Charles](#) Joined Dec 16, 11:57PM

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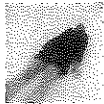
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[Jeff Redden](#) Joined Dec 16, 10:49PM

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[Annette Rakes](#) Joined Dec 17, 07:12PM

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[Wayne Gladden](#) Joined Dec 17, 05:50PM

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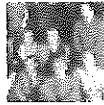
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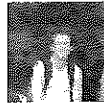
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[Neal Delano Martineau](#) Joined Dec 17, 03:40PM

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[Stephen Malcolm](#) Joined Dec 17, 03:37PM

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[Jenn Gallienne](#) Joined Dec 17, 03:15PM

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[Adrienne Wright](#) Joined Dec 17, 03:11PM  
Has recruited 5 people

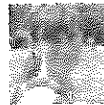
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[Melissa Case DelGaudio](#) Joined Dec 17, 01:28PM

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[Christy N Harris Kessler](#) Joined Dec 17, 01:13PM

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[Alisha Hanlin](#) Joined Dec 17, 12:52PM

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[Tim Kamer](#) Joined Dec 17, 08:13AM

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[Mahala Pope](#) Joined Dec 17, 07:42AM

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[Anthony Crowe](#) Joined Dec 17, 07:10AM

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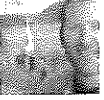
[Amy McCormick](#) Joined Dec 18,  
02:45AM  
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[Amii Triplett](#) Joined Dec 18, 02:36AM

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[Dave Conaway](#) Joined Dec 18, 02:11AM  
Has recruited 1 person

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[Erik R. Janus](#) Joined Dec 18, 02:09AM  
Has recruited 3 people

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[Rosemary Nickerson](#) Joined Dec 18,  
01:55AM  
Has recruited 7 people

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[Cheryl Glazier Reilly](#) Joined Dec 18,  
01:44AM

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[Kendra Adkins](#) Joined Dec 18, 12:43AM

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[Jennifer Squires](#) Joined Dec 18, 12:25AM

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[Anne Munro](#) Joined Dec 18, 12:15AM

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[Meredith Donlon](#) Joined Dec 17, 10:21PM

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[Bill Unger](#) Joined Dec 17, 08:56PM  
Has recruited 1 person

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[Cindy Schott](#) Joined Dec 17, 08:25PM

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[Rachel Catherine Allinder](#) Joined Dec 17,  
08:14PM

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[Eastern Panhandle Bicycles](#) Joined Dec  
17, 07:42PM

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[Heather Austin-Stone](#) Joined Dec 17,  
07:13PM

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[Jessie Shanholtz](#) Joined Dec 18, 01:48PM [View Activity](#) [View Causes](#) [Send Message](#)  
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[Hunter Thompson](#) Joined Dec 18, 01:40PM [View Activity](#) [View Causes](#) [Send Message](#)  
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[Brandon Barnard](#) Joined Dec 18, 01:36PM [View Activity](#) [View Causes](#) [Send Message](#)  
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[Ryan Kemner](#) Joined Dec 18, 12:33PM [View Activity](#) [View Causes](#) [Send Message](#)  
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[Theodora Cullum-Harner](#) Joined Dec 18, 11:34AM [View Activity](#) [View Causes](#) [Send Message](#)  
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[Nicole Vernon](#) Joined Dec 18, 05:53AM [View Activity](#) [View Causes](#) [Send Message](#)  
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[Lillian Potter Saum](#) Joined Dec 18, 04:54AM [View Activity](#) [View Causes](#) [Send Message](#)  
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[Skip Adkins](#) Joined Dec 18, 04:38AM [View Activity](#) [View Causes](#) [Send Message](#)  
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[Rosie Russo](#) Joined Dec 18, 04:31AM [View Activity](#) [View Causes](#) [Send Message](#)  
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[Jamie Bernstein](#) Joined Dec 18, 04:21AM [View Activity](#) [View Causes](#) [Send Message](#)  
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[Kerrick Reisbig](#) Joined Dec 18, 04:11AM [View Activity](#) [View Causes](#) [Send Message](#)  
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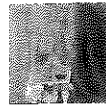


[Paula De Man](#) Joined Dec 18, 03:50AM [View Activity](#) [View Causes](#) [Send Message](#)  
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[Andrea Nickerson](#) Joined Dec 18, 03:21AM [View Activity](#) [View Causes](#) [Send Message](#)  
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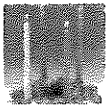
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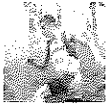
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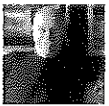
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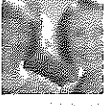
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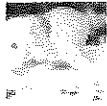
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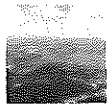
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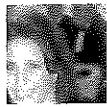
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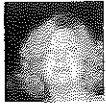
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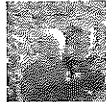
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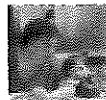
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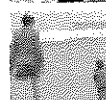
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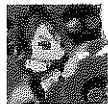
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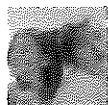
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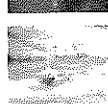
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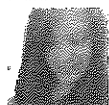
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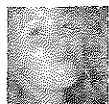
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**Sandy McDonald**

---

**From:** <lahraven@comcast.net>  
**To:** <sandy@jeffersoncountywv.org>  
**Sent:** Monday, December 28, 2009 11:01 AM  
**Subject:** Fwd: trail support letter

----- Forwarded Message -----

From: "James Murray" <jamesmurraydo@gmail.com>  
To: lahraven@comcast.net  
Sent: Monday, December 28, 2009 6:34:59 AM GMT -08:00 US/Canada Pacific  
Subject: trail support letter

Dear County Commission ,

I am writing in support of funding a trail from Shepherdstown to Morgan Grove Park. West Virginia has a very high percentage of overweight and obese citizens. By providing a safe path for biking, walking and running our community can continue to be an example of progressive thinking for the rest of the state and region to emulate.

James Murray D.O.  
Obstetrician/ Gynecologist  
Assistant Professor  
W.V.U. Maternity and Women's Health Center  
Ranson, W.V.  
jamesmurraydo@gmail.com

**Sandy McDonald**

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**From:** <lahraven@comcast.net>  
**To:** <sandy@jeffersoncountywv.org>  
**Sent:** Monday, December 28, 2009 11:02 AM  
**Subject:** Fwd: bike pathway

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**From:** "Sarah Moerschel" <MoerschelS@rcbhsc.wvu.edu>  
**To:** lahraven@comcast.net  
**Sent:** Monday, December 28, 2009 5:54:21 AM GMT -08:00 US/Canada Pacific  
**Subject:** bike pathway

Dear Jefferson County Commission:

I am a citizen of Jefferson County who feels strongly that a bike and walking path from Shepherdstown to Morgan's Grove Park will be an important addition to our community. I live in the town of Shepherdstown and my family frequently visits Morgan's Grove Park to use the playground, jogging path, and playing fields. My children, who are 9 and 7 years old, frequently ask WHY we are driving to the park when it is so close to our house. They are able to ride their bikes for miles on the C&O Canal, yet we are not able to ride across town to the park because the road is so unsafe for bikes and pedestrians. There is no shoulder to escape to in the event that a car comes in the other direction.

Please support our community by enabling us to build a bike path from Shepherdstown to Morgan's Grove Park.

Sincerely,

Sarah Moerschel

Sarah Moerschel, MD FAAP  
Pediatric Clerkship Director  
WVU Eastern Division  
171 Taylor Street  
Harpers Ferry, WV 25425  
(304) 535-6343 x 252

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**Sandy McDonald**

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**From:** <lahraven@comcast.net>  
**To:** <sandy@jeffersoncountywv.org>  
**Sent:** Monday, December 28, 2009 11:02 AM  
**Subject:** Fwd: bike path support

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From: "Brian Romine" <BRomine@coxhollidaprice.com>  
To: lahraven@comcast.net  
Sent: Saturday, December 26, 2009 8:18:47 AM GMT -08:00 US/Canada Pacific  
Subject: bike path support

Dear Jefferson County Commission,

I am a citizen living in Shepherdstown, WV and strongly support the proposal to build a bike path from Shepherdstown to Morgan Grove Park. My wife Emily and I have two young boys and would use this trail on a regular basis. We feel this would be a valuable addition encouraging our family and community to utilize the path and promote health and fitness activities. Thanks so much for your consideration.

Sincerely,

Brian Romine and family

**Sandy McDonald**

---

**From:** <lahraven@comcast.net>  
**To:** <sandy@jeffersoncountywv.org>  
**Sent:** Monday, December 28, 2009 11:03 AM  
**Attach:** Four-Eighty Bike Path Stolzenburg.doc  
**Subject:** Fwd: Letters of Support for Rt 480 bike path to Morgan's Grove and post holiday run 9am Sat.

----- Forwarded Message -----

From: "will stolzenburg" <wstolzenburg@gmail.com>  
To: "Mark Cucuzzella" <afrundoc@gmail.com>, lahraven@comcast.net  
Cc: "Kathy Stolzenburg" <kstolzenburg@gmail.com>  
Sent: Friday, December 25, 2009 5:14:21 AM GMT -08:00 US/Canada Pacific  
Subject: Re: Letters of Support for Rt 480 bike path to Morgan's Grove and post holiday run 9am Sat.

Hi Mark and Lori,

Merry Christmas. And here below is my letter in support of a Shepherdstown--Morgan's Grove bike path. (It's also attached, if more convenient.) Thank you both for rallying the troops.

will

Dear Jefferson County Commission,

I am a citizen of Jefferson County and Shepherdstown, and committed to the natural beauty and quality of life that this special place provides. I am therefore urging you to support a bike/pedestrian path bridging Shepherdstown to Morgan's Grove Park.

The path will allow those who choose to walk, run, or bike to the Park without risking life and limb on the unfriendly shoulders of Highway 480. It will allow the option for those of us who prefer to exercise our bodies and forego the unnecessary use of gas-powered vehicles. It will encourage others who may not yet have considered this healthier, more environmentally and socially responsible alternative.

The advantages are endless: Fewer sedentary and sickly citizens, fewer risky ventures by pedestrians and roadkills of wildlife, fewer greenhouse gases and dependence on unsustainable oil-based economies; greater health of body and mind, greater appreciation for the natural beauty we've inherited, and a greater sense of community that naturally follows in a citizenry freed from their cars.

More muscle-powered transport, fewer automobile trips, and greater appreciation for the outdoors should be encouraged throughout our community. A bike path to Morgan's Grove Park would be a great start, the returns far exceeding the costs. For the good of all, please support this proposal.

Sincerely,

Will Stolzenburg  
85 Thatcher Ct.  
Shepherdstown, WV 25443

**Sandy McDonald**

---

**From:** <lahraven@comcast.net>  
**To:** <sandy@jeffersoncountywv.org>  
**Sent:** Monday, December 28, 2009 11:03 AM  
**Subject:** Fwd: helping w/ the bike path cause

----- Forwarded Message -----

From: "Molly Briggs" <mollyjbee@gmail.com>  
To: lahraven@comcast.net  
Sent: Thursday, December 24, 2009 4:13:21 PM GMT -08:00 US/Canada Pacific  
Subject: helping w/ the bike path cause

Dear Jefferson County Commission,  
I am a citizen, and resident of, Jefferson County, as well as a student at Shepherdstown Middle School. I strongly support the proposal to build a bike path from Shepherdstown to Morgan Grove Park. I would use it frequently, as well as many others I know. I have done research on the benefits and complications bike paths and have discovered that bikeways are a fantastic way to deal with health, economical, and environmental issues. I currently am not allowed to bike or walk along the road because of the danger. I would be able to bike or walk if there was this fabulous proposed bike path.

--  
Molly Briggs  
[mollyjbee@gmail.com](mailto:mollyjbee@gmail.com)

**Sandy McDonald**

---

**From:** <lahraven@comcast.net>  
**To:** <sandy@jeffersoncountywv.org>  
**Sent:** Monday, December 28, 2009 11:04 AM  
**Subject:** Fwd: bike path support

----- Forwarded Message -----

From: "bonnie" <bonniesitman@frontiernet.net>  
To: lahraven@comcast.net  
Sent: Thursday, December 24, 2009 1:48:57 PM GMT -08:00 US/Canada Pacific  
Subject: bike path support

Dear Jefferson County Commission,

I am a citizen living in Jefferson County and I strongly support the proposal to build a bike path from Shepherdstown to Morgan Grove Park. We are a family of 4 avid bikers who would greatly appreciate the ability to SAFELY bike from town to our favorite park. And it would be so great to be able to encourage children to bike more, thus improving their health while allowing families to decrease their use of fossil fuels! This is a No-Brainer!

Sincerely,

Bonnie Sitman

**Sandy McDonald**

---

**From:** <lahraven@comcast.net>  
**To:** <sandy@jeffersoncountywv.org>  
**Sent:** Monday, December 28, 2009 11:04 AM  
**Subject:** Fwd: Bike path

----- Forwarded Message -----

**From:** "Grant Moerschel" <gm@wavegard.com>  
**To:** lahraven@comcast.net  
**Sent:** Thursday, December 24, 2009 1:24:49 PM GMT -08:00 US/Canada Pacific  
**Subject:** Bike path

Dear County Commissioners,

I am a long time resident of Shepherdstown and am writing today to voice my strong support for a path along Route 480 that will link the Corporation of Shepherdstown to Morgan's Grove Park. As a father of two small children, I try to impress upon them that exercise is something we all need to do to maintain healthy bodies and minds. Having access to parks and trails through continuous pathways such as this makes it easier for people to get out and get moving. I would very much appreciate your approval of matching funds to assist with this project that I understand will be 80% funded by the State. Let's not pass up this opportunity to put something in place that helps our community.

Thank you,  
Grant Moerschel  
106 N. Duke Street, Shepherdstown, WV

--  
Grant P. Moerschel  
CISSP, CCSP, CWSP, CWNA, ACMX  
WaveGard, Inc.  
+1 703.568.5077  
gm -at- wavegard -dot- com  
Linkedin: <http://www.linkedin.com/in/moerschel>  
--

# Commentary

## Movement toward a W. Va. 480 bike path



The Doyle Report

By Delegate John Doyle

Many Shepherdstown residents have approached me over the last half dozen years urging my support for a bicycle/walking path along W. Va. 480 from the town limits of Shepherdstown to Morgan's Grove Park. I have strongly supported such an effort for many years and I think we're finally beginning to see some progress.

Councilperson Lori Robertson is heading up the effort. She has some volunteer help but might perhaps be able to use some more.

Some will remember that we held a town hall style meeting on this subject a few years ago, at the Shepherdstown Train Station. At my request, three officials of the West Virginia Department of Transportation (WVDOT), including Secretary of Transportation Paul Mattox, came from Charleston for that meeting. About fifty local folks attended, and all were supportive. The next day, the WVDOT officials walked the proposed route with me.

Since then, lots of people have asked me why it hasn't yet been built. The answer is that the local community (either the Town Council or the

County Commission, preferably both) must formally request such a project. That hasn't yet been done, but it finally seems to be imminent.

That's how the bike path along WV Route #45 got built a few years ago. We held a public meeting, everybody supported it, the town and the county requested it almost immediately and it got built.

The proposal for the 7.60 path will be for a path physically separated from the road itself (similar to the path along W. Va. 41, 45). The path along W. Va. 45 is not separated (independent) is the term used by WVDOT. Actually, it was supposed to be separated, but something fell through the cracks. I've been trying ever since to get WVDOT to re-do it so that it's separated at least part of the way.

WVDOT did put plastic "barriers" between the roadway and the path after it was built. But that caused problems for the fire company (some folks didn't want to drive over the barriers to get out of the way of emergency vehicles). WVDOT decided to not replace the barriers as they were broken.

But I digress. The cost of the approximately half mile of pathway along W. Va. 480 is thought to be about \$400,000. The local community must come up with 20 percent of the money as a match. Hopefully the town and the county can provide that amount between them.

The formal application is due soon. The money from the state would actually be federal money through the Transportation Equity Act. That's the law the US Congress must enact every few years to provide transportation money each year to the states. Some of that money is dedicated to a fund for non-motorized transportation. It is from that fund that Shepherdstown got the state portion of the money for its streetscape project that was completed this past summer.

Once the application is in, it must compete with other applications from around the state; just as was required of the application for the streetscape funds and of the one for the W. Va. 45 bike path.

If we can make this bike path a reality I believe it will be a boon to the whole Shepherdstown area. It will

link the town with Morgan's Grove and with the path along Alternate W. Va. 45.

I think we should do everything possible to promote bicycling and walking here in the Eastern Panhandle. I will do everything I can to help in the effort to get a walking/bicycling path along W. Va. 480.

### Town meetings Dec. 30, Jan. 7

I'll be holding the two town meetings I usually have before the Legislature begins its 2010 Regular Session in early January. The first will be held at the Bolivar Community Center (Panama Street, Bolivar) on Wednesday, Dec. 30. The second will take place on Thursday, Jan. 7, at the Robert C. Byrd Center for Legislative Studies (King Street, Shepherdstown, on the campus of Shepherd University).

At both meetings we'll talk about the issues most likely to occupy center stage during the 2010 Regular Session. I'll talk a little bit about each and take questions on those and any other issues that interest folks in attendance.

Check us out on the web...  
[www.shepherdstownchronicle.com](http://www.shepherdstownchronicle.com)  
 Arts, Culture, Entertainment... Read it Here!

#7

<p>Commission Office Use Only</p> <p>Date on Agenda: <u>1/7/10</u></p> <p>Appt Time or New Business: <u>10:45</u></p>
-----------------------------------------------------------------------------------------------------------------------

**AGENDA REQUEST FORM**

Name: Barbara J. Miller, CEM, CFM

Department or Entity: Homeland Security & Emergency Management

Estimation of amount of time needed for appointment: 10 minutes

Date Requested – 1<sup>st</sup> Choice: January 7, 2010

Date Requested – 2<sup>nd</sup> Choice: \_\_\_\_\_

If a specific date is needed, please provide reason for specific date: Document needs to be submitted to the Regional Coordinator for Eligibility for Applying for Homeland Security grants.

Subject: **FY09 Homeland Security Grant Eligibility Certification**

Please provide the County Commission with a description of your request or presentation, including any background information: **The WV Department of Military Affairs and Public Safety is requiring Proof of Eligibility to apply for FY-09 Homeland Security Grants this year. All required proof has been gathered and is ready to be submitted to the Regional Homeland Security Coordinator, Pamela Holstein-Wallace.**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): **I move to approve the FY09 Homeland Security Grant Eligibility Certification and for the President of the County Commission to affix his/her signature to the document.**

Attachments: **Certification Document**

## **FY 09 Homeland Security Grant Eligibility Criteria and Certification**

To be eligible to apply for FY 09 State Homeland Security Program grant funding, an agency or organization must comply with specific criteria as hereinafter set forth. Evidence of compliance must be submitted to the Homeland Security Regional Coordinator (HSRC) no later than January 15, 2010. The HSRC may provide direct assistance to the applicant to come into compliance, or by referral to the appropriate resource. To identify your Regional Coordinator, call (304) 558-2930. The Regional Coordinators will provide notification of eligibility no later than February 5, 2010.

### 1. National Incident Management System (NIMS) Compliance

The U.S. Department of Homeland Security requires that States and Local Governments meet National Incident Management System (NIMS) implementation and compliance requirements to be eligible to receive federal grants. The State of West Virginia has interpreted this to include associations, utilities, non-governmental organizations, and private sector organizations will also comply with NIMS objectives to be eligible for grant funding.

The applicant must meet or exceed the following:

- a. Register for a National Incident Management System Comprehensive Assessment Support Tool (NIMSCAST) account and **answer all questions**, including the development of Corrective Action Plans if necessary. Corrective Action Plans do not disqualify an organization from being an applicant or recipient.
- b. The formal adoption of NIMS as the approach to be utilized for all incident management. This is evidenced by Proclamation, Resolution, Executive Order, or other document indicating adoption by the applicant's governing body and **a copy must be attached**.
- c. Utilize NIMS and the Incident Command System (ICS)
- d. Provide a current inventory to the applicant's county emergency manager of all response/recovery assets. To the extent possible, this information about the level of capability should be made in accordance with the NIMS resource definitions; and
- e. Develop and maintain a list of all Memoranda/Statements of Understanding and Mutual Aid Agreements to which the applicant is a party and **a copy of the list must be attached**. If you have no MOU's or MAA's, submit a written statement indicating that none exist.

### 2. Interoperable Communication Equipment

The applicant must submit in writing a listing of equipment that supports the Statewide Communication Interoperability Plan. This would minimally include the number and type of radios and the frequencies used.

### 3. Continuity of Operations Plan

The applicant must submit a written Continuity of Operations (COOP) plan to the local emergency manager and to the HSRC. The plan must contain at a minimum the following elements:

- List of Essential Functions
- Orders of Succession for essential personnel
- List of Delegations of Authority
- Identification of a continuity facility
- Employee notification procedures for COOP activation
- **Identification of vital records**
- **Training plan/schedule**

A continuity plan that contains these elements is not considered a complete plan; rather it demonstrates that significant planning efforts have been undertaken and completed.

### 4. Exercise List and AARs/CAPs

The applicant must submit to the HSRC a written list of any exercises in which it has participated since January 1, 2009, along with a copy of the After Action Report (including any Corrective Action Plans) or a list of principle findings of the exercise relative to the organization. If the entity has not participated in any exercises, submit a written statement to the HSRC indicating no involvement.

### 5. Training Questionnaire

The applicant has completed the attached questionnaire and submitted it to the HSRC.

## FY 09 Homeland Security Grant Training Questionnaire

1. Has anyone from the organization attended the Homeland Security Exercise Evaluation Program (HSEEP) training?      X Yes      No  
Director, Barbara J. Miller, CEM, CFM and Deputy Director, Terri Mehling have completed the HSEEP training.
2. Are there national or state training mandates to which employees or volunteers of the organization must comply?      X Yes      No  
If yes, please list the sources of the mandates.

The director must complete a minimum of 48 hours of training for the EMPG Grant and attend the LEPC Conference and director's meetings.

3. Are there specific courses or general training topics that the Homeland Security State Administrative Agency could offer that would benefit your discipline and/or organization? If so, please attach a list. A partial listing of potential course topics is available at this website:

[www.ojp.usdoj.gov/odp/docs/tei\\_course\\_catalog2009.pdf](http://www.ojp.usdoj.gov/odp/docs/tei_course_catalog2009.pdf)

I have previously submitted my requests for training to Christian Fernley at WVDMAPS

4. Does your organization or jurisdiction have access to a facility(s) that could host regional training? If so, please provide a list or contact information.

We have a training room that holds approximately 25-30 people. It has a screen, projector, 4 TVs, etc. Must be scheduled in advance and is subject to availability.

5. Please list the reasons why your agency is unable to attend training that is offered (e.g. no staff to cover, no travel budget, already have information).

We attend as we are able. On-line training, or training that is nearby is helpful.

## FY 09 Homeland Security Grant Eligibility Certification

Agency/Organization: Jefferson County Homeland Security and Emergency Management- Jefferson County Commission

I have reviewed the foregoing and certify that to the best of my information and belief, the agency/organization I represent has met or exceeded the eligibility requirements prerequisite to applying for FY 09 Homeland Security Grant funding.

Agency/Organization Authorized Official:

\_\_\_\_\_  
Type or Print Name of Agency/Organization Authorized Official

Title: \_\_\_\_\_

\_\_\_\_\_  
Signature Of Agency/Organization Authorized Official

Date: January 7, 2010

Emergency Manager:

I have reviewed the foregoing and certify that to the best of my information and belief, this agency/organization has provided the prerequisite information to me to be eligible to apply for FY 09 Homeland Security Grant funding.

\_\_\_\_\_  
Typed or Printed Name of Emergency Manager

\_\_\_\_\_  
Signature of Emergency Manager

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

(If agency/organization operates in more than county, use the county where the primary office is located)

Homeland Security Regional Coordinator

I have reviewed all the foregoing and certify to the best of my information and belief, the agency/organization has complied with the FY 09 Homeland Security Grant Eligibility Criteria.

\_\_\_\_\_  
Typed or Printed Name of WVDMAPS Regional Coordinator

\_\_\_\_\_  
Signature of WVDMAPS Regional Coordinator

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

Commission Office Use Only

Date on Agenda:

Appt Time or New Business:

### AGENDA REQUEST FORM

Name: Barbara Miller, CEM, CFM

Department or Entity: Homeland Security and Emergency Management

Estimation of amount of time needed for appointment: I already have an appointment, please add this subject to it.

Date Requested – 1<sup>st</sup> Choice: January 7, 2010

Date Requested – 2<sup>nd</sup> Choice: \_\_\_\_\_

If a specific date is needed, please provide reason for specific date: **To update the County Commissioner's on the December 19/20 Snowstorm and aftermath.**

Subject: **Update from December 19/20, 2009 Snowstorm**

Please provide the County Commission with a description of your request or presentation, including any background information: **On December 19, a heavy snowstorm commenced that resulted in a state-wide emergency declaration by the Governor, followed by a local declaration by the Jefferson County Commission. The Emergency Operations Center was activated for a period of 30 hours. The purpose of this request is to update the County Commissioners on the status of the results of that storm and the status of the Governor's request for a declaration for a Severe Winter Storm. At the time of this request, agencies have been asked to submit financial information to be given to the state. Additional information is coming in daily, conference calls continue with WVDHSEM and FEMA (West Virginia Division of Homeland Security and Emergency Management and the Federal Emergency Management Agency).**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): **No action anticipated at this time.**

Attachments: **DRAFT of After Action Report**

**SNOWSTORM (THE BIG DIG)**

**December 18/19, 2009**

**AFTER ACTION REPORT**

**[Prepared by Barbara J. Miller, CEM, CFM]**

For Official Use Only

Homeland Security Exercise and Evaluation Program (HSEEP)

After Action Report  
(AAR)

Snowstorm (The Big Dig)

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## **ADMINISTRATIVE HANDLING INSTRUCTIONS**

1. The title of this document is the After Action Report for the December 18/19, 2009 Snowstorm.
2. The information gathered in this AAR/IP is classified as [For Official Use Only (FOUO)] and should be handled as sensitive information not to be disclosed. This document should be safeguarded, handled, transmitted, and stored in accordance with appropriate security directives. Reproduction of this document, in whole or in part, without prior approval from Jefferson County Homeland Security and Emergency Management is prohibited.
3. At a minimum, the attached materials will be disseminated only on a need-to-know basis and when unattended, will be stored in a locked container or area offering sufficient protection against theft, compromise, inadvertent access, and unauthorized disclosure.
4. Points of Contact:

Barbara J. Miller, CEM, CFM  
28 Industrial Blvd., Suite 101  
Kearneysville, WV 25430  
(304) 728-3290 Phone  
(304) 728-3320 FAX  
bmiller@jeffersoncountywv.org

## **AFTER ACTION REPORT**

A winter storm warning for Jefferson County was posted by the Baltimore-Washington Office of the National Weather Service on Friday, December 18<sup>th</sup>. The storm began late on Friday evening and proceeded throughout the weekend.

Consultation with EOC staff, the director and the State EOC commenced at 10:00 a.m. on Saturday morning. The Jefferson County Emergency Operations Center was activated at 1300 on Saturday afternoon with the Command Staff. The Command Staff included the Director, the Deputy Director, acting as the Liaison Officer, the Public Information Officer, Safety Officer, ETEAM Coordinator and a Scribe. Incident Command was set up using NIMS incident management and coordination of information and resources commenced. A local state of emergency was declared by the Jefferson County Commission. The State Emergency Operations Center was notified of the local declaration and ETEAM reporting commenced. The Public Information Officer notified all media outlets of the declaration. The EOC notified the ECC of the activation and it was announced over all County Monitors. Surrounding counties' EOCs were notified, as well as local municipalities. Governor Manchin declared a state of emergency for all of West Virginia on December 19<sup>th</sup>. Total storm accumulation in Jefferson County ranged from 18 inches in lower elevations to over 34 inches reported in Shannondale.

At the height of the storm, Allegheny Power reported 20 customers were without power in the Harpers Ferry area, however power was reported to be restored within just a few hours. There were no known requests for sheltering within Jefferson County; no shelters were opened, although the Eastern Panhandle Chapter of the American Red Cross remained on alert throughout the storm. No water emergencies were reported during the storm. Shepherd University was on Christmas break and Jefferson County Schools were closed on Monday, Tuesday and Wednesday, then commenced with Christmas break. Jefferson County Government had a 2 hour delay and 2 hour early dismissal on Monday, and a 2 hour delay on Tuesday. Wednesday was a regular day, and Thursday and Friday the offices were closed for Christmas Break. The County's essential emergency personnel worked many overtime hours throughout the event. This included the acting county administrator, the Homeland Security and Emergency Management Department, the Emergency Communications Center, the County's Sheriff's Department, and the Maintenance Department. The Federal Government was closed on Monday. Numerous events and activities were canceled throughout Christmas week due to the storm.

During the period of the EOC activation, the 9-1-1 Center received 48 calls for ambulances/ALS; 113 calls for Law Enforcement; and only 2 calls for Fire. This time period included from 2300 on Friday night through 15:00 on Saturday.

Requests for resources included requests from the municipalities of Harpers Ferry, Bolivar, Shepherdstown and Charles Town for assistance from the 167<sup>th</sup> Air Guard to remove snow from municipal streets. Shepherdstown canceled their request before it was filled. Harpers Ferry and Bolivar's requests were approved and the 167<sup>th</sup> Air Guard assisted these municipalities to clear their streets. Charles Town's request was denied by the State Emergency Operations Center.

**Homeland Security Exercise and Evaluation Program (HSEEP)**

**After Action Report  
(AAR)**

**Snowstorm (The Big Dig)**

A request from a resident that lived just beyond the municipal limits to be plowed so that he could be taken to the VA center was taken care of by the EOC/Maintenance Department on Sunday afternoon. The EOC/Maintenance Department prepared to fill a request to deliver medications to a patient in Avon Bend on Wednesday, however the requesting agency canceled that request.

The State EOC held briefings at 0730 and 1930 each day through December 24. Additionally, they held 4:15 a.m. weather updates the first few days. During these briefings, the weather offices that serve West Virginia gave weather updates. State agencies reported on their missions and County Emergency Management Offices reported on progress and requests for additional resources.

Governor Manchin lifted the state of emergency for 26 of West Virginia's 55 counties on December 22, 2009. Jefferson County was NOT one of the counties included in the lift. Information received on December 29 indicated that the state of emergency for Jefferson, as well as some other West Virginia Counties, will continue through January 20, unless otherwise lifted by the Governor.

All Air Guard resources had completed their missions in Jefferson County by December 23, 2009 and were released. There was one incident of a citizen complaint about a hedge being damaged by the Air Guard while removing snow. The incident was reported to the SEOC and the Air Guard is looking in to the incident.

On December 30, a conference call was held with all County Emergency Management Directors, West Virginia Department of Homeland Security and Emergency Management staff, State Agencies, and FEMA to discuss a possible federal declaration. It was reported that in order to get a Severe Winter Storm declaration, a County had to have the "snow of record" as determined by the National Weather Service. Additionally, a County had to meet their "per capita threshold" Jefferson County's threshold for this event is \$136,274. Additionally, the state has to meet a threshold of \$2,332,770 for consideration. Each County Director was asked to gather information from their County Government, municipalities, and responder agencies. The state sent the excel spreadsheet format that they wanted used on December 30 and that has been forwarded to all parties. The state director plans to have all preliminary numbers and the request on the Governor's desk by January 7, 2009. At this time, there is no federal declaration. The state plans to request a federal declaration for Severe Winter Storm. This will be on-going for the next several weeks. This after action report will remain in draft format until everything, including financial information, is finalized.

## **Major Strengths**

The major strengths identified during this activation are as follows:

- Jefferson County was very fortunate that the snow wasn't heavy or wet, so power and other utilities remained on. There was no need for shelters, restoration of power, or other utility issues.
- Public Information was well communicated. PIO, Jennifer Maggio was in contact with local media throughout the storm.
- There was a State declaration of Emergency, as well as, a local declaration. Any time this happens, it is easier to work with the state, as the SEOC was operational throughout.

# OVERVIEW

## Details

**Name**

December, 2009 Snowstorm

**Type:** Severe Winter Storm with deep snow, melting and refreezing for several days.

**Storm Start Date**

December 18, 2009

**Duration**

The Jefferson County Emergency Operations Center was activated on December 18 and operated consistently until 1507 on December 19 for a total of 30 hours. After that it was staffed throughout the daytime hours each day with phones forwarded to the director's cell phone in the evenings.

**Location**

This storm affected most of the Mid-Atlantic Region of the United States.

## **Participating Organizations**

- **Jefferson County Commission**
- **Jefferson County Homeland Security and Emergency Management**
- **Jefferson County Emergency Communications**
- **Jefferson County Emergency Services Agency**
- **Jefferson County Maintenance Department**
- **All County Fire Companies**
- **All Local Law Enforcement Agencies**
- **Town of Bolivar**
- **Charles Town City Government**
- **Harpers Ferry City Government**
- **Ranson City Government**
- **Shepherdstown City Government**
- **Baltimore-Washington Office of the National Weather Service**
- **WV Department of Highways**
- **WV Homeland Security and Emergency Management**
- **WV National Guard-167<sup>th</sup> Airlift Unit**
- **WV State Police**
- **Duncan Farms Equipment Contractor (WV DOH)**
- **Gary Kable Equipment Contractor (WV DOH)**
- **Jefferson Asphalt Equipment Contractor (WV DOH)**
- **Volunteers/Non-Governmental Agencies/Friends & Neighbors**
- **Eastern Panhandle Chapter, American Red Cross**

- **The Spirit of Jefferson News Paper**
- **The Journal**
- **The Morning Herald**
- **Jefferson County Schools, Channel 19**



APPENDIX 1----Print Media



CHARLES TOWN, W.VA.

## EMS officials say medical calls were 'overwhelming'

By DAVE McMILLION  
dave.m@wvpost.com

Independent Fire Co. Chief Ed Smith said he and a group of people formed a team to rescue motorists who were stuck during Saturday's snow storm, but were forced to give up the effort.

"The number of (calls) was overwhelming. There are cars everywhere. It's very, very treacherous," Smith said early Saturday afternoon.

The people involved in the rescue group decided their time was better spent assisting with medical calls, which were presenting their own challenges, Smith said.

Two ambulances became stuck in the snow responding to calls, Smith said.

One ambulance became stuck responding to a call at Washington Village off South George Street in Charles Town and the other ambulance became stuck on Washington Street in Harpers Ferry, Smith said.

Because of heavy snow, patients were being taken to the closest hospital, Smith said.

A patient who suffered a broken leg in Rippon, W.Va., wanted to be transported to the Veterans Affairs Medical Center near Martinsburg, W.Va., but "it's just not practical," Smith said.

The patient was taken to Jefferson Memorial Hospital, Smith said.

A state of emergency was declared in the state and the county as a result of the storm, said Barb Miller, director of Jefferson County Homeland Security and Emergency Management.

Under a state of emergency, resources such as the National Guard are available to help with emergencies like power failures and if people need shelter, Miller said.

"At this point, it's just preparedness," Miller said Sunday afternoon.

Miller said about 13 inches of snow had fallen by early afternoon Sunday and she said up to 24 inches could fall on the county on the Blue Ridge mountain than in lower areas, Miller said.

Roads that were plowed were "extremely icy," Smith said.

12/28/2009 16:38

12/28/2009 18:39

The Journal 12/27/09

# The blizzard aftermath

## Cleanup continues throughout today

By Lindsey Givens  
lindsey.givens@wvpost.com

MARTINSBURG — Locals can certainly take "a white Christmas" off their wish list.

This weekend's snowstorm, which began Friday night and lasted all around a week, finally left an enormous amount of snow all over the tri-county area, leaving many to believe it will be declared an official record-breaking storm.

Local weather watcher Pat Dunnett and Katelyn, who according to his records, the highest accumulation of snowfall in one day was 12 inches on Dec. 23, 1963.

It was that hot that time on Saturday, the snowfall already measured in around 15 to 47 inches.

"We definitely had that record, but as far as the meter named is concerned, we don't know if it's a record," Dunnett said.

He explained that up until 2003, measurements of precipitation were taken by on-site observers before the Automated Surface Observing Systems program was installed at Martinsburg, Kanawha West Virginia Regional Airport.

Today, ASOS continues to only measure liquid precipitation, rather than accurately measure freezing or frozen precipitation.

Because of ASOS, the physical measurements of snow reports have been augmented, he said.

He said the weather forecasts for Christmas Eve and Christmas Day received high temperatures, but not in the face of snowfalls.



Photo taken by Steve Givens

A crew from the West Virginia Division of Highways continues to clear King Street on Monday. Primary roads and highways were cleared enough to drive safely over, yet back roads and secondary roads remained snow-covered and icy in places.

"They're calling for freezing rain and changing terrain. If a car gets on the road enough to snow again, so people will not see fresh snow this holiday, only what's leftover," he said.

Finally, it is worth to document the amount of snow that was piled high in parking lots and back roads early on Sunday and Monday, but many drivers braved the roads after a weekend spent entirely inside.

Muck Baker, a Berkeley County crew supervisor for the Department of Highways, said that while Sunday was an extremely busy day for the crew, Monday was another, but it better in terms of progress.

Primary roads and highways were cleared enough to drive safely over, yet back roads and secondary roads remained snow-covered and icy in places.

"We have plowed and treated the primary roads," he said. "When we started these, however, some spots didn't come off, so we'll have to now clearing those spots."

He said the crews clearing secondary roads helped by "brushing the snow up and making parking lots safer."

"We have worked on a lot of the secondary roads and trying to get the primary

BY LINSEY GIVENS



12/28/2009 16:39

# The Big Dig

Journal 12/28/09



The Eastern Panhandle began to dig out from the worst storm it's seen in decades on Sunday. Flood zones and citizens were out all day clearing highways, sidewalks and streets from 15 to 20-plus inches of snow in the area.

## Cleanup ongoing after massive storm

By Emma McKeon  
Special to the Journal

MARTINSBURG — Cleanup and snow removal efforts continued Sunday in the Eastern Panhandle following this week-end's massive snowstorm that saw as much as 26 inches of snow fall in higher elevated areas, with the remainder of the area seeing an average of 15 to 20 inches, emergency officials said.

Following a much-needed respite in snowfall Sunday, local West Virginia Division of Highways officials said the primary roadways were mostly cleared, including Interstate 77, U.S. 17, W Va. 43, and W Va. 51.

"We've plowed all of our priorities. We've pretty much got them all open, and we are now working in sections on our secondary," said Matt Hatten, a Berkeley County crew supervisor for the D.H.W. on Sunday afternoon.

**INSIDE**  
» Related stories, Page A3 and A6. Related photographs, Pages A2, A3, B1, B2, B5 and online at [capitalnews.net](http://capitalnews.net)



Photo by Scott Lawrence  
Liam Joseph Glenn, age 4, is very proud of his new friend Frisco the Snowman. Liam is the son of James and Christina Glenn, and grandson of Anthony and Janice Zboronick.

#9

RECEIVED

DEC 17 2009

JEFFERSON COUNTY COMMISSION

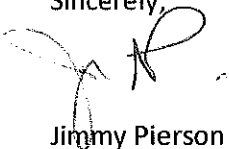
12/15/09

To: The County Commissioners of Jefferson County

RE: Request to appear before the county commissioners

I would like to request to appear before the county commissioners at your meeting in January, 2010. The purpose of the request is to request funding for the purchase of tables and chairs for the Ranson Civic Center.

Sincerely,



Jimmy Pierson

Park Manager, City of Ranson

# 11

Boundary Commission – appointed by Chapter 29, Acts, Regular Session, 1989 – to consist of three members who shall be residents and citizens of the state, all of whom shall have experience involving map reading or surveying. The Commission members shall investigate state, county and municipal boundary disputes when requested to do so by the Governor or Legislature.

Members in 1998 were Charles W. Stultz, chairman; John Doyle; Herbert A. Russell

Work contracted and performed by Patton Harris Rust & Associates, pc – contracted on Nov. 26, 1996 “to establish the top of the watershed along the Blue Ridge Mountain from the corner monument with Clarke County and Loudoun County, Virginia and Jefferson County, West Virginia northeastward to the Washington County, Maryland, Jefferson County, West Virginia and Loudoun County, Virginia corner (the mean low water mark of the Potomac River on the Virginia side.)”

Report was prepared March 1997 and revised March 1998 – letter to Governor Underwood declaring work finished in April 1998. No mention in that letter of displays.

Letter Feb. 25, 2008 to Governor Manchin letting him know that Mr. Russell had arranged for Fred Armstrong to get the 4 boundary displays – letter states that intent of members was to place in Charleston (capitol or archives), Richmond (archives), Charles Town (Jefferson County Courthouse) and Leesburg (Loudon County Courthouse). Wanted Governor Manchin to notify all former members of commission as well as Mr. Stultz’ widow of “much anticipated and long awaited ceremony recognizing this historic milestone” – Fred had picked up the displays as well as the maps and supporting documentation in Leesburg sometime around Sept. 2006, and I accessioned the collection into our holdings in June 2007.

## Nichelle Hosby

---

**From:** Cline, Bethany K [Bethany.K.Cline@wv.gov]  
**Sent:** Tuesday, December 22, 2009 4:19 PM  
**To:** 'nhosby@jeffersoncountywv.org'  
**Subject:** FW: Boundary Commission  
**Attachments:** 063009a 040.jpg; Boundary Commission.doc

FYI...

Thank you and Happy Holidays!

*Bethany K. Cline*

Executive Assistant to the Commissioner  
West Virginia Division of Culture & History  
1900 Kanawha Blvd. East, Bldg. 9  
Charleston, WV 25305  
(304)558-0220 Ext. 113  
Fax: (304)558-2779  
[bethany.k.cline@wv.gov](mailto:bethany.k.cline@wv.gov)

#12

<p>Commission Office Use Only</p> <p>Date on Agenda:</p> <p>Appt Time or New Business:</p>
--------------------------------------------------------------------------------------------

**AGENDA REQUEST FORM**

Name: Sandy McDonald

Department or Entity: County Commission

Estimation of amount of time needed for appointment: 1/2 Hour

Date Requested – 1<sup>st</sup> Choice: January 7, 2010

Date Requested – 2<sup>nd</sup> Choice: \_\_\_\_\_

If a specific date is needed, please provide reason for specific date:

Subject: **Workshop**

Please provide the County Commission with a description of your request or presentation, including any background information: **Discussion Commission Priorities for Upcoming Quarter**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve):

Attachments:



#14

# Jefferson County Health Department

ROBERT E. JONES, M.D.  
HEALTH OFFICER



1948 WILTSHIRE ROAD, SUITE 1  
KEARNEYSVILLE, WV 25430  
ENVIRONMENTAL: (304) 728-8415  
FAX: (304) 728-3314  
MEDICAL: (304) 728-8416  
FAX: (304) 728-3319

I am requesting to be placed on the County Commission agenda for December the <sup>17<sup>th</sup></sup> 10<sup>th</sup> please. This is concerning a Christmas bonus from the County Commission to include the employees of the Jefferson County Health Dept.  
Thank you.

*Amy B. Jones MSN*  
Amy B. Jones, MSN  
Administrator  
Jefferson County Health Department

## RECEIVED

DEC 03 2009

Jefferson County Commission

*Old Business*



#15

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION  
**Division of Highways**

1900 Kanawha Boulevard East • Building Five • Room 110  
Charleston, West Virginia 25305-0430 • (304) 558-3505

Joe Manchin III  
Governor

November 30, 2009

RECEIVED

DEC 22 2009

Ms. Sandy Slusher McDonald  
Acting Jefferson County Administrator  
County Commission of Jefferson County  
Post Office Box 250  
Shepherdstown, West Virginia 25414

Jefferson County Commission

Dear Ms. McDonald:

Approval is given, as requested in your letter, dated November 19, 2009, for a no-cost time extension to allow for the completion of the Shepherdstown Civil War Battlefield Transportation Enhancement Program project (State Project: U319-SHE/P-7.00) in Jefferson County. This will, in accordance with your request, extend the expiration date through December 31, 2010.

If you concur, please have the appropriate person sign both Letter Agreement originals. After signing, keep one executed Agreement for your files and return the other to West Virginia Division of Highways, Building 5, Room A-816, 1900 Kanawha Boulevard, East, Charleston, West Virginia 25305.

Should you have any questions, please contact Mr. Harold Simmons, Project Manager at (304) 558-9618.

Very truly yours,

Robert L. Pennington, P. E., Director  
Program Planning and Administration Division

RLP:Sw

ACCEPTED: County Commission of Jefferson County Date: \_\_\_\_\_

By: \_\_\_\_\_ Title: \_\_\_\_\_



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION  
**Division of Highways**

1900 Kanawha Boulevard East • Building Five • Room 110  
Charleston, West Virginia 25305-0430 • (304) 558-3505

Joe Manchin III  
Governor

November 30, 2009

Ms. Sandy Slusher McDonald  
Acting Jefferson County Administrator  
County Commission of Jefferson County  
Post Office Box 250  
Shepherdstown, West Virginia 25414

Dear Ms. McDonald:

Approval is given, as requested in your letter, dated November 19, 2009, for a no-cost time extension to allow for the completion of the Shepherdstown Civil War Battlefield Transportation Enhancement Program project (State Project: U319-SHE/P-7.00) in Jefferson County. This will, in accordance with your request, extend the expiration date through December 31, 2010.

If you concur, please have the appropriate person sign both Letter Agreement originals. After signing, keep one executed Agreement for your files and return the other to West Virginia Division of Highways, Building 5, Room A-816, 1900 Kanawha Boulevard, East, Charleston, West Virginia 25305.

Should you have any questions, please contact Mr. Harold Simmons, Project Manager at (304) 558-9618.

Very truly yours,

Robert L. Pennington, P. E., Director  
Program Planning and Administration Division

RLP:Sw

ACCEPTED: County Commission of Jefferson County Date: \_\_\_\_\_

By: \_\_\_\_\_ Title: \_\_\_\_\_



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Division of General Accounting & Reporting

State Capitol Complex, Building 3, Room 426  
Charleston, West Virginia 25305  
Telephone: (304) 558-2861 Fax: (304) 558-6070

Patsy A. Hardy, FACHE, MSN, MBA  
Cabinet Secretary

Joe Manchin III  
Governor

RECEIVED

DEC 22 2009

Jefferson County Commission

Dear Prospective Grantee:

Attached you will find a proposed grant agreement for your entity. Please review the document thoroughly. Should you have questions concerning this proposed grant agreement, please contact the appropriate person listed in Exhibit H.

If you agree to the terms and conditions of this grant agreement, please secure a **notarized** (by a certified notary public) **original signature** of a duly authorized officer of your organization on the space provided on the signature page. Also, secure an **original signature** (does not need to be a notarized signature) for your organization on **Exhibit L**. Please note that the grant agreement has not, as yet, been signed by an authorized official of the Department of Health and Human Resources. Accordingly, the grant agreement is not fully executed. You will receive a signed copy once the grant agreement has been completely executed.

Promptly return the **entire grant agreement and all exhibits** to:

West Virginia Department of Health and Human Resources  
Division of General Accounting & Reporting  
1900 Kanawha Blvd., East  
Building 3, Room 426  
Charleston, WV 25305

The signed Grant Agreement and all exhibits **MUST** be returned to the address listed above. Failure to return the grant to the above address will result in serious delay and the possible need to return a new original to you for signature a second time.



**GRANT AGREEMENT  
BETWEEN  
THE WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Bureau For Public Health  
Office of Environmental Health Services  
and  
Jefferson Co Commission**

This Grant Agreement is between the West Virginia Department of Health and Human Resources, Bureau For Public Health, Office of Environmental Health Services hereafter "Department" and "Jefferson Co Commission", hereafter "Grantee". The Grant Agreement is for the provision of a source water project comprised of activities to monitor groundwater raise public awareness and protect surface water from contamination as further described in Exhibit A.

WHEREAS, the Department has identified a public need;

WHEREAS, the Department has selected the Grantee to implement activities and services as described herein to accomplish a public purpose of support or stimulation authorized by Federal/State statutes and regulations;

WHEREAS, the Department will provide funds as available for these activities and services;

NOW, THEREFORE the parties mutually agree as follows:

**I. PROGRAM SERVICES TO BE PROVIDED**

**1.01 Scope:**

The Grantee agrees to provide the services and activities under the terms and conditions in the approved Statement of Work attached as **Exhibit A**.

**II. GRANT AGREEMENT TERM**

**2.01 Term:**

This Grant Agreement shall be effective for the period commencing on 11/1/2009 and ending on 10/31/2010. The Department shall have no obligation for payment of services rendered by the Grantee which are not performed within this specified period.

### III. FUNDING

#### 3.01 Source of Funds:

3.01(a) The Source of Funds Schedule, attached as **Exhibit B**, identifies the source of funds to be used as payment for the term of this Grant Agreement.

3.01(b) Federal funds are identified by the applicable Catalog of Federal Domestic Assistance (CFDA) numbers and the appropriated federal revenue fund account number(s).

3.01(c) State funds are identified by the specific appropriated general revenue fund and/or appropriated/non-appropriated special revenue fund account number(s).

#### 3.02 Condition for Receipt of State Funds:

State funds provided by the Department to the Grantee under this Grant Agreement may not be used by the Grantee as a match or cost-sharing provision to secure other federal monies without prior written approval by the Department.

#### 3.03 Maximum Amount Available:

The Department agrees to pay the Grantee a sum not to exceed Eighty three thousand twenty seven, \$83,027.00, dollars for the term of this Grant Agreement. The amount of this Grant Agreement can only change by written agreement which is signed by the parties.

#### 3.04 Subject to Funds Availability:

3.04(a) This Grant Agreement is subject to the appropriation and availability of State and/or Federal funds. If the funds are not appropriated as anticipated, or they are otherwise unavailable, the Department reserves the right to reduce or terminate this Grant Agreement upon written notice to the Grantee.

3.04(b) Such reduction or termination shall not be deemed a breach of Grant Agreement by the Department.

3.04(c) Upon receipt of the written notice, the Grantee shall cease all work associated with the Grant Agreement.

3.04(d) If termination occurs, the Grantee shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date, provided funds are available.

3.04(e) Upon such termination, the Grantee shall have no right to recover from the Department any actual, general, special, incidental, consequential, or any other damages of any description or amount.

**3.05 Program Income:**

3.05(a) **OMB Circular A-102** and **OMB Circular A-110** outline specific guidance for the tracking and disposition of any program income generated as a result of funds received under this Grant Agreement.

3.05(b) Except as otherwise provided in Federal awarding agency regulations or the terms and conditions of the award, program income does not include interest on grant funds, nor does it include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them. Furthermore, program income does not include taxes, special assessments, levies, and fines raised by governmental recipients.

3.05(c) Grantee agrees to comply with all applicable regulations regarding program income.

**IV. AUTHORIZING STATUTES AND REGULATIONS**

**4.01 Grantee Uniform Administrative Regulations:**

For each kind of grantee organization, there is a set of Federal uniform administrative regulations. The following chart lists the kinds of organizations and the applicable uniform administrative regulations for each listed type of grantee.

<u>If the Grantee is a:</u>	<u>OMB Circulars Codified at:</u>
State, local or Indian tribal government use the uniform administrative requirements in <b>OMB Circular A-102</b> .	Department of Health and Human Services (DHS) codified at <b>45 C.F.R. § 92</b> and <b>45 C.F.R. § 95</b> ; Department of Agriculture (USDA) codified at <b>7 C.F.R. § 3016</b> ; Department of Education (EDUC) codified at <b>34 C.F.R. § 80</b> ; Environmental Protection Agency (EPA) codified at <b>40 C.F.R. § 31</b> .
Private nonprofit organization, institutions of higher education, or a hospital use the uniform administrative requirements in <b>OMB Circular A-110</b> .	DHS codified at <b>45 C.F.R. § 74</b> ; USDA codified at <b>7 C.F.R. § 3019</b> ; EDUC codified at <b>34 C.F.R. § 74</b> ; EPA codified at <b>40 C.F.R. § 30</b> .
For-profit organization use the uniform administrative requirements in <b>OMB Circular A-110</b> .	DHS codified at <b>45 C.F.R. § 74</b> ; USDA codified at <b>7 C.F.R. § 3019</b> ; EDUC codified at <b>34 C.F.R. § 74</b> ; EPA codified at <b>40 C.F.R. § 30</b> .

**4.02 Statutes and Program Regulations:**

For each federal grant program there are applicable federal statutes and/or codified federal program regulations. Also included are any applicable West Virginia Code citations, administrative rules, and Department policies. A listing of the above information and possible sources for obtaining the information is attached as **Exhibit C**. This information is to be used by the Grantee to determine the manner in which the work is performed under this Grant Agreement.

**4.03 Grantee Responsibility:**

The Grantee is responsible for obtaining the above information. The listing is not to be deemed inclusive, but informative of relevant statutes and regulations.

**V. PAYMENT TERMS AND CONDITIONS**

**5.01 Payment Methodology:**

The payment methodology guidance and address for invoice submission, attached as Exhibit D, shall constitute the manner whereby payments are made by the Department to the Grantee.

**5.02 Budget:**

The Grant Agreement Budget, attached as **Exhibit E**, shall constitute the maximum amount available to the Grantee for work performed under this Grant Agreement.

**5.03 Payment of an Invoice:**

The payment of an invoice by the Department shall not prejudice the Department's right to object to or question any invoice or matter relating to this Grant Agreement. Such payment by the Department shall not be construed as acceptance of any part of the work or service provided nor as an approval of any of the costs invoiced.

**5.04 Unallowable Costs:**

The Grantee's invoice shall be subject to reduction for amounts included in any invoice or prior payment made which are determined by the Department not to constitute allowable costs on the basis of audits, reviews, or monitoring of this Grant Agreement.

**5.05 Deductions & Withholdings:**

5.05(a) The Department may deduct amounts or withhold payments invoiced by the Grantee under this or any other Grant Agreement between the Grantee and the Department or its operating units if the Grantee fails to comply with any requirements of this Grant Agreement or any other Grant Agreements between the Grantee and the Department or its Bureaus, Offices, Divisions, or other operating units.

5.05(b) Funds withheld due to unsatisfactory program performance or failure to comply with the terms and conditions of this Grant Agreement or any other Grant Agreement

between the Department or its other operating units may be restored upon satisfactory completion of the condition that caused the withholding.

## VI. STANDARDS FOR FINANCIAL MANAGEMENT

### 6.01 Financial Management System:

6.01(a) The Grantee will maintain an accounting system and a set of accounting records that, at a minimum, allows for the identification of the source of revenue and expenditures related to this Grant Agreement.

6.01(b) All records will be supported by source documentation.

6.01(c) The Grantee's financial and accounting records pertaining to this agreement must be closed out at the end of the Grant Agreement period and must identify any excess revenue over expenditures.

### 6.02 Cost Principles:

For each kind of grantee organization, there is a set of Federal cost principles for determining allowable costs. Allowable costs are determined in accordance with the cost principles applicable to the organization incurring the costs. The following chart lists the kinds of organizations and the applicable cost principles. The Grantee agrees to comply with the applicable cost principles as set forth below.

<u>If the Grantee is a:</u>	<u>OMB Circulars Codified at:</u>
State, local or Indian tribal government use the cost principles in <b>OMB Circular A-87</b> .	DHS codified at <b>45 C.F.R. § 92</b> and <b>45 C.F.R. § 95</b> USDA codified at <b>7 C.F.R. § 3016</b> ; EDUC codified at <b>34 C.F.R. § 80</b> ; EPA codified at <b>40 C.F.R. § 31</b> .
Private nonprofit organization other than an (1) institution of higher education, (2) hospital, or (3) organization named in <b>OMB Circular A-122</b> as not subject to that circular use the cost principles in <b>OMB Circular A-122</b> .	DHS codified at <b>45 C.F.R. § 74</b> ; USDA codified at <b>7 C.F.R. § 3019</b> ; EDUC codified at <b>34 C.F.R. § 74</b> ; EPA codified at <b>40 C.F.R. § 30</b> .
Educational Institution use the cost principles in <b>OMB Circular A-21</b> .	DHS codified at <b>45 C.F.R. § 74</b> ; USDA codified at <b>7 C.F.R. § 3019</b> ; EDUC codified at <b>34 C.F.R. § 74</b> ; EPA codified at <b>40 C.F.R. § 30</b> .
Hospital use the cost principles in <b>Appendix E of 45 C.F.R. § 74</b> .	DHS codified at <b>45 C.F.R. § 74</b> ; USDA codified at <b>7 C.F.R. § 3019</b> ; EDUC codified at <b>34 C.F.R. § 74</b> ; EPA codified at <b>40 C.F.R. § 30</b> .

For-profit organization other than a hospital and an organization named in **OMB Circular A-122** as not subject to that circular use the cost principles in **48 C.F.R. pt. 31 Contract Cost Principles and Procedures**.

DHS codified at **45 C.F.R. § 74**;  
USDA codified at **7 C.F.R. § 3019**;  
EDUC codified at **34 C.F.R. § 74**;  
EPA codified at **40 C.F.R. § 30**.

**6.03 Indirect Costs and Allocation of Costs:**

6.03(a) If the Grantee charges indirect (overhead) cost to this Grant Agreement, an "Indirect Cost Proposal" must be prepared in accordance with the applicable cost principles referenced in this Grant Agreement.

6.03(b) The Grantee must comply with one of the three following criteria for payment of indirect costs by the Department.

6.03(b)(1) "Indirect Cost Negotiation Agreement" from the cognizant federal agency if the Grantee is a direct recipient of Federal grants;

6.03(b)(2) An approved "Indirect Cost Negotiation Agreement" from another state or local government agency that has agreed to review and approve the Grantee's indirect cost proposal; or

6.03(b)(3) A written statement from an independent certified public accounting firm attesting that the proposal complies with the requirements of **OMB Circular A-122**, **OMB Circular A-21** or **OMB Circular A-87** and provides the basis of the calculated rate.

**VII. AUDITS AND MONITORING**

**7.01 Audit Requirements:**

The Grantee agrees that it has reviewed, understands and will comply with the Federal Audit (OMB Circular A-133) Requirements, State Accountability (WV Code §12-4-14) Requirements, and Grantee Audit Certification and Federal Expenditure Disclosure (GACFED) requirements referenced within **Exhibit F** of this grant agreement.

**7.02 Monitoring:**

7.02(a) The Department has a responsibility to monitor the activities of its grantees as necessary to provide reasonable assurance that the Grantee uses these grant funds for intended and authorized purposes; complies with laws, regulations and the provisions of contracts or grant agreements; and achieves performance goals.

7.02(b) Monitoring is the process by which the programmatic and administrative management performance of a grant is continuously reviewed by the awarding agency. Factors that may affect the nature, timing and extent of monitoring activities of the Department include, but are not limited to, the complexities of the program's compliance requirements, the amount (dollar value) of awards, and the Grantee's overall level of risk. There are several types of monitoring activities that may be performed by the Department in relation to this grant including the review of audits, financial and performance reports; the performance of onsite monitoring visits; observing operations; reviewing financial and

programmatic records; regular contact; other inquiries concerning program and financial activities; etc.

7.02(c) The Grantee shall fully cooperate and assist the Department or its authorized representative(s) with respect to the monitoring responsibilities and activities referenced herein, or with respect to any and all other monitoring activities deemed necessary and appropriate by the Department at its sole discretion. Notwithstanding the administrative and reporting requirements presently cited within this agreement, the Grantee shall allow for the performance of onsite monitoring reviews by the Department or its authorized representative(s), and agrees to provide any technical assistance, reports, records, documentation and to comply with all requests for information as deemed necessary and appropriate by the Department, at its sole discretion, to fulfill its monitoring responsibilities and objectives. The Department or its authorized representative(s) shall be given full and complete access to all information and personnel related to the performance of this grant agreement to ensure that program activities and costs are consistent with goals and objectives of the grant.

7.02(d) If as a result of its monitoring efforts the Department uncovers deficiencies in the Grantee's administration of this grant or related project/program, the Department shall notify the Grantee in writing of said deficiencies. The Grantee agrees to take immediate and timely corrective action as determined by the Department in an attempt to rectify any identified and reported deficiencies and to resolve the matter to the overall satisfaction and sole discretion of the Department.

### **7.03 Failure to Comply:**

Failure to comply with any of the requirements within this [Audits and Monitoring] Section or failure to respond in a timely manner to the Department's request for reports, records, documentation or other information related to monitoring may result in disallowed costs, suspension or termination of funding for this and other grants and contracts with the Department

## **VIII. REPORTS AND RECORDS**

### **8.01 Required Reports:**

The Grantee certifies that it will comply with all applicable reporting and record retention requirements the source of which may be Federal and State laws, programmatic regulations, public policy and/or administrative requirements. References to these requirements and further guidance may be found in the general terms and conditions of this grant agreement as well as the attached exhibits.

### **8.02 Record Retention:**

8.02(a) Grantee shall retain all financial records, supporting documents, statistical records, and all other records pertinent to this Grant Agreement for a period of three years from the date of submission of the final expenditure report or payment of final invoice.

8.02(b) If any litigation, claim, or audit is started before the expiration of the three year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

8.02(c) Records for equipment acquired with Federal funds shall be retained for three years after final disposition.

**8.03 Access to Records:**

8.03(a) The Department and its Inspector General, Federal awarding agency and its Inspector General, Comptroller General of the United States, State Auditors, program monitors, or any duly authorized representatives have the right of timely and unrestricted access to any books, documents, papers, or other records of the Grantee, in order to make audits, examinations, excerpts, transcripts and copies of such documents.

8.03(b) This right also includes timely and reasonable access to the Grantee's past and present personnel for the purpose of interviewing and discussing matters related to such documents.

8.03(c) The rights of access are not limited to the required retention period, but shall last as long as records are retained.

8.03(d) Grantee waives any confidentiality, privacy privilege, or proprietary defenses regarding audits or monitoring.

**IX. STANDARD TERMS AND CONDITIONS**

**9.01 Required Approvals:**

The Department is not bound by this Grant Agreement until it is approved and signed by the appropriate Department and/or State officials in accordance with applicable West Virginia State laws and regulations.

**9.02 Modifications:**

9.02(a) Formal Grant Agreement modifications and change orders will be negotiated by the Department and the Grantee to address changes including, but not limited to, the terms and conditions, costs, or scope of work included under this Grant Agreement.

9.02(b) As soon as possible after receipt of a written change request, but in no event more than thirty (30) days, the Grantee shall provide the Department a written statement verifying the change has no price impact on the Grant Agreement. If there is a price change, Grantee shall provide a description of the price increase or decrease involved in implementing the change.

9.02(c) The Department agrees to provide a modification, if approved, within thirty (30) days of receipt of Grantee's written statement.

9.02(d) No changes in scope to the project are authorized or are to be implemented by Grantee until a written change order is received and approved in writing by the Department and other applicable agencies.

**9.03 Termination:**

9.03(a) Any change in Federal and/or State law which significantly alters Grantee's required activity, or any change in the availability of funds shall be viewed as binding and shall warrant good faith renegotiation of the provisions of the Grant Agreement that are affected. This change in circumstance includes suspension, termination, or reduction by the federal grantor agency of the grant to the Department under which this Grant Agreement is made. If such renegotiation proves unsuccessful within ten (10) days, the Grant Agreement may be terminated upon written notice of either party to the other party at least thirty (30) days before termination.

9.03(b) This Grant Agreement may be cancelled by either party at any time with or without cause, upon thirty (30) days notice in writing, and delivered by mail or in person.

9.03(c) Upon default, as defined below, the Department shall give Grantee twenty (20) days written Notice of Default and Right to Cure. If the default has not been cured within such twenty day period, then this Grant Agreement shall terminate automatically upon its own terms without further notice or demand. Default shall include Grantee's:

9.03(c)(1) Failure to fulfill for any reason in a timely and proper manner its obligations under this Grant Agreement in the Department's sole determination;

9.03(c)(2) Failure for any reason to comply with such additional conditions as may be lawfully applied by the federal grantor agency to the Grantee and Department;

9.03(c)(3) Failure to demonstrate compliance with any corrective action plans approved by the Department.

The Department expressly reserves all remedies at law and equity, including without limitation, the right to seek all appropriate relief upon the filing of a voluntary or involuntary petition for Grantee's reorganization or liquidation under any bankruptcy or insolvency laws providing for the relief for debtors.

9.03(d) In the event of any termination, all property and finished or unfinished documents, data, and studies prepared by Grantee under this Grant Agreement shall be disposed of according to directive of the federal awarding agency and the Department, and Grantee may be entitled to compensation for any nonreimbursed expenses reasonable and necessary incurred in satisfactory performance of the Grant Agreement.

9.03(e) Notwithstanding the above, Grantee shall not be relieved of the liability to the Department for any damages sustained by the Department by virtue of any breach of the Grant Agreement by Grantee. The Department within its sole discretion may withhold payments due the Grantee under this Grant Agreement, or withhold payments due under any other grant agreement between the Grantee and Department or its operating units as payment for damages. The Department within its sole discretion may use the withheld amounts as security to cover unliquidated damages sustained by the Department as

reasonably estimated by the Department until such time as the exact amount of damages due the Department from the Grantee is agreed upon or otherwise determined.

9.03(f) The Department shall provide Grantee with notice, in writing, of conditions endangering performance. If after such notice Grantee fails to remedy the conditions contained in the notice within the time period contained in the notice, the Department shall issue an order to stop all work immediately. The Department shall be obligated only for services rendered and accepted before the date of the notice of termination.

**9.04 Assignment:**

Grantee shall not modify, convey, sell, transfer, assign, delegate, or otherwise dispose of the Grant Agreement or any portion thereof or of any right, title or interest therein without the prior written consent of the Department. This provision includes potential assignment of the Grant Agreement due to change in ownership of the firm.

**9.05 Subgranting:**

The Grantee shall not enter into a subgrant agreement for any of the work performed under this Grant Agreement without obtaining the prior written approval of the Department. If subgrant agreements are approved by the Department, they shall contain, at a minimum, sections of this Grant Agreement pertaining to Indemnity Conflicts of Interest, Lobbying, Nondiscrimination, Audit Requirements, Public Notice and any other State and/or Federal requirements.

**9.06 Completeness:**

9.06(a) This Grant Agreement is complete and contains the entire understanding between the parties relating to this Grant Agreement.

9.06(b) This Grant Agreement supersedes all prior understandings, representations, negotiations, and agreements between the parties written or oral.

9.06(c) If there is a conflict between any of the terms of this Grant Agreement as specified in Sections I through XVI and **Exhibit A**, the terms of Section I through XVI shall govern.

**9.07 Severability:**

If any terms and conditions of this Grant Agreement are held to be invalid or unenforceable as a matter of law, the other terms and conditions shall not be affected and shall remain in effect. To this end, the terms and conditions of this Grant Agreement are declared severable.

**9.08 Ownership of Information, Software and Data:**

9.08(a) Within the scope of confidentiality provision in this Grant Agreement and governing laws, the Department and Grantee shall share joint ownership of all information and data developed, derived, documented or furnished by Grantee and/or the Department under this Grant Agreement.

9.08(b) Within the scope of confidentiality provision in this Grant Agreement and governing laws, the Department and Grantee shall both have unlimited, non-exclusive rights to use, disclose, duplicate or publish for any purpose whatsoever, the results of activities under this Grant Agreement.

9.08(c) All software must include application programs in the most current version, systems instructions, all data files in the current versions, user and operational manuals and other documentation, system and program documentation describing the most current version, network configuration and control documentation, training programs and material in the operational plans and products developed, and all specialized or specially modified operation system software and specially developed programs, including utilities, software and documentation which are required for or used in the operation of any software developed and/or purchased.

9.08(d) All computer equipment and software that interfaces with the Department's equipment and software shall meet or exceed Department standards.

**9.09 Licensure and Registrations:**

The Grantee certifies that it is registered and licensed to do business in the State of West Virginia. The Grantee and its employees and all sub-grantees shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.

**9.10 Department Right of Approval:**

The Department shall have the right in its sole discretion to refuse to permit any employee of the Grantee, or employee of an approved agent, assignee, or subcontractor of the Grantee, to be located at a Department work location, or to provide services to the Department or its clientele pursuant to this Grant Agreement.

**X. COMMUNICATIONS AND CONTACTS:**

**10.01 Contacts:**

A list identifying contact persons for each party is attached as **Exhibit H**.

**10.02 Notices:**

Any notice, request, demand, communication required under this Grant Agreement shall be in writing and shall be deemed sufficiently given upon delivery, if delivered by hand (signed receipt obtained), or three (3) days after posting if properly addressed and sent certified mail return receipt requested. These notices shall become effective on the date of receipt or the date specified within the notice, whichever comes later.

**10.03 Party Changes:**

Each party shall provide a written notice of changes in contact persons, address, telephone, fax numbers, and email addresses.

## **XI. PROCUREMENT STANDARDS**

### **11.01 Procurement Standards:**

11.01(a) Standards for procurement are outlined in **OMB Circular A-102** and **OMB Circular A-110** as codified in the Grantee Uniform Administrative Regulations Section of this Grant Agreement.

11.01(b) These provisions define the standards for use in establishing procedures for procurement of supplies, equipment, and other services which cost is borne in whole or in part as a condition of this Grant Agreement.

11.01(c) These standards include but are not limited to the following:

11.01(c)(1) Grantee may use its own procurement policies provided that they adhere to the applicable standards;

11.01(c)(2) Grantee shall maintain a written code of conduct which shall govern the performance of its officers, employees, or agents in contracting with or expending grant funds; and

11.01(c)(3) All procurement transactions shall be conducted in a manner so as to provide for maximum open and free competition.

### **11.02 Title to Equipment and Supplies:**

11.02(a) Grantee shall assume responsibility for the care and maintenance of all equipment pursuant to current Grantee policy and manufacturer's instruction.

11.02(b) The Department shall maintain a vested interest in all equipment and supplies purchased with grant funds.

11.02(c) Upon request by the Department, the Grantee shall account for and return in good condition, reasonable use and wear excepted, all such equipment and supplies purchased with funds received under this Grant Agreement.

### **11.03 Prior Approval for Equipment and Capital Expenditures:**

All capital expenditures for property and equipment are unallowable except with the written prior approval of the Department and must be included as a separate budgetary line item in Exhibit E of this grant agreement. Further regulations regarding the acquisition, disposition and overall accounting for property and equipment are delineated in federal administrative requirements and cost principles, incorporated by reference in Sections 4.01 and 6.02 of this agreement. Additionally, the grantee shall be bound by any special terms, conditions or restrictions regarding capital expenditures for property and equipment as disclosed in Exhibit K of this grant agreement.

## **XII. INDEPENDENT GRANTEE:**

### **12.01 Relationship:**

12.01(a) The relationship of the Grantee to the Department will be that of an independent grantee and no principal-agent relationship or employer-employee relationship is contemplated or created by the parties to this Grant Agreement.

12.01(b) Grantee shall be responsible for selecting, supervising, and compensating individuals employed pursuant to the terms of this Grant Agreement.

12.01(c) Neither the Grantee nor any employees or contractors of the Grantee shall be deemed to be employees of the Department for any purposes whatsoever, and neither the Grantee nor any employees or contractors of the Grantee shall be eligible to participate in any benefit program unless such program is specifically available to the Grantee by the State of West Virginia as a separate, distinct and stand alone benefit not arising from the Department and this grant agreement.

12.01(d) Grantee shall be exclusively responsible for the payment to its employees and contractors of all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, compliance with the wage and hour law and all other employment laws.

## **XIII. INDEMNIFICATION AND HOLD HARMLESS:**

### **13.01 Indemnification and Hold Harmless:**

Grantee shall indemnify and hold harmless the Department, its Bureaus, Offices, Commissions, State of West Virginia, its officers, agents, subcontractors and employees of each entity from and against any and all loss, damage, liability and from any claims for damages arising from bodily injury, including death, which may be sustained or claimed to be sustained by any person, including employees of Grantee or its subcontractors or agents, and from any damages to property, including loss of use, and including property of the Department and State of West Virginia, caused by or arising out of or claimed to have been caused or to have arisen out of an act or omission of Grantee or its agents, employees or subcontractors in connection with the performance of this Grant Agreement, or caused by or arising out of or claimed to have been caused or to have arisen out of the concurrent negligence of Grantee, its agents and employees, in connection with the performance of this Grant Agreement, whether or not insured against; provided, however, that the foregoing indemnification will not cover loss, damage or liability arising from the sole negligence of the Department, its agents and employees; and Grantee shall at its own cost and expense defend any claim, suit, action, or proceeding, whether groundless or not, which may be commenced against the Department or State of West Virginia, and Grantee shall pay all judgments which may be recovered in any such actions, claims, proceedings or suits and defray any and all expenses, including costs and attorneys fees, which may be incurred as a result of such actions, claims, proceedings or suits. Notwithstanding the foregoing, in the event of such actions, claims, proceedings or suits, the Department shall be entitled, if it so elects, to representation by attorneys of its own selection. The obtaining by the Grantee of a release or discharge of liability running to the Grantee shall not diminish nor affect in any way the rights of the Department and the obligation of the Grantee.

#### XIV. ASSURANCES & PUBLIC POLICY REQUIREMENTS

##### 14.01 Assurances:

14.01(a) **Conflicts of Interest:** The Grantee attests that it, its officers or members, employees, or subgrantees presently have no interest and shall not acquire any interest, direct or indirect which would conflict or compromise in any manner the performance of services. The Grantee further attests that during the performance of the Grant Agreement, the Grantee shall periodically question its officers, members and employees concerning such interests. Any such interest discovered shall be promptly presented in detail to the Department. The Grantee will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal gain.

14.01(b) **Transactions with Affiliated Business Entities or Relatives:** Grantee will make a full disclosure in writing to the Department any corporation, partnership, sole proprietorship, or other business entity of any kind which is a wholly or partially owned entity of the Grantee or whose relatives supply goods or services to Grantee or work for or provide services to Grantee.

14.01(c) **No Debt Requirement:** Grantee certifies it has thoroughly reviewed its business activities and accounts after reading **Exhibit I** (attached), and Grantee hereby assures the Department that Grantee and all its related parties do not owe any debt.

##### 14.02 Public Policy Requirements:

14.02(a) **Certification Regarding Debarment & Suspension:** Grantee certifies that no entity, agency, or person associated with the Grantee is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, "Debarment and Suspension."

14.02(b) **Certification of Compliance with Environmental Tobacco Smoke/Pro Children Act of 1994:** Grantee certifies compliance with Public Law 103-227, Part C-Environmental Tobacco Smoke, also known as Pro-Children Act of 1994, requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1000 per day and/or the imposition of an administrative compliance order on the responsible entity. By signing and submitting this application the Grantee certifies that it will comply with the requirements of the Act.

The Grantee further agrees that it will require the language of this certification be included in any subgrants which contain provisions for the children's services and that all subgrantees shall certify accordingly.

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

**14.02(c) Certification of a Drug Free Workplace:** In accordance with Public Law 100-690 Drug-Free Workplace Act of 1988 the Grantee certifies the following requirements for a drug free workplace will be provided and/or maintained with a good faith effort including, at a minimum, having a policy statement and an ongoing drug awareness program. If such a policy and practice have not been established heretofore, Grantee agrees to do so within thirty (30) calendar days after the beginning of this Grant Agreement.

Grantee agrees to publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violation of such prohibition. Grantee also agrees to make it a requirement that each employee who will be engaged in the provision of service under this Grant Agreement be given a copy of this statement and that each such employee understand that, as a condition of employment, the employee will abide by the terms of the statement.

Grantee also agrees to establish and/or maintain an ongoing drug-free awareness program to inform employees about the dangers of drug abuse in the workplace, any available drug counseling or rehabilitation, and the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

**14.02(d) Certifications Related to Lobbying:** Grantee shall not endorse or support any candidate running for partisan political office. No federal or state funds under this Grant Agreement shall be expended to support any legislative lobbying efforts of Grantee related to specific legislation. Grantee shall certify that no federal appropriated funds have been paid or will be paid, by or on behalf of the Grantee or an employee thereof, to any person for purposes of influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee or any agency, a Member of Congress, an officer or employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, Grantee shall immediately complete and submit a disclosure form to report lobbying.

Grantee shall require that the language of this certification be included in the award documents for all subawards at all tiers (including, but not limited to subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements), and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this Grant Agreement was made. Submission of this certification is a prerequisite for

making and entering into this Grant Agreement imposed under 31 U.S.C. § 1351. Any person who fails to file the required certification shall be subject to a civil penalty.

14.02(e) **Civil Rights:** Grantee shall comply with all Federal and State laws, rules and regulations which prohibit any unlawful discrimination or violations of civil rights. Such laws, rules and regulations shall include, but not be limited to: Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), the Americans with Disabilities Act of 1990, all requirements imposed by applicable United States Department of Health and Human Services (45 C.F.R. § 84), and guidelines and interpretations issued pursuant thereto, the Age Discrimination Act of 1975; Title IX of the Education Amendments Act of 1972. Grantee shall insert a similar provision in all subcontracts for activities covered under the Grant Agreement.

14.02(f) **Program Fraud Civil Remedies Act:** The authorized official signing for the Grantee certifies that the statements herein are true, complete, and accurate to the best of his or her knowledge, and that he or she is aware that any false, fictitious, or fraudulent statements or claims may subject him or her to criminal, civil, or administrative penalties. The undersigned agrees the Grantee organization will comply with all terms and conditions of the Grant Agreement.

## **XV. OTHER TERMS AND CONDITIONS**

### **15.01 Confidentiality of Records:**

Strict standards of confidentiality of records and the Health Insurance Portability and Accountability Act of 1996 (HIPPA) shall be maintained in accordance with State and Federal laws. A statement more fully explaining these requirements are attached as **Exhibit J and Exhibit L** must be followed by the Grantee. It is expressly understood and agreed that obligations set forth in this section shall survive the termination of this Grant Agreement.

### **15.02 No Waiver/Strict Performance Required:**

Failure by any party to this Grant Agreement to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Grant Agreement shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Grant Agreement shall be deemed to have been waived, modified, deleted except by a written amendment signed by the parties.

### **15.03 Titles, Tense:**

In construing this Grant Agreement, whenever appropriate, the singular tense shall be deemed to mean the plural and vice-versa. Titles of sections and paragraphs used herein are for the purpose of facilitating ease of reference only and shall not be construed to be a part of this Grant Agreement.

**15.04 State and Federal Compliance:**

The Grantee shall comply with all applicable State and Federal laws and regulations in the performance of this Grant Agreement.

**15.05 Department Liability:**

The Department shall have no liability except as specifically provided in this Grant Agreement.

**15.06 Organization and/or Personnel Changes:**

Grantee agrees to inform the Department of any changes of key personnel or organizational structure affecting the operation of the Grantee agency.

**15.07 Taxes and Obligations:**

Grantee certifies it is current on all taxes and obligations due the federal, state, and local governments.

**15.08 Public Notice:**

Grantee shall give credit in any publicity, printed materials, programs, press releases as follows: "This program is being presented with financial assistance as a grant from the West Virginia Department of Health and Human Resources."

**15.09 Information Technology Policies:**

Grantees that have access to Department data systems or use the Department's Wide Area network (WAN) agree to comply with all of the Department's Information Technology Policies, including, but not limited to, the Information Technology Resource Policy and the Hardware/Software Policy. Grantee agrees to only use these systems for activities related to the work performed under this Grant Agreement.

**XVI. SPECIAL TERMS AND CONDITIONS**

16.01 Any special terms and conditions required as a condition for receiving and expending funds under this Grant Agreement are attached as **Exhibit K**.

16.01(a) If any of these special terms and conditions required by federal statute, codified federal regulation, applicable West Virginia Code citations, administrative rules, or Department policies conflict with any other terms and conditions of this Grant Agreement, the special terms and conditions shall control.

16.01(b) If the special terms and conditions conflict with federal statutes, codified federal regulations, applicable West Virginia Code citations, administrative rules, or Department policies, such special terms and conditions are void.

IN WITNESS WHEREOF, the parties have caused this Grant Agreement to be signed and dated as shown below.

**FOR Jefferson Co Commission**

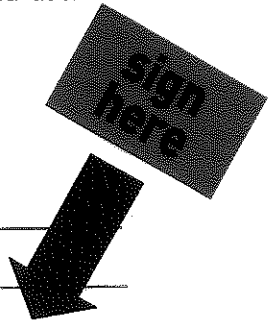
Grantee Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

Taken, sworn and subscribed before me this \_\_\_ day of \_\_\_\_\_, 20\_\_.

Notary Public Signature: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_



**FOR THE DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

\_\_\_\_\_ Date

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**EXHIBIT A**  
**STATEMENT OF WORK**

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**Exhibit A**

**Introduction**

The Safe Drinking Water Act (42 USC Chapter 6A – Public Health Services) calls for the development of a Wellhead Protection Program and a Source Water Assessment and Protection Program in each state. The West Virginia Bureau for Public Health (WVBPH) was designated by the Governor and Legislature as the lead agency responsible for developing and administering these programs.

The goal of these programs is to prevent degradation of source waters, which may preclude present and future uses of drinking water supplies to provide safe water in sufficient quantity to users. The most efficient way to accomplish this goal is to encourage and oversee source water protection on a local level. Every aspect of these programs can be enhanced by focusing efforts at the public water system perspective, allowing for a great deal of flexibility in designing and implementing local source water protection.

West Virginia State Code §16-13C-3 et seq., establishes the West Virginia Drinking Water Treatment Revolving Fund (DWTRF) as provided for in the federal Safe Drinking Water Act. Further, this code designates uses of the fund set-asides to include administration costs, source water protection, operator training and certification, technical assistance to systems, local assistance, and other state activities permitted by the federal Safe Drinking Water Act. Moreover, West Virginia Legislative Rule §64-49-4 further describes allowable uses for the fund set asides, including local assistance to delineate and assess source water protection areas.

In addition to funding delineation and assessment of source water protection areas, the United States Environmental Protection Agency (EPA) has issued guidance (EPA 816-F-02-040) for uses of federal funds for security measures at public water systems. This guidance was issued in response to questions received from state governments about the eligibility of security measures following the events of September 11, 2001. The guidance describes in detail the activities that can be performed to physically secure source water resources, including camera systems, lighting, fencing, etc.

In order to carry out program goals and under the above listed authorities, WVBPH, Office of Environmental Health Services/Environmental Engineering Division has established the Local Wellhead and Source Water Protection Grant Programs.

The grantee will utilize grant program funds for the provision of a source water project comprised of activities to monitor groundwater, raise public awareness, and protect surface waters from contamination.

**A. Goal I-Monitor Groundwater**

Performance Objective

The grantee will establish a long term monitoring program to ascertain well water quantity and quality, given the vulnerability and potential for quality changes due to the county's karst geology.

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**EXHIBIT A**  
**STATEMENT OF WORK**

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Activities

On behalf of the grantee, Shepherd University will address water quality and quantity by performing the following activities:

- Water Quality-- Monitor chemical, physical, and biological parameters monthly at six springs in at least four different watersheds in Jefferson County. The locations will be determined after consultation with Jefferson County Watershed Advisory Committee and United States Geological Survey (USGS) personnel.
  - **Biological**  
E. coli (quantitative - utilizing Idexx EPA approved methodology)
  - **Physical**  
Turbidity, pH, specific conductivity, dissolved oxygen (mg/l and percent saturation) (quantitative – utilizing multiparameter probe provided by Aquatics Laboratory at Shepherd University)
  - **Chemical**  
Nitrate, nitrite, phosphate, sulfate, fluoride, chloride (quantitative - utilizing ion chromatography (Dionex Ion Chromatography unit located at the Shepherd University Department of Chemistry). Two water samples will be taken per site per visit. This allows assessment of variability of the parameter in field. Final concentration is average of the two readings.
  
- Water Quantity--Install water level monitoring devices at six springs.

These devices will monitor water level and temperature at user-defined intervals (e.g., hourly). Water level can be utilized to determine quantity if a water-level (stage) - discharge relationship at each spring is established. To determine discharge it will be required to measure water velocity at specific transects below the spring outflow at different water levels. Water velocity coupled with the transect area provides the data necessary to calculate discharge. From this a water-level (stage) curve is generated that will provide the discharge (or water quantity) at different water levels. This will require discharge calculations at low and at high water levels. Water velocity will be determined utilizing a Marsh McBirney electromagnetic flowmeter (provided by Aquatics Laboratory at Shepherd University).

Outcome

Shepherd University will develop base information on the changes in ground water quantity and quality over one year. The grantee is responsible for the objectives, activities, outcomes and timeframes identified within this agreement. The information will provide the foundation for local government decision making concerning standards for new wells and septic systems construction, revision of subdivision and zoning ordinances, and revision of storm water management design. The information compiled will also contribute to the development of a water resource management plan focusing on significant groundwater recharge areas.

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**EXHIBIT A  
STATEMENT OF WORK**

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Timeframe

- **First Quarter**
  - Identify springs and contact landowners for permission to utilize.
  - Purchase and install equipment to log data.
  - Collect data and monthly water sample.
  - Analyze samples for water quality parameters.
  
- **Second Quarter-Fourth Quarter**
  - Collect data and monthly water sample.
  - Analyze samples for water quality parameters.
  - Submit quarterly reports to local decision makers and to WVBPH.

**B. Goal II- Public Awareness through Watershed Signs**

Performance Objective

The grantee will increase awareness of the vulnerability of water sources by posting Source Water Protection Awareness signs in watershed areas to help eliminate dumping.

Activity

The grantee will create and provide WVBPH an opportunity to review Source Water Protection Awareness signs. Jefferson County Commission will post signs in 28 locations in public use areas along streams in Jefferson County.

Outcomes

People living in and utilizing areas near streams will be made aware of the importance of protecting the watershed areas and streams from dumping. Heightened public awareness is believed to prevent accidental contamination of drinking water sources.

Timeframe

Jefferson County Commission Water Advisory Committee has dedicated volunteers to create and post signs. While grant activities are weather and volunteer dependent, these activities will be completed well within the grant period.

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**EXHIBIT A**  
**STATEMENT OF WORK**

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**C. Goal III- Household Hazardous Waste Education and Collection**

Performance Objective

The grantee will embark on a dual pronged pilot program to educate public about safe disposal of household hazardous waste materials (e.g., paints, thinners, strippers, pesticides, fertilizers, cleaners, electronics, pharmaceuticals, etc.) and to offer a hazardous waste materials collection day free to the public. This pilot project objective is to engage citizens in source water protection and preservation activities.

Activities

- The grantee will collaborate with the School Board of Jefferson County to develop lesson to be offered in every grade level about chemical and hazardous materials and their proper disposal.
- The grantee will ask high school aged students to participate in a contest by submitting material for the educational flyer. Students with the winning flyers will receive prizes as a promotion for participation.
- The grantee will produce, print and distribute the educational flyer to students to share with their families.
- The grantee will prepare a press release to send to media outlets to disseminate awareness materials and announce a free collection day.
- The grantee will contract with a properly permitted company or companies to collect and dispose of hazardous waste.
- The grantee will collaborate with the Solid Waste Authority Board to identify a site to collect hazardous waste.

Outputs

- An education brochure will be delivered through the schools to families of school children.
- Homeowners will be provided an opportunity to properly dispose of household hazardous waste materials.
- School age children will receive education on household hazardous waste and the threat to source water.

Outcomes

Source waters and surrounding watersheds will be protected from accidental or intentional dumping of household hazardous waste materials.

Timeframe

- **First Quarter**
  - Coordinate lessons with school board.
  - Coordinate efforts and identify collection site with Solid Waste Authority.
  - Procure contractor to collect and dispose of household hazardous waste.

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**EXHIBIT A**  
**STATEMENT OF WORK**

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- **Second Quarter**
  - Present lessons in every grade level.
  - Collect high school age student submissions for flyer.
- **Third or Fourth Quarter**
  - Disseminate public education flyer.
  - Release information to press regarding hazardous waste and collection dates.
  - Conduct collection day.

**EXHIBIT B**  
**SOURCE OF FUNDS SCHEDULE**

**Exhibit B**

The Department estimates the funds for this Grant Agreement shall be paid from the following federal and/or state sources:

<b>FEDERAL FUNDS</b>			
1. CFDA Number	2. Account Number (Fund/Activity)	3. WVFIMS Grant Name	4. Amount
66.468	5201/099	Safe Drinking Water	\$ 83,027.00
<b>TOTAL FEDERAL FUNDS</b>			<b>\$ 83,027.00</b>

<b>STATE FUNDS</b>			
5. Appropriation Type	6. Account Number (Fund/Activity)	7. Activity Name	8. Amount
Appropriated General Revenue			
Special Revenue: Appropriated or Unappropriated			
<b>TOTAL STATE FUNDS</b>			<b>\$ -</b>

<b>TOTAL FEDERAL AND STATE FUNDS</b>	<b>\$ 83,027.00</b>
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If at the end of the Grant Agreement period the Department determines the funding sources for all payments to the Grantee for this Grant Agreement are different than reflected above, a revised Source of Funds Schedule shall be sent to the Grantee by the Department that reflects the final source of funds.

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**EXHIBIT C**  
**STATUTES AND PROGRAM REGULATIONS**

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**Exhibit C**

**ARRA & FFATA**

As stated in the Addendum to this grant agreement, the Grantee must comply with the Federal Funding Accountability and Transparency Act of 2006 and the American Recovery and Reinvestment Act of 2009, as may be applicable.

**Health Insurance Portability and Accountability Act**

"Health Insurance Portability and Accountability Act of 1996, Public Law 104 - 191, 110 Stat. 1936 (1996) (HIPAA) and regulations promulgated thereunder (HIPAA Regulations)."

**West Virginia Nonprofit Corporation Act**

"West Virginia Nonprofit Corporation Act, W. Va. Code 31E-1-101 through 31E-8-856, if applicable. [http://129.71.164.29/wvcode\\_chap/wvcode\\_chapfrm.htm](http://129.71.164.29/wvcode_chap/wvcode_chapfrm.htm)

**WV Code §12-4-14**

In accordance with WV Code §12-4-14, referenced in Exhibit F of this grant agreement, a Grantee seeking a State grant must provide verification that they have filed all reports and sworn statements of expenditures for prior State grants received. Therefore, in accordance with WV Code §12-4-14 and Section 8.1.1 of CSR §148-18, the following assurance is hereby incorporated into this grant agreement for the purpose of providing the required certification:

**"Under penalty of law for false swearing (West Virginia Code §61-5-3), Grantee certifies that by signing this grant agreement on the signature page that Grantee and all related parties have filed all reports for State grants received as required under West Virginia Code §12-4-14."**

**Grantee Executive Responsibility and Accountability**

If a grantee is required to comply with any audit or monitoring procedures described in this grant, or if the grantee receives any other audit reports or findings (including but not limited to IRS, FBI, EPA, DOD, DOC, SEC, OSHA, DOJ, DOT, OCR, FTC or other regulatory audits), the grantee's President, Chief Executive Officer, or Executive Director (whichever is applicable, hereafter President) shall insure that the following occurs:

(1) that the grantee's officers, responsible financial personnel (including grantee's internal and external accountants and CPAs), Board of Directors, and lawyer(s) timely receive a complete copy of the above described audits, findings and monitoring reports with exhibits, and

(2) that after a review by them, the President shall make an inquiry to them whether they have any other information, knowledge or facts indicating that the grant funds were not spent in accordance with the grant agreement, other than those disclosures previously made to any internal auditors, external auditors, regulatory authorities and to the WV Department of Health and Human Resources (DEPARTMENT), and

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**EXHIBIT C**  
**STATUTES AND PROGRAM REGULATIONS**

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(3) that if the President learns from his inquiry of new information, knowledge or facts indicating the grant funds were not spent in accordance with the grant agreement, he shall report immediately his new findings to the DEPARTMENT, appropriate internal and external auditors and the appropriate regulatory authorities, and

(4) that the DEPARTMENT will receive a copy of any audit report, or finding by a regulatory agency related or unrelated to this grant (including but not limited to any report, audit or finding from any regulatory agency or oversight organization that criticizes the grantee's operation, purchasing practices, delivery of services, staff salaries, personnel practices, and programs, including but not limited to, for example, the IRS, FBI, EPA, DOD, DOC, SEC, OSHA, DOJ, DOT, OCR, FTC, and other investigative federal and state agencies, etc). If there is any doubt as to whether to "self disclose" and send a copy of any such audit or report to the DEPARTMENT, it is the grantee's responsibility to seek timely written clarification from the DEPARTMENT.

Under penalty of law for false swearing (W.VA. CODE 61-5-3), DEPARTMENT in its discretion may request from time to time that the grantee's President provide a written letter of assurance to the DEPARTMENT that he has complied with the above requirements. The DEPARTMENT may request facts relating to such compliance, such as dates and other particulars of such compliance. If such assurance letters are requested, the grantee's President shall provide to the DEPARTMENT this written assurance no later than ten (10) days from the date on the written request.

The DEPARTMENT may also request the President to certify in writing within ten (10) days of DEPARTMENT's written request to him that the grantee has adequate controls to detect and prevent misuse of grant funds and accounting fraud. The grantee shall provide written proof, satisfactory to the DEPARTMENT, of the exact nature of these controls. If the DEPARTMENT determines in its sole discretion that the grantee's controls are inadequate, the grantee shall institute controls that are adequate to satisfy the DEPARTMENT within thirty (30) days of the DEPARTMENT's written notification of the inadequacy.

If the grantee refuses to provide such written assurances, or provides unsatisfactory written assurances, the DEPARTMENT in its sole discretion may terminate this grant and withhold the grant funds until a satisfactory assurance is received.

The fact that the DEPARTMENT did not request written assurances for any past period does not waive or otherwise change the grantee's continuing obligation to comply timely with the above disclosure and inquiry obligations and to provide written assurances satisfactory to DEPARTMENT. In other words, these disclosure and reporting duties are deemed a continuing duty regardless of whether the DEPARTMENT requests a written letter of assurance of compliance. It is the grantee's responsibility to make any appropriate self disclosures and to comply with this requirement, and then be able to document such compliance if and when requested by the DEPARTMENT.

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**EXHIBIT C**  
**STATUTES AND PROGRAM REGULATIONS**

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Any correspondence required as a result of Grantee Executive Responsibility and Accountability provisions above can be submitted to:

WV Department of Health and Human Resources  
Office of Accountability and Management Reporting  
Division of Compliance and Monitoring  
Capitol Complex, Building 3, Room 550  
Charleston, WV 25305

**Authorization**

CFDA Number is 66.468.

CFDA Title is; Capitalization Grants for Drinking Water State Revolving Funds.

The Federal agency name is; Office of Ground Water and Drinking Water, Environmental Protection Agency.

Authorization Statute; Safe Drinking Water Act (SDWA) Amendments of 1996, section 130, Public Law 104-182.

Federal program rules and regulations; EPA Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (40 CFR Part 31) and Drinking Water State Revolving Funds (40 CFR Part 35, Subpart L.) Additional program information, including contact information for state program managers, is available online at <http://www.epa.gov/safewater/dwsrf.html>.

WV Code citations; §16-13C-3. Drinking water treatment revolving fund; duties of division of health and water development authority; set-aside accounts.

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**EXHIBIT D**  
**PAYMENT METHODOLOGY-REIMBURSEMENT OF COSTS**

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**Exhibit D –Reimbursement of Costs**

After receipt of the fully executed Grant Agreement, the Grantee will submit invoices for reimbursement of actual costs incurred during the previous month. Each invoice must bear the original signature of the Grantee's agency head or person designated as responsible for the invoicing. Such invoices must be submitted as an original and must conform to the Department's invoicing instructions.

Invoices are to be submitted to the address below:

**Office of Environmental Health Services**  
**Attention: Mindy S. Ramsey**  
**Capitol and Washington Streets**  
**1 Davis Square, Suite 200**  
**Charleston, WV 25301-1798**

The Grantee understands that invoices submitted before the full execution of the Grant Agreement and the issuance of the Grant Agreement will not be honored and that invoices submitted with mistakes and/or omissions will be returned.

The final invoice must be submitted within **thirty (30)** days following the end of the grant agreement. Failure to submit the final invoice within these guidelines could result in the invoice not being honored by the Department since availability of funds is restricted to the time period of the Grant Agreement.

**EXHIBIT E  
GRANTEE BUDGET**

**Exhibit E**

<b>Budget Category</b>	<b>Amount</b>
A. Personnel	
B. Fringe Benefits	
C. Equipment	
D. Supplies	4,832.00
E. Contractual Costs	77,070.00
F. Construction	
G. Other	1,125.00
<b>Total Direct Costs</b>	<b>\$83,027.00</b>

H. Indirect Costs	
<b>Total Indirect Costs</b>	<b>\$0.00</b>

**Total Grant Award** **\$83,027.00**

For informational purposes only:

I. Grantee Supplied Match / Certified Match	
J. Other Grantee Supplied Funds	

K. Program Income (Projected)	
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**EXHIBIT F**  
**FEDERAL AUDIT REQUIREMENTS – STATE ACCOUNTABILITY REQUIREMENTS**  
**GRANTEE AUDIT CERTIFICATION AND FEDERAL EXPENDITURE DISCLOSURE**

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**Exhibit F**

**F.1. Office of Management and Budget (OMB) Circular A-133:** Grantees that expend \$500,000 or more during their fiscal year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of the United States Office of Management and Budget's (OMB) Circular A-133, *Audits of States, Local Governments and Nonprofit Organizations*. The OMB Circular A-133 audit and related reporting package described therein shall be submitted to the Office of Accountability and Management Reporting, Division of Compliance and Monitoring at the address referenced below within the earlier of 30 days after receipt of the auditor's report(s) or nine months after the Grantee's fiscal year end.

**F.2. Grantee Audit Certification and Federal Expenditure Disclosure (GACFED) form:** The DHHR developed a Grantee Audit Certification and Federal Expenditure Disclosure (GACFED) form to track the Grantee's total Federal award expenditures and to ensure that its Grantees comply with the Federal audit requirements of OMB Circular A-133. Specifically, the GACFED form provides the DHHR with precise information related to a Grantee's Federal award activity in advance of the OMB Circular A-133 audit due date. The Grantee shall submit the GACFED form to the Office of Accountability and Management Reporting, Division of Compliance and Monitoring at the address referenced below within 60 days after the Grantee's fiscal year end.

**F.3. West Virginia Code §12-4-14:** West Virginia Code Chapter 12, Article 4, Section 14 (§12-4-14) sets forth grant-related accountability requirements enacted by the West Virginia Legislature. West Virginia Code §12-4-14 requires any person, corporation, partnership, association, individual or other legal entity that receives one or more State grants in the amount of \$50,000 or more in the aggregate in a State's fiscal year to file with the grantor(s) a "report" of the disbursement of the State grant funds. Conversely, persons or organizations receiving less than \$50,000 in the aggregate must submit a Sworn Statement of Grant Receipts and Expenditures made under the grant(s). Grantees must submit the required report(s) referenced in West Virginia Code §12-4-14 to the Office of Accountability and Management Reporting, Division of Compliance and Monitoring within two years after the end of the fiscal year in which the DHHR disbursed the State grants to the Grantee. According to the Code, if the Grantee's fiscal year differs from the State's fiscal year (July 1 through June 30), the Grantee must file required reports and sworn statements within two years after the end of the Grantee's fiscal year following the State fiscal year in which the funds were disbursed.

**F.4. Source of Funds:** The relevant audit and reporting requirements expressed within this Exhibit and applicable to DHHR Grantees are generally contingent upon the collective award amounts and related requirements attached to the original funding source. Therefore, it is imperative that both Grantees and their external auditors know the original source of grant funds in order to properly plan, procure and perform an audit or attestation service or to otherwise meet applicable reporting requirements referenced within this Exhibit. In addition to

this grant agreement, Grantees should review all other individual award documents, regardless of grantor, when determining the most efficient and effective means to meet the submission requirements referenced within this grant agreement and possibly attached to other grant awards. Please note that the source of funds schedule, attached to the DHHR grant agreement as Exhibit B, identifies the source (origin) of funds to be used as payment for the term of this grant. Federal funding retains its identity even when it is sub-granted (passed-through) to other organizations; hence, Federal funds are identified in the source of funds schedule within this grant agreement by the applicable Catalog of Federal Domestic Assistance (CFDA) number(s) and the appropriated Federal revenue fund account number(s). State funds are identified by the specific appropriated general revenue fund and/or appropriated/non-appropriated special revenue fund account number(s).

**F.5. Address for Submission:** Grantees shall submit all audits, reports and supporting information and documentation, whether directly stated or implicitly referenced within this Exhibit, to the following address:

Office of Internal Control and Policy Development  
Division of Compliance and Monitoring  
1900 Kanawha Boulevard East  
State Capitol Complex, Building 3, Room 451  
Charleston, WV 25305

Questions pertaining to this Exhibit may be directed to the Office of Internal Control and Policy Development, Division of Compliance and Monitoring at 304-558-9919 or via facsimile to 304-558-2269.

**F.6. Penalties for Noncompliance:** In cases of the Grantee's inability or unwillingness to comply with the audit, reporting and disclosure requirements referenced within this Exhibit, the DHHR shall take appropriate action against the Grantee via one or more of the following sanctioning measures: withholding grant funds, suspending grant payments, terminating grant awards, debarring the Grantee from receiving future grants.

**F.7. Grantee Audit Compliance Guide / Internet Links:** The DHHR developed a Grantee Audit Compliance Guide to further describe and to assist its grantees in complying with the audit, reporting and related disclosure requirements applicable to DHHR grant awards. The Grantee Audit Compliance Guide is posted on the Internet and may be accessed by going to [www.wvdhhr.org](http://www.wvdhhr.org) and then clicking the applicable link on the left side of the webpage. In addition to the Grantee Audit Compliance Guide, the DHHR webpage includes a copy of the GACFED form required by Section F.2 of this Exhibit, links to certain regulatory documents such as OMB Circular A-133 and WV Code §12-4-14, and various other forms and tools to ensure compliance with the requirements referenced herein. The Grantee Audit Compliance Guide applies specifically to recipients of grant awards (Grantees) from the DHHR and must be read in its entirety to gain a complete and thorough understanding of the individual audit and reporting requirements applicable to DHHR grant agreements.

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**EXHIBIT G  
REQUIRED REPORTS**

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**Exhibit G**

If the funds awarded under this Grant Agreement are being made available through appropriations under the American Recovery and Reinvestment Act of 2009, the Grantee must provide the DHHR with an estimate of the number of jobs created and the number of jobs retained as a result of this grant award. The number shall be expressed as "full-time equivalent" (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule, as defined by the Grantee. The Grantee shall disclose this information within the performance report referenced within this Exhibit.

Failure to provide the Department with the required reports may result in suspension of payments or termination of this grant agreement. All reports must be signed and dated by the appropriate authorized representative.

**Program Reports:**

Grantee agrees to submit quarterly progress reports; reports shall include progress made on all objectives outlined in Exhibit A for the reporting period, detailed below:

Reporting Period: November 1, 2009 through January 31, 2010 report due February 28, 2010.

Reporting Period: February 1, 2010 through April 30, 2010; report due May 31, 2010.

Reporting Period: May 1, 2010 through July 31, 2010; report due August 31, 2010

Reporting Period: August 1, 2010 through October 31, 2010; report due November 30, 2010

The final report will certify that the project has been completed. This final report will include:

- Copies of the educational flyers and handouts,
- Estimates of household hazardous waste collected,
- Data collected by Shepherd University and preliminary results of groundwater study, and
- Photographs of source water protection signs posted.

Grantee agrees to submit progress reports to:

Office of Environmental Health Services  
Attention: Mindy S. Ramsey  
Capitol and Washington Streets  
1 Davis Square, Suite 200  
Charleston, WV 25301-1798

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**Financial Reports:**

A report summarizing expenditures incurred will be submitted with each invoice during the grant agreement period. The financial report shall summarize expenditures of grant funds in a manner consistent with the approved budget, and shall be in a standardized format provided by the Department.

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**EXHIBIT G**  
**REQUIRED REPORTS**

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Grantee agrees to submit required financial reports to:

Office of Environmental Health Services  
Attention: Mindy S. Ramsey  
Capitol and Washington Streets  
1 Davis Square, Suite 200  
Charleston, WV 25301-1798

**EXHIBIT H  
CONTACTS**

**Exhibit H**

**Grantee Contacts**

<b>NAME</b>	<b>ADDRESS/CITY/ST/ZIP</b>	<b>TELEPHONE</b>	<b>FAX</b>	<b>EMAIL</b>
SANDY SLUSHER MCDONALD	100 E. WASHINGTON STREET CHARLES TOWN, WV 25414	304-728-3282		SANDY@JEFFERSON COUNTYWV.ORG

**Department Contacts**

<b>NAME</b>	<b>ADDRESS/CITY/ST/ZIP</b>	<b>TELEPHONE</b>	<b>FAX</b>	<b>EMAIL</b>
WALTER IVEY	CAPITOL & WASHINGTON ST. 1 DAVIS SQUARE, STE 200 CHARLESTON, WV 25301	304-558-6715	304- 558- 0691	WALTER.M.IVEY@WV.GOV
MINDY RAMSEY	CAPITOL & WASHINGTON ST. 1 DAVIS SQUARE, STE 200 CHARLESTON, WV 25301	304-558-6759	304- 558- 0324	MINDY.S.RAMSEY@WV.GOV

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**EXHIBIT I**  
**NO DEBT REQUIREMENT**

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**Exhibit I**

**West Virginia Code §5A-3-10a states:**

*No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and the debt owed is an amount greater than one thousand dollars in the aggregate.*

**Definitions:**

“Debt” means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers’ compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

“Debtor” means any individual, corporation, partnership, association, limited liability company or any other form or business association owing a debt to the state or any of its political subdivisions.

“Political subdivision” means any county commission; municipality; county board of education; any instrumentality established by a county or municipality; any separate corporation or instrumentality established by one or more counties or municipalities, as permitted by law; or any public body charged by law with the performance of a government function or whose jurisdiction is coextensive with one or more counties or municipalities.

“Related party” means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor, so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

**Licensing:**

Vendors must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State’s Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agencies or political subdivision. Furthermore, the vendor must provide all necessary releases to obtain information to enable the Director or spending unit to verify that the vendor is licensed and in good standing with the above entities.

Under penalty of law for false swearing (West Virginia Code §61-5-3), Grantee certifies that by signing this grant agreement on the signature page that Grantee and all related parties do not owe any debts.

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**EXHIBIT J  
CONFIDENTIALITY**

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**Exhibit J**

This Exhibit is not applicable to this grant agreement.

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**EXHIBIT K  
SPECIAL TERMS AND CONDITIONS**

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**Exhibit K**

**Disadvantaged Business Enterprise Requirements**

The United States Environmental Protection Agency (EPA), from which grant monies are acquired for this grant award, requires that recipients of financial assistance exert good faith efforts to procure and contract with Disadvantaged Business Enterprises (DBEs) as is described in federal rule 40 CFR Part 33.

The grantee will adhere to the Disadvantaged Business Enterprise Requirements.

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**EXHIBIT L**  
**BUSINESS ASSOCIATE ADDENDUM**

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**Exhibit L**

WV STATE GOVERNMENT

HIPPA BUSINESS ASSOCIATE ADDENDUM

This Health Insurance Portability and Accountability Act of 1996 (hereafter, HIPAA) Business Associate Addendum ("Addendum"), supplements and is made a part of the Agreement, ("Agreement"), by and between Office of Environmental Health Services the (Agency) and Jefferson Co Commission, and Business Associate ("Associate"), and is effective on the date of execution of a binding agreement between the parties, or such other compliance date as is specified in the Privacy Rule (defined below).

Whereas the parties have a business relationship; and

Whereas it is desirable, in order to further the continued efficient operations of Agency to disclose to its Associate certain information which may contain confidential individually identifiable health information (hereafter, Protected Health Information or PHI); and

Whereas, it is the desire of both parties that the confidentiality of the PHI disclosed hereunder be maintained and treated in accordance with all applicable laws relating to confidentiality, including the Privacy and Security Rules, and parties do agree to at all times treat the PHI and interpret the Addendum consistent with that desire.

NOW THEREFORE; the parties agree that in consideration of the mutual promises herein, in the Agreement; and of the exchange of PHI hereunder that:

**1. Definitions.**

**a. Terms** used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in the Privacy and Security Rules.

**b. Privacy Rule.** Privacy Rule means the Standards for Privacy of Individually Identifiable Health Information found at 45 CFR Parts 160 and Part 164, Subparts A and E, as amended.

**c. Security Rule.** Security Rule means the Standards for the security of electronic protected health information found at 45 CFR Part 164, Subpart C, as amended.

**d. Security Incident.** Any known successful or unsuccessful attempt to by an authorized or unauthorized individual to inappropriately use, disclose, modify, access, or destroy any information.

**2. PHI Disclosed; Permitted Uses.**

**a. PHI Described.** PHI disclosed by the Agency to the Associate, PHI created by the Associate on behalf of the Agency, and PHI received by the Association from a third party on behalf of the Agency are disclosable under this Addendum. The disclosable PHI is limited to the minimum

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**EXHIBIT L**  
**BUSINESS ASSOCIATE ADDENDUM**

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necessary to complete the tasks, or to provide the services, associated with the terms of the original agreement.

**b. Purposes.** Except as otherwise limited in this Addendum, Associate may use or disclose the PHI on behalf of, or to provide services to, Agency for the purposes necessary to complete the tasks, or provide the services, associated with, and required by the terms of the original agreement, if such use or disclosure of the PHI would not violate the Privacy or Security Rules or applicable state law if done by Agency or violate the minimum necessary policies and procedures of the Agency.

**3. Obligations of Associate.**

**a. Stated Purposes Only.** The PHI may not be used by the Associate for any purpose other than that stated in this Addendum or as required by law.

**b. Limited Disclosure.** The PHI is confidential and will not be disclosed by the Associate other than as required by this Addendum or by law.

**c. Safeguards.** The Associate will use appropriate safeguards to prevent use or disclosure of the PHI except as provided for in this Addendum. This shall include, but not be limited to:

**i.** Limitation of the groups of its employees or agents to whom the PHI is disclosed to those reasonably required to accomplish the purposes stated in this Addendum, and the use and disclosure of the minimum PHI necessary;

**ii.** Appropriate notification and training of its employees or agents to whom the PHI will be disclosed in order to protect the PHI from unauthorized disclosure;

**iii.** Maintenance of a comprehensive written PHI privacy and security program that includes administrative, technical and physical safeguards appropriate to the size, nature, scope and complexity of the Associate's operations.

**d. Compliance with Law.** The Associate will not use or disclose the PHI in a manner in violation of existing law and specifically not in violation of laws relating to confidentiality of PHI, including but not limited to, the Privacy and Security Rules.

**e. Report of Disclosure.** The Associate will promptly report to the Agency, in writing, any use or disclosure of the PHI not provided for by this Addendum of which it becomes aware. The Associate shall notify the Agency if it is named as a defendant in a civil or criminal proceeding for the violation of HIPAA.

**f. Mitigation.** Associate agrees to mitigate, to extent practicable, any harmful effect that is known to Associate of a use or disclosure of the PHI by Associate in violation of the requirements of this Addendum.

**g. Documentation.** Associate agrees to document disclosures of the PHI and information related to such disclosures as would be required for Agency to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §§ 164.528 and 164.316. This should include a process that allows for an accounting to be collected and

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**EXHIBIT L**  
**BUSINESS ASSOCIATE ADDENDUM**

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maintained by Associate and its agents or subcontractors for at least six (6) years from the date of disclosure, or longer if required by state law. At a minimum, such PHI shall include: (1) the date of disclosure; (ii) the name of the Agency or person who received the PHI, and if known, the address of the Agency or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of purposes of the disclosure that reasonably informs the Individual of the basis for the disclosure, or a copy of the written request for disclosure.

**h. Accounting Rights.** Within ten (10) days of notice of a request for an accounting of disclosures of the PHI, Associate and its agents or subcontractors shall make available to the Agency the PHI required to provide an accounting of disclosures to enable the Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.528.

**i. Access to PHI.** Associate shall make the PHI maintained by Associate or its agents or subcontractors in Designated Record Sets available to Agency for inspection and copying within ten (10) days of a request by Agency to enable the Agency to fulfill its obligations under Privacy Rule, including, but not limited to, 45 CFR § 164.524.

**j. Amendment of PHI.** Within ten (10) days of receipt of a request from the Agency for an amendment of the PHI or a record about an individual contained in a Designated Record Set, Associate or its agents or subcontractors shall make such PHI available to the Agency for amendment and incorporate any such amendment to enable the Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.526.

**k. Retention of PHI.** Notwithstanding section 4.a. of this Addendum, Associate and its subcontractors or agents shall retain all PHI throughout the term of the Agreement and shall continue to maintain the PHI required under Section 3.g. of this Addendum for a period of six (6) years after termination of the Agreement, or longer if required under state law.

**l. Agents, Subcontractors Compliance.** The Associate will ensure that any of its agents, including any subcontractors, to whom it provides any of the PHI it receives hereunder, or to whom it provides any PHI which the Associate creates or receives on behalf of the Agency, agree to the restrictions and conditions which apply to the Associate hereunder.

**m. Amendments.** The Associate shall make available to the specific Individual to whom it applies any PHI; makes such PHI available for amendment; and make available the PHI required to provide an accounting of disclosures, all to the extent required by 45 CFR §§164.524, 164.526, and 164.528 respectively.

**n. Federal Access.** The Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by the Associate on behalf of the Covered Entity available to the U.S. Secretary of Health and Human Services consistent with 45 CFR § 164.504.

**o. Security.** The Associate shall take all steps necessary to ensure the continuous security of all PHI and data systems containing PHI, and provide data security procedures for the use of the Agency at the end of the contract period. These steps shall include, at a minimum, the requirements contained in the West Virginia Office of Technology Policy No. WVOT-PO1001 (1-18-07) which may be found at:  
[http://www.state.wv.us/ot/PDF/Document center/SecurityPol0107.pdf](http://www.state.wv.us/ot/PDF/Document%20center/SecurityPol0107.pdf)

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**EXHIBIT L**  
**BUSINESS ASSOCIATE ADDENDUM**

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**p. Notification of Breach.** During the term of this Agreement:

i. The Associate shall notify the Agency immediately by telephone call plus e-mail or fax upon the discovery of breach of security of PHI, if the PHI was, or is reasonably believed to have been, acquired by an unauthorized person; or within 24 hours by e-mail or fax of any suspected security incident, intrusion or unauthorized use or disclosure of PHI in violation of this Agreement and this Addendum, or potential loss of confidential data affecting this Agreement. Notification shall be provided to the Agency contract manager (see [www.state.wv.us/admin/purchase/vrc/agencyli.htm](http://www.state.wv.us/admin/purchase/vrc/agencyli.htm)) the Agency Privacy Officer (see [www.wvprivacy.org/departmentname.htm](http://www.wvprivacy.org/departmentname.htm)), the Executive Branch Chief Privacy Officer, Sallie Hunt (304.558.7000), and the Department of Administration Office of Technology Director of Security, Jim Richards (304.558.9966).

ii. The Associate shall immediately investigate such security incident, breach, or unauthorized use or disclosure of PHI or confidential data. Within 72 hours of the discovery, the Associate shall notify the Agency contract manager, the Agency Privacy Officer, the Executive Branch Chief Privacy Officer and the Department of Administration Office of Technology Director of Security of: (a) What data elements were involved and the extent of the data involved in the breach; (b) A description of the unauthorized persons known or reasonably believed to have improperly used or discovered PHI or confidential data; (c) A description of where the PHI or confidential data is believed to have been improperly transmitted, sent, or utilized; (d) A description of the probable causes of the improper use or disclosure; and (e) Whether any federal or state laws requiring individual notifications of breaches are triggered.

**q. Assistance in Litigation or Administrative Proceedings.** The Associate shall make itself and any subcontractors, employees or agents assisting Associate in the performance of its obligations under this Agreement, available to the Agency at no cost to the Agency to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Agency, its officers or employees based upon claimed violations of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inactions or actions by the Associate, except where Associate or its subcontractor, employee or agent is a named adverse party.

#### **4. Termination.**

**a. Duties at Termination.** Upon any termination of this Addendum, if feasible, the Associate shall return or destroy all PHI received from, or created or received by the Associate on behalf of the Agency that the Associate still maintains in any form and retain no copies of such PHI or, if such return or destruction is not feasible, the Associate shall extend the protections of this Addendum to the PHI and limit further uses and disclosures to the purposes that make the return or destruction of the PHI infeasible. This shall also apply to all agents and subcontractors of Associate. The duty of the Associate and its agents and subcontractors to assist the Agency with any HIPAA required accounting of disclosures survives the termination of this Addendum.

**b. Termination for Cause.** Agency may terminate this Addendum if at anytime it determines that the Associate has violated a material term of the Addendum. The Agency may, at its sole discretion, allow Associate a reasonable period of time to cure the material breach before termination.

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**EXHIBIT L**  
**BUSINESS ASSOCIATE ADDENDUM**

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**c. Judicial or Administrative Proceedings.** The Agency may terminate this Agreement if the Associate is found guilty of a criminal violation of HIPAA. The Agency may, terminate this Agreement if a finding or stipulation that the Associate has violated any standard or requirement of HIPAA, or other security or privacy laws is made in any administrative or civil proceeding in which the Associate is a party or has been joined.

**d. Survival.** The respective rights and obligations of Associate under Section 3.k. of this Addendum shall survive the termination of this Addendum.

**5. General Provisions/Ownership of PHI.**

**a. Retention of Ownership.** Ownership of the PHI resides with the Agency and is to be returned on demand.

**b. Secondary PHI.** Any data or PHI generated from the PHI disclosed hereunder which would permit identification of an Individual must be held confidential and is also the property of the Agency.

**c. Electronic Transmission.** Except as permitted by law or this Addendum, the PHI or any data generated from the PHI which would permit identification of an Individual must not be transmitted to another party by electronic or other means for additional uses not authorized by this Addendum or to another contractor, or allied agency, or affiliate without prior written approval of Agency.

**d. No Sales.** Reports or data containing the PHI may not be sold without Agency's or the affected Individual's written consent.

**e. No Third-Party Beneficiaries.** Nothing express or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than the Agency, Associate and their respective successors or assigns, any rights remedies, obligations or liabilities whatsoever.

**f. Interpretation.** The provisions of this Addendum shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provisions in this Addendum. The interpretation of this Addendum shall be made under the laws of the state of West Virginia.

**g. Amendment.** The parties agree that to the extent necessary to comply with applicable law they will agree to further amend this Addendum.

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**EXHIBIT L  
BUSINESS ASSOCIATE ADDENDUM**

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**AGREED:**

Name of Associate: **Jefferson Co Commission**

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

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



**THE DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

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

**ADDENDUM**  
**FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT**  
**AMERICAN RECOVERY AND REINVESTMENT ACT**

**A. Purpose and Summary**

The purpose of this Addendum is to ensure that recipients of grant awards from the West Virginia Department of Health and Human Resources understand their responsibilities under the Federal Funding Accountability and Transparency Act of 2006 and the American Recovery and Reinvestment Act of 2009, as may be applicable.

As part of these responsibilities, and as condition for execution of this Grant Agreement, Grantees must remain current in the Central Contractor Registration (CCR) database (<http://www.ccr.gov>) at all times during which they have active DHHR grant awards. The CCR database is the repository for standard information about Federal financial assistance applicants, recipients and subrecipients. Grantees must update or renew their CCR registration at least once per year to maintain an active status.

In order to register in the CCR database, Grantees must first obtain a valid Data Universal Numbering System (DUNS) Number from Dun and Bradstreet at <http://www.dnb.com>. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving Federal funds. The identifier is used for tracking purposes and for validating the address and point of contact information for Federal assistance applicants, recipients and subrecipients.

Additional information about obtaining a DUNS number and maintaining registration with the CCR are included on the websites referenced above and on the attached Instructions for Completion of the Subrecipient (Grantee) Information Form. As further explained within this Addendum, the attached Subrecipient (Grantee) Information Form must be completed by the Grantee and submitted to the DHHR during the negotiation (pre-award) stage of the grant cycle.

**B. Federal Funding Accountability and Transparency Act of 2006**

The Federal Funding Accountability and Transparency Act of 2006, Public Law 109-282, hereinafter referred to as FFATA, is an Act of Congress that requires full disclosure to the public of all entities or organizations receiving Federal funds. The FFATA directed the Office of Management and Budget (OMB), by January 1, 2008, to ensure the existence and operation of a single searchable website, accessible to the public at no cost, which includes for each Federal award:

1. The amount of the award;
2. Information including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source, and an award title descriptive of the purpose of each funding action;
3. The name and location of the recipient and the primary location of performance;
4. A unique identifier of the recipient and any parent agency (DUNS Number); and
5. Any other relevant information specified by the OMB

The FFATA also required the OMB, by July 1, 2007, to commence a pilot program to test the collection of and access to data about subgrants and to determine how to implement a subaward-reporting program across the Federal Government. Thereafter, the FFATA required the OMB to terminate the pilot program by January 1, 2009 and, subject to extensions, replace it with a permanent system of ensuring that data regarding subawards is disclosed in the same manner as data regarding other Federal awards.

**C. American Recovery and Reinvestment Act of 2009**

The American Recovery and Reinvestment Act of 2009, Public Law 111-5, hereinafter referred to as the ARRA, is an economic stimulus package enacted by the 111<sup>th</sup> United States Congress and signed into law by President Barack Obama on February 17, 2009. The ARRA is intended to provide a stimulus to the U.S. economy in the wake of the economic downturn and includes Federal tax relief; expansion of unemployment benefits and other social welfare provisions; and domestic spending on education, health care, and infrastructure, including the energy sector. The ARRA provides for unprecedented levels of transparency and accountability so that the public will be able to know how, when and where their tax dollars are being spent. Specific information and requirements under the ARRA are as follows:

1. Funding provided from the Federal Government through the ARRA is **"one-time only" funding** and, to maximize the transparency and accountability of ARRA funds, organizations receiving funding under the ARRA **must maintain records** that identify adequately the source and application of those funds.
2. **Section 1512(c) of the ARRA** requires quarterly reporting on the use of funds. The data elements proposed for reporting the information described in Section 1512(c) were initially published in the Federal Register on April 1, 2009 [74 FR 14824].
3. **Section 1512(h) of the ARRA** requires recipients of ARRA funds, and their first-tier recipients (subrecipients) to register in the Central Contractor Registration (CCR) database at <http://www.ccr.gov>. In order to register in the CCR, a valid Data Universal Numbering System (DUNS) Number is required, as further described within this Addendum and within the Instructions for Completion of the Subrecipient (Grantee) Information Form.
4. **Section 1605 of the ARRA** requires that projects funded by the ARRA for the construction, alteration, maintenance, or repair of a public building or public work use American iron, steel, and manufactured goods in the project unless one of the specified exemptions applies. The ARRA provides that this requirement be applied in a manner consistent with U.S. obligations under international agreements. Definitions of "manufactured good," "public building and public work," and other terms as they pertain to the Buy American guidance in 2 CFR part 176 are found in § 176.140 and § 176.160.
5. **Section 1606 of the ARRA** requires the payment of Davis-Bacon Act (40 U.S.C. 31) wage rates to "laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government" pursuant to the ARRA.
6. **Grantees bound by the Single Audit Act Amendments of 1996 and OMB Circular A-133, Audits of States, Local Governments and Nonprofit Organizations**, must separately identify the expenditures for Federal awards under the ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. This requirement shall be accomplished by identifying expenditures for Federal awards made under the ARRA separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program

**ADDENDUM**  
**FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT**  
**AMERICAN RECOVERY AND REINVESTMENT ACT**

on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC. Additional information regarding the Federal audit requirements of OMB Circular A-133 is located within Exhibit F of the DHHR Grant Agreement and the Source of Funds Schedule, attached to this Grant Agreement as Exhibit B, identifies whether the funds awarded under this grant are being made available through appropriations under the ARRA.

**D. DHHR Reporting to the Federal Government**

The DHHR, as a primary recipient of Federal grants awards, is ultimately responsible for reporting on all data required by the FFATA and Section 1512 of the ARRA, including the following data elements related to its subrecipient Grantees:

1. Subrecipient DUNS number
2. Subaward number
3. Subrecipient legal name
4. Subrecipient DBA name
5. Subrecipient location
6. Subrecipient congressional district
7. Subrecipient type
8. Amount of subaward
9. Total subaward funds disbursed
10. Subaward date
11. Subrecipient primary place of performance
12. Congressional district for primary performance location
13. Subrecipient officer names and compensation of the top five officials, if applicable
14. Information on subrecipient vendors

As of the date of this Addendum, revised August 2009, the most recent and detailed implementing guidance with respect to this required data and other associated reporting requirements is located in a memorandum (M-09-21) released by the OMB on June 22, 2009. Among its many features, the June 22, 2009 OMB guidance describes the responsibilities for primary recipients versus subrecipients, discusses procedural issues for reporting, and includes a template and a data dictionary that fully details the required data elements and shows examples of those elements. Grantees may view or download the June 22, 2009 OMB guidance and related supplemental documents through the following website: [www.whitehouse.gov/omb/memoranda\\_default/](http://www.whitehouse.gov/omb/memoranda_default/).

**E. Subrecipient (Grantee) Information Form – DHHR Finance A-1000**

As opposed to requiring its Grantees to report directly to the Federal government on the aforementioned data, as is an option for the primary recipient under the ARRA, the DHHR will gather the necessary information from its Grantees for compilation and reporting to the Federal government in a comprehensive and cumulative manner. In order to achieve these objectives and to ensure consistent accounting treatment for these Federal funds, the DHHR developed a standardized form (DHHR Finance A-1000) in which its Grantees shall be required to complete and submit to the DHHR during the negotiation (pre-award) stage of the grant cycle. The DHHR will not process the Grant Agreement or commit any of the funds related thereto until the Grantee submits a signed copy of the Subrecipient (Grantee) Information Form.

**F. Future Informational Updates and Regulatory Requirements**

Currently, the rules, regulations and guidance issued by the Federal Government with respect to the oversight, accountability and reporting

requirements associated with the FFATA and the ARRA are a work-in-progress. As referenced in the aforementioned sections of this Addendum, there are a number of reporting requirements (data elements) for which the DHHR, as a primary recipient of Federal funds, must report directly to the Federal Government, including information on Federal subgrant awards administered by the DHHR. While the memorandum issued by the OMB on June 22, 2009 provides detailed information with respect to these reporting requirements, by all indications, further requirements and information may be forthcoming from the Executive Office of the President or through the release of individual Federal agency regulations. Therefore, as additional information becomes available and the Federal Government provides more details on managing Federal funds, the DHHR will transmit the information to its grant community through an update to this memorandum or by other determinable means to ensure overall compliance with the FFATA and the ARRA.

**G. Sources of Information / Websites**

Federal Funding Accountability and Transparency Act of 2006:

<http://www.usaspending.gov/>

[http://frwebgate.access.gpo.gov/cgi-](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:s2590enr.txt.pdf)

[bin/getdoc.cgi?dbname=109\\_cong\\_bills&docid=f:s2590enr.txt.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:s2590enr.txt.pdf)

American Recovery and Reinvestment Act of 2009:

<http://www.recovery.gov/>

[http://frwebgate.access.gpo.gov/cgi-](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1enr.pdf)

[bin/getdoc.cgi?dbname=111\\_cong\\_bills&docid=f:h1enr.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1enr.pdf)

Office of Management and Budget:

[http://www.whitehouse.gov/omb/memoranda\\_default/](http://www.whitehouse.gov/omb/memoranda_default/)

[http://www.whitehouse.gov/omb/circulars\\_a133\\_compliance\\_09toc/](http://www.whitehouse.gov/omb/circulars_a133_compliance_09toc/)

#16  
12/18/08

**In re: HERB SNYDER - UPDATE ON MARC**

Herb Snyder, Senator-elect, Tiffany Lawrence, Delegate-elect and Senator John Unger were present to give the Commission an update on the MARC Train service to the Eastern Panhandle and that the late train service will continue on the current schedule and that funding sources will be needed.

**In re: RECONSIDER MOTION THAT EVERY COUNTY EMPLOYEE BE GIVEN A CHRISTMAS BONUS**

Laura Rattenni, Circuit Clerk appeared before the Commission to request that the Commission reconsider the motion that every county employee be given a Christmas bonus excluding those employees who previously received a bonus this fiscal year.

Motion by Manuel, second by F. Morgan to reconsider the motion made on December 11, 2008 that every Jefferson County government employee be given a Christmas bonus in the amount of \$125.00 and amended by Corliss that every Jefferson County government employee be given a Christmas bonus in the amount of \$125.00 excluding those employees who previously received a bonus this fiscal year. Motion carried.

Motion by Manuel, second by F. Morgan that every Jefferson County government employee be given a Christmas bonus in the amount of \$125.00 excluding contracted employees. Motion passed by a 4-1 vote. Commissioner Surkamp voted no.

**The Commission took a 15 minute break at 11:00 a.m.**

**In re: JENNIFER S. MAGHAN - COUNTY CLERK'S REPORT**

Jennifer S. Maghan, County Clerk appeared before the Commission and informed the Commission that there was nothing to report at this time.

**In re: APPOINTMENTS OF ALTERNATE MEMBERS TO THE BOARD OF ZONING APPEALS**

No action was taken on this agenda item.

**In re: APPOINTMENTS TO THE JEFFERSON COUNTY AMBULANCE AUTHORITY**

No action was taken on this agenda item.

**In re: AGENDA FOR COUNCIL OF GOVERNMENTS MEETING**

The Commission agreed to cancel the December Council of Governments Meeting due to the Christmas Holidays.



**In re: DECISION ON UNEMPLOYMENT INSURANCE**

Motion by Manuel, second by R. Morgan to continue with the process of self insurance for the purposes of unemployment insurance protection. Motion carried.

**In re: CIVIL WAR PRESERVATION TRUST - REQUEST FOR PROPERTY TAX LIABILITY EXONERATION**

Kathy Robertson, Civil War Preservation Trust appeared before the Commission requesting a property tax liability exoneration. After discussion, the Commission agreed to direct Stephanie Grove, Assistant Prosecuting Attorney to work with the Assessor and the Civil War Preservation Trust to explore granting release regarding the property tax liability. With objection by Commissioner Surkamp, motion by Manuel, second by R. Morgan to direct Stephanie Grove, Assistant Prosecuting Attorney to work with the Assessor and the Civil War Preservation Trust to explore granting release regarding the property tax liability. Motion passed by a 4-1 vote. Commissioner Surkamp voted no. For the record, Stephanie Grove, Assistant Prosecuting Attorney was present and made comments.

**In re: STEPHANIE GROVE - LEGAL UPDATE AND REPORT**

Stephanie Grove, Assistant Prosecuting Attorney appeared before the Commission and reported on the following:

- To Do List
- Water Advisory Committee - Well Head Monitoring Consultant
- Zoning - City of Paw Paw
- Jefferson County Ambulance Authority Name Change

Commission Office Use Only

Date on Agenda:

Appt Time or New Business:

#17

### AGENDA REQUEST FORM

Name: Sandy McDonald

Department or Entity: County Commission

Estimation of amount of time needed for appointment: 5 Minutes

Date Requested – 1<sup>st</sup> Choice: January 7, 2010

Date Requested – 2<sup>nd</sup> Choice: \_\_\_\_\_

If a specific date is needed, please provide reason for specific date:

Subject: **New Business**

Please provide the County Commission with a description of your request or presentation, including any background information: **Approval of Board of Review and Equalization Notice**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve):

Attachments:

*New Business*

**NOTICE**  
**Board of Review and Equalization**

The County Commission of Jefferson County will convene as a Board of Review and Equalization in the Old Charles Town Library meeting room located at 200 E. Washington Street, Charles Town, WV on Monday, February 1, 2010, at 1:30 p.m., for the purpose of reviewing and equalizing assessments returned by the Assessor of Jefferson County for the year 2010.

The Commission will continue to sit as a Board of Review and Equalization on Thursday, February 4<sup>th</sup>, 2010, at 1:30 p.m., Tuesday, February 9<sup>th</sup>, 2010, at 1:30 p.m., Thursday, February 11<sup>th</sup>, 2010, at 1:30 p.m., and thereafter, until all questions concerning assessments are heard.

Persons wishing to appear before the Commission must apply to the Assessor no later than Friday, February 12<sup>th</sup>, 2010, at noon, in order to complete the proper forms and to schedule a hearing date prior to the final date of Tuesday, February 16<sup>th</sup>, 2010.

Given under my hand this 7<sup>th</sup> day of January, 2010.

/s/ \_\_\_\_\_  
JENNIFER MAGHAN, COUNTY CLERK  
JEFFERSON COUNTY COMMISSION

Commission Office Use Only

Date on Agenda:

Appt Time or New Business:

# 18

### AGENDA REQUEST FORM

Name: Sandy McDonald

Department or Entity: County Commission

Estimation of amount of time needed for appointment: 5 Minutes

Date Requested – 1<sup>st</sup> Choice: January 7, 2010

Date Requested – 2<sup>nd</sup> Choice: \_\_\_\_\_

If a specific date is needed, please provide reason for specific date:

Subject: **New Business**

Please provide the County Commission with a description of your request or presentation, including any background information: **Discuss 2010 County Commission Meeting Schedule**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve):

Attachments:

JEFFERSON COUNTY COMMISSION HOLIDAY SCHEDULE 2010

NEW YEAR'S DAY	FRIDAY, JANUARY 1, 2010
MARTIN LUTHER KING'S BIRTHDAY	MONDAY, JANUARY 18, 2010
PRESIDENT'S DAY	MONDAY, FEBRUARY 15, 2010
PRIMARY ELECTION	TUESDAY, MAY 11, 2010
MEMORIAL DAY	MONDAY, MAY 31, 2010
WEST VIRGINIA DAY	MONDAY, JUNE 21, 2010
INDEPENDENCE DAY	MONDAY, JULY 5, 2010
LABOR DAY	MONDAY, SEPTEMBER 6, 2010
COLUMBUS DAY	MONDAY, OCTOBER 11, 2010
ELECTION DAY	TUESDAY, NOVEMBER 2, 2010
VETERAN'S DAY	THURSDAY, NOVEMBER 11, 2010
THANKSGIVING	THURSDAY, NOVEMBER 25, 2010 FRIDAY, NOVEMBER 26, 2010
CHRISTMAS	FRIDAY, DECEMBER 24, 2010
NEW YEAR'S EVE	FRIDAY, DECEMBER 31, 2010

IN ADDITION TO THE DAYS LISTED ABOVE, THE COMMISSION WILL OBSERVE AS HOLIDAYS, ANY NATIONAL, STATE OR OTHER ELECTION DAY THROUGHOUT THE COUNTY, AND ALL DAYS WHICH MAY BE APPOINTED OR RECOMMENDED BY THE GOVERNOR, OF THIS STATE, OR THE PRESIDENT OF THE UNITED STATES, AS DAYS OF THANKSGIVING, OR FOR THE GENERAL CESSATION OF BUSINESS, ANY DAY OR PART THEREOF DESIGNATED BY THE GOVERNOR AS TIME OFF, WITHOUT CHARGE AGAINST ACCRUED ANNUAL LEAVE, FOR STATE EMPLOYEES STATEWIDE MAY ALSO BE TIME OFF FOR COUNTY EMPLOYEES IF THE COUNTY COMMISSION ELECTS TO DESIGNATE THE DAY OR PART THEREOF AS TIME OFF, WITHOUT CHARGE AGAINST ACCRUED ANNUAL LEAVE FOR COUNTY EMPLOYEES. ANY ENTIRE OR PART STATE WIDE DAY OFF DESIGNATED BY THE GOVERNOR MAY, FOR ALL COURTS, BE TREATED AS IF IT WERE A LEGAL HOLIDAY, AS PROVIDE FOR IN 2-2-1 OF THE WEST VIRGINIA CODE, AS AMENDED.

DATE: 12/10/2009

/s/ Dale Manuel  
PRESIDENT  
JEFFERSON COUNTY COMMISSION

#19

Commission Office Use Only

Date on Agenda:

Appt Time or New Business:

**AGENDA REQUEST FORM**

Name: Sandy McDonald

Department or Entity: County Commission

Estimation of amount of time needed for appointment: 5 Minutes

Date Requested – 1<sup>st</sup> Choice: January 7, 2010

Date Requested – 2<sup>nd</sup> Choice: \_\_\_\_\_

If a specific date is needed, please provide reason for specific date:

Subject: **New Business**

Please provide the County Commission with a description of your request or presentation, including any background information: **Discuss County Commission Preparation of Minutes and Turnaround**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve):

Attachments:

## NOTICE OF INTENT TO APPOINT

The Jefferson County Commission proposes to name persons to serve on the following Authorities, Boards, Commissions, or Committees on Thursday, January 7, 2010, or as soon thereafter as the Commission may decide:

**Jefferson County Planning Commission - One unexpired term  
ending March 31, 2010**

Persons who may be interested in the above listed agency should submit a letter of interest and a resume or statement of qualifications to the Jefferson County Commission, P.O. Box 250, Charles Town, WV 25414, prior to the proposed date of appointment.

Additional information regarding these appointments may be obtained by calling the Commission Office at (304) 728-3284.

## PLANNING COMMISSION

Ellen May  
P.O. Box 669  
Charles Town, WV 25414  
728-3791 728-3793 (fax)  
[emay@ecgc.com](mailto:emay@ecgc.com)  
3 years 3/31/2010

Robert I. Reynolds  
188 Norman Lane  
Shepherdstown, WV 25443  
876-0622  
[reynolds@pire.org](mailto:reynolds@pire.org)  
3 years 3/31/2010

Edward Dunleavy  
P.O. Box 3359  
Shepherdstown, WV 25443  
876-7029 mobile: 917-747-5748  
[edunleavy@frontiernet.net](mailto:edunleavy@frontiernet.net)  
3 years 3/31/2010

John Sidor  
778 Elk Run Estates  
Harpers Ferry, WV 25425  
535-1459  
[johnsidor@frontiernet.net](mailto:johnsidor@frontiernet.net)  
3 years 3/31/2011

John Maxey  
335 Old Shenandoah trail  
Harpers Ferry, WV 25425  
724-7625 [maxey@radlib.com](mailto:maxey@radlib.com)  
3 years 3/31/2011

Arnold W. Dailey, Jr.  
Hy-Crest Farms  
1694 S. Childs Road  
Kearneysville, WV 25430  
728-7551  
3 years 3/31/2012

Lynne Deming  
915 Hidden Hollow Drive  
Kearneysville, WV 25430  
h: 728-2813 725-3491 fax  
[lynne.deming@adelphia.com](mailto:lynne.deming@adelphia.com)  
cell: 279-3622  
3 years 3/31/2012

Thomas Trumble  
Shenandoah Oaks Farm  
2576 Warm Springs Road  
Shenandoah Junction, WV 25442  
876-2161 582-1679 cell  
3 years 3/31/2012  
[ttrumble@frontiernet.net](mailto:ttrumble@frontiernet.net)

James Surkamp  
P.O. Box 1035  
Shepherdstown, WV 25443  
261-7911  
[surkamp@frontiernet.net](mailto:surkamp@frontiernet.net)  
**County Commissioner**

58-24-6

#22

<p>Commission Office Use Only</p> <p>Date on Agenda:</p> <p>Appt Time or New Business:</p>
--------------------------------------------------------------------------------------------

RECEIVED

AGENDA REQUEST FORM

DEC 28 2009

Name: Robert E. Shirley

Jefferson County Commission

Department or Entity: Sheriff

Estimation of amount of time needed for appointment: N/A

Date Requested - 1<sup>st</sup> Choice: Jan 7, 2010

Date Requested - 2<sup>nd</sup> Choice: \_\_\_\_\_

If a specific date is needed, please provide reason for specific date:

I would like to fill the vacant positions as soon as possible to alleviate the work load on the current Part-time staff.

Subject:

Fill ~~two~~ vacant part-time Bailiff positions

Please provide the County Commission with a description of your request or presentation, including any background information:

Unless you would like me to attend, I do not feel a presentation needs to be made for this matter.

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve):

I move to approve the hiring of Crystal Tharp and James Eddy as part-time Bailiffs/Trip Guards.

Attachments:

Letter requesting hire.



Telephone: 728-3205  
Tax Office: 728-3220  
Fax: 728-3299

## SHERIFF and TREASURER *of Jefferson County*

Robert E. Shirley  
P.O. Box 9  
Charles Town, WV 25414

December 23, 2009

To: Jefferson County Commission  
From: Sheriff Robert E. Shirley  
Re: Part-time Bailiffs/Trip Guards

I am requesting permission to hire the following two individuals as Part-time Bailiffs/Trip Guards. Ms. Tharp is currently a law enforcement officer with Ranson Police Department and Mr. Eddy is a retired Federal law enforcement officer. The positions they will be filling are currently vacant and not newly created positions.

Crystal Marie Tharp  
James Edward Eddy

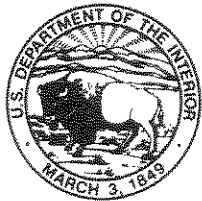
I have already run a criminal background check and driver's history on the applicants and they appear to be in good standing. If approved, their continued employment would be contingent upon qualifying with their assigned weapon and taser.

Thank you for your consideration in this matter.

Sincerely,

Robert E. Shirley  
Sheriff and Treasurer  
Jefferson County

#223



# United States Department of the Interior

U. S. GEOLOGICAL SURVEY  
John Wesley Powell Federal Building  
Eastern Region of Branch Management Services  
12201 Sunrise Valley Drive  
Reston, Virginia 20192

December 22, 2009

**RECEIVED**

Jefferson County Commission  
P.O. Box 250  
124 E. Washington Street  
Charles Town, WV 25414

DEC 23 2009

**Jefferson County Commission**

**Subject: Proposed Earthen Dams or Impoundment(s) Construction to Enhance Spring Flow – US Geological Survey Leetown Science Center – Kearneysville, WV**

To Whom It May Concern:

In compliance with the National Environmental Policy Act (NEPA), the U.S. Geological Survey (USGS) is preparing an Environmental Assessment (EA) addressing the projected impacts from the proposed construction of an earthen dam (impoundment) or weir at the USGS Leetown Science Center (LSC) in Kearneysville, WV (see attached map). The LSC is a fishery/biological research facility owned and operated by the USGS to perform cold water fishery research. The cold water necessary for this research is supplied to the facility through the collection of spring water via an infiltration gallery. That cold-water collection system was designed and built to supply the historical cold-water demand of the LSC facility; however, the recent construction of a U. S. Department of Agriculture (USDA) facility on the Leetown site and the accompanying use of the collected ground water by that USDA facility has potentially threatened the ability of the collected spring water to meet all demands.

In the past few years, beavers constructed dams across two spring fed streams located on LSC property. The beavers abandoned the sites after several years of use. When the beaver dams were in service, the LSC facility noted that the spring water levels and associated flow rates were higher than during the periods prior to the beaver dams being in place. An evaluation of the hydrogeologic features of the site led the USGS to conclude that the presence of the pools behind the beaver dams acted to inundate naturally occurring seep locations, restricting the surface discharge of ground water and enabling more efficient capture of the ground water in the infiltration gallery. The LSC is interested in recreating the hydrogeologic effect of the beaver dams through the proposed construction of impoundments or weirs.

The EA will describe the proposed action, the purpose and need for the proposed action, and reasonable alternatives to accomplish the purpose and need of the project. Alternatives will include alternate construction materials for the proposed action, alternate dam construction sites, and No Action. The EA will then discuss the existing environment, particularly those areas that

may be affected by the project alternatives, and will provide an analysis of direct, indirect and cumulative impacts. If the EA concludes that the proposed action or alternatives would result in no significant impacts on the environment, the USGS will complete the NEPA process by issuing a Finding of No Significant Impact. If the EA concludes that implementation of the proposed action or its alternatives would cause significant impacts, the NEPA process would require an Environmental Impact Statement before the proposed action could proceed.

Alternative actions being considered are:

**Alternative 1 – Proposed Action: Replicate Hydrogeologic Impacts of Prior Beaver Dams Through Construction of Earthen Dams, Steel Pile Impoundments or Weirs**

The two prime design concerns for construction of the proposed impoundments/weirs are replicating the hydrogeologic effects of the prior beaver dams and meeting all of the required federal, state, and local regulations covering such construction. Based on information obtained from applicable regulations, the following design issues will be considered:

- Based on the anticipated sizes and impoundment volumes expected, the structures should fall below levels required to qualify as a regulated dam in West Virginia. Similarly, the structures should not qualify as an “inventory dam” according to the U.S. Fish and Wildlife Service (FWS) Dam Safety regulations.
- Based on the FWS design criterion for a low-hazard small dam, a spillway system will be designed to pass a 100-year frequency event. A low-level outlet will also be incorporated into the impoundments to drain the pools behind any structure.
- Two structural alternatives will be evaluated at each of the two previous beaver dam locations. Design and cost considerations for both an earthen embankment and a sheet pile levee will be developed for each location. The stability of each structure will be designed and evaluated based on the current state of the practice and applicable state, local and federal regulations.
- The location and elevation for the impoundments at each location will be determined to prevent off-property flooding and minimize and/or mitigate for inundation of critical locations within the LSC.

**Alternative 2 – No Action: Proposed project would not be done**

The Council on Environmental Quality’s regulations requires that a No Action Alternative be evaluated. Under the No Action Alternative, the replacement/replication of the hydrogeologic effects of the removed beaver dams would not take place. Under such an alternative, the ability of the LSC to conduct research would be reduced.

The types of issues that could be considered in the Environmental Assessment are the impacts of construction and operation under Alternative 1. These include floodplains, water quality, threatened and endangered species, cultural resources, and water management, along with community issues such as economic impact.

Your agency's participation in the decision making process is important to the USGS. You are encouraged to provide input to the environmental review process. Furthermore, the USGS is requesting information you may have pertaining to any potential impacts we should address at the proposed project site. Any suggestions or information you may have will be of great assistance to our investigation and analysis. Please provide your response by January 22, 2010 to:

Donald Bennett, Project Manager  
Eastern Region ARRA  
U.S. Geological Survey, MS-153  
12201 Sunrise Valley Drive  
Reston, Virginia 20192  
HQ Office: 703-648-4401  
Richmond Ofc: 804-261-2651  
Cell: 610-737-7457  
Email: [dlbennett@usgs.gov](mailto:dlbennett@usgs.gov)

Thank you for your cooperation.

Sincerely,

  
Donald Bennett

Commission Office Use Only

Date on Agenda:

Appt Time or New Business:

#27

### AGENDA REQUEST FORM

Name: Sandy McDonald

Department or Entity: County Commission

Estimation of amount of time needed for appointment: 5 minutes

Date Requested – 1<sup>st</sup> Choice: January 7, 2010

Date Requested – 2<sup>nd</sup> Choice: \_\_\_\_\_

If a specific date is needed, please provide reason for specific date:

Subject: **New Business**

Please provide the County Commission with a description of your request or presentation, including any background information: **Revised Moving Expenses Policy**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): **Move to approve the revised Moving Expenses Policy as recommend in the 9/17/09 minutes**

Attachments: **Old Version**  
Draft Version  
9/17/09 Minutes

**COUNTY COMMISSION OF JEFFERSON COUNTY**

**POLICY TITLE:** Moving Expenses Policy

**POLICY NUMBER:** 2009 -

**ADOPTED:**

**EFFECTIVE:**

**REVISED:**

---

**PURPOSE:**

To provide a means for reimbursement or payment of authorized moving expenses for eligible employees.

**POLICY:**

It is the intent of Jefferson County to employ individuals for job openings in the most economical way. Reimbursement or payment of moving expenses will be authorized where a locally qualified candidate cannot be found to fill a vacancy that would typically be a technical or high level county position. The County will reimburse or pay moving expenses that are reasonable and actual expenditures for an individual that is relocating from their prior home to the workplace that is in excess of 50 miles.

**PROCEDURE:**

Reimbursement or payment for moving expenses may be authorized by the County Commission for new employees in a professional, administrative, technical or major supervisory position if it is necessary to recruit out of the local area. Payment or reimbursement is dependent upon funding availability during the fiscal year. Moving expenses will only be authorized for relocation in excess of 50 miles.

After approval of the County Commission, the Commission may reimburse or make payment at its discretion for the following:

- Mileage according to the IRS allowable mileage rate.

- Transportation of household and personal belongings by a commercial moving company. Allowable expenses include the actual cost of moving. Quotes shall be obtained from at least 3 commercial moving companies.
- Transportation of household and personal belongings by the employee. Allowable expenses include the actual cost of renting a moving truck or trailer from an established commercial rental company. Quotes shall be obtained from at least 3 commercial vehicle rental companies.
- Moving expenses will be paid if relocation is at time of employment.
- Receipts for all related moving expenses shall be provided to the County.
- If an employee leaves employment with Jefferson County within one year of the date of employment, the employee will be responsible for reimbursing the County the total cost of moving expenses.

**DRAFT COUNTY COMMISSION OF JEFFERSON COUNTY**

**POLICY TITLE:** Moving Expenses Policy

**POLICY NUMBER:** 2010 -

**ADOPTED:**

**EFFECTIVE:**

**REVISED:**

---

**PURPOSE:**

To provide a means for reimbursement or payment of authorized moving expenses for eligible employees.

**POLICY:**

It is the intent of Jefferson County to employ individuals for job openings in the most economical way. Reimbursement or payment of moving expenses will be authorized where a locally qualified candidate cannot be found to fill a vacancy that would typically be a technical or high level county position. The County Administrator will reimburse or pay moving expenses that are reasonable and actual expenditures for an individual that is relocating from their prior home to the workplace that is in excess of 50 miles. **Moving expenses will be paid not to exceed \$5,000.**

**PROCEDURE:**

Reimbursement or payment for moving expenses may be authorized by the County Commission for new employees in a professional, administrative, technical or major supervisory position if it is necessary to recruit out of the local area. Payment or reimbursement is dependent upon funding availability during the fiscal year. Moving expenses will only be authorized for relocation in excess of 50 miles. **Moving expenses will be paid not to exceed \$5,000.**

After approval of the County Commission, the Commission may reimburse or make payment at its discretion for the following:

- Mileage according to the IRS allowable mileage rate.

DRAFT

- Transportation of household and personal belongings by a commercial moving company. Allowable expenses include the actual cost of moving. Quotes shall be obtained from at least 3 commercial moving companies.
- Transportation of household and personal belongings by the employee. Allowable expenses include the actual cost of renting a moving truck or trailer from an established commercial rental company. Quotes shall be obtained from at least 3 commercial vehicle rental companies.
- Moving expenses will be paid if relocation is at time of employment.
- Receipts for all related moving expenses shall be provided to the County.
- If an employee leaves employment with Jefferson County within one year of the date of employment, the employee will be responsible for reimbursing the County the total cost of moving expenses.

9/17/09

Supervisor/Department Head/Elected Officials Form. After discussion, the Commission agreed to discuss this matter at a later time.

 In re: DRAFT MOVING EXPENSES POLICY - DISCUSSION/ACTION

The Commission discussed the Draft Moving Expenses Policy. After discussion, the Commission agreed to add and specify the County Administrator rather than the County and to include not to exceed \$5,000 for moving expenses.

In re: COUNTY ADMINISTRATOR REPORTS

Leslie D. Smith, County Administrator appeared before the Commission to report on the following:

- Distributed the revenue and expenditure report
- Include Helen Detmer on the Census Committee
- Patty Hamilton, WVACO will be on the agenda next week at 11:15 a.m.
  - Comparison of BRIM Insurance Coverage to West Virginia County Risk Pool
- Copy of the BRIM Insurance Policy available for review
- Fire Company Contracts

Commissioner Manuel distributed an opinion given from the Jefferson County Emergency Services Agency regarding distribution of money to the fire departments.

Motion by Morgan, second by Manuel to reconsider the motion to send the Contracts to Fire Departments. Commissioners Morgan and Manuel withdrew their motion.

Toni Milbourne, Jefferson County Emergency Services Agency was present and made comments. The Commission agreed to keep the process the same this year and to proceed with the contracts.

In re: COUNTY COMMISSION REPORTS

Commissioner Morgan reported on two upcoming meeting with the West Virginia Public Service Commission regarding PATH on Tuesday, September 22, 2009 at 12:30 p.m. and again at 6:30 p.m. and Wednesday, September 23 at 8:30 a.m. both being held at the Frank Arts Center at Shepherd University.

Commissioner Morgan reported of an informational meeting regarding PATH on Sunday, September 20, 2009 at 3:00 p.m. at Sam Michael's Park.

Commissioner Noland reported on the Courthouse Facilities Authority meeting she attended.

Commissioner Widmyer reported on the Foreclosure Forum she attended.

Commissioner Widmyer reported on the Jefferson County Public Service District meeting she attended.

Commissioner Widmyer reported on the Parks and Recreation Commission meeting she attended.

Commissioner Manuel reported on the Parks and Recreation Commission meeting he attended.



# 30



The Culture Center  
1900 Kanawha Blvd., E.  
Charleston, WV 25305-0300

Randall Reid-Smith, Commissioner

Phone 304.558.0220 • www.wvculture.org  
Fax 304.558.2779 • TDD 304.558.3562  
EEO/AA Employer

RECEIVED

December 17, 2009

DEC 22 2009

Mr. Dale Manuel, President  
Jefferson County Commission  
PO Box 250  
124 E. Washington Street  
Charles Town, WV 25414

Jefferson County Commission

Dear Mr. Manuel:

We hereby notify you that Beverly (boundary amendment, 1 Burns Farm Road, Charles Town vicinity) will be considered by the Archives and History Commission for nomination to the National Register of Historic Places. The National Register is the Federal government's official list of historic properties worthy of preservation. Listing in the National Register provides recognition and assists in preserving our Nation's heritage.

Listing of Beverly provides recognition of the community's historic importance and assures protective review of Federal projects that might adversely affect the character of the historic property. A state income tax credit is also available to owners of buildings that are rehabilitated. If the property is listed in the National Register, certain Federal investment tax credits for rehabilitation and other provisions may apply.

Listing in the National Register does not mean that limitations will be placed on the properties by the Federal government. Public visitation rights are not required of owners. The Federal government will not attach restrictive covenants to the properties or seek to acquire them.

You are invited to attend the Archives and History Commission meeting at which the nomination will be considered. The Commission will meet at 9:30 a.m. on January 29, 2010 (a snow date is scheduled for February 5, 2010). The meeting will take place at the Culture Center, 1900 Kanawha Blvd., East, Charleston, Kanawha County.

Attached please find a notice that explains, in greater detail, the results of listing in the National Register and that describes the rights and procedures by which an owner may comment on or object to listing in the National Register.

Should you have any questions about this nomination before the Archives and History Commission meeting, please contact Ms. Erin Riebe, National Register Coordinator, at 304.558.0240.

Sincerely,

Susan M. Pierce  
Deputy State Historic Preservation Officer

enclosure

Information

## RIGHTS OF OWNERS TO COMMENT AND/OR OBJECT TO LISTING IN THE NATIONAL REGISTER OF HISTORIC PLACES

Owners of private properties nominated to the National Register have an opportunity to concur with or object to listing in accord with the National Historic Preservation Act and 36 CFR 60. Any owner or partial owner of private property who chooses to object to listing may submit to the State Historic Preservation Officer a notarized statement certifying that the party is the sole or partial owner of the private property and objects to the listing. Each owner or partial owner of private property has one vote regardless of the portion of the property that the party owns. If a majority of private property owners object, a property will not be listed. However, the State Historic Preservation Officer shall submit the nomination to the Keeper of the National Register of Historic Places for a determination of eligibility of the property for listing in the National Register. If the property is then determined to be eligible for listing, although not formally listed, Federal agencies will be required to allow for the Advisory Council on Historic Preservation to have an opportunity to comment before the agency may fund, license, or assist a project which will affect the property. If you choose to object to the listing of your property, the notarized objection must be submitted to Ms. Susan M. Pierce, Deputy State Historic Preservation Officer, West Virginia Division of Culture and History, 1900 Kanawha Boulevard East, Charleston, West Virginia, 25305-0300 by January 28, 2010.

If you wish to comment on the nomination of the property to the National Register, please send your comments to the State Historic Preservation Office before the Archives and History Commission considers this nomination on January 29, 2010. A copy of the nomination and information on the National Register and the Federal tax provisions are available from the above address upon request.

## FEDERAL RESULTS OF LISTING IN THE NATIONAL REGISTER OF HISTORIC PLACES

**Eligibility for Federal tax provisions:** If a property is listed in the National Register, certain Federal tax provisions may apply. The Tax Reform Act of 1986 revises the historic preservation tax incentives authorized by Congress in the Tax Reform Act of 1976, the Revenue Act of 1978, the Tax Treatment Extension Act of 1980, the Economic Recovery Tax Act of 1981, and the Tax Reform Act of 1984, and as of January 1, 1987, provides for a 20 percent investment tax credit with a full adjustment to basis for rehabilitating historic commercial, industrial, and rental residential buildings. The former 15 percent and 20 percent Investment Tax Credits (ITCs) for rehabilitations of older commercial buildings are combined into a single 10 percent ITC for commercial or industrial buildings built before 1936. The Tax Treatment Extension Act of 1980 provides Federal tax deductions for charitable contributions for conservation purposes of partial interests in historically important land areas or structures. Whether these provisions are advantageous to a property owner is dependent upon the particular circumstances of the property and the owner. Because the tax aspects outlined above are complex, individuals should consult legal counsel or the appropriate local Internal Revenue Service office for assistance in determining the tax consequences of the above provisions. For further information on certification requirements, please refer to 36 CFR 67.

**Consideration in planning for Federal, federally licensed, and federally assisted projects:** Section 106 of the National Historic Preservation Act of 1966 requires that Federal agencies take into account the effect of an undertaking on any building, structure, site, or district that is listed in or eligible for inclusion in the National Register of Historic Places. Agencies must also afford the Advisory Council on Historic Preservation the opportunity to comment on all projects affecting historic properties listed in or eligible for inclusion in the National Register. For further information, please refer to 36 CFR 800.

**Consideration in issuing a surface coal mining permit:** In accordance with the Surface Mining and Control Act of 1977, there must be consideration of historic values in the decision to issue a surface coal mining permit where coal is located. For further information, please refer to 30 CFR 700 et. seq.

**Qualification for Federal grants for historic preservation where funds are available:** Presently, funding is unavailable.

## STATE RESULTS OF LISTING IN THE NATIONAL REGISTER OF HISTORIC PLACES

**Eligibility for state tax provisions:** If a property is listed in the National Register, certain state tax provisions may also apply. The 1999 West Virginia legislature approved a state income tax credit for homeowners. The Rehabilitation Investment Tax Credit Program provides a West Virginia state income tax credit for the rehabilitation of historic private residences. This is a 20% state income tax credit which is based on qualified expenditures undertaken as part of the rehabilitation of a historic private residence. The state credit is applied directly against state taxes owed by the owner. This credit is available to private homeowners for approved rehabilitation work on their own residence. This benefit is available to the owner of a private residence that is rehabilitated according to the Secretary of the Interior's Standards for Rehabilitation. The building must be listed in the National Register of Historic Places either individually or as a contributing building in an historic district that is listed in the National Register of Historic Places. It must be listed in the National Register prior to submission of the Historic Preservation Certification Application Request for Certification of Completed Work.

**Consideration in planning for state, state licensed, and state assisted projects:** The Division of Culture and History will review all undertakings permitted, funded, licensed or otherwise assisted, in whole or in part, by the state for the purposes of furthering the duties outlined in W. Va. Code §29-1-8. The review process will be conducted on lands owned or leased by the state, or on private lands where investigation and development rights have been acquired by the state by lease or contract as outlined in W. Va. Code §29-1-8b. Permit approval of activities affecting historic properties listed in the National Register or determined eligible for listing in the National Register will be demonstrated by written letter from the Division of Culture and History upon completion of the review process.

**Qualification for state grants for historic preservation where funds are available:** The West Virginia State Historic Preservation Office administers two grant programs. The Certified Local Government program receives 10% of the state's annual allotment of the Federal Historic Preservation Fund. This program supports survey and planning activities. The second grant fund, the State Historic Preservation Development Grant program, assists with the rehabilitation of properties listed in the National Register of Historic Places. Both programs are matching grants.



RECEIVED

DEC 22 2009

Jefferson County Commission

Dale Manuel, President  
Jefferson County Commission  
P.O. Box 250  
Charles Town, WV 25414

December 17, 2009

Mr. Manuel,

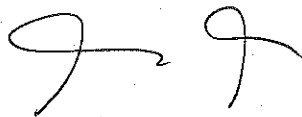
Dr. William Theriault, a widely recognized historian on Jefferson County and possessor of the most comprehensive collection of digitized plats and photographs on the County's past, has offered to donate his valuable collection to the County for the express purpose that it be made available on the Internet at no cost in perpetuity for all. The well-organized collection include four complete sets of Census records from the 19th century in digitized form, 12,000 scanned photos with identifications, and a great volume of researched articles on the County's history.

The Historic Landmarks Commission requests that the County Commission take steps to realize and benefit from this singular offer by assuring that the County's 2010 budget considerations include funding for storage space and the applications necessary to make this rich set of information available to the public. This system should include the adaptations that allow interfacing digitized map data from our GIS program with information that is in the form of digitized imagery.

The exact request for funding in terms of capital expenditures and time committed by staff could be researched and provided to the County Commission during its budget deliberations by Ms. Charlotte Hernandez, the County IT Specialist in conjunction with Software Systems Inc. The Historic Landmarks Commission will provide oversight on the historic content donated by Dr. Theriault maintained on the County's network.

We hope we can meet Dr. Theriault's exceptionally generous offer in that it would provide an exceptional asset for our residents.

Sincerely,

A handwritten signature in black ink, appearing to be 'John Allen'.

John Allen  
Chairman, JCHLC



# County Commission of Berkeley County



400 WEST STEPHEN STREET, SUITE 201  
MARTINSBURG, WEST VIRGINIA 25401  
PHONE: 304-264-1923

THE COMMISSION

RONALD K. COLLINS, COMMISSIONER

WILLIAM L. STUBBLEFIELD, COMMISSIONER

ANTHONY J. "TONY" PETRUCCI, COMMISSIONER

[www.berkeleycountycomm.org](http://www.berkeleycountycomm.org)

DEBORAH HAMMOND  
COUNTY ADMINISTRATOR

**RECEIVED**

Date: December 21, 2009

DEC 23 2009

Memorandum To: Berkeley County Commission  
Jefferson County Commission  
Morgan County Commission  
Vivian Parsons  
Patti Hamilton

**Jefferson County Commission**

From: William L. Stubblefield, Berkeley County Commissioner

Subject: Legislative Summit, November 3, 2009

Attached are copies of Letters of Appreciation sent to the Eastern Panhandle Legislators following our Legislative Summit of November 3, 2009. The legislative issues discussed at our summit are attached to the Letters of Appreciation. One letter was sent to those Legislators who were able to attend; a second letter sent to those unable to attend.

Legislators attending include: Senator Helmick, Senator Snyder, Delegate Overington, Delegate Duke, Delegate Blair, Delegate Miller, Delegate Lawrence, and Delegate Knowles.

Legislators not-attending were: Senator Unger, Senator Barnes, and Delegate Doyle.

Hopefully I am successful in capturing the main points of the various issues discussed at the Legislative Summit. But to reiterate a point that was made in each Letter of Appreciation, if I did not, or if you believe that an issue can be more fully developed, please let the Legislators know.

Thanks to each of you who participated in our annual Legislative Summit. This year, as in previous years, the interest demonstrated by our local legislators is very gratifying.

Attachment: Letter of Appreciation to Legislators with Legislative Issues attached.

Senator

Dear Senator ;

Thank you for participating in the annual Legislative summit of Berkeley, Jefferson, and Morgan Counties held on November 3, 2009. Your comments and insights were very important and provided positive feed-back to the representatives of County government. This type of exchange of views and priorities is a very constructive mechanism for advancing the legislative agenda of the County Commissions.

Attached is a summation of the legislative issues discussed during this Legislative summit. As discussed, several of these legislative issues are carry-over from previous Legislative summits, however several are new. Should you have any questions, or require more information, please contact me or one of the other County Commissioners.

Whereas I have strived to present an accurate presentation of the issues discussed, I invite my fellow Commissioners to correct any interpretation or to further develop any of the issues as they believe necessary.

Again thank you for both your participation and your continuing support of the County Commissions in the Eastern Panhandle.

Sincerely,

W. L. Stubblefield  
County Commissioner,  
Berkeley County, West Virginia

Cc: R. Collins  
T. Petrucci  
Jefferson County Commission  
Morgan County Commission  
Vivian Parsons  
Patti Hamilton

Senator

Dear Senator ;

Speaking for the County Commissioners of Berkeley, Jefferson, and Morgan Counties, we were sorry that you were unable to participate in our annual Legislative summit which was held on November 3, 2009. Your comments and insights would have provided valuable insight and feedback. The exchange of views and priorities during these Legislative summits is a very constructive mechanism for advancing the legislative agenda of the County Commissions.

Attached is a summation of the legislative issues discussed during this Legislative summit. As discussed, several of these legislative issues are carry-over from previous Legislative summits, however several are new. Should you have any questions, or require more information, please contact me or one of the other County Commissioners.

Whereas I have strived to present an accurate presentation of the issues discussed, I invite my fellow Commissioners to correct any interpretation or to further develop any of the issues as they believe necessary.

Again thank you for your continuing support of the County Commissions in the Eastern Panhandle.

Sincerely,

W. L. Stubblefield  
County Commissioner,  
Berkeley County, West Virginia

Cc: R. Collins  
T. Petrucci  
Jefferson County Commission  
Morgan County Commission  
Vivian Parsons  
Patti Hamilton

- **Funding for Regional Jail Costs**
  - Between Berkeley, Jefferson, and Morgan Counties in excess of \$4.1 goes to cover Regional Jail costs.
  - The Counties are carrying an excessive financial burden.
  - **Request legislation to:**
    - *Tax all beer, wine, and liquor sales of on-site consumption in a region and direct these monies toward the local regional jail; and/or,*
    - *Direct the one third property transfer tax which currently goes to the State, be directed toward the local regional jail (approximately \$3.9 collected in 2007 from the three counties) ; and/or*
    - *Require State to pay their bills in the same manner as the counties on a monthly basis; and/or*
    - *Ensure that all government entities, including municipal governments need to pay their fair share of the regional jail costs through charging under municipal laws and ordinances and not state laws under which the county is responsible; and/or*
    - *Increase certain fees collected for purposes of Regional Jail Partial Reimbursement Fund in order to increase the reimbursement to the counties.*
  
- **Increasing Homestead Exemption for Seniors and permanently Handicapped.**
  - When the Homestead Exemption was first passed in West Virginia, the intent was to provide an exemption for the first 30% of the appraised value. With inflation and increase in appraised values in the Eastern Panhandle the \$20,000 exemption equates to approximately 8% of the appraised value.
  - **Request Permissive legislation to either:**
    - *Cap at amount paid when first eligible; or*
    - *Exempt the first \$50,000 of assessed valuation from ad valorem property taxation;*
    - *Provide for an exemption of a particular percentage of appraised value; or*
    - *Follow WV Assessor's Association of an increase to \$30,000.*
  
- **Utilization of bonds issued under the American Recovery and Reinvestment Act**
  - This issue was satisfactorily addressed during the November special legislative session. No additional action is necessary.
  
- **Recalculating Prevailing Wage**
  - The Prevailing wage for public construction adds a significant financial penalty to local government and school projects. For large construction projects, approximately one half of the costs are for labor and one half covers material. Of the labor costs, approximately one third is due to prevailing wages.
  - In border counties the prevailing wages can serve as an impediment to West Virginia contractors. The local contractors are unable to offer lower labor rates in their bids

due to the existence of the prevailing wage rates. Large, out of state, construction firms have the ability to “share” these additional costs to their other projects.

- Whereas elimination of the Prevailing Wage in West Virginia may not be legislatively possible, a modification of how the prevailing wage is calculated may be possible.
- ***Request that the formula for calculating the prevailing wage be based on local regional wage scales in West Virginia.***

■ **Levy Roll-back**

- The rollback provisions found in Section 11-8-6e (a & b) of the West Virginia state code has a detrimental impact on some counties.
- Last year, both the Governor and State Tax Commissioner expressed their support in elimination of the rollback provision in growth counties. Previously, the State Auditor’s office has also supported such action.
- **Request that legislation be prepared to eliminate the levy rollback provision for counties. This may be, considered, by most, a low priority in that it impacts only a few counties and is only necessary in growth counties during periods of unusual growth. However, its importance to growth counties with active programs for its residents cannot be overstated.**

■ **Equal Representation on Berkeley County’s Library Board**

- H.B. 2048 was passed on March 10, 2007 amending §10-1-5 to allow persons throughout the County to serve on the Library Board.
- The Board of Education and the County Commission provide approximately two-thirds of funding to the Martinsburg-Berkeley County Library.
- All appointments to the Library Board are made by the City of Martinsburg which provides approximately 5 percent of the funding.
- ***Request permissive language to:***
  - ***Authorize the County Commission and the Board of Education each appoints two members to the Library Board and the City of Martinsburg to appoint one member to the Board.***

■ **Changing the Formula for Funding the Library in Berkeley County.**

- Audit of Library for year ending June 30, 2007:
  - Library realized a \$275,888 or 22% increase in local revenues 06 to 07
    - Berkeley County’s contribution increased \$145,872 or 12%
    - Board of Education contribution increased \$115,792 or 9.6%
    - Martinsburg’s contribution increased \$14,224 or 1.2%
  - For years 07 to 08 the increase in funding to the Library is \$277,616 or a 18.6% increase:
    - Berkeley County’s increase \$112,336 or 7.6%
    - BOE’s increase \$126,575 or 8.5%
    - City’s increase \$17,705 or 1.2%
- State funding is \$4.06 per person based on 2000 Census:
  - In growth counties such as Berkeley, the State is significantly underfunding

- If current population is considered, funding will increase by approximately \$100,000; the 2010 Census will temporarily reflect our growth.
- If the State Library Association is successful in getting an increase from \$4.06 to \$4.11 per person will result in additional State support to BC libraries.
- Library funding at County level is determined through following formula:
  - \$0.01 per \$100 for Class II assessed property,
  - \$0.02 per \$100 for Class III and IV assessed property,
  - Since 1984, using this formula, the percentage that Berkeley County has provided the Library has increased from 3 to now over 5.3 percent.
  - As Berkeley County has decreased the levy to relieve some of the property tax burden the formula for the Library funding has remained constant
  - Result is the County is penalized for reducing the property tax levy
- *Request permissive language that instead of the current formula funding based on assessed property tax, that funding is based on the average percent of the County's net tax revenue given to the Library from 1984 to present.*
  - This approach provides following advantages:
    - Avoids the cap to which the Library objects,
    - Provides the County a good estimate of expected Library funding in out-years; important for budget preparation and long-term fiscal management, and
      - Eliminates the penalty County now pays in reducing tax levy.
- **PEIA Post Retirement Benefits**
  - Non-participating PEIA counties were encouraged to complete their own actuarial study as part of the GASB 45 compliance, to determine its annual contribution to the unfunded liability facing PEIA.
  - The actuarial study for Berkeley County estimates that a contribution of \$80,000 would be appropriate. This is contrasted to the State projection for Berkeley County which exceeds \$2,000,000.
  - Berkeley County elected out of PEIA in the late 1980's and there are only 10 former employees currently enrolled in PEIA.
  - *Request language to exempt all local government entities (including County Commissions and Boards of Education) from Post Retirement Benefit contributions for all employees hired after July 1, 2010.*
  - *Request language to require PEIA to accept amounts calculated by local governments' actuarial studies as contributions, if the same are less than the PEIA projections.*
- **Tax Office Reimbursement Fund**
  - Counties are required to fund the cost of collection of taxes including the production of tax bills, mailing of tax bills, staff for collection purposes, certified mailings to delinquent accounts, advertisement of delinquent tax bills, and advertising for annual tax sales.
  - These costs should be reasonably shared among all taxing entities (municipalities, Boards of Education, and County Commissions).

- *Request language to permit County Commissions to require Boards of Education and county municipalities to share, on a pro-rata basis, with the county in the total cost of tax collection.*
- **Bar Closings- Coordinate the closing of bars in border counties with the hours currently in place in adjacent out-of-state border counties.**
  - West Virginia bars remain open later than those in surrounding Border States.
  - Persons come to West Virginia to continue drinking beyond the closing times of bars in adjacent states.
  - This inequity results in increased DUIs contributing to increased jail bills, risks to county residents, and adds to the already excessive workload to the local law enforcement.
  - *Request Legislative language to coordinate closing hours of bars to match those of the counties of adjacent Border States to address this current inequity.*
- **Appropriation of Certain Fines and Penalties**
  - Fines raised by land management enforcement ordinances are currently captured by magistrate or circuit court fees. These fees, in turn, are distributed to state and local government agencies and do not remain with planning/building inspection offices.
  - Consistent with certain other fines and penalties, these fines rightly should remain in the applicable office.
  - *Request that §29-3-5b(g) be amended to permit the land management enforcement generated fines be paid into the respective County or Municipal Planning Commission revenue accounts.*
  - *Amend 29-3-5b(g) to read as follows:*
  - *(g) Enforcement of the provisions of the State Building code is the responsibility of the respective local jurisdiction. The net proceeds of all fines and penalties assessed by any court pursuant to the provisions of the Building Code adopted by any county or municipality, including accrued interest, shall be paid into the respective County or Municipal Planning Commission revenue accounts to assist in the inspection and enforcement of regulations governing the design, construction, alteration, enlargement, repair, demolition, removal, maintenance, and use of all buildings and structures and the inspection and enforcement of any property maintenance regulations under the jurisdiction of the local governing agency. Also, any county or municipality may enter into an agreement with any other county or municipality to provide inspection and enforcement services: Provided, that any county or municipality may adopt the State Building Code with or without adopting the BOCA National Property Maintenance Code.*
- **Emergency Fire Services Retirement System**
  - Recruitment and retention of volunteer fire fighters is an increasing challenge in many counties. This problem is especially noticeable during the work week from 6 A.M. until 6 P.M.
  - In Berkeley County, through an agreement with the volunteer fire companies, these hours are covered by paid firefighters. These persons also provide the county and cities HAZMAT services and protection. Due to the unavailability of a sufficient number of volunteer firefighters during the daytime hours and because part-time,

- paid staff are not available in sufficient numbers to permit the County to comply with applicable labor laws, Berkeley County will seek to resolve the insufficiencies by utilizing a combination of full-time paid firefighters and part-time staff.
- Some of the volunteer fire companies may be seeking a small number of full time paid firefighters for those times that volunteers are not readily available.
  - To aid in recruitment of these paid, full-time Firefighters/HAZMAT operatives, a retirement system similar to that provided to the ambulance emergency services is requested.
  - **Request Legislation to establish an Emergency Fire Services Retirement System (EFSRS) for the purpose of providing retirement benefits for firefighters employed by participating public employers.**
    - **EFSRS would be funded by employee and employer contributions; if established similar to the Emergency Medical Services Retirement System (EMSRS) an active employee would contribute 8.5% of his/her gross monthly compensation and the employer would contribute 10.5% of the employees gross monthly contribution for a total combined contribution equal to 19%.**
    - **Calculation of Benefits, Benefit Options, Death Benefits, etc. to be established similar to the EMSRS.**
  - **Berkeley County Solid Waste Authority submitted the following requests:**
    - Amend WV Code § 7-5-22 as follows
      - Of the \$8.75 per ton tipping fee charged, \$3.50 is directed towards landfill closing costs.
      - The majority of the landfills slated for closing when the fee was established in 1991 have been closed.
      - Re-allocate \$1.00 of the \$3.50 to local Solid Waste Authorities to be used toward recycling, litter control and open dumping prevention programs.
    - Amend WV Recycling Act which proposes a 50% reduction of the 1994 waste stream by 2010.
      - Require a onetime mandatory reporting requirement for municipalities, solid waste authorities, private and public recyclers and commercial businesses to report the recycled portion of the waste stream.
      - Allow the local solid waste authority to take lead in data collection; or if local SWA is unable or chooses not to take lead, have the WV Solid Waste Management Board assume lead role.
    - Objects to proposed rule reducing the daily tonnage from the current 1,100 to 512 pounds per vehicle and exempting all “free day” tonnage from the daily and monthly caps.
  - **Morgan County suggested the following:**
    - Elimination of personal property tax on personal vehicles used by volunteer firefighters when responding to emergency calls.
      - Criteria would be needed to ensure that this program is not abused e.g.
        - A minimum number of responses required to be eligible

## 2009 Legislative Issues

- Certification by Fire Chief that requirement was met.
- Codification of the State Partnership for the Prevention of Drug Abuse
- Permissive language to allow local Animal Control to deal with feral cats in a manner similar to dogs.
- Recognize the importance of the Silver Hair Legislators

NOTICE OF INTENT TO APPOINT

The Jefferson County Commission proposes to name persons to serve on the following Authorities, Boards, Commissions, or Committees on Thursday, January 14, 2010, or as soon thereafter as the Commission may decide:

**Jefferson County Zoning Board of Appeals - One 3 year term ending January 1, 2013**

Persons who may be interested in the above listed agency should submit a letter of interest and a resume or statement of qualifications to the Jefferson County Commission, P.O. Box 250, Charles Town, WV 25414, prior to the proposed date of appointment.

Additional information regarding these appointments may be obtained by calling the Commission Office at (304) 728-3284.

ZONING BOARD OF APPEALS

Tiffany Lee Hine  
P.O. Box 219  
Charles Town, WV 25414  
h: 725-7975 w: 724-3696 ext. 24  
3 years 1/1/2010

Jon S. Brusco  
21 General Anderson Court  
Harpers Ferry, WV 25425  
202-701-0212 jsbrusco@aol.com  
3 years 1/1/2011

Jeffrey Doran Bresee  
300 Strider Road  
Kearneysville, WV 25430  
304-728-8247  
3 years 1/1/2011

Christy Huddle  
P.O. Box 934  
Harpers Ferry, WV 25425  
535-2759 huddlec@yahoo.com  
3 years 1/1/2012

Edwin T. Kelly, II  
33 River View Drive  
Harpers Ferry, WV 25425  
724-6553 w: 301-738-5690  
EKelly@mcecorp.com  
3 years 1/1/2012

ZONING BOARD OF APPEALS

ALTERNATES:

*Vacant: 1/1/2010*

*Vacant: 1/1/2011*

J. Tyler Quynn  
P.O. Box 430  
Charles Town, WV 25414  
304-279-8821  
3 years 1/1/2012

§8A-8-4



34

Contact: Doug Colafella  
Allegheny Energy  
Phone: (724) 838-6387  
E-Mail: dcolafe@alleghenyenergy.com

Melissa McHenry  
American Electric Power  
Phone: (614) 716-1120  
E-Mail: mamchenry@aep.com

**FOR IMMEDIATE RELEASE**

***PATH Files New Application in Maryland; Requests Withdrawal in Virginia***

**GREENSBURG, Pa. and COLUMBUS, Ohio, December 21, 2009** --Allegheny Energy, Inc. (NYSE: AYE) and American Electric Power (NYSE: AEP) today announced several actions regarding the Potomac-Appalachian Transmission Highline (PATH) project in Maryland and Virginia that will further align the project's regulatory review activities and support the companies' efforts to complete the project by June 2014.

The project consists of a 765-kilovolt transmission line extending approximately 275 miles from the Amos Substation in Putnam County, W.Va., to the proposed Kemptown Substation near New Market, Md. In today's filings:

- The Potomac Edison Company, an Allegheny affiliate, submitted a new application to the Maryland Public Service Commission requesting authorization to construct the 20-mile Maryland segment.
- PATH Allegheny Virginia Transmission Corporation, also an Allegheny affiliate, asked the Virginia State Corporation Commission to allow the withdrawal of its application and to grant an immediate suspension of the current procedural schedule. PATH plans to file a new application for the 31-mile Virginia segment in early 2010.

The West Virginia Public Service Commission is also reviewing an application for authorization to construct the PATH project in West Virginia, with evidentiary hearings scheduled for October 2010. Today's filings in Maryland and Virginia are designed to coordinate the procedural schedules in the three states and to enable the respective commissions to consider the need for the project based on the same facts.

Allegheny Energy and American Electric Power, partners in the joint venture to build the multi-state transmission line, remain committed to the PATH project. According to the most recent analysis by regional grid operator PJM Interconnection, PATH is needed by June 2014 to resolve reliability concerns on the existing transmission system.

For more information on the project, including maps and full state applications, please visit the project Web site at [www.pathtransmission.com](http://www.pathtransmission.com).

**Allegheny Energy**

Headquartered in Greensburg, Pa., Allegheny Energy is an investor-owned electric utility with total annual revenues of over \$3 billion and more than 4,000 employees. The company owns and operates generating facilities and delivers low-cost, reliable electric service to 1.6 million customers in Pennsylvania, West Virginia, Maryland and Virginia. For more information, visit our Web site at [www.alleghenyenergy.com](http://www.alleghenyenergy.com).

### **American Electric Power**

American Electric Power is one of the largest electric utilities in the United States, delivering electricity to more than 5 million customers in 11 states. AEP ranks among the nation's largest generators of electricity, owning more than 38,000 megawatts of generating capacity in the U.S. AEP also owns the nation's largest electricity transmission system, a nearly 39,000-mile network that includes more 765-kilovolt extra-high voltage transmission lines than all other U.S. transmission systems combined. AEP's transmission system directly or indirectly serves about 10 percent of the electricity demand in the Eastern Interconnection, the interconnected transmission system that covers 38 eastern and central U.S. states and eastern Canada, and approximately 11 percent of the electricity demand in ERCOT, the transmission system that covers much of Texas. AEP's utility units operate as AEP Ohio, AEP Texas, Appalachian Power (in Virginia and West Virginia), AEP Appalachian Power (in Tennessee), Indiana Michigan Power, Kentucky Power, Public Service Company of Oklahoma, and Southwestern Electric Power Company (in Arkansas, Louisiana and east Texas). AEP's headquarters are in Columbus, Ohio. More information is available at [www.aep.com](http://www.aep.com).

-###-



# Federal Emergency Management Agency

Washington, D.C. 20472

**DEC 16 2009**

The Honorable Dale Manuel  
President, Jefferson County Commission  
Post Office Box 250  
124 East Washington Street  
Charles Town, WV 25414

Case No: MICS\_30414V  
Community: Jefferson County  
Community No.: 540065  
Effective Date: December 19, 2009  
LOMC-VALID

Dear President Manuel:

This letter revalidates the determinations for properties and/or structures in the referenced community as described in the Letters of Map Change (LOMCs) previously issued by the Department of Homeland Security's Federal Emergency Management Agency (FEMA) on the dates listed on the enclosed table. As of the effective date shown above, these LOMCs will revise the effective National Flood Insurance Program (NFIP) map dated December 18, 2009 for the referenced community, and will remain in effect until superseded by a revision to the NFIP map panel on which the property is located. The FEMA case number, property identifier, NFIP map panel number, and current flood insurance zone for the revalidated LOMCs are listed on the enclosed table.

Because these LOMCs will not be printed or distributed to primary map users, such as local insurance agents and mortgage lenders, your community will serve as a repository for this new data. We encourage you to disseminate the information reflected by this letter throughout your community so that interested persons, such as property owners, local insurance agents, and mortgage lenders, may benefit from the information.

For information relating to LOMCs not listed on the enclosed table or to obtain copies of previously issued LOMR-Fs and LOMAs, if needed, please contact our Map Assistance Center, toll free, at 1-877-FEMA-MAP (1-877-336-2627).

Sincerely,

Kevin C. Long, Acting Chief  
Engineering Management Branch  
Mitigation Directorate

Enclosure

cc: Community Map Repository  
D. Mason Carter

RECEIVED

DEC 17 2009

JEFFERSON COUNTY COMMISSION

**REVALIDATED LETTERS OF MAP CHANGE FOR JEFFERSON COUNTY , WV**

Case No: MICS\_30414V

Community No.: 540065

December 19, 2009

<b>Case No.</b>	<b>Date Issued</b>	<b>Identifier</b>	<b>Map Panel No.</b>	<b>Zone</b>
00-03-0910A	03/07/2000	60 BEACH DRIVE	54037C0230E	X
00-03-1342A	01/05/2001	PACKHORSE FORD SUBDIVISION, LOT 3 - RIVER ROAD	54037C0045E	X
01-03-0548A	03/14/2001	NORTH SIDE OF ELK STREET, PARCELS 2, 3 & 6 (SHASTA CORPORATION PROPERTY)	54037C0130E	X
01-03-1254A	10/10/2001	141 RIVER SIDE DRIVE (ROUTE 3)	54037C0135E	X
03-03-0114A	03/31/2003	LOT 15, SOUTH HILLS SUBDIVISION, CRESS CREEK DEVELOPMENT--102 SYCAMORE CIRCLE	54037C0035E	X
03-03-0938A	04/07/2003	MAP 22, PARCEL 24, OLD MIDDLEWAY ROAD	54037C0115E	X
03-03-0896A	05/27/2003	RESIDUE- LOT B, TRACT 2--MERGER PARCEL FOR THE MORROW PROPERTY	54037C0030E	X
03-03-1786A	10/14/2003	LOT 3, SECTION 4-B, SHANNONDALE--6 RIVERSIDE DRIVE, GATE 4	54037C0230E	X
04-03-0616A	03/25/2004	12294 LEETOWN ROAD	54037C0110E	X
04-03-1282A	06/17/2004	LOT 7, BLOCK 9 -- 400 JEFFERSON AVENUE	54037C0136E	X
04-03-1764A	09/23/2004	LOT 6, HIGHPOINT SUBDIVISION - 136 NELSON ROAD	54037C0225E	X
05-03-0190A	12/21/2004	HIDDEN RIVER FARM SECTION 3, LOTS 30-31 -- 1539 HIDDEN HOLLOW DRIVE	54037C0105E	VE
05-03-0625A	01/17/2006	PROPERTY OF HV HUNTER, LLC	54037C0130E	X
06-03-B419A	06/13/2006	766 JOHN RISSLER ROAD (WV)	54037C0139E	X
08-03-0563A	03/27/2008	DAVIS SUBDIV, LOT 2 -- 6383 KABLETOWN ROAD	54037C0230E	X
08-03-0553A	05/08/2008	GLEN HAVEN SUBDIV, SECTION 2, LOT 7 -- 61 NATALIE LANE	54037C0175E	X
09-03-0423A	01/15/2009	Lots 8 through 10 East, Pack Horse Ford Development -- 3079 RIVER ROAD	54037C0045E	X
09-03-0254A	01/22/2009	LOTS 46, 47, 48, SECTION 2-G, SHANNONDALE -- 58 WHITE POPLAR LANE	54037C0230E	X
09-03-0313A	01/29/2009	Lot 4, Section 1, Eastland -- 123 TERRACE VIEW	54037C0138E	X

REVALIDATED LETTERS OF MAP CHANGE FOR JEFFERSON COUNTY , WV

Case No: MICS\_30414V

Community No.: 540065

December 19, 2009

<u>Case No.</u>	<u>Date Issued</u>	<u>Identifier</u>	<u>Map Panel No.</u>	<u>Zone</u>
09-03-1342A	08/04/2009	G. WARREN MICKEY MINOR SUBDIV, LOT 1 -- 642 ROPER NORTH FORK ROAD	54037C0225E	X
09-03-1384A	08/11/2009	LOT 2, DONALD E. WALKER & PATRICIA C. WALKER MINOR SUBDIV. -- 30 HOT WHEELS DRIVE	54037C0110E	X
10-03-0077A	10/22/2009	TULIP HILLS SUBDIVISION, LOT I --- 1144 JOHN RISSER ROAD	54037C0230E	X
10-03-0077A	10/22/2009	TULIP HILLS SUBDIVISION, LOT I --- 1144 JOHN RISSER ROAD	54037C0235E	X

#36

To: ALL COMMISSIONERS  
COUNTY CLERKS  
PROSECUTING ATTORNS

# Voting issues lead list for 2010

■ Kanawha commission's legislative agenda includes goal of Election Day registration, satellite voting

By BILLY WOLFE  
DAILY MAIL STAFF

Voter issues dominate the list of items Kanawha County commissioners want the state Legislature to tackle next session.

Perhaps the most controversial of the proposals is that eligible state residents be allowed to register to vote on Election Day. It's one of several proposals commissioners rolled out this week that they claim will help make voting more accessible to the public.

Commissioners have sought same-day registration in past years, but the proposal has faced opposition from several fronts.

One of the groups to firmly oppose same-day registration is the West Virginia Association of County Clerks.

Association Chair Diana Cromley, who serves as the county clerk of Mason County, said her main concern with same-day registration is the potential for fraud. She said the proposal could also lead to long lines on Election Day and more contested ballots during counting.

Same-day registration would mean an increased workload for county clerks, but Cromley said that is not why the association is overwhelmingly opposed to the idea.

"I know we're going to be presented as cry babies, and that we don't want any more work, but the truth is, we have taken on more work in recent years with early voting and satellite voting," Cromley said.

Cromley said she is "completely in favor" of increasing voter participation.

But she pointed out that deadlines are imposed on a number of things, such as renewing a driver's license or paying taxes. Registering to vote should be no different, she said.

As of now, voters may register to vote until 20 days before an election, she said.

Commission President Kent Carper said concerns over potential voter fraud are completely unfounded.

Idaho, Iowa, Maine, Minnesota, Montana, New Hampshire, Wisconsin, Wyoming and North Carolina have all legalized same-day registration, and Carper said that allegations of voter fraud have not increased in those states.

"The real fraud is denying people the right to vote," he said.

Commissioner Dave Hardy agreed with Carper.

"By all reports, (same-day

■ Turn to AGENDA/3C

FRIDAY, DECEMBER 11, 2009 ■ 3C

## Agenda

▲ Continued from 1C

### Commission wants changes to write-in votes, recount bond

registration in other states) has not resulted in any kind of significant voter fraud," he said.

"We need to be looking at what we can do to make voting more accessible to the public."

Carper said that existing election laws are "based on the ink quill," meaning that they are severely outdated. He said the laws should be updated to keep up with technological advancements.

"We have these things called computers these days," he said.

If enacted, same-day registration should only take place at county courthouses, Carper said. He believes this provision would help ensure that no fraud takes place.

Commissioners also want state lawmakers to rework what they consider cost-prohibitive measures in the current satellite-voting bill.

As written, the bill requires satellite precincts to stay open for the entire duration of early voting. Carper said this provision has driven up costs of satellite voting proposals, and he wants the bill amended to allow the precincts to be open on a rotating basis.

Commissioners are still wait-

ing on Republican Chairwoman Melody Potter to give her approval to the satellite-voting proposal for next year's primary election. The law requires the heads of both major political parties in each county to approve the proposal before the commission can move forward.

Carper also wants this provision changed.

He has criticized Republicans on multiple occasions for holding up the process. He said the bill should be changed to take the political parties out of the process.

Commissioners also want legislation changed to require voters casting write-in votes to fill in a "bubble" on the ballot. Carper said the measure would greatly reduce the number of people it takes to count votes on Election Day.

"If this change is enacted, then optical scan voters will be treated in the same manner as touch-screen voters. On touch-screen machines, a voter must affirmatively make a selection in order to vote a write-in," the agenda states.

Finally, commissioners want to see the required bond for requesting an election recount increased from \$300 to \$5,000. The special election recount for table games in Kanawha County cost about \$6,000, and commissioners want the rate changed to "reflect the actual cost to the taxpayer."

Secretary of State Natalie Tennant said it is her policy not to comment on specific county's legislative agendas, but said she believes the satellite-voting bill is open to some "tweaks."

She touted West Virginia's voting laws, saying the state is

"leading the country."

"I am personally for election laws that allow more people to vote and giving them easier access and availability to it," she said.

The next legislative session is scheduled to begin Jan. 13.

Kanawha County's agenda also includes:

■ A request that lawmakers allow for an official line of succession for county constitutional officers, such as the prosecuting attorney.

If the prosecutor resigns or dies while in office, the commission is required to quickly appoint a replacement. Commissioners want a law requiring constitutional officials to declare an interim successor. The commission would then decide who should be the permanent successor.

In the case of a prosecutor leaving office, no crimes can be prosecuted until the commission names a successor. This often leads to a hasty decision, commissioners said.

■ Support for legislation that would revoke the business licenses of business owners who fail to pay taxes. As current law stands, business owners must show proof they have paid their taxes to have their licenses renewed, but the law will expire on July 1, 2010.

■ A request that lawmakers "reduce or otherwise contain" costs associated with the regional jail bill. The cost to house inmates continues to escalate, and commissioners said the cost is crippling county budgets.

Contact writer Billy Wolfe at [billy.wolfe@dailymail.com](mailto:billy.wolfe@dailymail.com) or 304-348-4843.

*Prosecutors*

**Jack Mc**

---

**From:** "Patti Hamilton" <patti@wvaco.org>  
**To:** <jackmc@wvaco.org>  
**Sent:** Monday, November 30, 2009 12:05 PM  
**Subject:** Fw: Update

----- Original Message -----

**From:** Stuart Stickel  
**To:** 'Patti Hamilton'  
**Sent:** Wednesday, November 25, 2009 11:06 AM  
**Subject:** Update

Patti-

I recently discussed this with Lisa Hopkins, our legal counsel, and here is our position on this matter at this time.

Our position on this is as follows....

Article VI, Section 38 of the WV constitution stipulates the following

No extra compensation shall be granted or allowed to any public officer, agent, servant or contractor, after the services shall have been rendered or the contract made; nor shall any Legislature authorize the payment of any claim or part thereof, hereafter created against the state, under any agreement or contract made, without express authority of law; and all such unauthorized agreements shall be null and void. Nor shall the salary of any public officer be increased or diminished during his term of office, nor shall any such officer, or his or their sureties be released from any debt or liability due to the state: Provided, the Legislature may make appropriations for expenditures hereafter incurred in suppressing insurrection, or repelling invasion.

Case laws related to this constitutional provision hold that **local government employees** fall within the meaning on "public servant" and therefore subject to the provisions of this section.

That said, there has been conflicting and sometimes ambiguous interpretations from the Courts and the Attorney General as to what constitutes "extra compensation" (i.e. a bonus) and what constitutes a pay increase. Therefore, unless it is clearly a bonus in which there is no intent of the government to continue the increase into subsequent periods (i.e. a Christmas bonus), then our office will not take exception to the payment during the course of an audit. Nor, in light of the ambiguity associated with this matter, will we give our seal of approval on any payments of extra compensation to employees that are not clearly for continuing pay increases. If a payment of "extra compensation" is not cited in an audit that by no means ensures that if challenged in a competent court of law that it would be deemed legal. Local governments should confer with their own legal counsel who in turn should review the relevant constitutional provision, case law and attorney general's opinions on this issue to determine the most appropriate course of action. If a government does institute extra compensation in the form of "longevity pay" then it should be structured in a manner that closely resembles the structure of the State of West Virginia in which the payments are based on years of service and are continuing in nature, since the increment has been ruled legal by the WV Supreme Court.

Stuart T Stickel  
Deputy State Auditor  
Chief Inspector Division  
WV State Auditor's Office  
Phone - 304-558-2540 ext. 2413  
Fax- 304-558-5327



# JEFFERSON COUNTY EMERGENCY SERVICES AGENCY

116 E. Washington Street, Suite 101

Charles Town, WV 25414

E-mail – jeffcoamb@citlink.net

Telephone – 304-728-3287

Fax – 304-728-6221

December 29, 2009

RECEIVED

DEC 29 2009

JEFFERSON COUNTY COMMISSION

Dale Manuel, President  
Jefferson County Commission  
P.O. Box 250  
Charles Town, WV 25414

Dear Mr. Manuel:

The Jefferson County Emergency Services Agency has hired Mr. Douglas Pittinger to replace Mr. Ed Smith upon his retirement. Mr. Pittinger's start date is January 25, 2010.

Mr. Pittinger is a resident of Jefferson County residing in the Harpers Ferry area. He brings years of experience in both the Fire and EMS fields. He retired from the City of Martinsburg Fire Department after over twenty years of service as a Firefighter, Paramedic and EMS Supervisor. Prior to accepting our position of Operations Manager, he worked for WVTSN, an agency that provides supervisory services for the WV Department of Health and Emergency Services. He monitors the EMS services for the eight counties in the Eastern Panhandle.

We look forward to Doug's direction of continuing to set the standard as he leads our county into the new program of combined EMS and Fire services.

Sincerely,

R.M. (Pete) Kelley  
President

RMK/jls

cc: Jim Surkamp, Vice President  
Jefferson County Commission

Lyn Widmyer, Commissioner  
Jefferson County Commission

Frances Morgan, Commissioner  
Jefferson County Commission

Patsy Noland, Commissioner  
Jefferson County Commission

38

**Sandy McDonald**

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**From:** <viriniagraf@aol.com>  
**To:** <dmanuel@frontiernet.net>  
**Cc:** <sandy@jeffersoncountywv.org>; <FBerryMorgan@aol.com>; <lynwidmyer@gmail.com>; <patsynol@frontiernet.net>; <jsurkamp@comcast.net>  
**Sent:** Monday, December 28, 2009 9:40 PM  
**Subject:** Resignation Letter from Virginia Lynch Graf

Dale Manuel, President County Commission

Dear County Commissioners:

Thank you for the trust you placed in me in appointing me to the WAC. It has been a pleasure along with a lot of hard work. Because I am now running a campaign for US Congress, I must resign my position.

If needed, I will help make sure the grant money is secured, and the program for hazardous waste is implemented.

Mark Shields, Health Department Board is very willing to serve on WAC if you would like to appoint him. He can be reached at 304-876-0203 (Home) or at work 301-827-6173.

Virginia Lynch Graf

Sincerely yours,

# Jefferson County Public Service District

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DEC 1 9 2009

Jefferson County Public Service District  
Regular Board Meeting  
November 2, 2009

Jefferson County Commission

The monthly meeting of the Jefferson County Public Service District was held at 7:00PM on Monday, November 2, 2009 in the meeting room at the Districts office in Kearneysville. Those in attendance included: Chairman, Joe Hankins; Secretary, Jim Cummins; Treasurer, Jack Lantzy; General Manager, Susanne Lawton; Administrative Assistant, Ashley Wilt; Pentree Engineers, John Tuggle and Zane Summerfield; District Legal Counsel, Jim Kelsh and Commission Liaison to the Public Service District, Commissioner Lyn Widmyer.

Chairman Hankins called the meeting to order at 7:00PM.

#### Public Comments

None.

#### OLD BUSINESS

##### Review Minutes of October 5, 2009 Regular Board Meeting

The minutes of the October 5, 2009 regular Board meeting were approved as presented.

**Action: Motion made by Mr. Cummins and seconded by Mr. Lantzy to accept the October 5, 2009 minutes as presented. Unanimously approved.**

##### Review Minutes of October 15, 2009 Regular Board Meeting

The minutes of the October 15, 2009 regular Board meeting were approved as presented.

**Action: Motion made by Mr. Cummins and seconded by Mr. Lantzy to accept the October 15, 2009 minutes as presented. Unanimously approved.**

##### Consider New Elementary School Mainline Extension Agreement

Mr. Kelsh informed the Board that the Board of Education's attorney, Marc Bryson of Steptoe and Johnson, will be making a recommendation to the School Board to move forward and approve the alternate main line extension agreement for the new elementary school with the District. Their only requests were that they be referred to throughout the agreement as a "board" and not a "developer" and that the school be referred to as a "school" and not a "development". They are agreeable to paying the \$7500 CIF for 17 EDUs.

**Action: Motion made by Mr. Cummins and seconded by Mr. Lantzy to approve the Alternate Mainline Extension Agreement as presented this evening between the District and the Board of Education for the new elementary school on Job Corp Road. Unanimously approved.**

##### Clarification of mandatory sewer connection (300 foot) rule

Recently, the District has had issues with customers regarding this policy and staff needed clear policy guidance from the Board to know how to deal with these issues. Last month, the District wanted to modify the language of the policy to provide clarifications to any outstanding issues and be able to implement for future sewer connections. Prior to the last 8 years, the 300 foot policy was in the state code, but the code currently uses the term "reasonable length" to define the distance for sewer connection. Mr. Kelsh drafted a revised policy with 5 options/scenarios to choose from. The Board still had concerns regarding the options Mr. Kelsh had drafted. Commission Jim Surkamp questioned if the District may compel a resident to tie in to public sewer even if they have a properly operating septic system and Mr. Hankins explained that the District has the authority to compel a resident. Ellen May, from the Jefferson County Planning Commission, suggested the Board clarify the 300 foot connection is from "where to where" in the policy. Mr. Joseph Grumbine spoke before the Board and public about his case he currently has against the District regarding this issue. He is a customer of the District and he is trying to avoid a lien against his property due to non-payment of his sewer bill. He would like the lien to be taken off his property if he begins paying his

monthly bills. Mr. Grumbine's issue will be taken up in executive session. Mr. Keish will redraft the policy and bring back next month.

**Action: No action taken by the Board.**

Revised Joint Applications to West Virginia Infrastructure and Jobs Development Council with Jefferson Utilities Incorporated for Mountain Water Project

John Tuggle updated the Board. He informed the Board that the Golder Report will not be ready for review until Thanksgiving. Mr. Tuggle has been working with Jefferson Utilities accountant, Mike Griffith, to complete the Rule 42 for this project. Mr. Tuggle also informed the Board that the project now costs \$14,450.00 to complete. He does not have the IJDC applications quite ready for submittal for the Board review, but he is hoping to have them by next Board meeting.

Public Comments were received by:

John Maxey, Citizens of Blue Ridge Act  
Barbara Humes, Chair of Elks Run Study Committee  
Jim Addy, Mayor of Harpers Ferry  
Mary Rutherford, Bolivar  
Elizabeth Blake, Bolivar  
David Kardok, Bolivar (Gave PSD a copy of the letter he read into record)  
Scott Tatina, Westridge Hills  
Jim Surkamp, Jefferson County Commissioner  
Jacquelyn Milliron, Breckenridge Resident

*Some of those above presented the District with written copies of their comments which are on file in the District's office.*

**Action: No action taken by the Board.**

Revised Funding and Post-Construction Rates for Flowing Springs Wastewater Treatment Plant

Mr. Kelsh updated the Board. Due to the loss of ARRA funding for the wastewater treatment plant, the District now has to go back to the PSC to get approval for revised funding and post project rates. Last month the District approved the filing of a non-project related rate increase for District customers to the PSC. Chuck Young, Cox Hollida Price, presented to the Board a Rule 42 with four scenarios including different EDU counts for the post project rate case. The Board agreed the 45 EDU count scenario proved the best estimate for the District's new customer count per year showing an increase to \$16.95 per thousand gallons.

**Action: Motion made by Mr. Cummins and seconded by Mr. Lantzy to authorize the filing to reopen the certificate case with the Rule 42 Exhibit based upon 45 EDU's per year. Unanimously approved.**

**NEW BUSINESS**

To consider and act upon on the proposed Notes Resolution for the issuance of the Refunding Sewerage System Bond Anticipation Notes, Series 2009 (the "Notes"). The proceeds of the Notes will be used to refund the Series 2007 Notes which temporarily financed costs of design of, and other preliminary costs for, additions, betterments, improvements and extensions to the existing public sewerage facilities of the District and costs of issuance of the Notes.

Last month the Board approved a 6-month extension that was approved by MVB Bank for the BAN which is being used to pay for engineering design work done by Pentree Inc. relating to the Flowing Springs Wastewater Treatment Plant. The Board now has to approve the Notes Resolution regarding this.

**Action: Motion made by Mr. Cummins and seconded by Mr. Lantzy to approve and authorize the Notes Resolution as follows:**

**RESOLUTION AUTHORIZING THE ISSUANCE BY JEFFERSON COUNTY PUBLIC SERVICE DISTRICT OF NOT MORE THAN \$750,000 IN AGGREGATE PRINCIPAL AMOUNT OF REFUNDING SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2009, FOR THE PURPOSES OF REFUNDING THE SERIES 2008 NOTES WHICH TEMPORARILY FINANCED OF THE COSTS OF DESIGN OF, AND**

**OTHER PRELIMINARY COSTS FOR, ADDITIONS, BETTERMENTS, IMPROVEMENTS, AND EXTENSIONS TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF THE DISTRICT AND COSTS OF ISSURANCE OF THE NOTES; PROVIDING AS TO THE TERMS AND PROVISIONS OF THE NOTES; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH NOTES; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH NOTES; AND ENACTING OTHER PROVISIONS WITH RESPECT THERETO. BE IT RESOLVED AND ENACTED BY THE PUBLIC SERVICE BOARD OF JEFFERSON COUNTY PUBLIC SERVICE DISTRICT.**

**Unanimously approved.**

To Consider and Act Upon any Measures Related to the Foregoing

**Action: No action taken by the Board.**

Consider Approval and Execution of Contract for Rule 42 by Cox Hollida Price

**Action: Motion made by Mr. Lantz and seconded by Mr. Cummins to approve the contract from Cox Hollida Price for the Rule 42 and have the chairman execute the contract totaling between \$18,000-\$25,000. Unanimously approved.**

Discuss Filing Comments on EPA's Proposed TMDL for Chesapeake Bay Watershed, due 12/18/09

The public meeting for this issue is November 4<sup>th</sup>. Comments are due by December 18<sup>th</sup>.

**Action: No action taken by the Board.**

Discuss EPA public meeting on TMDL for Chesapeake Bay Watershed Nov. 4, 6-8PM, Robert Byrd Health Center, Room 2500 Hospital Drive, Martinsburg

A meeting will be held on November 4<sup>th</sup> from 6-8PM in Martinsburg with U.S. EPA Representatives to discuss TMDL for the Chesapeake Bay Watershed. Prior to the public meeting these representatives are available to meet with local elected officials, the associated staff responsible for local land use, planning, wastewater/stormwater management, and economic development authorities to have an informal discussion regarding Chesapeake Bay restoration issues.

**Action: No action taken by the Board.**

Discuss WV Funding Stakeholder Group Meeting Nov. 5, 9AM, Berkeley County PSSD

A meeting will be held on November 5<sup>th</sup> at 9AM at the Berkeley County Public Sewer Service District to discuss funding sources for capital improvements for public facilities made necessary by the obligation of nutrient removal requirements.

**Action: No action taken by the Board.**

General Manager's Report

Ms. Lawton updated the Board on activities since last month's meeting.

- Operations Report - Mr. Castaldo, Operations Manager, discussed his concerns on numerous PSD pump stations that are in need of major maintenance and upgrades.
- Kevin Wilt Property - This item will be on the agenda for next month. The Board needs to decide what action it will take regarding Mr. Wilts sewer connection.

Discussion of any expenses over budget

Mr. Lantz informed the Board that there are no items over budget.

**Action: No action taken by the Board.**

Disbursements

**Action: Motion made by Mr. Lantz and seconded by Mr. Cummins to approve disbursements for Cavaland water expenses and any other expenses in the amount of \$2,416.26, Glen Haven water expenses and any other expenses in**

the amount of \$741.61, and for the Public Service District expenses in the amount of \$165,514.42. Unanimously approved.

Although there were no items over budget, Ms. Lawton pointed out that the District was about \$30,000 short on income to pay the month's bills, and that this has happened quite often in the last few months. She encouraged the Board to have Mr. Kelsh file the Rule 42T, rate case, with the PSC immediately. Mr. Kelsh agreed to file the case as soon as possible.

Approve Transfer of \$2,376.16 from Sewer Security Deposit Account into Sewer Operating for Security Deposit Refunds

**Action:** Motion made by Mr. Lantzy and seconded by Mr. Cummins to approve the transfer of \$2,376.16 from Sewer Security Deposit Account into Sewer Operating Account for Security Deposit Refunds. Unanimously approved.

Approve Transfer of \$64.25 from Cavaland Security Deposit Account into Cavaland Operating for Security Deposit Refunds

**Action:** Motion made by Mr. Lantzy and seconded by Mr. Cummins to approve the transfer of \$64.25 from Cavaland Security Deposit Account into Cavaland Operating Account for Security Deposit Refunds. Unanimously approved.

Approve Transfer of \$1,050.00 from Renewal & Replacement Account into Sewer Operating for New Pump at Deerfield

**Action:** Motion made by Mr. Lantzy and seconded by Mr. Cummins to approve the transfer of \$1,050.00 from Renewal & Replacement Account into Sewer Operating Account for new pump at Deerfield. Unanimously approved.

Approve Transfer of \$10,225.00 from Renewal & Replacement Account into Sewer Operating for the Upgrade to PS 1-12

**Action:** Motion made by Mr. Lantzy and seconded by Mr. Cummins to approve the transfer of \$10,225.00 from Renewal & Replacement Account into Sewer Operating Account for upgrade to PS 1-12. Unanimously approved.

Approve Transfer of \$1,036.00 from Future Needs Account into Sewer Operating for AskNeal Invoice

**Action:** Motion made by Mr. Lantzy and seconded by Mr. Cummins to approve the transfer of \$1,036.00 from Future Needs Account into Sewer Operating Account for AskNeal invoice. Unanimously approved.

Correspondence

None discussed.

Public Comments

None.

**OTHER BUSINESS**

Source Water Protection Grant Update

The District received PSC approval and will inform Chester Engineers to start the research project.

**Action:** No action taken by the Board.

Countywide Utility Group Update

Ms. Lawton informed the Board that Dan Ferrell from Thrasher Engineering will be at the next meeting to start the data collection process here in the Eastern Panhandle for the Statewide Plan. The next meeting will be on November 19<sup>th</sup> at the District's office.

**Action:** No action taken by the Board.

- Action:** Motion made by Mr. Lantzy and seconded by Mr. Cummins to convene in executive session for the purpose of discussing litigation and contract negotiations. Unanimously approved.
- Action:** Motion made by Mr. Lantzy and seconded by Mr. Cummins to return to public session. Unanimously approved.
- Action:** Motion made by Mr. Cummins and seconded by Mr. Lantzy to authorize Counsel to draft and execute a settlement agreement as discussed in executive session regarding Mr. Joseph Grumbine. Unanimously approved
- Action:** Motion made by Mr. Lantzy and seconded by Mr. Cummins to adjourn. Unanimously approved.

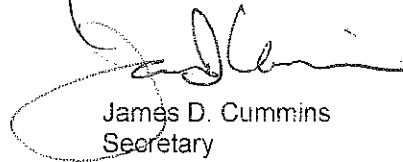
There being no further business at this time, the meeting was adjourned at 11:30PM

The next regular meeting is scheduled for December 7, 2009 at 7:00pm at 340 Edmond Road, Suite A at the Districts office in Kearneysville.

Respectfully Submitted,



Joseph A. Hankins  
Chairman



James D. Cummins  
Secretary



# Community Bulletin

## Boundary Project Completed

A project to rehabilitate portions of the park's exterior boundary has recently been completed by two Student Conservation Association (SCA) interns. Rick Didier, Jr. from Chicago, Illinois and Seth Morphis from Columbia, South Carolina completed the ten-week project that involved inspecting boundary signs and replacing or installing new ones as needed and inspecting survey markers (also known as monuments) and documenting their condition. In forested areas, a narrow white band was painted around trees that contain a boundary sign. Witness trees were marked to facilitate finding survey markers that were buried or not readily visible. Vines, brush, and small understory trees were cleared where needed to delineate the boundary. In a few areas where land has been added to the park, signs were removed as former exterior boundaries became interior boundaries.

The park has a complex boundary that borders residential communities, forested lands, commercial areas, highways, railroads, incorporated towns, two other national parks, a Department of Homeland Security training facility, and agricultural lands. Although the park has a relatively small land area of 3,645 acres, the

**Seth Morphis (left) and Greg Didier, Jr. completed the exterior boundary study.**

exterior boundary is over 70 miles long. The last major rehabilitation of the park's boundaries was completed in 1998-2000 when the boundary was approximately 45 miles long. Since then, boundary signs and survey markers have been damaged or lost due to vandalism and natural conditions, or have become obscured by vegetation. In addition, over 1,200 acres have been added to the park since 2004.

The 2009 SCA boundary project was undertaken in multiple areas of the park including the south section of Loudoun Heights, the Route 340 corridor, Cavalier Heights, the Murphy Farm, Camp Hill, Nash Farm, Bolivar Heights, and the former Jellystone Campground property on School House Ridge. A total of 9.5 miles of park boundary was brought up to good

condition during the course of the project.

Contact Lands Management Office if you have any questions about this project. (304) 535-6038

### Support Harper Ferry NHP!

There are many ways to help, enjoy and support Harpers Ferry.

You can:

- Volunteer, maybe become a Volunteer of the Month!
- Donate to the park or Harpers Ferry Historical Association.
- Purchase an item at the bookshop. (proceeds support park programs.)

Thanks for helping out and being part of our team!



## Volunteers of the Month: Victorian Dance Ensemble

For December, Harpers Ferry NHP would like to showcase the significant music and dance contributions of the Victorian Dance Ensemble.

While most of their formal engagements are paid performances, the Ensemble, led by Lawrence Keener-Farley, has volunteered year after year to help visitors step back in time during the park's Yuletide Event. The Victorian Dance Ensemble demonstrates and teaches dances of the mid-19th century. Many of the members belong to Union, Confederate or civilian Civil War reenactment units, while others are interested in the Victorian era or vintage dancing.

The group began in 1995 after a retired school superintendent, teaching Civil War Dance at various community colleges, brought students to the Harrisburg Civil War Expo. Almost immediately the group was asked to give other dance programs and the Victorian Dance Ensemble was born.



The Victorian Dance Ensemble has since grown to over forty dancers and its schedule includes more than two dozen demonstrations and balls each year in Pennsylvania, Maryland, Delaware, Virginia, West Virginia, New Jersey, North Carolina, Kentucky, and Washington, D.C.

For more information on The Victorian Dance Ensemble, look for them on the web at [www.civilwardance.org](http://www.civilwardance.org)

If you are interested in learning more about volunteer opportunities at Harpers Ferry, please call 304-535-5017.

## Harpers Ferry Included in National Trail and Park Projects Funding

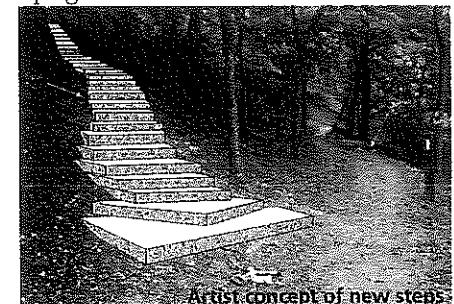
Funding from a National Park Service trails program has been awarded to 17 projects where national historic and scenic trails intersect with national parks and other Federal facilities.


"Passage of the 2010 budget enables us to make this year's Connect Trails to Parks awards totaling \$873,000 to these worthy projects" said Jon Jarvis, Director of the National Park Service. "The program was established in 2008 to commemorate the 40th anniversary of the National Trails System and is designed to increase awareness, appreciation, and use of the Nation's federally-designated system of trails."

At Harpers Ferry NHP a set of stone steps will end the centuries of foot trails that have eroded soil from the Appalachian Trail (AT). (Historic Cliff Trail) This will be the 3rd and final stone step project leading from the

AT heading north to Camp Hill. A 90% volunteer project, the work will be completed by the Appalachian National Scenic Trail, Potomac Appalachian Trail Club, Appalachian Trail Conservancy and Harpers Ferry NHP. The funding will purchase stone slabs to create steps up a 160' slope, stopping erosion and improving visual quality and visitor experience.

For more information about the National Trails System please visit [www.nps.gov/nts](http://www.nps.gov/nts).



 National Park Service  
U.S. Department of the Interior

The history of Harpers Ferry has few parallels in the American drama. It is more than one event, one date, or one individual. It is multi-layered, involving a diverse number of people and events, decisions and actions that influenced the course of our nation's history. Visit Harpers Ferry and step into history.

Harpers Ferry National Historical Park  
P.O. Box 55  
Harpers Ferry, West Virginia 25425

Visitor Center  
304-535-5029

Harpers Ferry Historical Association Bookshop  
304-525-6881

Harpers Ferry NHP Home Page  
[www.nps.gov/hafe/](http://www.nps.gov/hafe/)

The National Park Service cares for the special places saved by the American people so that all may experience our heritage.

Public Service Commission  
Of West Virginia

41

201 Brooks Street, P. O. Box 812  
Charleston, West Virginia 25323



Phone: (304) 340-0300  
FAX: (304) 340-0325

RECEIVED

DEC 22 2009

December 18, 2009 Jefferson County Commission

Jefferson County Commission  
110 East Washington Street  
Charles Town, WV 25414

SUBJECT: Disbursement of Wireless E-911 Subscriber Fees

Dear County Commissioner:

A check in the amount of \$155,961.72 representing a disbursement of Wireless E-911 subscriber fees **will be mailed directly from the West Virginia State Auditor's Office.** This amount is your County's share of the fees remitted to the Public Service Commission for the months of September, October, and November 2009. The next disbursement will be in three months.

I can be reached at our toll-free number, 1-800-344-511, Extension 364, or direct at 304-340-0364, should you have any questions about the disbursement calculation or about the fees in general.

Sincerely,

A handwritten signature in cursive script that reads "Herb Brooks".

Herb Brooks  
Budget and Finance Manager

HB:kp

USD

CITIZENS CHKREQTAX 2021823 001 CHECK DATE: 12/08/2009 CHECK NO. 56216153

INVOICE NO.	DATE	GROSS AMOUNT	DISCOUNT AMOUNT	NET AMOUNT
47372 004-WVE911JEFF	11/07/2009	52,032.20	.00	52,032.20
		52,032.20	.00	52,032.20

RECEIVED

DEC 14 2009

Jefferson County Commission

QUESTIONS? PLEASE CALL 1-800-209-9963.

8410006501 ©2004 Moore Wallace. All rights reserved. SecureScan® - Patents 5,018,767; 5,193,853; 5,707,083; 0207

REMOVE DOCUMENT ALONG THIS PERFORATION

THIS IS WATERMARKED PAPER - DO NOT ACCEPT WITHOUT NOTING WATERMARK - HOLD TO LIGHT TO VERIFY WATERMARK

**CITIZENS communications**  
Citizens Communications Company  
3 High Ridge Park  
Stamford, CT 06905

HSBC BANK USA  
ONE HSBC CENTER  
BUFFALO, NEW YORK 14203

50-682  
7137

DATE: 12/08/2009

NET AMOUNT: 56216153

\*\*\* VOID AFTER 1 YEAR \*\*\*

**\$ 52,032.20**

DOLLAR FIVE TWO THOUSAND ZERO THREE TWO PERIOD TWO ZERO

PAY Fifty-Two Thousand Thirty-Two and 20/100 Dollars

PAY TO JEFFERSON COUNTY COMMISSION  
PO BOX 250  
CHARLESTOWN WV 25414

C1080995

*[Signature]*

⑈56216153⑈ ⑆021306822⑆ 797⑈02973⑈7⑈

SEE REVERSE SIDE FOR OPENING INSTRUCTIONS

**CITIZENS communications**  
180 SOUTH CLINTON AVENUE  
ROCHESTER, NY 14646-0300

FIRST-CLASS MAIL  
U.S. POSTAGE  
PAID  
ROCHESTER, NY  
Permit No. 1006

JEFFERSON COUNTY COMMISSION  
PO BOX 250  
CHARLESTOWN WV 25414

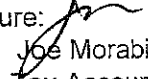
Telecommunications Company  
CTC of West Virginia  
3 High Ridge Park  
Stamford, CT 06905

County of Jefferson E-911, WV

Jefferson County  
P. O. Box 250  
Charles Town, WV 25414

FEIN No: 06-1449041  
Report Month: Nov-09

A. Gross Line Count	17,922.00
B. Less Adjustments	0.00
C. Net Line Count	17,922.00
D. Line Rate	2.90
E. Surcharge Billed	51,973.80
F. Centrex Line Count	2,300.19
G. Centrex Line Rate	0.725
H. Surcharge Billed	1,667.64
I. Administrative Fee Rate	0.03
J. Administrative Fee Taken	1,609.24
K. Net Surcharge Remitted	52,032.20

Signature:   
Name: Joe Morabito  
Title: Tax Accountant  
Phone: 203-614-5105

Date: 12/7/2009



FEIN: 770142404  
 Reporting Period: 11/01/2009 to 11/30/2009  
 Amount: 150.80

8x8, Inc.

c/o Tax Partners, L.L.C.  
 3100 Cumberland Boulevard, Suite 900  
 Atlanta, GA 30339



**RECEIVED**

DEC 28 2009

Jefferson County Commission

Drawer: Returns  
 Company: 8x8, Inc.  
 Entity ID: 014006  
 Entity Name: 8x8, Inc.  
 Return Code: WV\_JEFF\_E9  
 Return Description: West Virginia, Jefferson County E911  
 Due Date: 20  
 Year: 2009  
 Month: 11  
 Sequence Number: 1  
 Indexed Time: 12/3/2009 2:46:00 PM  
 Printed By: LANSEL  
 Printed Time: 12/10/2009 11:36:38 AM

0000024889

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER

8x8, Inc.  
 C/O TAX PARTNERS, L.L.C.  
 3100 Cumberland Boulevard, Suite 900  
 Atlanta, GA 30339  
 (877) 829-4141

WACHOVIA, NA  
 64-022/610

0000024889

VOID AFTER 120 DAYS FROM DATE 12/10/2009

PAY One Hundred Fifty and 80/100\*\*\*\*\*

150.80

TO JEFFERSON COUNTY COMMISSION  
 P.O. Box 250  
 Charlestown, WV 25414

*Sandra Mithersbough*  
 TWO SIGNATURES REQUIRED IF \$250,000 OR OVER

THE REVERSE SIDE OF THIS DOCUMENT INCLUDES AN ORIGINAL WATERMARK - HOLD AT AN ANGLE TO VIEW

0000024889 106 1000 2271 200004 17 17583

WV

West Virginia, Jefferson County E911

Reporting Period: November 1, 2009 to November 30, 2009

8x8, Inc.

Tax Identification Number

77-0142404

c/o Tax Partners, L.L.C.  
3100 Cumberland Boulevard, Suite 900  
Atlanta, GA 30339  
8778294141 - Phone  
7709560700 - Fax

Return Due: 12/20/2009

	Gross Units	Less: Exempt Units	Units Subject to Tax	Tax Rate	Gross Tax
Jefferson County E911 SURCHARGES - General-JEFFERSON CO. 911 SURCHARGE	52	0	52	\$2.90	150.80
<b>Return Totals:</b>	52	0	52		150.80

**REMIT TO:**

Jefferson County Commission  
P.O. Box 250  
Charlestown, WV 25414

Total Gross Tax Due:	<b>150.80</b>
Less: Vendor's Compensation:	<b>(0.00)</b>
Change in Prepayments:	<b>0.00</b>
Less: Tax Credits:	<b>(0.00)</b>
<b>Net Tax Amount to be Remitted:</b>	<b>150.80</b>

Shannon Bryant, Attorney-in-Fact

12/14/2009

*I hereby declare that all information provided herein is true, complete and accurate to the best of my knowledge.*



FEIN: 383483729  
 Reporting Period: 11/01/2009 to 11/30/2009  
 Amount: 58.00

ACN Communications Services, Inc. ME

**RECEIVED**

c/o Tax Partners, L.L.C.  
 3100 Cumberland Boulevard, Suite 900  
 Atlanta, GA 30339

DEC 28 2009



Jefferson County Commission

Drawer: Returns  
 Company: ACN Communications Services, Inc. ME  
 Entity ID: 017364  
 Entity Name: ACN Communication Services, Inc.  
 Return Code: WV\_JEFF\_E9  
 Return Description: West Virginia, Jefferson County E911  
 Due Date: 20  
 Year: 2009  
 Month: 11  
 Sequence Number: 1  
 Indexed Time: 12/3/2009 2:12:00 PM  
 Printed By: LANSEL  
 Printed Time: 12/11/2009 1:37:42 PM

0002154772

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ACN Communication Services, Inc.  
 C/O TAX PARTNERS, L.L.C.  
 3100 Cumberland Boulevard, Suite 900  
 Atlanta, GA 30339  
 (877) 829-4141

WACHOVIA, NA  
 64-022/610

0002154772

VOID AFTER 120 DAYS FROM DATE: 12/11/2009

PAY Fifty Eight and 00/100\*\*\*\*\*

58.00

TO JEFFERSON COUNTY COMMISSION  
 P.O. Box 250  
 Charlestown, WV 25414

*Sandra Muthersboige*  
 TWO SIGNATURES REQUIRED IF \$250,000 OR OVER

THE REVERSE SIDE OF THIS DOCUMENT INCLUDES AN ORIGINAL WATERMARK - HOLD AT AN ANGLE TO VIEW

⑈000 2 1 5 4 7 7 2⑈ ⑆06 1000 2 2 7⑆ 20000 1 6 9 4 5 8 2 7⑈

WV

West Virginia, Jefferson County E911

Reporting Period: November 1, 2009 to November 30, 2009

ACN Communication Services, Inc.

Tax Identification Number  
38-3483729

c/o Tax Partners, L.L.C.  
3100 Cumberland Boulevard, Suite 900  
Atlanta, GA 30339  
8778294141 - Phone  
7709560700 - Fax

Return Due: 12/20/2009

	Gross Units	Less: Exempt Units	Units Subject to Tax	Tax Rate	Gross Tax
Jefferson County E911 SURCHARGES - General-JEFFERSON CO. 911 SURCHARGE	20	0	20	\$2.90	58.00
<b>Return Totals:</b>	20	0	20		58.00

**REMIT TO:**

Jefferson County Commission  
P.O. Box 250  
Charlestown, WV 25414

Total Gross Tax Due:	58.00
Less: Vendor's Compensation:	(0.00)
Change in Prepayments:	0.00
Less: Tax Credits:	(0.00)
<b>Net Tax Amount to be Remitted:</b>	<b>58.00</b>

Deanna Paden, Attorney-in-Fact

12/11/2009

I hereby declare that all information provided herein is true, complete and accurate to the best of my knowledge.



FEIN: 043643290  
 Reporting Period: 11/01/2009 to 11/30/2009  
 Amount: 52.20

Granite Telecommunications LLC  
 Granite Telecommunications LLC  
 c/o Tax Partners, L.L.C.  
 3100 Cumberland Boulevard, Suite 900  
 Atlanta, GA 30339

**RECEIVED**

DEC 28 2009

**Jefferson County Commission**



Drawer: Returns  
 Company: Granite Telecommunications LLC  
 Entity ID: 002690  
 Entity Name: Granite Telecommunications LLC  
 Return Code: WV\_JEFF\_E9  
 Return Description: West Virginia, Jefferson County E911  
 Due Date: 20  
 Year: 2009  
 Month: 11  
 Sequence Number: 1  
 Indexed Time: 12/7/2009 1:09:00 PM  
 Printed By: LANSEL  
 Printed Time: 12/17/2009 2:24:36 PM

0002162598

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER

Granite Telecommunications LLC  
 C/O TAX PARTNERS, L.L.C.  
 3100 Cumberland Boulevard, Suite 900  
 Atlanta, GA 30339  
 (877) 829-4141

WACHOVIA, NA  
 64-022/610

0002162598

VOID AFTER 120 DAYS FROM DATE 12/17/2009

PAY Fifty Two and 20/100\*\*\*\*\*

52.20

TO JEFFERSON COUNTY COMMISSION  
 P.O. Box 250  
 Charlestown, WV 25414

*Sandra Muthersbourg*  
 TWO SIGNATURES REQUIRED IF \$250,000 OR OVER

THE REVERSE SIDE OF THIS DOCUMENT INCLUDES AN ORIGINAL WATERMARK - HOLD AT AN ANGLE TO VIEW

⑈000 2 16 2598⑈ ⑆06 1000 2 27⑆ 20000 169458 2 7⑈

WV

West Virginia, Jefferson County E911

Reporting Period: November 1, 2009 to November 30, 2009

Granite Telecommunications LLC  
Granite Telecommunications LLC  
c/o Tax Partners, L.L.C.  
3100 Cumberland Boulevard, Suite 900  
Atlanta, GA 30339  
8778294141 - Phone  
7709560700 - Fax

Tax Identification Number

04-3643290

Return Due: 12/20/2009

	Gross Units	Less: Exempt Units	Units Subject to Tax	Tax Rate	Gross Tax
Jefferson County E911 SURCHARGES - General-JEFFERSON CO. 911 SURCHARGE	18	0	18	\$2.90	52.20
<b>Return Totals:</b>	18	0	18		52.20

REMIT TO:

Jefferson County Commission  
P.O. Box 250  
Charlestown, WV 25414

Total Gross Tax Due: **52.20**  
Less: Vendor's Compensation: **(0.00)**  
Change in Prepayments: **0.00**  
Less: Tax Credits: **(0.00)**  
Net Tax Amount to be Remitted: **52.20**

*Letitia Dixon*

Letitia Dixon, Attorney-in-Fact

12/17/2009

I hereby declare that all information provided herein is true, complete and accurate to the best of my knowledge.



FEIN: 222473234  
 Reporting Period: 11/01/2009 to 11/30/2009  
 Amount: 72.50

AT&T IXC's & Alascom, M.E.  
 AT&T Communications of West Virginia  
 c/o Tax Partners, L.L.C.  
 3100 Cumberland Boulevard, Suite 900  
 Atlanta, GA 30339

**RECEIVED**

DEC 28 2009

Jefferson County Commission



Drawer: Returns  
 Company: AT&T IXC's & Alascom, M.E.  
 Entity ID: 001402  
 Entity Name: AT&T Communications of West Virginia  
 Return Code: WV\_JEFF\_E9  
 Return Description: West Virginia, Jefferson County E911  
 Due Date: 20  
 Year: 2009  
 Month: 11  
 Sequence Number: 1  
 Indexed Time: 12/7/2009 11:45:00 AM  
 Printed By: LANSEL  
 Printed Time: 12/17/2009 10:06:51 AM

0000569670

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER

AT&T Communications of West Virginia  
 C/O TAX PARTNERS, L.L.C.  
 3100 Cumberland Boulevard, Suite 900  
 Atlanta, GA 30339  
 (877) 829-4141

WACHOVIA, NA  
 64-022/610

0000569670

VOID AFTER 120 DAYS FROM DATE 12/17/2009

PAY Seventy Two and 50/100\*\*\*\*\*

72.50

TO JEFFERSON COUNTY COMMISSION  
 P.O. Box 250  
 Charlestown, WV 25414

*Sandra Mithersbrugh*  
 TWO SIGNATURES REQUIRED IF \$250,000 OR OVER

THE REVERSE SIDE OF THIS DOCUMENT INCLUDES AN ORIGINAL WATERMARK - HOLD AT AN ANGLE TO VIEW

⑈0000569670⑈ ⑆06⑆000227⑆ 20000⑆69458⑆4⑈

WV

West Virginia, Jefferson County E911

Reporting Period: November 1, 2009 to November 30, 2009

AT&T Communications of West Virginia  
AT&T Communications of West Virginia  
c/o Tax Partners, L.L.C.  
3100 Cumberland Boulevard, Suite 900  
Atlanta, GA 30339  
8778294141 - Phone  
7709560700 - Fax

Tax Identification Number  
222473234

Return Due: 12/20/2009

	Gross Units	Less: Exempt Units	Units Subject to Tax	Tax Rate	Gross Tax
Jefferson County E911 SURCHARGES - General-JEFFERSON CO. 911 SURCHARGE	25	0	25	\$2.90	72.50
<b>Return Totals:</b>	25	0	25		72.50

REMIT TO:

Jefferson County Commission  
P.O. Box 250  
Charlestown, WV 25414

Total Gross Tax Due: **72.50**  
Less: Vendor's Compensation: **(0.00)**  
Change in Prepayments: **0.00**  
Less: Tax Credits: **(0.00)**  
Net Tax Amount to be Remitted: **72.50**



Glenda Majors, Attorney-in-Fact

12/15/2009

I hereby declare that all information provided herein is true, complete and accurate to the best of my knowledge.



FEIN: 470807040  
 Reporting Period: 11/01/2009 to 11/30/2009  
 Amount: 211.70

Level 3 Communications LLC  
 Level 3 Communications LLC  
 c/o Tax Partners, L.L.C.  
 3100 Cumberland Boulevard, Suite 900  
 Atlanta, GA 30339



Drawer: Returns  
 Company: Level 3 Communications LLC  
 Entity ID: 001219  
 Entity Name: Level 3 Communications LLC  
 Return Code: WV\_JEFF\_E9  
 Return Description: West Virginia, Jefferson County E911  
 Due Date: 20  
 Year: 2009  
 Month: 11  
 Sequence Number: 1  
 Indexed Time: 12/4/2009 8:18:00 AM  
 Printed By: LANSEL  
 Printed Time: 12/16/2009 10:42:07 AM

0002158091

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER

Level 3 Communications LLC  
 C/O TAX PARTNERS, L.L.C.  
 3100 Cumberland Boulevard, Suite 900  
 Atlanta, GA 30339  
 (877) 829-4141

WACHOVIA, NA  
 64-022/610

0002158091

VOID AFTER 120 DAYS FROM DATE 12/16/2009

PAY Two Hundred Eleven and 70/100\*\*\*\*\*

211.70

TO JEFFERSON COUNTY COMMISSION  
 P.O. Box 250  
 Charlestown, WV 25414

*Sandra Mithersboege*  
 TWO SIGNATURES REQUIRED IF \$250,000 OR OVER

THE REVERSE SIDE OF THIS DOCUMENT INCLUDES AN ORIGINAL WATERMARK - HOLD AT AN ANGLE TO VIEW

0002158091 061000227 200006945827

WV

West Virginia, Jefferson County E911

Reporting Period: November 1, 2009 to November 30, 2009

Level 3 Communications LLC

Level 3 Communications LLC

c/o Tax Partners, L.L.C.

3100 Cumberland Boulevard, Suite 900

Atlanta, GA 30339

8778294141 - Phone

7709560700 - Fax

Tax Identification Number

47-0807040

Return Due: 12/20/2009

	Gross Units	Less: Exempt Units	Units Subject to Tax	Tax Rate	Gross Tax
Jefferson County E911 SURCHARGES - General-JEFFERSON CO. 911 SURCHARGE	73	0	73	\$2.90	211.70
<b>Return Totals:</b>	73	0	73		211.70

REMIT TO:

Jefferson County Commission

P.O. Box 250

Charlestown, WV 25414

Total Gross Tax Due: 211.70

Less: Vendor's Compensation: (0.00)

Change in Prepayments: 0.00

Less: Tax Credits: (0.00)

Net Tax Amount to be Remitted: 211.70

*Dena Willis*

Dena Willis, Attorney-in-Fact

12/09/2009

I hereby declare that all information provided herein is true, complete and accurate to the best of my knowledge.

WV\_JEFF\_E9 12/09/2009 10:20:23 DWILLIS

RECEIVED

DEC 28 2009

Jefferson County Commission

WV

West Virginia, Jefferson County E911

Reporting Period: November 1, 2009 to November 30, 2009

Comtel Telcom Assets LP

Tax Identification Number

203237782

c/o Tax Partners, L.L.C.  
3100 Cumberland Boulevard, Suite 900  
Atlanta, GA 30339  
8778294141 - Phone  
7709560700 - Fax

Return Due: 12/20/2009

	Gross Units	Less: Exempt Units	Units Subject to Tax	Tax Rate	Gross Tax
Return Totals:	0	0	0		0.00

REMIT TO:

Jefferson County Commission  
P.O. Box 250  
Charlestown, WV 25414

Total Gross Tax Due: 0.00  
Less: Vendor's Compensation: (0.00)  
Change in Prepayments: 0.00  
Less: Tax Credits: (0.00)  
Net Tax Amount to be Remitted: 0.00

Terrance Pulliam, Attorney-in-Fact

12/11/2009

I hereby declare that all information provided herein is true, complete and accurate to the best of my knowledge.

WV\_JEFF\_E9 12/11/2009 17:54:25 TPULLIAM

RECEIVED

DEC 28 2009

Jefferson County Commission



000004S3IX



0000000000

Drawer: Returns  
Company: Comtel Telcom Assets LP  
Entity ID: 012438  
Entity Name: Comtel Telcom Assets LP  
Return Code: WW\_JEFF\_E9  
Return Description: West Virginia, Jefferson County E911  
Due Date: 20  
Year: 2009  
Month: 11  
Sequence Number: 1  
Indexed Time: 12/1/2009 5:38:00 PM  
Printed By: TPULLIAM  
Printed Time: 12/11/2009 5:54:25 PM

Comtel Telcom Assets LP  
**c/o Tax Partners, L.L.C.**  
3100 Cumberland Boulevard, Suite 900  
Atlanta, GA 30339  
(877) 829-4141

West Virginia, Jefferson County E911  
P.O. Box 250  
Charlestown, WV 25414

# State of West Virginia,

## COUNTY OF JEFFERSON

I, **Peter Appignani**, do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the State of West Virginia.

I, **Peter Appignani**, do solemnly swear or affirm that I will faithfully discharge and perform the duties of the office of Jefferson County Public Service District to the best of my skill and judgment, and according to law. So help me God.

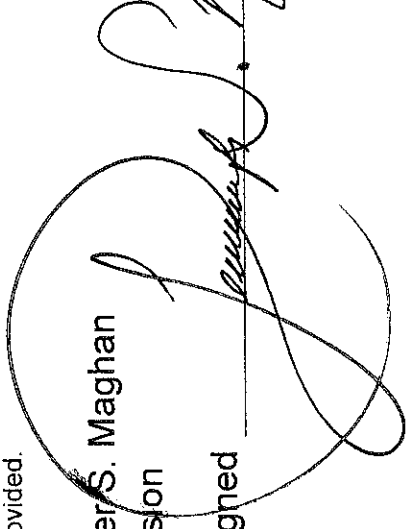
Signed 

The above oath was taken and subscribed on this 10th day of December, 2009 at the Jefferson County Court House, 100 East Washington Street, Charles Town, West Virginia.

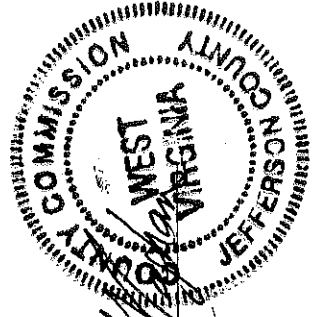
### WV Constitution Article IV, Section 5. Oath or affirmation to support the constitution.

Every person elected or appointed to any office, before proceeding to exercise the authority, or discharge the duties thereof, shall make oath or affirmation that he will support the constitution of the United States and the constitution of this state, and that he will faithfully discharge the duties of his said office to the best of his skill and judgment; and no other oath, declaration, or test shall be required as a qualification, unless herein otherwise provided.

Oath administered by Jennifer S. Maghan  
Clerk of the County Commission



Signed



42

WV LOTTERY  
WEST VIRGINIA LOTTERY  
First Benchmark  
Charles Town  
County / City Split  
Fiscal Year 2009

003/003

#42

Charles Town  
1999 Net Terminal Revenue \$ 45,603.174  
Benchmark Goal @ 2% \$ 912,063.48

DATE	2% OF ADJ. NET REVENUE	TO JEFFERSON COUNTY	TO FIVE CITIES	BOLIVAR 12.42%	CHARLES TOWN 34.58%	HARPERS FERRY 3.65%	RANSON 35.08%	SHEPHERDS TOWN 14.29%
4 days ending: 7/1/09- 7/4/09	\$ 128,262.42	\$ 128,262.42	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Week ending:								
07/11/09	\$ 168,815.08	\$ 168,815.08	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
07/18/09	\$ 160,652.98	\$ 160,652.98	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
07/25/09	\$ 158,869.08	\$ 158,869.08	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
08/01/09	\$ 174,483.08	\$ 174,483.08	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
08/08/09	\$ 155,846.74	\$ 138,408.80	\$ 17,437.94	\$ 2,185.79	\$ 6,026.55	\$ 636.48	\$ 6,117.24	\$ 2,491.88
08/15/09	\$ 162,444.28	\$ 81,222.14	\$ 81,222.14	\$ 10,087.79	\$ 28,070.37	\$ 2,964.61	\$ 28,492.73	\$ 11,806.84
08/22/09	\$ 152,520.62	\$ 76,260.31	\$ 76,260.31	\$ 8,471.53	\$ 26,355.56	\$ 2,783.60	\$ 26,752.12	\$ 10,897.60
08/29/09	\$ 160,846.84	\$ 80,472.92	\$ 80,472.92	\$ 8,894.74	\$ 27,811.44	\$ 2,937.26	\$ 28,229.90	\$ 11,499.58
09/05/09	\$ 161,598.30	\$ 80,798.15	\$ 80,798.15	\$ 10,035.13	\$ 27,923.64	\$ 2,849.13	\$ 28,343.99	\$ 11,548.06
09/12/09	\$ 172,573.84	\$ 86,286.92	\$ 86,286.92	\$ 10,716.84	\$ 29,820.76	\$ 3,149.47	\$ 30,269.45	\$ 12,330.40
09/19/09	\$ 140,020.30	\$ 70,010.15	\$ 70,010.15	\$ 8,695.20	\$ 24,195.51	\$ 2,555.37	\$ 24,559.56	\$ 10,004.45
09/26/09	\$ 138,633.74	\$ 69,316.87	\$ 69,316.87	\$ 8,609.16	\$ 23,955.91	\$ 2,530.07	\$ 24,316.35	\$ 9,905.38
10/03/09	\$ 144,672.08	\$ 72,286.04	\$ 72,286.04	\$ 8,977.93	\$ 24,982.06	\$ 2,638.44	\$ 25,357.93	\$ 10,329.88
10/10/09	\$ 139,301.26	\$ 69,650.63	\$ 69,650.63	\$ 8,650.61	\$ 24,071.25	\$ 2,542.25	\$ 24,433.44	\$ 9,953.08
10/17/09	\$ 147,120.42	\$ 73,580.21	\$ 73,580.21	\$ 9,136.18	\$ 25,422.41	\$ 2,684.95	\$ 25,804.92	\$ 10,511.75
10/24/09	\$ 135,163.32	\$ 67,581.66	\$ 67,581.66	\$ 8,393.64	\$ 23,356.22	\$ 2,466.73	\$ 23,707.65	\$ 9,657.42
11/07/09	\$ 129,056.60	\$ 64,528.30	\$ 64,528.30	\$ 8,014.41	\$ 22,300.98	\$ 2,355.28	\$ 22,636.54	\$ 9,221.09
11/14/09	\$ 127,483.10	\$ 63,741.59	\$ 63,741.59	\$ 7,916.71	\$ 22,029.09	\$ 2,326.57	\$ 22,360.55	\$ 9,108.67
11/21/09	\$ 131,919.28	\$ 65,959.64	\$ 65,959.64	\$ 8,182.19	\$ 22,795.69	\$ 2,407.53	\$ 23,138.64	\$ 9,425.63
11/28/09	\$ 119,094.10	\$ 59,547.05	\$ 59,547.05	\$ 7,395.74	\$ 20,579.48	\$ 2,173.47	\$ 20,889.11	\$ 8,508.27
12/05/09	\$ 144,799.86	\$ 72,399.98	\$ 72,399.98	\$ 8,992.08	\$ 25,021.43	\$ 2,642.60	\$ 25,397.91	\$ 10,345.96
12/12/09	\$ 102,013.02	\$ 51,006.51	\$ 51,006.51	\$ 6,335.01	\$ 17,827.85	\$ 1,861.74	\$ 17,993.08	\$ 7,288.83
12/19/09	\$ 104,821.16	\$ 52,460.58	\$ 52,460.58	\$ 6,515.60	\$ 18,130.38	\$ 1,914.81	\$ 18,403.17	\$ 7,496.62
12/19/09	\$ 65,668.78	\$ 32,834.39	\$ 32,834.39	\$ 4,078.03	\$ 11,347.57	\$ 1,196.46	\$ 11,516.30	\$ 4,692.03
<b>Subtotal</b>	<b>\$ 3,528,787.46</b>	<b>\$ 2,219,425.48</b>	<b>\$ 1,307,361.98</b>	<b>\$ 182,374.37</b>	<b>\$ 451,824.29</b>	<b>\$ 47,718.72</b>	<b>\$ 458,622.58</b>	<b>\$ 186,822.02</b>

Benchmark Goal @ 2% \$ 912,063.48

Remainder until 1% / 1% Split \$

**WEST VIRGINIA LOTTERY  
WEEKLY SETTLEMENT FOR CHARLES TOWN**

Week Ending Date	Week Ending
	December 19, 2009
<b>To be Deposited on:</b>	<b>FY10</b>
	December 28, 2009
<b>Amount Played</b>	<b>40,429,626.00</b>
<b>Amount Won</b>	<b>36,405,341.99</b>
<b>Amount Promo</b>	<b>204,284.00</b>
<b>MWAP Contribution</b>	<b><u>19,713.85</u></b>
<b>Adjusted Gross Terminal Revenue</b>	<b><u>3,800,276.16</u></b>
<b>Administrative Costs @ 4%</b>	<b>0.00</b>
<b>Excess Lottery Fund @ 4%</b>	<b><u>152,011.04</u></b>
<b>Net Terminal Revenue</b>	<b><u>3,648,265.12</u></b>
<b>Surcharge @ 10%</b>	<b>384,826.52</b>
<b>State Share Excess @ 58%</b>	<b>211,599.38</b>
<b>Track Share of Capital Reinvestment @ 42%</b>	<b>153,227.14</b>
Track Share of Capital Reinvestment @ 42% - 96%	\$ 147,088.08
Track Share of Capital Reinvestment @ 42% - 4%	\$ 6,128.09
<b>Adjusted Net Terminal Revenue</b>	<b><u>3,283,438.60</u></b>
<b>Racetrack @ 48.50% / 42%</b>	<b>1,379,044.21</b>
<b>Lottery Fund @ 30% / 0%</b>	<b>0.00</b>
<b>Excess Lottery Fund @ 0% / 41%</b>	<b>1,346,209.83</b>
<b>Race Track Purses @ 7% / 14% / 8%</b>	<b>262,875.09</b>
<b>Workers' Compensation Debt Reduction @ 7%</b>	<b>0.00</b>
<b>Employee Pension Fund @ 1% / .5%</b>	<b>16,417.19</b>
<b>Greyhound Development @ .75%</b>	<b>24,625.79</b>
<b>Thoroughbred Development @ .75%</b>	<b>24,625.79</b>
<b>Racing Commission @ 1%</b>	<b>32,834.39</b>
<b>County/Municipality @ 2%</b>	<b>65,868.78</b>
<b>3% Funds:</b>	
<b>Tourism Promotion Fund @ 1.375%</b>	<b>45,147.26</b>
<b>Development Office Promotion Fund @ .375%</b>	<b>12,312.89</b>
<b>Research Challenge Fund @ .5%</b>	<b>16,417.19</b>
<b>Capitol Renovation and Improvement Fund @ .6875%</b>	<b>22,573.64</b>
<b>2004 Capitol Complex Parking Garage Fund @ .0625%</b>	<b>2,052.15</b>
<b>1% Funds:</b>	
<b>State Capitol Complex Parking Garage @ 1%</b>	<b>0.00</b>
<b>Cultural Facilities and Capitol Resources @ .5%</b>	<b>16,417.19</b>
<b>Capitol Dome and Capitol Improvements @ .5% / 1%</b>	<b><u>16,417.19</u></b>
	<b><u>3,283,438.60</u></b>

# Ethics Reporter

West Virginia Ethics Commission

## Since the Last Reporter

Since the November edition of the **REPORTER**, the West Virginia Ethics Commission has published one Advisory Opinion interpreting provisions of the West Virginia Governmental Ethics Act.

At its December 3 meeting, the West Virginia Ethics Commission approved an opinion relating to the permissibility of a board of education contracting with a business owned by an assistant high school principal.

### ADVISORY OPINION REPORT

**Advisory Opinion 2009-11** concerned the permissibility of a board of education contracting with a business owned

by an assistant high school principal.

The board of education requesting the opinion had issued a request for proposal seeking bids for a potential contract to provide the school system with "after hours" driver education services for its students. Because of academic scheduling requirements, many students were unable to take driver education classes during regular school hours. State law requires high schools to offer driver education courses.

In this instance, a business owned by an assistant high school principal responded to the contract offering and submitted the lowest bid for performing the service contract. The board of education stated in its request for guidance that it would impose contract restrictions preventing the assistant principal from administering the after-hours driver education program.

In its review of the request, the Ethics Commission examined the provisions of 6B-2-5(d)(1) prohibiting a public official from having an interest in a contract over which they exercise control or authority, as well as the language of 6B2-5(d)(3) permitting the Ethics Commission to issue exemptions to the contract restrictions when specific hardships were present impeding the public interest, and the provisions of Chapter 61-10-15 making it unlawful for educators, including assistant principals, to have any direct or indirect pecuniary interest in a contract over which they have voice, influence or control.

The Commission also has the ability to grant exemptions from the 61-10-15 standards in certain instances.

In its opinion, the Ethics Commission ruled that the proposed contractual arrangement

**December, 2009**  
**Page Two**

between the board of education and the assistant principal would not be in violation of the Ethics Act in so far as the assistant principal had no control or authority over the decision made to award the contract.

In regard to the Commission's interpretations of the 61-10-15 standards in connection with this case, the ruling was that the assistant principal did have voice, influence or control over the contract because part of the duties of an assistant involved managing all activities at the school—including those conducted after hours.

Consequently, the Ethics Commission determined that the proposed contract would violate the Chapter 61-10-15 pecuniary interest prohibitions.

In a related opinion, the Commission did provide the parties with a limited exemption to the 61-10-15 standards in order to not present a hardship to students who had

already enrolled in the after-hours class. However, the Commission imposed significant participatory restrictions on the assistant principal during this limited time period and further stated that had the question been presented in advance of the decision to award the contract to the assistant principal's firm, the exemption would have been denied.

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UPDATE  
WEST VIRGINIA  
ETHICS  
COMMISSION  
ADVISORY  
OPINIONS**

(Only includes opinions published since the November edition of THE REPORTER)

**BOARDS OF  
EDUCATION**

**2009-11:**

Permissibility of a board of education contracting with a business owned by an assistant high school principal

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**WEST VIRGINIA ETHICS COMMISSION  
ADVISORY OPINIONS  
2009 TOPICAL INDEX  
(Covering actions through December 3)**

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**BOARDS OF EDUCATION**

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Permissibility of a board of education contracting with a business owned by an assistant high school principal

**COUNTY GOVERNMENT**

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Permissibility of a part-time prosecuting attorney's business contracting with a local extension service agency

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**2009-08:**

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Permissibility of a state agency receiving discounted hotel rates for its employees from a regulated entity

**2009-10:**

Permissibility of a state employee receiving compensation from another state entity that is supervised by the employee's agency

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NONE PUBLISHED

**MISCELLANEOUS**

NONE PUBLISHED

ADVISORY OPINION NO. 2009-11

Issued On December 3, 2009 By The

WEST VIRGINIA ETHICS COMMISSION

FILED

2009 DEC -4 AM 9:37

OFFICE OF THE  
SECRETARY OF STATE

OPINION SOUGHT

A County Board of Education asks whether it may contract with the business of an Assistant High School Principal to provide an after-school driver's education program to students in the county school system.

FACTS RELIED UPON BY THE COMMISSION

State law requires that all public secondary schools in the State offer a driver's education course. W. Va. Code § 18-6-2. This course is currently being offered at the high schools in the Requester's county as an elective course. Students who take the course receive credits towards graduation.

The Requester states that many students are unable to take the course during the school day due to their busy class schedules. In order to allow more opportunities for students to participate in a driver's education course, the Requester seeks to offer an after-school program. Credits may or may not be offered for this course. The overriding purpose of allowing the after-hours program is to allow students the opportunity to obtain the necessary skills and training required to successfully pass the driver's test administered by the West Virginia Division of Motor Vehicles.

The Requester sought, through public advertising, proposals for a business to provide an after-school driver's education program. The request for proposals noted that the requirements for the program include classroom instruction and driving time.

The lowest bidder was a business owned by an Assistant Principal at a High School in the County. The West Virginia Code sets forth the duties of principals and assistant principals. In regard to principals, the Code states:

Under the supervision of the superintendent and in accordance with the rules and regulations of the county board of education, the principal shall assume administrative and instructional supervisory responsibility for the planning, management, operation and evaluation of the total educational program of the school or schools to which he is assigned. W. Va. Code § 18A-2-9.

The code further provides that a board of education shall, when needed, hire assistant principals to work under the direction of the school principal. *Id.* The principal's major area of responsibility is the general supervision of all the schools and all school activities involving students, teachers and other school personnel. W. Va. Code § 18A-1-1(c)(2). The Assistant Principal, who is required to work under the direction of the

Principal, also has responsibilities in regard to the general supervision of all school activities involving students or teachers.

The Requester, not the Assistant Principal, had responsibility and control over the letting of the contract. The Assistant Principal is responsible for assisting the Principal in supervising personnel and students at the high school where he is assigned. Enrollment in the after school hours program would be made available to students at his school. The Requester states that it would take steps to ensure that the Assistant Principal would not be the administrator in charge of the after-school program.

### **CODE PROVISIONS RELIED UPON BY THE COMMISSION**

W. Va. Code § 6B-2-5(d)(1) provides in part that ... no elected ... official ... or business with which he or she is associated may be a party to or have an interest in ... a contract which such official or employee may have direct authority to enter into, or over which he or she may have control: Provided, That nothing herein shall be construed to prevent or make unlawful the employment of any person with any governmental body....

W. Va. Code § 6B-2-5(d)(3) provides that where the provision of subdivision (1) of this subsection would result ... in excessive cost, undue hardship, or other substantial interference with the operation of a ... municipality... the affected government body ... may make written application to the ethics commission for an exemption from subdivision (1) ... of this subsection.

W. Va. Code § 61-10-15(a) states in part that ... It shall be unlawful for ... any supervisor or superintendent principal or teacher of public schools... to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract ... [over] which as such ... supervisor, superintendent, principal or teacher ... he may have any voice, influence, or control.

W. Va. Code § 61-10-15(h) further provides:

Where the provisions of subsection (a) of this section would result in the loss of quorum in a public body or agency, in excessive cost, undue hardship, or other substantial interference with the operation of a governmental body or agency, the affected governmental body or agency may make a written application to the West Virginia Ethics Commission pursuant to subsection (d), section five, article two, chapter six-B of the Code, for an exemption from subsection (a) of this section.

### **ADVISORY OPINION**

Both the Ethics Act, W. Va. Code § 6B-2-5(d)(1), and a separate criminal misdemeanor statute, W. Va. Code § 61-10-15, prohibit school officials and employees from having an interest in public contracts. These prohibitions were designed by the Legislature to steer public servants away from inherently questionable situations. These prohibitions are intended to prevent not only actual impropriety, but also situations which give the

appearance of impropriety.

### **The Ethics Act**

Pursuant to W. Va. Code § 6B-2-5(d)(1) a public official may not have more than a limited interest in the profits or benefits of a public contract over which he or she has direct authority or control. A limited interest is an amount not to exceed one thousand dollars in the gross revenues in a public contract or contracts per calendar year. In the present case, the gross revenue exceeds \$1,000.00. Hence, this exception does not apply.

As the Assistant Principal has more than a limited interest, the Commission must next determine whether his position gives him direct authority or control over the contract in question. The Assistant Principal does not have direct authority or control over the letting of the contract by the County Board of Education. This fact may relieve him from the prohibitions in the Ethics Act, but the Ethics Commission elects to save the answer to this question for another day, as it finds that the stricter limitations imposed by W. Va. Code § 61-10-15 prohibit the Assistant Principal from having an interest in this contract.

### **West Virginia Code § 61-10-15**

W. Va. Code § 61-10-15, a separate criminal statute, contains a stricter standard than the Ethics Act, and imposes criminal penalties against school officials or employees who are pecuniarily interested, either directly or indirectly, in the proceeds from a public contract over which the public official may exercise voice, influence or control. Any person who violates this provision is guilty of a misdemeanor and may be removed from public office.

The Commission finds that an Assistant Principal, as a supervisor in the school system, is subject to this code provision. In determining whether a public official or employee has voice, influence or control over a public contract, the Ethics Commission must consider not only the letting of the contract, but the administration of the contract. In regard to the administration of the contract, it is the principals and their assistants who have responsibility for overseeing all activities at their schools, including after-school educational programs.

The Commission further finds that the responsibilities of the Assistant Principal relating to supervising all school activities conducted at his school constitute voice, influence or control for purposes of § 61-10-15. While the school board, not the assistant principal, lets the contract, it is the principal and assistant principal who have responsibility for overseeing school activities that the contract entails.

The West Virginia Supreme Court, in analyzing this code provision has stated, "The purpose of the statute is to protect public funds, and give official recognition to the fact that a person cannot properly represent the public in transacting business with himself." Summers County Citizens League, Inc. v. Tassos, 367 S.E.2d 209, 210 (W. Va. 1988).

While the Requester has stated that it will ensure that the Assistant Principal will have no administrative responsibilities in his official capacity in regard to the after-hours driver's education program, the Ethics Commission finds that this action does not alleviate the fact that the assistant principal has voice, influence or control in regard to ensuring that students at his school receive the quality of education to which they are entitled. The Assistant Principal has this responsibility regardless of: whether an educational program is provided by BOE employees or a third party hired by the school system; or whether a course is offered for credit.

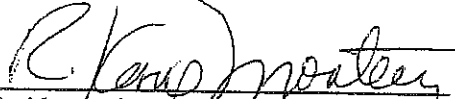
This situation is different than the issue presented to the Commission in Advisory Opinion 2007-08 wherein a public school teacher asked if he could bid on a contract to provide vending machine services. In that case, the affected school system employee was a teacher. As a teacher, he did not have supervisory responsibility in regard to the general operations of his school or vending services offered therein.

By contrast, a principal and assistant principal are responsible for the day-to-day operations of the school. Further, they oversee their students not only during the school day, but at after school activities.

The Commission recognizes that sometimes in the chain of command there may be instances where a public employee lower in the chain may be relieved of job responsibilities to ensure that he has no voice, influence or control over a contract. However, applying the strict prohibitions in § 61-10-15, particularly as they historically relate to protecting the appearance of self-dealing in county school systems, the Commission finds that an assistant principal has voice, influence and control over the administration of a public contract with a third party provider in whose courses the students at his school may enroll.

As a result of the foregoing analysis, the Commission hereby finds that W. Va. Code § 61-10-15 prohibits the subject contract. The Commission further notes that this opinion is prospective only.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.* and W. Va. Code § 61-10-15, and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other public agencies unless and until it is amended or revoked, or the law is changed.

  
R. Kemp Morton, Chair

#46

Jefferson County Commission,

I have grave concerns about the annexation of Shepherd University dormitories to Shepherdstown. Yes the additional live bodies would raise the population of Shepherdstown so they could receive more of the funds from the racetrack, but is this move legal? Most universities belong to the state in which they are chartered. If this is the case then they are a state facility and must have the blessing of the State of West Virginia, without which the dorms, which they are a part of, cannot be annexed any more than the Homeland Security facility near Harpers Ferry could be annexed into Bolivar without consulting the federal government.

Next we have the fact that the student population does not have Shepherd University as a permanent residence. The billing for tuition generally goes to their parents. They have listed at the college a permanent address for purposes of billing and sending grades to. How in the wildest imagination can a bonafied resident of California, Maryland, or Florida also have a permanent Shepherdstown, West Virginia residence? Permanent residence is or should be defined as to what they, or who ever claims them as dependents, list as their address on federal tax returns.

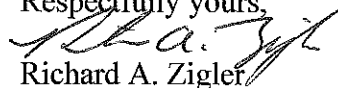
This is most important because they may temporarily reside in a dormitory for as little as a month to five months per semester, up to two semesters per year. Yes they may be long term students that go home for the summer, spring break, or the holiday season, but that is my point, THEY GO HOME.

I am also concerned about their voting status. For the most part they do not have a permanent stake in our county, nor the municipality of Shepherdstown's politics any more than a transient undocumented foreign national or, for those who are not politically correct, an illegal alien.

If they are to be included in the population of Shepherdstown, will they be required to pay county and municipal taxes? If they, or their landlord from whom they rent living space (ie. Shepherd University), are required to pay property taxes, then I think that they should have a say in what goes on in the county and then maybe be included. Property taxes also include all highway use motor vehicles and must be registered in West Virginia and be assessed in the county. Will they be required to do this also and who will enforce this?

This country fought to free itself from the tyranny of England under the premise of "No Taxation Without Representation". How can it be fair or legal to have "Representation Without Taxation?"

Respectfully yours,



Richard A. Zigler

1083 Roper North Fork Road  
Charles Town, West Virginia 25414

RECEIVED

DEC 15 2009

JEFFERSON COUNTY COMMISSION