

AGENDA
JEFFERSON COUNTY COMMISSION
THURSDAY, MARCH 17, 2011
9:30 A.M.

County Commission Meeting Room
located at the Old Charles Town Library
200 E. Washington Street, Charles Town, WV

CALL TO ORDER

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

APPROVAL OF PURCHASE ORDERS

APPROVAL OF ACCOUNTS PAYABLE

PUBLIC COMMENT

PRESENTATIONS:

1. 10:00 a.m. Mayor Peggy Smith, City of Charles Town
- Request for Approval of Support and Resolution to place a Bronze Statue of Frank Buckles on the Jefferson County Courthouse lawn - Discussion/Action
2. 10:15 a.m. Dr. Joy Buck, Teresa Warnick, Denise Ryan
- Presentation of Mobilizing for Action through Planning and Partnerships (MAPP) as a strategic approach to community health improvement
3. 10:30 a.m. Break
4. 10:45 a.m. Meredith Wait and Catherine Irwin
- Presentation regarding SQ250, Shepherdstown, West Virginia
5. 11:00 a.m. Lynn Fields and Karen Olden, Probate Office
- Acceptance of the First and Final Accounting of the Estate of John Rockenbaugh and closing of the estate - Discussion/Action
6. 11:15 a.m. Stephanie Grove, Assistant Prosecuting Attorney
- Legal Update

7. 11:30 a.m. Jennifer Brockman, Director of Planning and Zoning Department
- Discussion and Scheduling of a Public Hearing for a Proposed Amendment to the 2008 Subdivision and Land Development regulations (as amended 2010) - Discussion/Action

UNFINISHED BUSINESS:

8. Role of Counsel representing County Government when a conflict arises between clients - *(Executive Session §6-9A-4 possible)* - Discussion/Action
9. Server replacement options - Discussion/Action

NEW BUSINESS:

10. Legislative Update
11. Introduction of County Commission Policy to require public improvement projects be in the approved and adopted Capital Improvement Plan prior to funding (LW) - Discussion/Action
12. Appointment of a Jefferson County Representative to the inter-governmental committee to investigate options to acquire for Happy Retreat - Discussion/Action
13. Approval of Appointment to the Community Criminal Justice Board - Discussion/Action

COUNTY ADMINISTRATOR REPORTS

COUNTY COMMISSION REPORTS

14. 12:15 p.m. - 1:15 p.m. LUNCH BREAK

--- AFTERNOON SESSION ---

15. 1:30 p.m. Budget Discussion
- Ralph Lorenzetti, Prosecuting Attorney
16. 2:00 p.m. Budget Discussion
- Sheriff Bobby Shirley
17. 2:30 p.m. Budget Discussion
- Jennifer Maghan, County Clerk
18. 3:00 p.m. ADJOURN

CORRESPONDENCE:

Received from Harpers Ferry National Park the "Community Bulletin," March 2011.

Registration for State Auditor's 2011 Local Government Regional P-Card Workshops.

Newsletter received from WVACO, "The County Legislative Line," for Friday, March 4, 2011.

Newsletter received from WVACO, "The County Legislative Line," for Wednesday, March 9, 2011.

Copy of letter received from Senator Manchin's Office regarding Kelly Daniel proposed water rate increase in response to her informal complaint to Shelley Moore Capito.

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

Email received from Al Cobb of Panel Wright regarding energy efficient structures.

West Virginia Ethics Reporter received - February, 2011.

Legislative Update received via fax on 3/10/11 from the County Commissioners' Association of West Virginia.

Emailed resignation received of John L. Matthews from the Jefferson County Emergency Services Agency.

ANNOUNCEMENTS:

Notice of Public Hearing to be held on Wednesday, March 23, 2011 at 10:00 a.m. regarding the Estate of Mildred Olga Valentine, deceased.

Notice of Public Hearing to be held on Wednesday, March 23, 2011 at 1:30 p.m. regarding the Fiscal Year 2012 Budget.

Notice of Public Hearing to be held on Thursday, March 24, 2011 at 11:00 a.m. regarding the Estate of Sallie Shepherd Spaulding, Deceased.

Appointments to be made to the Jefferson County Planning Commission on March 31, 2011.

Appointments to be made to the Jefferson County Development Authority on March 31, 2011.

RECESS

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.

<p>Commission Office Use Only</p> <p>Date on Agenda: 3/17/11</p> <p>Appt Time or New Business: 10:00 AM</p>

AGENDA REQUEST FORM

Name: Peggy Smith, Mayor

Department or Entity: City of Charles Town

Estimation of amount of time needed for appointment: _____

Date Requested – 1st Choice: March 17, 2011

Date Requested – 2nd Choice: _____

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

Subject: **Resolution**

Please provide the County Commission with a description of your request or presentation, including any background information: **Approval of Support and Resolution to place a Bronze Statue of Frank Buckles on the County Courthouse lawn**

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

Attachments:

**RESOLUTION IN HONOR AND RECOGNITION OF
FRANK WOODRUFF BUCKLES AS HOMETOWN HERO AND
AS REPRESENTATIVE OF ALL VETERANS OF WORLD WAR I**

WHEREAS, Frank Woodruff Buckles, dubbed “Pershing’s Last Patriot,” was recognized by the United States Veterans’ Administration as America’s last link to WWI; and

WHEREAS, Frank Woodruff Buckles was a permanent resident and an active and involved citizen of Charles Town and Jefferson County during his lifetime until his passing in February, 2011, at the age of 110 years; and

WHEREAS, the elected officials of Jefferson County wish to publicly honor Mr. Buckles for his patriotism as well as for his representation of the 5 million Americans who unselfishly served our Nation in uniform during World War I; and,

WHEREAS, the aforementioned officials wish to erect a memorial statue of Frank Woodruff Buckles so as to forever remember and honor Mr. Buckles and all of the soldiers who fought in the “war to end all wars;” and

WHEREAS, the Jefferson County Commissioners have authorized a property grant for the Jefferson County Courthouse to allow a memorial statue to be erected in front of the Courthouse; and

WHEREAS, Survivor Quest, under the direction of Mr. Buckles’ daughter Susannah Buckles Flanagan, and biographer and family spokesperson David DeJonge, have commissioned international master sculptor Gregory Marra to create and construct a bronze statue to be placed at the front of the Jefferson County Courthouse;

WHEREAS, Susannah Buckles Flanagan and David DeJonge shall be responsible for raising the money for the cost of the statue by utilizing private donations, events and other means available to them; and

WHEREAS, Mayor Peggy Smith of the City of Charles Town is proud to honor Frank Woodruff Buckles and all World War I veterans by offering this Resolution to erect a statue whereby visitors to Charles Town will be able to visualize and appreciate the true grit and patriotism of our military men and women who fought so valiantly to preserve our country’s freedom.

NOW, THEREFORE, BE IT RESOLVED, that Frank Woodruff Buckles and all of the veterans of World War I shall receive their proper recognition by the passage of this Resolution and the erection of a memorial statue at the Jefferson County Courthouse, Charles Town, West Virginia, and

BE IT FURTHER RESOLVED, that Susannah Buckles Flanagan, Mr. David DeJonge, Mr. Gregory Marra and Mayor Peggy Smith shall receive a signed copy of this Resolution made official by the County Seal affixed thereon.

BY ORDER OF THE JEFFERSON COUNTY COMMISSION:

PATRICIA A. NOLAND, PRESIDENT
JEFFERSON COUNTY COMMISSION

Commission Office Use Only	
Date on Agenda: 2/17/11	3-17-11
Appt Time or New Business: 10:15 am	

AGENDA REQUEST FORM

Name: Dr. Joy Buck, Teresa Warnick, Denise Ryan

Department or Entity: West Virginia University East Health Sciences Center, Family Resource Network, Berkeley County Health Department

Estimation of amount of time needed for appointment: 35 minutes

Date Requested – 1st Choice: March 17

Date Requested – 2nd Choice: March 24

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

Subject: Mobilizing for Action through Planning and Partnerships initial report. We plan to present the following information:

What residents of Jefferson County report as their vision of the elements needed to make Jefferson County a healthier place to live, work and play, and what will be forthcoming from the Core Group in the future, including the results of their county wide survey on health care issues and concerns and a plan for improving the health of Jefferson County residents.

Please provide the County Commission with a description of your request or presentation, including any background information:

Mobilizing for Action through Planning and Partnerships (MAPP) is a strategic approach to community health improvement. This tool helps communities improve health and quality of life through community-wide strategic planning. Using MAPP, communities seek to achieve optimal health by identifying and using their resources wisely, taking into account their unique circumstances and needs, and forming effective partnerships for strategic action.

The vision for implementing MAPP is: *"Communities achieving improved health and quality of life by mobilizing partnerships and taking strategic action."*

The Goals of MAPP

- Create a healthy community and a better quality of life.
- Increase the visibility of public health within the community.
- Anticipate and manage change.
- Create a stronger public health infrastructure.
- Engage the community and create community ownership for public health issues.

The Elements of MAPP

- 1) *MAPP engages the community in creating a vision of a healthy county-We have engaged over 600 county residents in creating a vision of a healthy Berkeley, Jefferson or Morgan County.*
- 2) *MAPP brings four assessments together to drive the development of a community strategic plan-*
 - *Community Themes and Strengths Assessment* identifies themes that interest the community and emphasizes community assets.
 - *The Local Public Health Assessment* measures the capacity of the local public health system to conduct essential public health services.
 - *The Community Health Status Assessment* analyzes data about health status, quality of life and risk factors in the community
 - *The Forces of Change Assessment* identifies forces that are occurring or will occur that will affect the community or the local public health system.

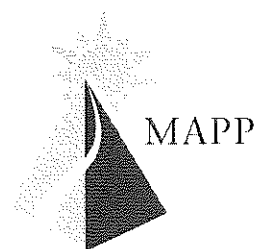
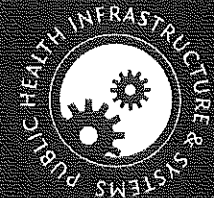
MAPP Sponsors and Supporters

West Virginia University Health Sciences Center	Berkeley County Chamber of
Commerce	
West Virginia University Hospitals East	Eastern Panhandle Free Clinic
West Virginia University School of Nursing	Panhandle Home Health
Berkeley County Health Department	Starting Points
United Way of the Eastern Panhandle	Medical Reserve Corps
Shenandoah Valley Medical System	Family Resource Network
Health and Human Services Collaborative	Department of Health and Human Services
War Memorial Hospital	Morgan County Partnership
Morgan County Health Department	Berkeley County Senior Center

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): The MAPP Core Group would like the Jefferson County Commission to agree to take into consideration the final MAPP results and recommendations in their plans for the future.

Attachments:
MAPP 1 pager
MAPP fact sheet

Mobilizing for Action through Planning and Partnerships: A Community Approach to Health Improvement



Improving Health Requires Partners

Public health is “what we as a society do collectively to assure the conditions in which people can be healthy.”¹ Health is more than the absence of illness; rather, health is a “dynamic state of complete physical, mental, spiritual, and social well-being.”² In ensuring the public’s health, collective action involves a variety of community organizations, agencies, groups, and individuals. In order to create the conditions in which people can be healthy, communities must collectively address social, economic, environmental, and biological factors.³ Therefore, ensuring the public’s health is not just the responsibility of healthcare providers and public health officials. Improving the public’s health requires the expertise of all those who live and work in the community.

No single entity provides public health services in a community, and all entities make important contributions to the local public health system. The following are examples of how communities protect the public’s health:

- Police, fire, and emergency departments prevent and respond to emergencies that threaten personal safety.
- Teachers, school nurses, and parents protect the health and safety of children.
- City planners, transportation authorities, neighborhood associations, and businesses provide access to services that promote and support healthy lifestyles, such as safe parks and recreational facilities, bus routes to healthcare providers, and vendors that sell nutritious foods.

- The judicial and penal systems identify potential risk factors and health trends, such as increases in drug use, domestic abuse, and personal injury.
- Community groups such as churches, homeowners’ associations, and civic organizations provide insight into the quality of health and services in a community.

MAPP, which stands for *Mobilizing for Action through Planning and Partnerships*, provides the framework for convening the variety of organizations, groups, and individuals that comprise the local public health system in order to create and implement a community health improvement plan. Through the MAPP process, communities can create and implement a well-coordinated plan that uses resources efficiently and effectively. Resulting community plans do not focus on one agency or public health challenge; rather, MAPP health improvement plans provide long-term strategies that address the multiple factors that affect health in a community. Community involvement throughout the creation and the implementation of a health improvement plan results in creative solutions to public health problems. Moreover, continuous community involvement leads to community ownership of the process. Community ownership, in turn, increases the credibility and sustainability of health improvement efforts.

Public health belongs to the community.

What is MAPP?

MAPP is a community-wide strategic planning framework for improving public health. MAPP helps communities prioritize their public health issues, identify resources for addressing them, and implement strategies relevant to their unique community contexts.

MAPP will help communities use broad-based partnerships, performance improvement, and strategic planning in public health practice. This approach leads to the following:

- measurable improvements in the community's health and quality of life;
- increased visibility of public health within the community;
- community advocates for public health and the local public health system;
- ability to anticipate and manage change effectively; and
- stronger public health infrastructure, partnerships, and leadership.

BENEFITS FOR SYSTEM PARTNERS

Participation in a MAPP process results in the following benefits for community partners:

- increased recognition within the community and among peers;
- access to accurate and current data—partners comment that access to data collected through a MAPP process is the number one benefit of participation;
- improved focus on priorities;
- reduction in the duplication of services within a community;
- increased collaboration on projects and activities; and
- increase in financial resources—data have been used to acquire grant and government funding.

BACKGROUND

From 1997 through 2001, the National Association of County and City Health Officials (NACCHO), in collaboration with the Centers for Disease Control and Prevention (CDC), developed MAPP. Prior to MAPP's inception, public health practitioners did not have structured guidance on creating and implementing community-based strategic plans.⁴ In response, NACCHO and CDC created a process based on substantive input from public health practitioners and public health research and theory. As a result, MAPP is a process that is both theoretically sound and relevant to public health practice.⁵



MAPP'S PROCESS

The MAPP process has six phases. The figure below shows the six phases in a linear fashion down the middle of the graphic. Four arrows surround the linear process to illustrate that the four MAPP assessments inform the entire MAPP process.



Phase 1:

Organize for Success and **Partnership Development** are part of the planning phase. This phase identifies who should be involved in the process and how the partnership will approach and organize the process.

Phase 2:

The **Visioning** phase is a collaborative and creative approach that leads to a shared community vision and common values.

Phase 3:

The **Four Assessments** inform the entire MAPP process. The assessment phase provides a comprehensive picture of a community in its current state using both qualitative and quantitative methods. The use of four different assessments is a unique feature of MAPP. Most planning processes look only at quantitative statistics and anecdotal data. MAPP provides tools to help communities analyze health issues through multiple lenses.

**Join one of the most important coalitions
your community has ever had.**

- The **Community Themes and Strengths Assessment** provides qualitative information on how communities perceive their health and quality of life concerns as well as their knowledge of community resources and assets.
- The **Local Public Health System Assessment** is completed using the local instrument of the National Public Health Performance Standards Program (NPHPSP). The NPHPSP instrument measures how well public health system partners collaborate to provide public health services based on a nationally recognized set of performance standards.
- The **Community Health Status Assessment** provides quantitative data on a broad array of health indicators, including quality of life, behavioral risk factors, and other measures that reflect a broad definition of health.
- The **Forces of Change Assessment** provides an analysis of the positive and negative external forces that impact the promotion and protection of the public's health.

Phase 4:

Identify Strategic Issues uses the information gathered from the four assessments to determine the strategic issues a community must address in order to reach its vision.

Phase 5:

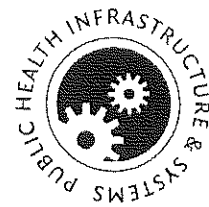
The **Formulate Goals and Strategies** phase involves specifying goals for each of the strategic issues identified in the previous phase. Many communities create a community health improvement plan at the end of this phase.

Phase 6:

The **Action Cycle** includes planning, implementation, and evaluation of a community's strategic plan.

[FACT SHEET]

February 2008



References

- ¹ Institute of Medicine Committee for the Study of the Future of Public Health. (1998). *The future of public health*. Washington, DC: National Academy Press.
- ² World Health Organization. (1998). *Resolution EB101.R2*. Geneva.
- ³ Institute of Medicine Committee on Using Performance Monitoring to Improve Community Health. (1997). *Improving health in the community: a role for performance monitoring*. Washington, DC: National Academy Press.
- ⁴ Lenihan, P. (2005). MAPP and the evolution of planning in public health practice. *Journal of Public Health Management and Practice*, 11, 381.
- ⁵ Corso, L., Wiesner, P., & Lenihan, P. (2005). MAPP in action: developing the MAPP community health improvement tool. *Journal of Public Health Management and Practice*, 11, 387.

FOR MORE INFORMATION, PLEASE CONTACT:

Heidi Deutsch, MA, MSDM
MAPP Program Manager
National Association of County & City Health Officials

P (202) 783 5550, Ext. 252
F (202) 783 1583

hdeutsch@naccho.org

www.naccho.org/MAPP

This publication was made possible by the support of the Centers for Disease Control and Prevention.

NACCHO

National Association of County & City Health Officials

The National Connection for Local Public Health



Public Health
Protect. Promote. Prevent.

NACCHO is the national organization representing local health departments. NACCHO supports efforts that protect and improve the health of all people and all communities by promoting national policy, developing resources and programs, seeking health equity, and supporting effective local public health practice and systems.

1100 17th St, NW, 2nd Floor Washington, DC 20036

P (202) 783 5550 F (202) 783 1583

www.naccho.org

MAPP – Mobilizing for Action through Planning and Partnerships

What is MAPP?

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MAPP Sponsors and Supporters

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West Virginia University Hospitals East	Eastern Panhandle Free Clinic
West Virginia University School of Nursing	Panhandle Home Health
Berkeley County Health Department	Starting Points
United Way of the Eastern Panhandle	Medical Reserve Corps
Shenandoah Valley Medical System	Family Resource Network
Health and Human Services Collaborative	Department of Health and Human Services
War Memorial Hospital	Morgan County Partnership
Morgan County Health Department	Berkeley County Senior Center

4

HOLD OVER
TO 3-17-11

Commission Office Use Only	
Date on Agenda:	3/10/11
Appt Time or New Business:	11:30 am

AGENDA REQUEST FORM

Name: Meredith Wait and Catherine Irwin

Department or Entity: SQ250, Shepherdstown, WV

Estimation of amount of time needed for appointment: 7 minutes

Date Requested – 1st Choice: March 10th

Date Requested – 2nd Choice: March 17th

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

We are interested in discussing possible funding for the project and so would like to make the presentation before the County budget has been completed.

Subject:

We would like to make a presentation about plans to remember, celebrate and honor the town on its 250th Anniversary, which will be in 2012.

Please provide the County Commission with a description of your request or presentation, including any background information:

We would like to make a presentation giving an outline of the goals of SQ250, the individuals and committees working on the project, a timeline and a request that the County Commission consider support of the project. The Shepherdstown Mayor and Council have appointed a committee to plan and implement a variety of activities including a kick-off during *Christmas in Shepherdstown* in November 2011, events each month sponsored by local organizations and a culminating event in December 2012. Plans also include making a legacy gift to the town. Our presentation will include information regarding how the plans will have a positive impact on economic development in Jefferson County.

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

The Jefferson County applauds the efforts of Shepherdstown to celebrate its 250th Anniversary and will support the efforts by participating in activities and will consider making a grant to support the town in their efforts.

<p>Commission Office Use Only</p> <p>Date on Agenda: <u>3/17/11</u></p> <p>Appt Time or New Business: <u>11:00am</u></p>
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11-03-03 14:40 FILE

AGENDA REQUEST FORM

Name: Lynn Fields or Karen Olden

Department or Entity: County Clerk's Office-Probate

Estimation of amount of time needed for appointment: 10 – 15 minutes

Date Requested – 1st Choice: March 10th, 2011

Date Requested – 2nd Choice: March 17th, 2011

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

Subject: **Acceptance of the First and Final Accounting of the estate of John Rockenbaugh, and closing the estate.**

Please provide the County Commission with a description of your request or presentation, including any background information: **On February 7th, 2011 the county commission heard testimony from Ivan Rockenbaugh, beneficiary of the estate of John Rockenbaugh, regarding his argument that the will/estate was wrongfully probated in Jefferson County. At that time, Dennis Barron, executor of the estate, was prepared to submit the accounting for approval and the request the estate ordered closed, but Ivan Rockenbaugh had objections to the accounting. Ivan Rockenbaugh has withdrawn his objections to the accounting, and Frank Hill, fiduciary commissioner, on the estate has approved the accounting and returned it to our office to put before the commission for closing.**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): **The probate office recommends the accounting be approved, and the estate be closed.**

Attachments:

D. FRANK HILL, III
ATTORNEY AT LAW
POST OFFICE BOX A
SHEPHERDSTOWN, WEST VIRGINIA 25443

D. FRANK HILL, III (WV & MD BAR)

136 E. GERMAN STREET
THE PHARMACY BUILDING
(304) 876-9333
FAX (304) 876-9335

FACSIMILE COVER PAGE

DATE: February 10, 2011
ATTENTION: Henry W. Morrow, Jr. (via fax 304-725-5056)
Stephen V. Groh, Assistant Prosecuting Attorney
(via fax 304-728-3353)
Jefferson County Probate Office
(via fax 304-728-1957)
Amanda L. Lewis (via fax 304-264-0551)

RE: Estate of John R. Rockenbaugh
NUMBER OF PAGES (including cover page): 12

Dear one and all:

In accordance with my fax to you earlier today, I have sent with this fax a complete copy of my Report Of Fiduciary Commissioner, the first page of which is my transmittal letter to the County Clerk's office.

Upon submission to and approval by the County Commission, I believe the settlement of this Estate will be concluded.

I thank each of you for your cooperation.

Sincerely,



D. Frank Hill, III
Fiduciary Commissioner

THE INFORMATION CONTAINED IN THIS FAX IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISTRIBUTION OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FAX IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AT (304) 876-9333 AND RETURN THE ORIGINAL MESSAGE TO P. O. BOX A, SHEPHERDSTOWN, WV 25443 VIA U. S. POSTAL SERVICE. RECEIPT BY ANYONE OTHER THAN THE INTENDED RECIPIENT IS NOT A WAIVER OF ANY ATTORNEY-CLIENT OR WORK-PRODUCT PRIVILEGE.

D. FRANK HILL, III
ATTORNEY AT LAW
POST OFFICE BOX A
SHEPHERDSTOWN, WEST VIRGINIA 25443

D. FRANK HILL, III (WV & ND BAR)

136 E. GERMAN STREET
THE PHARMACY BUILDING
(304) 876-9333

February 10, 2011

Clerk of the County Commission
P.O. Box 208
Charles Town, WV 25414

Attn: Probate Office: Karen/Lynn

Re: Estate of John R. Rockenbaugh, deceased

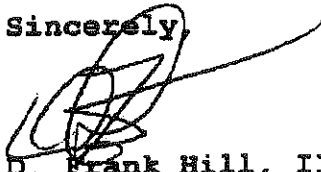
Dear Ladies:

In connection with the above-captioned Estate, I have enclosed my Report Of Fiduciary Commissioner, together with the several documents referenced therein which I am submitting to the Commission with my recommendation for approval.

I have also enclosed my check payable to your office in the amount of \$16.00 in payment of the recording fee.

Please contact me should you have any questions.

Sincerely,



D. Frank Hill, III
Fiduciary Commissioner

Enclosures as stated

cc: Henry W. Morrow, Jr. (via fax 304-725-5056)
Stephen V. Groh, Assistant Prosecuting Attorney
(via fax 304-728-3353)
Amanda L. Lewis (via fax 304-264-0551)
(w/copy of complete Report to each)

REPORT OF FIDUCIARY COMMISSIONER

To: The County Commission of Jefferson County, West Virginia,
and its Clerk, the Honorable Jennifer S. Maghan

Re: The Estate of John R. Rockenbaugh, deceased

BE IT KNOWN THAT Dennis L. Barron, as Executor of the Estate of John R. Rockenbaugh, deceased, did exhibit before the undersigned Fiduciary Commissioner the attached First And Final Accounting in accordance with the law, and that said First And Final Accounting is asked to be read as part of this Report.

That the undersigned Fiduciary Commissioner caused to be published in *The Spirit of Jefferson-Advocate*, a newspaper of general circulation within Jefferson County, West Virginia, notice of the filing with the undersigned Fiduciary Commissioner of the First And Final Accounting of Dennis L. Barron, Executor of the Estate of John R. Rockenbaugh, deceased, on January 5, 2011, and on January 12, 2011. Hence, the undersigned Fiduciary Commissioner respectfully submits the attached First And Final Accounting for consideration by this Honorable County Commission.

The undersigned Fiduciary Commissioner attests that he has mailed a copy of his preliminary Report accompanied by the First And Final Accounting to the following interested parties:

Mr. Ivan Rockenbaugh
89 Gemini Court
Martinsburg, WV 25404

Mr. Adrian Rockenbaugh
22 Timber Ridge Road
Berkeley Springs, WV 25411

Ms. Amanda Jean Forney
79 Camden Court
Martinsburg, WV 25403

Ms. Lauren Rockenbaugh
1126 Audubon Road
Hedgesville, WV 25427

Christ Reformed Church
P.O. Box 2126
Shepherdstown, WV 25443

by United States first class mail, postage prepaid and securely affixed, on the 3rd day of January, 2011.

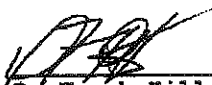
On January 12, 2011, the aforementioned letter sent to Adrian Rockenbaugh at the address shown above was returned to the undersigned by the United States Postal Service with a label stating "Unable to Forward". On the same date the undersigned resent the aforementioned documents to Adrian Rockenbaugh using the address of 89 Gemini Court, Martinsburg, WV 25404 which, as of this date has not been returned.

On January 31, 2011, the undersigned received by hand delivery from Ivan Rockenbaugh a document entitled "Objections To Report Of Fiduciary Commission And Accounting Of Dennis Barron" dated January 29, 2011, indicating that it was submitted by Ivan Rockenbaugh, Adrian Rockenbaugh and Lauren Rockenbaugh although no signatures appeared thereon, a copy of which, consisting of three (3) pages, is provided with this Report.

On February 10, 2011, the undersigned received by hand delivery from Ivan Rockenbaugh a letter dated February 10, 2011, stating that the objections to the aforementioned First And Final Accounting have been withdrawn, said letter being signed by Ivan Rockenbaugh, Adrian Rockenbaugh and Lauren Rockenbaugh, a copy of which is provided with this Report.

Based upon the foregoing, your Fiduciary Commissioner recommends, and does hereby move, that the Jefferson County Commission approve the attached First And Final Accounting.

Respectfully submitted this 10th day
of February, 2011, by:



D. Frank Hill, III
Fiduciary Commissioner for Jefferson
County, West Virginia

This Report of Fiduciary Commissioner and the First And Final Accounting of Dennis L. Barron, Executor of the Estate of John R. Rockenbaugh, deceased, attached thereto, together with the aforementioned Objections and the aforementioned letter serving to withdraw the same was this _____ day of February, 2011, presented to the Commission for review and consideration, and it appearing to the Commission that this Estate was referred to said Fiduciary Commissioner, that said Report after its completion remained in his office for at least ten (10) days for exceptions and that such exceptions as stated above have been withdrawn, the said report of settlement is EXAMINED, APPROVED, CONFIRMED and ORDERED recorded.

President of the County Commission of
Jefferson County, West Virginia

**ESTATE OF JOHN R ROCKENBAUGH
FIRST & FINAL ACCOUNTING
DENNIS L. BARRON, EXECUTOR
FOR THE PERIOD ENDING MARCH 31, 2011**

RECEIPTS PER APPRAISAL

Furnishings, guns, and personal property	\$4,240.25	
Miscellaneous personal property	2,000.00	
426 shares E.I. du Pont de Nemous & Co	16,149.66	
Jefferson Security Bank Super NOW Account	12,005.08	
Jefferson Security Bank CD #31568	390,000.00	
Accrued Interest	85.05	
E.I. du Pont de Nemous & Co. Final Retirement	866.19	
Social Security Refund	1,090.00	
Senior Care Operation Holding LLC Refund		
Elmcraft of Martinsburg	2,819.50	
Mid Town Auction - check replacement	<u>124.20</u>	
Total Receipts Per Appraisal	\$429,179.93	\$ 429,179.93

Adjusted Receipts Per Appraisal

7/11/10 Sale of E.I. du Pont de Nemous & Co.	\$ 15,381.38	
Less: Appraised value	<u>-16,149.66</u>	
	\$ (768.28)	<u>-768.28</u>

Adjusted Receipts \$428,411.65

INCOME

Interest - Jefferson Security Bank Super NOW		
5/3/2010	\$0.42	
6/3/2010	0.18	
7/5/2010	<u>0.25</u>	
	\$0.85	\$ 0.85

Interest - Jefferson Security Bank CD #31568		
4/30/2010	\$ 637.89	
6/1/2010	659.15	
7/1/2010	637.89	
7/30/2010	659.15	
9/1/2010	347.79	
10/1/2010	336.58	
11/1/2010	347.79	
12/1/2010	336.58	
1/1/2011 Estimated	347.79	
2/1/2011 Estimated	347.79	
3/1/2011 Estimated	<u>314.14</u>	
	\$ 4,972.54	
Less Accrued Interest	<u>-85.05</u>	
	\$ 4,887.49	4,887.49

Dividend - E.I. du Pont de Nemours
6/11/2010

174.66

Total Income

\$ 5,063.00 5,063.00

TOTAL RECEIPTS

\$ 433,474.65

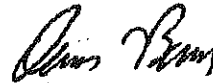
DISBURSEMENTS

The Melvin T. Strider Co. - Funeral	\$ 9,313.40	
Ronald C. Grubb - Minister	250.00	
Mary Ann Morgan - Organist	200.00	
Dennis L. Barron - Reimburse court costs	98.00	
Elmwood Cemetery - Opening & closing grave	1,000.00	
Verizon - Telephone	8.68	
Harland Clarke - checks	12.85	
Raleigh Street Podiatry	73.29	
Pharmacare Pharmacy	387.16	
Lambert Ambulance Service	55.27	
Adjustment in check #101	0.50	
Hammaker Memorial - Grave marker	1,457.50	
Christain Caine Jewelers - Jewelry appraisal	577.70	
Valley Gun - Appraisal	50.00	
Jim Locke - Moving personal items to auction	150.00	
Leroy Breeden - Moving personal items to auction	120.00	
Dennis L. Barron - Reimburse for truck rental	115.61	
Salutis Emerg Specialist - Medical	336.00	
Jefferson Co. Clerk - Appraisal	11.00	
City of Martinsburg - Ambulance fee	65.68	
Henry W. Morrow - Attorney	850.00	
Dennis L. Barron - Executor Fees	17,875.40	
Midway Self Storage		
	4/24/2010 \$ 99.00	
	5/25/2010 99.00	
	6/28/2010 99.00	
	7/26/2010 99.00	
	8/29/2010 99.00	
	9/26/2010 99.00	
	10/24/2010 99.00	
	11/25/2010 99.00	
	12/26/2010 99.00	
	12/27/2010 99.00	
	12/27/2010 99.00	
	\$ 1,089.00	1,089.00
J.G. Cochran Auctioneers - Cost to sell guns		362.00
J.G. Cochran Auctioneers - Cost to sell personal items		486.05
D. Frank Hill, III - Fiduciary Commissioner		400.00
Julie DeHaven, CPA - 1040 2010 Tax Return	Estimated	250.00
Julie DeHaven, CPA - 1041 Preparation	Estimated	<u>500.00</u>

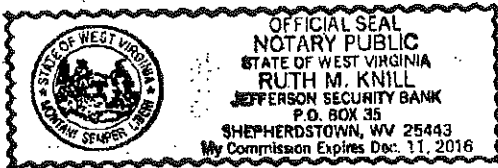
Total Disbursements		\$ 36,093.09	-36,093.09
BALANCE AVAILABLE FOR DISTRIBUTION			\$ 397,381.56
DISTRIBUTIONS			
Ivan Rockenbaugh	Article IV -B 1		\$ 10,000.00
Adrian Rockenbaugh	Article IV -B 2		10,000.00
Amanda Jean Fomey	Article IV -B 3		5,000.00
Lauren Rockenbaugh	Article IV -B 4		5,000.00
Christ Reformed Church	Article IV -C		
Personal Property		\$ 2,000.00	
Cash		<u>365381.56</u>	
		367,381.56	367,381.56
TOTAL DISTRIBUTIONS			\$ 397,381.56

I hereby certify that the foregoing accounting is true and accurate to the best of my knowledge and belief.

Respectfully submitted this 28th day of December 2010

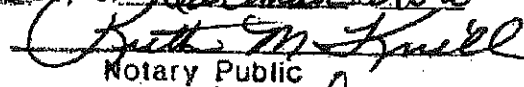


Dennis L. Barron, Executor



Sworn and subscribed before me on

28th day of December 2010



Notary Public

My commission expires Dec 11, 2016

IN THE OFFICE OF THE CLERK OF THE COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA

In Re: The Estate of

John R. Rockenbaugh, deceased

Affidavit

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

Dennis L. Barron, being duly sworn,

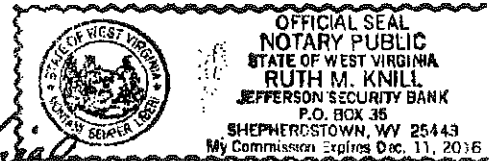
deposes and says that affiant is the personal representative of the estate of the decedent named above, and that all claims against the estate, for expenses of administration, taxes and debts of the decedent have been paid in full.

Dennis Barron

Personal Representative

Taken, subscribed and sworn to before me this

28th day of December 2010
Ruth M. Knill



Clerk of County Commission of Jefferson County, WV

By _____
Deputy

Ivan Rockenbaugh
89 Gemini Ct.
Martinsburg WV 25404

January 29, 2011

OBJECTIONS TO REPORT

OF FIDUCIARY COMMISSIONER

AND ACCOUNTING OF DENNIS BARRON

I. OBJECTION TO RECEIPTS PER APPRAISAL

- 1) Failure of appraisal to set forth with particularity the value of each item of personal property; for each gun; for each item of "furnishings" and who conducted the appraisal for each item – who purchased each item and purchase price.
- 2) Failure of appraisal to set forth with particularity the value of each item of "miscellaneous personal property" and who conducted the appraisal – who purchased each item and purchase price.
- 3) Why Mid Town Auction check "replaced"
- 4) Why was there an "adjusted" receipt per appraisal and a negative balance of \$768.28

II. OBJECTIONS TO TOTAL RECEIPTS

- 1) Failure to provide with particularity items of jewelry appraised; amount/value of each item appraised; how were or to whom were each item of jewelry disposed of/dispursed and for what price as to each piece of jewelry
- 2) Precise itemization of services performed by Henry Morrow, Jr. to justify \$850.00 fee – copy of all work performed
- 3) Justification of/for Dennis Barron receiving an executor fee in excess of statutory fee pursuant to W.Va. Code Law 44-4-12(a) (3)

III. BALANCE AVAILABLE FOR DISTRIBUTION

- 1) Articulate with particularity how \$2000 for personal property determined
- 2) OBJECT to any monies being DISTRIBUTED TO CHRIST REFORMED CHURCH until court determines allegations of fraud, duress and coercion having been committed by Dennis Barron and Henry Morrow, Jr. and/or exercised against John Rockenbaugh by Dennis Barron and Henry Morrow, Jr.

IV. OBJECTION TO APPRAISEMENT OF ESTATE

- 1) Part 3-#2 Detail with particularity each item of personal property included in tangible personal property and articulate how each item valued, by whom and total value determined
- 2) Description of property and transfers please provide copies of life insurance policies with named beneficiaries Janice Merrick and John Rockenbaugh, II and to whom all funds were paid and distributed

V. MISCELLANEOUS OBJECTIONS AND/OR REQUEST FOR EXAMINATION

- 1) In accordance with W.Va.11-11-35(a) I request tax records for the three years prior to death in order to have proved there is no IRA that has been transferred and/or omitted if heirs were beneficiaries to the IRA #R000669
- 2) Line 3 on page 1 Summary of Probate assets of the Appraisement 426 shares of E.I. DuPont stock at 16,149.66 I wish to have copies of stock certificates to have proved it is probate property.
- 3) Line 11 page one Mid Town check replacement \$124.20 I wish to see both a check and receipt for this replacement as to what is has been for.
- 4) line 7 under Disbursements I request a receipt for the cost of these checks also a price list of checks from the bank to show they were the least expensive checks to prove no wasteful spending occurred.

Thank You,

Ivan Rockenbaugh

Adrian Rockenbaugh

Lauren Rockenbaugh

Certificate of Service

I Ivan Rockenbaugh heir of John R. Rockenbaugh, deceased, hereby certify that

I have served true copies of the foregoing

Ojection to Report of Fiduciary Commissioner and Dennis Barron.

upon the following by first class, United States Mail, postage prepaid, at the addresses as indicated below on the thirty first day of January, 2011.

Henry Morrow Jr
P.O. Box 459
Charestown, WV 25414

D. Frank Hill, Esquire
Fudiciary Commissioner
P.O. Box A
Shepherdstown WV 25443

Dennis L. Barron
Jefferso Security Bank
P.O. Box 35
Shepherdstown WV 25443

Lynn Feilds
Jefferson County Deputy Clerk
Porbate Office
100 East Washington Street
P.O. Box 208
Charels Town, wv 25414-0208

Given under my hand this 31st day of January, 2011.

Ivan Rockenbaugh
89 Gemini Ct.
Martinsburg WV 35404

ATT: Probate

February 10, 2011

Frank Hill,

I have chosen to withdraw my objection to the first/final accounting of Dennis L. Barron.

As heirs to John Rockenbaugh, we believe something's are just not worth the consequences, and can not receive the information we did ask to receive as declined by Dennis L. Barron and Henry Morrow under their "Attorney Client Privilege" even under the posthumous exception it just is not worth the trouble or time of others involved including yourself of course. To keep this held up any longer, it is apparent that I will never know what reason this 2006 will reads exactly the opposite of the will I had read.

Thank You,

Ivan Rockenbaugh

Adrian Rockenbaugh

Lauren Rockenbaugh

Cc: Lynn Fields

Dennis Barron

Henry Morrow

Mr. Groh

Ivan Rockenbaugh 2/10/2011
Adrian Rockenbaugh
Lauren Rockenbaugh

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

Name: Jennifer Brockman

Department or Entity: Planning and Zoning

Estimation of amount of time needed for appointment: 15 minutes

Date Requested – 1st Choice: March 17, 2011

Date Requested – 2nd Choice: _____

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

Subject: **Discussion and Scheduling of a Public Hearing for a Proposed Amendment to the 2008 Subdivision and Land Development Regulations (as amended 2010)**

Please provide the County Commission with a description of your request or presentation, including any background information:

The Departments of Planning and Zoning, in conjunction with the Planning Commission, have reviewed the current Subdivision Regulations in an effort to determine whether options exist that would allow economic development proposals in Jefferson County to process in a more timely manner. The proposed amendment (attached) to the 2008 Subdivision and Land Development Regulations (as amended 2010) is the first in a series of amendments to balance review time of employment producing proposals with the overall health, safety and welfare of County residents.

In locations throughout the County where major non-residential subdivisions have been approved, there is an expectation that commercial and industrial structures will be built. As such, requiring proposed structures in these areas to process through the major site plan process is redundant because the major non-residential subdivision has all ready gone through a public review process. Approval of the major non-residential subdivision would therefore result in the general public expecting to see commercial/industrial structures in these business/industrial parks.

The proposed amendment to the Subdivision and Land Development Regulations (as amended 2010) is reasonable because these major nonresidential subdivisions have already been reviewed through a public process and have master planned utilities, stormwater, and roads for the development. Due to the expectation of concentrating commercial/industrial businesses within the established parks, it is reasonable to allow these structures to process as minor site plans which are processed administratively and have a shorter processing time.

The Planning Commission held a Public Hearing on the attached text amendment on March 8, 2011 and unanimously recommended that the County Commission approve the text as written.

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

I move to schedule a Public Hearing on the Proposed Amendment to the 2008 Subdivision and Land Development Regulations (as amended 2010) on _____(date) agenda.

Attachments:
Staff Report to Planning Commission regarding Proposed Subdivision Amendment for the Minor Site Plan Process in Business and Industrial Parks

JEFFERSON COUNTY, WEST VIRGINIA
Departments of Planning & Zoning
116 East Washington Street, 2nd Floor
P.O. Box 338
Charles Town, West Virginia 25414

Phone: (304) 728-3228
Fax: (304) 728-8126

Email: planningdepartment@jeffersoncountywv.org

MEMORANDUM

TO: Jefferson County Planning Commission
FROM: Seth Rivard, County Planner
DATE: March 8, 2011 (as revised 3/10/11)
SUBJECT: Proposed Subdivision Amendment for the Minor Site Plan Process in Business or Industrial Parks

As staff have used the recently amended Subdivision Regulations, it became apparent that there are components of the regulations that could use further review and potential amendments. One pressing concern is the process procedures for a site plan in an existing business or industrial park.

Currently, any site plan greater than 5,000 square feet is processed as a major site plan, which requires multiple additional steps in the process and two public hearings as compared to the minor process.

Staff is proposing, in instances where a business and/or industrial park has previously processed as a major subdivision with master planned roads and stormwater, site plans proposed within that subdivision shall be processed as a minor regardless of the size of the structure. The reasons for this proposal are:

1. Master planned roads and stormwater provisions have already been established.
2. In circumstances where a business or industrial park has processed as a major subdivision, the community is aware that such a development will occur in that location. Requiring each site plan to follow the major process is redundant to the original notice that occurred during the creation of the business and/or industrial park.
3. The redundant public hearing is counter to the economic development goals intended when the parks were created.

Shown below are the sections from the Subdivision and Land Development Regulations with the proposed text amendments shown in red.

Sec. 20.203 Minor Site Development

Minor Site Developments are those proposals that do not require the development of new infrastructure or the extension of existing off-tract infrastructure and where there is no subdivision into separate lots. If the development requires easements for drainage or other purposes, private roads, or parking, and access to public roads is involved that serve one or more land uses, it is a site development. Minor site development proposes one or more of the following: (1) Building(s), both new and additions to existing, where all structures located on the parcel total less than 5,000 square feet gross floor area (GFA) on any site; (2) Building(s), both new and additions to existing, regardless of size, when located in a business and/or industrial park on a lot within an approved major non-residential subdivision with master planned roads and stormwater; ~~(2)~~ (3) Addition(s) to existing development of less than ten percent of existing GFA or additions less than 10,000 square feet GFA, whichever is less; or ~~(3)~~ (4) apartment or multi-family development of eight or less dwelling units.

Minor Site Plan. A plan that follows the minor site development process and that will not require the development of new infrastructure or the extension of existing off-tract infrastructure, that proposes one or more of the following:

- A. Building(s), both new and additions to existing, where all structures located on the parcel total less than 5,000 square feet Gross Floor Area (GFA) on any site.
- B. Building(s), both new and additions to existing, regardless of size, when located in a business and/or industrial park on a lot within an approved major subdivision with master planned roads and stormwater;
- C. ~~B.~~ Addition(s) to existing development of less than ten percent of existing GFA or additions less than 10,000 square feet GFA, whichever is less.
- D. ~~C.~~ Apartment or multi-family development of eight or less dwelling units.

Minor Site Plans do not include the design, erection or addition to detached single family dwelling units when only one dwelling unit is located on an established lot.

Site Plan, Minor. A plan that follows the minor site development process and that will not require the development of new infrastructure or the extension of existing off-tract infrastructure, that proposes one or more of the following:

- A. Building(s), both new and additions to existing, where all structures located on the parcel total less than 5,000 square feet Gross Floor Area (GFA) on any site.
- B. Building(s), both new and additions to existing, regardless of size, when located in a business and/or industrial park on a lot within an approved major subdivision with master planned roads and stormwater;
- C. ~~B.~~ Addition(s) to existing development of less than ten percent of existing GFA or additions less than 10,000 square feet GFA, whichever is less.
- D. ~~C.~~ Apartment or multi-family development of eight or less dwelling units.

Minor Site Plans do not include the design, erection or addition to detached single family dwelling units when only one dwelling unit is located on an established lot.

Major Site Plan. A plan that follows the major site development process and proposes one or more of the following:

- A. A new public or private street or dedication to public use of an existing street;
- B. Building(s), both new and additions to existing, where all structures located on the parcel total 5,000 square feet or more of GFA on any site; except building(s), both new and additions to existing, regardless of size, when located in a business and/or industrial park on a lot within an approved major subdivision with master planned roads and stormwater;
- C. Addition(s) to existing development of ten percent or more of existing GFA or with additions of 10,000 square feet or more of GFA;
- D. Apartment or multi-family development of ten or more dwelling units; or

E. A heavy industrial use.

Site Plan, Major. A plan that follows the major site development process and proposes one or more of the following:

A. A new public or private street or dedication to public use of an existing street;

B. Building(s), both new and additions to existing, where all structures located on the parcel total 5,000 square feet or more of GFA on any site; except building(s), both new and additions to existing, regardless of size, when located in a business and/or industrial park on a lot within an approved major subdivision with master planned roads and stormwater;

C. Addition(s) to existing development of ten percent or more of existing GFA or with additions of 10,000 square feet or more of GFA;

D. Apartment or multi-family development of ten or more dwelling units; or

E. A heavy industrial use.

Additionally, this proposed amendment would apply to existing and future business and/or industrial parks. The parks currently established within Jefferson County known to be affected by this amendment are: Burr/Bardane Industrial Park, SPARC Training Center, Sunnyside Park and Jefferson Crossing.

8

Commission Office Use Only
Date on Agenda:
Appt Time or New Business:

AGENDA REQUEST FORM

Name: _____

Department or Entity: County Commission

Estimation of amount of time needed for appointment: _____

Date Requested – 1st Choice: March 17, 2011

Date Requested – 2nd Choice: _____

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

Subject: Role of Counsel representing County Government when a conflict arises between clients - (Executive Session §6-9A-4 possible)

Please provide the County Commission with a description of your request or presentation, including any background information:

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

Attachments:

Commission Office Use Only
 Date on Agenda: 3-10-11
 Appt Time or New Business: 11:45 AM

AGENDA REQUEST FORM

Name: F Mark Schiavone

Department or Entity: DCPM

Estimation of amount of time needed for appointment: 10 min

Date Requested -- 1st Choice: 10 March 2011

Date Requested -- 2nd Choice: 17 March 2011

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

Subject: Server replacement options

Please provide the County Commission with a description of your request or presentation, including any background information: The Commission directed staff to obtain price quotes and time and staffing estimates for the replacement servers. The replacement of these devices and subsequent configuration is consistent with the recommendations of the network assessment which was recently presented to the County Commission.

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): Move to accept staff proposal as presented in option (x).

Attachments: Summary sheet

Server Options

Option 1: Virtual Servers

- 2 Servers, one mirroring the other for immediate fail over recovery. Common storage area with redundant hard drives.
- Current physical servers each migrated onto virtual platform.
- Lower power consumption/less heat generation
- Additional "virtual servers" added only for price of server software license.
- CDW-G only offers HP equipment.

Dell (via WV State Store)	\$68,840
CDW-G (via State Contract)	\$94,359

Option 2: Physical Servers

-
- Replace 6 servers – 2 configured for extra work (Mail archive and Raidserver)
 - 2 Uninterruptible power supplies to support 6 servers
 - No failover recovery
 - No common storage area – each server configured for local storage
 - Higher power consumption/heat generation

Dell (via WV State Store)	\$32,755
CDW-G (via State Contract)	\$29,477

Workload

Server (in critical order)	Amount of Time	Lead
Email server	1-2 days (weekend)	Hernandez + ipswitch staff /1
Mail archive server	1 day (regular hours)	Hernandez + ipswitch staff
Raidserver	1 day (regular hours)	Hernandez
Websserver	1 day (after hours)	Hernandez
Active Directory Server	1 week	Hernandez + vendor /2
Virus Server	3 days	Hernandez + vendor /2
VLAN/Subnet/Firewall	1 week	Hernandez + vendor /2

Notes:

/1 Weekend ipswitch is billed at \$149 first hour, \$99 each additional. Time estimate: 4-6 hours.

/2 Magnitude and complexity of these implementations will require additional support. Estimated cost \$100/hour.

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

Name: County Commission

Department or Entity: County Commission

Estimation of amount of time needed for appointment: _____

Date Requested – 1st Choice: _____

Date Requested – 2nd Choice: _____

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

Subject: **Legislative Update**

Please provide the County Commission with a description of your request or presentation, including any background information:

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

Attachments:

Commission Office Use Only	
Date on Agenda:	3/17/11
Appt Time or New Business:	3/17/11

AGENDA REQUEST FORM

Name: Lyn Widmyer

Department or Entity: _____

Estimation of amount of time needed for appointment: 15 minutes

Date Requested – 1st Choice: March 17

Date Requested – 2nd Choice: _____

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

Subject: **Introduction of County Commission Policy to require public improvement projects be in the approved and adopted Capital Improvement Plan prior to funding.**

Please provide the County Commission with a description of your request or presentation, including any background information: **The attached draft policy is to assure all expenditures for capital improvements in excess of \$100,000 are consistent with an adopted 6-year Capital Improvement Plan.**

The County Commission is discussing acquisition of new buildings without any written rationale and without any support from the FY 2012 Capital Improvement Plan. The attached policy will assure any significant expenditures are in accord with an approved schedule of public improvements that has been subject to public hearing.

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): **Schedule policy for discussion at upcoming County Commission meeting.**

Attachments: **yes**

**Proposed County Commission Policy relating to funding of Capital Improvement Projects
(Introduced by Cmr. Widmyer, March 2011)**

CAPITAL IMPROVEMENT PLAN POLICIES

The annual Capital Improvement Plan (CIP) identifies public improvement projects planned by County Government to occur over a six year period. Each project in the CIP shall include the following:

- Detailed description of the project
- Justification
- Expenditure schedule
- Funding sources

The Jefferson County Commission will adopt a six-year CIP, update it annually, and make all capital improvements in accordance with the CIP.

All projects having the following characteristics must be included in the CIP prior to funding:

The project will have an individual project cost totaling \$100,000 or more.

The project will add to the government's public infrastructure.

The project will result in a major repair of a fixed asset that significantly adds to or preserves the life of the original asset.

The project is for acquisition of land for future projects (landbanking)

Municipal projects will be considered if the project is not exclusively for municipal residents or if the project is a cooperative effort by municipal, County and/or state agencies.

Commission Office Use Only

Date on Agenda: 3/17/11

Appt Time of New Business:

AGENDA REQUEST FORM

Name: Randy Hilton

Department or Entity: Friends of Happy Retreat

Estimation of amount of time needed for appointment: 1 minute

Date Requested - 1st Choice: 3/17/2011

Date Requested - 2nd Choice: 3/24/2011

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

3/17/2011 - time is of the essence

Subject:

Appointment of a Jefferson County representative to the inter-governmental committee to investigate options to acquire Happy Retreat.

Please provide the County Commission with a description of your request or presentation, including any background information:

To appoint County representative as follow-up to the joint resolution approved several weeks ago.

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

 is appointed to serve on the inter-governmental committee to investigate options to acquire Happy Retreat.

Attachments:

[Handwritten signature]

Commission Office Use Only

Date on Agenda:

Appt Time or New Business:

AGENDA REQUEST FORM

Name: Nichelle Hosby

Department or Entity: County Commission

Estimation of amount of time needed for appointment: 5 min

Date Requested – 1st Choice: 3/24/2011

Date Requested – 2nd Choice: _____

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

Subject: **Appointment to the Jefferson/Berkeley Community Criminal Justice Board**

Please provide the County Commission with a description of your request or presentation, including any background information: **Ms. Ann Smith's term expired on January 21, 2011. The Board would like to have Ms. Smith reappointed.**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): **Motion to approve Ann Smith for reappointment to the Jefferson/Berkeley Community Criminal Justice Board.**

Attachments:



Berkeley County Council



400 WEST STEPHEN STREET, SUITE 201
MARTINSBURG, WEST VIRGINIA 25401
PHONE (304) 264-1923

THE COUNCIL

WILLIAM L. STUBBLEFIELD, PHD
ANTHONY J. "TONY" PETRUCCI
DOUGLAS E. COPENHAVER, JR.
ELAINE C. MAUCK, M.A.
JIM WHITACRE

www.berkeleywv.org

DEBORAH HAMMOND
COUNTY ADMINISTRATOR

March 9, 2011

Jefferson County Commission
Mr. Tim Boyde, County Administrator
P.O. Box 250
Charles Town, WV 25414

Re: Jefferson/Berkeley Community Criminal Justice Board

Dear Mr. Boyde,

Please find enclosed a copy of a letter to Ms. Smith, regarding the expiration of her appointment to the above named board. This was the last letter that we did for any Jefferson County appointees. The Commission will need to address her re-appointment. Please let me know when this was approved, or someone else selected, by the Commission. Thank you for your assistance with this matter.

Sincerely,

Theresa L. Palmer
Administrative Assistant

RECEIVED

MAR 10 2011

Jefferson County Commission



Berkeley County Council



400 WEST STEPHEN STREET, SUITE 201
MARTINSBURG, WEST VIRGINIA 25401
PHONE (304) 264-1923

THE COUNCIL

WILLIAM L. STUBBLEFIELD, PHD
ANTHONY J. "TONY" PETRUCCI
DOUGLAS E. COPENHAVER, JR.
ELAINE C. MAUCK, M.A.
JIM WHITACRE

www.berkeleywv.org

DEBORAH HAMMOND
COUNTY ADMINISTRATOR

January 24, 2011

Ms. Ann Smith
236 W. Martin Street
Martinsburg, WV 25401

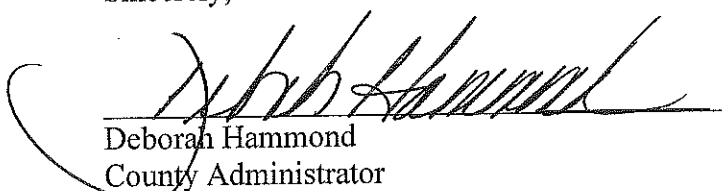
Re: Jefferson/Berkeley Community Criminal Justice Board

Dear Ms. Smith:

On behalf of the Berkeley County Council, I wish to express our appreciation to you for your tenure in the past with the Jefferson/Berkeley Community Criminal Justice Board. We appreciate all your efforts in the past; so therefore, wish to inquire as to whether you would be interested in re-appointment to the Jefferson/Berkeley Community Criminal Justice Board as your term expires on January 21, 2011.

Again, thank you for your commitment to Berkeley County in the past and we will look forward to hearing from you on this matter. Please complete and return the enclosed form designating your choice. For your convenience you may also reply via e-mail to tpalmer@berkeleycountycomm.org.

Sincerely,

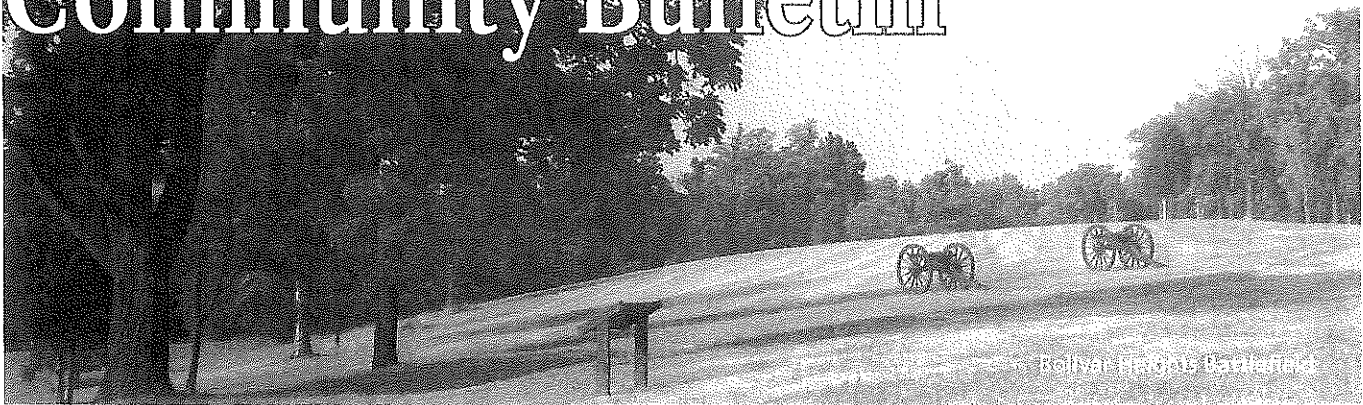


Deborah Hammond
County Administrator

DH/tp
Attachment
cc: Joseph Sacchet



Community Bulletin



Bolivar Heights Battlefield

A Preview of Upcoming Events for 2011

April 16-17, 2011: War Comes to Harpers Ferry: The Burning of the Federal Arsenal
Time: Saturday 10:00 AM – 9:30 PM; Sunday 10:00 AM – 4:00 PM
Location: Lower Town venues
Description: This two-day event will focus on the April 1861 secession of Virginia from the Union and the subsequent burning of the Federal Arsenal at Harpers Ferry. Activities will include, living history, ranger conducted programs and family/youth activities.

May 21, 2011 – The Ingenuity of John Hall: 200th Anniversary of Hall's Breechloader Patent
Time: 10:00 AM – 4:00 PM
Location: The Green
Description: Special Exhibit and ranger conducted programs throughout the day.

June 25, 2011 – 10th Annual Don Redman Heritage Concert & Awards
Time: 6:00 PM
Location: Camp Hill
Description: The event and concert commemorate the internationally acclaimed and influential 1920 graduate of Storer College, Don Redman featuring Dr. Larry Ridley, Larry Willis, and the Howard Burns Quartet.

July 9 – Military Band Concert The Cruisers U.S. Navy Band
Time: 6:00 p.m.
Location: Camp Hill, Mather Training Center grounds
Description: Enjoy the music of one of our country's premier military bands

July 23, 2011- "Slavery, the Abolitionist Movement and Reflections of Jefferson"
Time: 1:00 PM & 3:00 PM
Location: Lower Town
Description: An insightful dramatic presentation on the issue of slavery featuring Bill Barker as Thomas Jefferson.

August 21, 2011 - Niagara Movement Pilgrimage to John Brown's Fort
Time: 8:00 AM
Location: Murphy Farm & Curtis Freewill Baptist Church
Description: Retrace the 1906 footsteps of the men and women of Niagara during this commemorative walk to the site of the John Brown's Fort in 1906. A 10:00 a.m. memorial service will follow at the Curtis Freewill Baptist Church.

September 3, 2011 – Military band concert "Free County," U.S. Marine Band
Time: 6:00 PM

Location: Camp Hill, Mather Training Center grounds
Description: Enjoy the music of one of our country's premier military bands.

October 1, 2011- Mr. Lincoln Returns to Harpers Ferry
Time: 1:00 PM & 3:00 PM
Location: Lower Town
Description: Our 16th president comes to life as Jim Getty portrays Abraham Lincoln.

October 15-16, 2011: In the Shadows of John Brown: The 1861 Battle of Bolivar Heights
Time: 10:00 AM – 4:00 PM both days
Location: Bolivar Heights
Description: Two years to the day after John Brown's Raid, Union and Confederate troops clashed on Bolivar Heights. The event will highlight the unique parallels between John Brown and participants of the battle. Activities will include, living history, ranger conducted programs and family/youth activities.

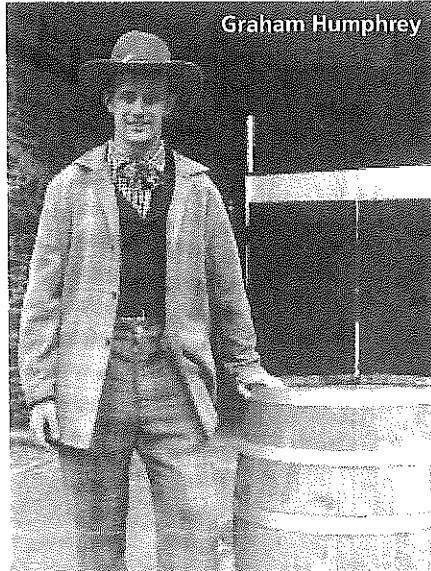
Additional events are being scheduled. Please check future Community Bulletins and the park website for additional events and activities.

www.nps.gov/hafe

February Volunteer of the Month

Graham Humphrey came to Harpers Ferry NHP in January 2010 as an intern in the curatorial department. He soon branched out to conduct research for Visitor Services/Interpretation and is now a full time intern with the Education Department. Graham has helped with the Harpers Ferry Middle School vodcast project, the Jr. NYLC program, grant writing, curriculum development and anything else he's been asked to do.

Graham has been very busy since graduating in 2008 from Brandeis University with a B.A. in Art History. He spent a year at Saint-Gaudens NHS serving as a Student Conservation Association intern with their curator. While at Saint-Gaudens, he also volunteered with the curator at Marsh Billings NHP, assisting with their annual inventory. He spent three months at Appomattox Court House NHP updating their housekeeping plan and worked with Harpers Ferry Center to implement their cold storage plan. He is now enrolled in the museum



studies masters program at Johns Hopkins University.

Originally from Rhode Island, Graham has had a life-long passion for the outdoors including hiking, biking and sailing and also enjoys history, visiting museums and traveling. He feels fortunate to live in scenic Harpers Ferry and to be able to work with a dedicated and talented staff and have the opportunity to interact with children on a daily basis. He looks forward to the day when he can get a permanent job with the National Park Service.

Thank you Graham for all of your hard work!

Teacher Institutes

Harpers Ferry: The First Year of War June 26-July 1

This week long institute gives educators the opportunity to incorporate technology into their teaching. After exploring the Civil War events that occurred between Virginia's secession on April 17, 1861 through the end of March 1862, podcasts and digital storytelling will be developed for a final project. Participants will investigate ways to teach across the curriculum and use multiple hands-on techniques.

Three hours of graduate C&I credit available from Shepherd University (\$115 fee). Applications can be found at www.nps.gov/hafe/forteachers/professionaldevelopment.htm.

War Comes to Harpers Ferry: 1861

8-week online class beginning July 4 includes a 3-day workshop at Harpers Ferry NHP July 23-25. Together the APUS graduate course and the Harpers Ferry NHP workshop will take an in depth look at a defining period in U.S. History. Beginning with the April 17, 1861 secession of Virginia from the U.S. and the destruction of the U.S. Armory and Arsenal there the next day, through the end of March 1862, teachers will study occupation and battle that marked Federal control of the town and surrounding area. Three hours of graduate history credit available from APUS (\$325 fee). Visit www.apu.apus.edu/lp/agreements/harpers-ferry/index.htm to register.

Bridging the Watershed (BTW)

An outreach program of the Alice Ferguson Foundation in partnership with the NPS June 13-17. Participants study the ecology of the Potomac watershed and learn to incorporate BTW curricula into their classrooms. The BTW curricula offers opportunity for students to engage in field science methodology with current technological tools. Field and classroom work will take place at Antietam NB, C&O Canal NHP, Harpers Ferry NHP, and Monocacy NB. Participants are eligible for a \$700 stipend upon completion of all requirements. Three hours of graduate credit available from Catholic University (\$300 fee). Visit www.fergusonfoundation.org for details and applications.

Watch for information about our upcoming after-school professional development series! Programs will focus on history (fall 2011) and science (spring 2012).



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 65
Harpers Ferry, West Virginia 25425

Visitor Center
304-535-6029

Harpers Ferry Historical Association Bookshop
304-525-6881

Harpers Ferry NHP Home Page
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.



State Auditor's 2011 Local Government Regional P-Card Workshops

State Auditor Glen B. Gainer III, through his Local Government Purchasing Card Program, is pleased to offer regional P-Card Workshops for local government entities at convenient locations throughout West Virginia. These workshops will provide training dedicated to the basics of local government p-card in relation to the day-to-day operation of the local government's p-card program. Other related topics will include program management, documentation, auditing, ethics, program expansion/growth, and program support/resources.

City	Workshop Date	Time	Location	Registration Deadline
Martinsburg	March 29	8:30 am-3:30 pm	Holiday Inn - Martinsburg 301 Foxcroft Avenue - 304-267-5500	March 22
Moorefield	March 30	8:30 am-3:30 pm	South Branch Inn - Moorefield 1500 US Highway 220, N. - 304-538-2033	March 22
Clarksburg	April 5	8:30 am-3:30 pm	WV State Auditor's Office - Clarksburg 200 West Main Street, 304-627-2415	March 26
Vienna	April 6	8:30 am-3:30 pm	Wingate Inn - Vienna 1502 Grand Central Avenue - 304-295-5501	March 26
Wheeling	April 7	8:30 am-3:30 pm	SpringHill Suites - Wheeling 908 National Road - 304 -232-8903	March 26
Charleston	April 18	8:30 am-3:30 pm	Marriott Hotel - Charleston 200 Lee Street, East - 304-345-6500	April 5
Barboursville	April 20	8:30 am-3:30 pm	Holiday Inn and Suites - Barboursville 3551 US 60 E. - 304-733-3338	April 5
Princeton	April 26	8:30 am-3:30 pm	Country Inn and Suites - Princeton 111 Halls Ridge Rd - 304-425-2200	April 15
Summersville	April 27	8:30 am-3:30 pm	Country Inn and Suites - Summersville 106 Merchants Walk - 304-872-0555	April 15

Refreshment breaks will be provided. Help us keep costs to a minimum for the free workshops! If you are unable to attend after registering, please call Nancy Pennington at 304-558-2261, ext. 2117 or FAX your cancellation to 304-340-5080. Questions concerning the content of the workshops: Jerry Isaacs at (304) 627-2415, Ext. 5110 or Email: jerry.isaacs@wvsao.gov

To Register: Complete and return by the deadline to: 304-340-5080

2011 LOCAL GOVERNMENT PURCHASING CARD WORKSHOP

FREE TO ATTEND, BUT YOU MUST REGISTER!

Mr. Mrs. Ms. _____

Entity: _____ Mailing Address: _____

Telephone: (304) _____ FAX: (304) _____ Email: _____ (For confirmation)

→ → PLEASE INDICATE THE WORKSHOP LOCATION AND DATE YOU WILL ATTEND:

Martinsburg, March 29
 Moorefield, March 30
 Clarksburg, April 5
 Vienna, April 6
 Wheeling, April 7
 Charleston, April 18
 Barboursville, April 20
 Princeton, April 26
 Summersville, April 27

MAIL TO:

Nancy Pennington, Event Coordinator
 LG Regional P-Card Workshops
 State Auditor's Office
 Building 1, Room W-100
 Charleston, West Virginia 25305
FAX: 304-340-5080

5cc

- JCSD
- Assessor

4 PAGES

- Co. Clerk
- Co. commis.

- Pres. Atty.

3/4/11
AW

TO: ALL MEMBERS of the WEST VIRGINIA ASSOCIATION OF COUNTIES

FROM: PATTI HAMILTON



THE COUNTY LEGISLATIVE LINE
Friday, March 4th, 2011

Capitol Quotes:

"You're limited to one, one oz. Sample." Sen. Palumbo on a bill that allows "liquor samplings" much like wine samplings

"Every 15 minutes or what?" Sen. Chafin responding to Sen. Palumbo's answer to his question about what this bill does

"The big issue is what is the source of the \$50 million a year for the next twenty years." Sen. McCabe on a new OPEB bill, SB 616, that passed Wednesday night without any funding from increase in tobacco tax or any other source

"We will become a net siphon instead of a net giver." Sen. Stollings defending SB 242 that provides additional severance tax to coal producing counties, explaining that the money is needed to help coal economy counties diversify

"You can't imagine the vitriol at these meetings." Sen. Hall describing the public hearings on tolls for U.S. 35, stating his opposition to any funding plan that included toll revenue bonds (the bill, SB 606, was rejected rather spectacularly)

"Overall, this is in the best interests of the voting public." Del. Frazier speaking in favor of SJR 10, repealing sheriffs' term limits, explaining how there was a time when he would have been opposed

"The people around this table aren't going to decide if a sheriff has more than two terms. The voters decide." Del. Caputo speaking in support, noting that there would then be more younger sheriffs (and clarifying that he meant no offense to any of the sheriffs present!)

"A majority of states don't have a term limit and I think we should put this out to the voters." Del. Sobonya on SJR 10

"I never thought that the gentlelady from Cabell and I would ever agree on anything." Del. Guthrie to Del. Sobonya on SJR 10

As you can tell from the quotes above on SJR 10, it was received favorably by House Constitutional Revision Committee and passed out by a vote of 13 – 5. The measure will now go to House Judiciary Committee. Thanks to the many Sheriffs who attended.

SJR 11, a constitutional amendment supported by the State Chamber, would allow the Legislature to exempt or reduce any or all personal property tax and also provides that the Legislature *may* identify replacement revenue (none is specified). *It is currently parked on the Senate Rules Calendar (inactive calendar).* Rules Committee is the only body that moves bills from the Active Calendar to the Rules Calendar and vice-versa. We have had assurances that it will stay there!

On Wednesday, bills had to pass their house of origin in order to remain active. Bills can still be originated in committee. The following is a rundown of some of the bills we have been working on and watching that are still active bills. It is not a complete list of bills of interest to county officials. The best way to check bills that are still active is on the legislative web site www.legis.state.wv.us and click on *Bill Status*, then bills that have *Passed One Chamber*.

SjR 9 – Simple Majority for Levies Constitutional Amendment; On House Calendar, 2nd reading (House Calendar is the parking lot or graveyard, depending on whether House Rules Committee puts a bill back on the “Special Calendar”); Calls of support are needed

SB 63 – Relating to Controlled substances; in House Judiciary

SB 71 – Making child neglect creating substantial risk of bodily harm a misdemeanor is in House Judiciary (a prosecutors’ legislative issues from 2010)

SB 96 – WVACO’s initiative to clean up archaic language and old salary schedules in Ch. 7, art. 7; in House Judiciary

SB 193 – Relating to law enforcement certification; creates means of tracking officers who have resigned; in House Judiciary

SB 242 – Provides 5% additional coal severance to coal producing counties (from state funds); specifies uses for transportation projects, economic development & infrastructure

SB 272 – Tax Increment Financing; adds Class 3 & 4 municipalities; contains assessors’ language to remove various types of motor vehicles from personal property in base assessed value; House Finance

SB 277 – Property tax cap on amount of increase; House Finance

SB 307 – Creates Intermediate Court of Appeals; criminal & civil – whatever the Supreme Court turns down goes to Intermediate Court (concerns about ramifications

for county prosecutors and bill is unclear about who and where records are kept)
SB 344 – Salvage value for appraising qualified capital additions to manufacturing facilities; House Finance – WVACO opposed to continued use of salvage value

SB 391 – Selection of early community voting location sites (formerly called satellite precincts); House Judiciary

SB 424 – Marcellus Shale regulatory bill; WVACO study committee reviewing several issues of concern and interest to counties; did not go to committee – on House Calendar, 2nd reading

SB 426 – Require judge's permission before release of juror information after trial; circuit clerks' priority issue; House Judiciary

SB 428 – Increase fee for medical malpractice filings; adds \$20 because filing fee portion for county was not included in med mal reform; circuit clerks' priority issue; House Judiciary then Finance

SB 430 – file petition for expungement instead of motion but doesn't allow filing fee; circuit clerk priority issue but may let this one go because of the removal of fee; House Judiciary then Finance

SB 465 – Marcellus Gas & Manufacturing Development Act; salvage value and tax credits; we are working with proponents to make it much more narrow in scope; did not go to committee – on House Calendar, 2nd reading

SB 581 – change early voting to 13th day prior to election day; county clerks legislative priority; House Judiciary

SB 614 – Permit law enforcement officer who is member of federally affiliated drug task force access to Bd of Pharmacy web site; House Health then Judiciary

SB 616 – OPEB mitigation; does not contain funding; picks up liability for school boards but not for the non-state entities in PEIA; House Finance

HB 2345 – WVACO initiative to have a non-state representative on the PEIA Finance Board; Senate Gov Org

HB 2400 – grant licensed appraisers access to assessors' documents; Senate Gov Org then Judiciary

HB 2464 – adding additional requirements for financial disclosure to Ethics Act; affects all public elected officials and includes spousal disclosure; passed both bodies

HB 2505 – adds "synthetic drugs" to schedule 1 controlled substances (bath salts, etc.); Senate Judiciary

HB 2708 – eliminate requirement of annual signature on mutual aid agreements among law enforcement agencies; Senate 2nd reading

HB 2766 – Raises cap on employer contribution to Deputy Sheriffs Retirement System to 13%; Senate 1st reading

HB 2922 – establish felony of causing serious bodily injury to another while DUI; Senate Transportation then Judiciary

HB 2936 – Change canvass date in primary to Monday after election instead of Friday; Senate Gov Org then Judiciary; a county clerks' legislative priority

HB 3044 – Civil forfeiture actions related to criminal activity; Senate Judiciary; sheriffs' legislative priority

HB 3087 – Certification to carry concealed firearm nationwide; reciprocity; prosecutors' legislative issue in Senate Judiciary then Finance

HB 3205 – Reduce jail sentence for completion of education & rehab programs; up to 5 days per program for total of 30 days; fee of \$25 per program; should help reduce regional jail per diem costs; Senate 1st reading

HB 3268 – surviving spouse keep homestead exemption regardless of age (oppose – homestead exemption meant for disabled and 65 or older); Senate Finance

Some Bills of Interest that Did Not Pass House of Origin:

SB 266, allowing counties to keep transfer tax portion sent to state, died in Senate Finance

HB 2843, allowing more grant proceeds to be allocated by Records Management & Preservation Bd, died in House Finance but they are looking at more spending authority through the budget process

SB 249, another salvage bill, did not pass

None of the bills for salvage value for antique vehicles passed.

Nothing is over until it's over! If a bill died and is germane to another bill (similar topic or code section), the "live" bill can be used as a vehicles for the "dead" bill! The session ends March 12th at midnight.

**TO: ALL MEMBERS of the WEST VIRGINIA ASSOCIATION OF
COUNTIES**

FROM: PATTI HAMILTON



**THE COUNTY LEGISLATIVE LINE
Wednesday, March 9th, 2011**

Capitol Quotes:

"So if I have an associate degree in applied mechanics or welding, I qualify." Del. Ireland commenting on SB 195, magistrate qualifications

"Oh, I didn't see you over there." Del. Sobonya started the crowded room laughing when she said this to former Delegate Jon Amores, now Director of the Racing Commission (Del. Amores was behind the podium to answer her question and is quite small in stature)

"Aye. And I might add, now I know how Del. Lane feels." Del. Caputo, after being the only vote in favor of an amendment, observing that Del. Lane is frequently the sole yea or nay vote on an amendment

"Now people are really going to be signing up to be on Rulemaking committee." Sen. Palumbo after a painfully long meeting on rules after Sen. Snyder said, "This is what we do in Rulemaking."

It's Ash Wednesday. Maybe that's why I feel a little burnt! It's been a long day and bills are getting messed with!

SB 344, salvage value for a broad spectrum of manufacturing facilities' qualified capital additions, would apply to many more of these types of facilities with a lowering of the qualifying thresholds. It remains on the House Calendar (inactive).

SB 242, additional 5% coal severance tax for producing counties, is on 2nd reading Special Calendar Thursday. Calls of support would be helpful.

SJR 9 – Simple Majority for Levies Constitutional Amendment; On House Calendar, 2nd reading; Calls of support needed to get it on Special Calendar.

So far, SB 616, the OPEB liability bill, has not been taken up by the House. The same is true of SB 307, creating an Intermediate court of Appeals.

SJR 10, Sheriffs Term Limit Repeal, is up for passage in the House on Thursday.

SB 581, shortening early voting period, is on 2nd reading in the House on Thursday

The Circuit Clerks' bill, SB 428, was revised in House Judiciary by amending in Com Sub for HB 3067, increasing civil filing fees by \$10 which goes to Domestic Violence and adding a \$200 fee for civil appeals which goes to legal aid for the poor. The original bill simply added a \$20 fee for medical malpractice filings because, unlike other civil filings, there was no filing fee amount left for county general revenue.

SB 391, changing the criteria for choosing early community voting locations, passed out of House Judiciary today. It also allows the early community voting period to be a minimum of 5 consecutive days, providing more flexibility.

SB 424, Marcellus Shale regulation, took up a great deal of time in House Judiciary today and will continue to be a hot topic of these last days of the session.

SB 465, a property tax salvage value bill for Marcellus Shale related manufacturing, is on House Calendar awaiting agreement on narrowing the bill to be very specific to these types of activities, helping to keep the "value added" manufacturing using the byproducts of Marcellus Shale in West Virginia.

SB 63 – Relating to Controlled substances; still in House Judiciary

SB 71 – Making child neglect creating substantial risk of bodily harm a misdemeanor is still in House Judiciary (a prosecutors' legislative issues from 2010)

SB 96 – WVACO's initiative to clean up archaic language and old salary schedules in Ch. 7, art. 7; up for passage Thursday

SB 426 – Require judge's permission before release of juror information after trial; circuit clerks' priority issue; still in House Judiciary – *needs calls of support from circuit clerks to put bill on agenda*

SB 614 – Permit law enforcement officer who is member of federally affiliated drug task force access to Bd of Pharmacy web site; 2nd reading

HB 2400 – grant licensed appraisers access to assessors' documents; *killed in Senate Gov Org today*

Just a quick rundown.....more to follow on Friday!

*Public Service Commission
Of West Virginia*

201 Brooks Street, P. O. Box 812
Charleston, West Virginia 25323



Phone: (304) 340-0300
FAX: (304) 340-0325

March 4, 2011

The Honorable Joe Manchin III
United States Senate
300 Virginia Street, East
Suite 2630
Charleston, WV 25301

Re: Kelly Daniel
Charles Town, WV
Project No.: 11W-0708-PW-CTRAT

Dear Senator Manchin,

This letter is in response to your letter to Chairman Michael A. Albert dated February 1, 2011, and received in this Division on February 10, 2011, concerning your constituent, Ms. Kelly Daniel's protest about the proposed water rate case from the Jefferson Utilities, Inc., in Jefferson County.

My Staff has already reviewed her letter from the Office of Congresswoman Shelley Moore Capito and responded by letter of February 10, 2011 (copy enclosed) explaining the entire situation to her.

Thank you for allowing the Public Service Commission of West Virginia to help you on this matter. If we can provide more information or

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MAR 09 2011

Jefferson County Commission

The Honorable Joe Manchin III
Project No.: 11W-0708-PW-CTRAT
March 4, 2011
Page 2

be of further assistance, please contact James F. Aucremanne at (800) 344-5113, extension 379 between the hours of 8:00 am. – 5:00 pm. Monday thru Friday.

Sincerely,


Amy L. Swann, Director
Water and Wastewater Division

Enclosure

ALS:JFA:nat

cc: Michael A. Albert, Chairman, Public Service Commission of West Virginia
Susan Small, Director of Federal Programs, Public Service Commission of West Virginia
Jerry Bird, Director of Government Relations, Public Service Commission of West Virginia
Jefferson County Commission
Jefferson Utilities, Inc.

Daniel(2)(MANCHIN)(RateIncrease-WaterQuality)2001-Jefferson(11W-0708-PW-CTRAT) f.doc

AS
3/2/11

*Public Service Commission
Of West Virginia*

201 Brooks Street, P. O. Box 812
Charleston, West Virginia 25323



Phone: (304) 340-0300
FAX: (304) 340-0325

February 10, 2011

The Honorable Shelley Moore Capito
United States Congress
4815 MacCorkle Avenue, SE
Charleston, WV 25304

Re: Kelly Daniel - Informal Complaint
Jefferson Utilities, Inc.
Project No. 11W-0482-PW-CTRAT

Dear Representative Capito,

This letter is in response to your letter to Chairman Michael A. Albert dated January 19, 2011, and received in this Division on January 31, 2011, concerning your constituent, Ms. Kelly Daniel's protest about the proposed water rate increase from the Jefferson Utilities, Inc.

My Staff has reviewed your letter and discussed the situation with Mr. Lee Snyder, President for the Jefferson Utilities, Inc. (JUI). He has advised my staff that the utility has filed a formal case under Case No.: 10-1329-W-42T on August 20, 2010. The Commission issued a Procedural Order on October 6, 2010, which suspended the proposed rates until 12:01 am on February 19, 2011. The Commission must enter an Order on this case prior to that suspension date. Your letter on behalf of Ms. Daniel has already been forwarded to the Executive Secretary's office to be included in the case file for review.

Because the case is now pending before the Commission, I can not provide further informal assistance at this time. The Commission Staff which was assigned to the case has completed its investigation and review and filed a final recommendation. The Administrative Law Judge (ALJ) conducted a hearing on Wednesday, December 1, 2010 and Thursday, December 2, 2010 at the City of Ranson Building, Council Chambers, at 312 South Mildred Street, Ranson, WV beginning at 9:30 am each day. After conducting the hearing and receiving all the evidence from the public, the utility and the Commission Staff, the ALJ issued a Recommended Decision on January 7, 2011. If the Recommended Decision is in error regarding a finding of fact or conclusion of law, any party to the rate case may file exceptions with the full

The Honorable Shelley Moore Capito
Project No. 11W-0482-PW-CTRAT
February 10, 2011
Page 2

Commission. To date, there have been exceptions filed by the Commission Staff, the JUI and the public. Therefore, the Commission will now review the case file and make its own decision on the case.

The Public Service Commission is a quasi-judicial agency. The procedural time frame in rate cases is decided by the Commission. The procedural schedule establishes a Recommended Decision due date - that is the latest date a Recommended Decision can be issued. The ALJ Division works diligently to complete the process prior to this date. The time preceding the Recommended Decision due date provides for Staff's investigation and filing of their recommendations; filing of responses from all parties; hearings and time for transcripts and briefs to be filed after a hearing. The ALJ can review all the material filed in the case and at that time issue the Recommended Decision. Because the Commission is concerned with the adjudication of the PSC Rules and Regulations which requires discretion and decision and is subject to judicial review, the established procedural schedule does not allow for abrupt decisions.

Thank you for allowing the Public Service Commission of West Virginia to help you on this matter. If we can provide more information or be of further assistance, please contact James F. Aucremanne at (800) 344-5113, extension 379 between the hours of 8:00 a.m. - 5:00 p.m., Monday thru Friday.

Sincerely,



Amy L. Swann, Director
Water and Wastewater Division

ALS/JFA:nat

cc: Michael A. Albert, Chairman, Public Service Commission of West Virginia
Susan Small, Director of Federal Programs, Public Service Commission of West Virginia
Jerry Bird, Director of Government Relations, Public Service Commission of West Virginia
Jefferson County Commission
Jefferson Utilities, Inc.

WEST VIRGINIA LOTTERY

First Benchmark
Charles Town
County / City Split
Fiscal Year 2011

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 34.56%	HARPERS FERRY 3.65%	RANSON 35.08%	SHEPHERDS TOWN 14.29%
3 days ending: 7/1/10- 7/3/10	\$ 115,402.58	\$ 115,402.58	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Week ending:								
07/10/10	\$ 205,731.84	\$ 205,731.84	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
07/17/10	\$ 161,386.76	\$ 161,386.76	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
07/24/10	\$ 160,368.28	\$ 160,368.28	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
07/31/10	\$ 157,802.08	\$ 157,802.08	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
08/07/10	\$ 161,617.82	\$ 136,494.98	\$ 25,122.84	\$ 3,120.27	\$ 8,682.45	\$ 916.98	\$ 8,813.09	\$ 3,590.05
08/14/10	\$ 156,753.36	\$ 78,376.68	\$ 78,376.68	\$ 9,734.38	\$ 27,086.98	\$ 2,860.75	\$ 27,494.54	\$ 11,200.03
08/21/10	\$ 152,398.04	\$ 76,199.02	\$ 76,199.02	\$ 9,463.92	\$ 26,334.38	\$ 2,781.26	\$ 26,730.62	\$ 10,888.84
08/28/10	\$ 144,920.06	\$ 72,460.03	\$ 72,460.03	\$ 8,999.54	\$ 25,042.19	\$ 2,644.79	\$ 25,418.97	\$ 10,354.54
09/04/10	\$ 152,725.68	\$ 76,362.84	\$ 76,362.84	\$ 9,484.26	\$ 26,391.00	\$ 2,787.24	\$ 26,788.09	\$ 10,912.25
09/11/10	\$ 165,938.72	\$ 82,969.36	\$ 82,969.36	\$ 10,304.79	\$ 28,674.21	\$ 3,028.39	\$ 29,105.65	\$ 11,856.32
09/18/10	\$ 135,277.56	\$ 67,638.78	\$ 67,638.78	\$ 8,400.74	\$ 23,375.96	\$ 2,468.82	\$ 23,727.68	\$ 9,665.58
09/25/10	\$ 140,870.12	\$ 70,435.06	\$ 70,435.06	\$ 8,748.03	\$ 24,342.36	\$ 2,570.88	\$ 24,708.62	\$ 10,065.17
10/02/10	\$ 142,027.72	\$ 71,013.86	\$ 71,013.86	\$ 8,819.92	\$ 24,542.39	\$ 2,592.01	\$ 24,911.66	\$ 10,147.88
10/09/10	\$ 138,623.00	\$ 69,311.50	\$ 69,311.50	\$ 8,608.49	\$ 23,954.06	\$ 2,529.87	\$ 24,314.47	\$ 9,904.61
10/16/10	\$ 150,469.24	\$ 75,234.62	\$ 75,234.62	\$ 9,344.14	\$ 26,001.08	\$ 2,746.06	\$ 26,392.31	\$ 10,751.03
10/23/10	\$ 140,581.60	\$ 70,290.80	\$ 70,290.80	\$ 8,730.12	\$ 24,292.50	\$ 2,565.81	\$ 24,658.01	\$ 10,044.56
10/30/10	\$ 131,230.08	\$ 65,615.04	\$ 65,615.04	\$ 8,149.39	\$ 22,676.56	\$ 2,394.95	\$ 23,017.75	\$ 9,376.39
11/06/10	\$ 122,675.24	\$ 61,337.62	\$ 61,337.62	\$ 7,618.13	\$ 21,198.28	\$ 2,238.82	\$ 21,517.24	\$ 8,765.15
11/13/10	\$ 129,190.56	\$ 64,595.28	\$ 64,595.28	\$ 8,022.73	\$ 22,324.13	\$ 2,357.73	\$ 22,660.02	\$ 9,230.67
11/20/10	\$ 112,020.16	\$ 56,010.08	\$ 56,010.08	\$ 6,956.45	\$ 19,357.08	\$ 2,044.37	\$ 19,648.34	\$ 8,003.84
11/27/10	\$ 142,341.80	\$ 71,170.90	\$ 71,170.90	\$ 8,839.43	\$ 24,596.66	\$ 2,597.74	\$ 24,966.75	\$ 10,170.32
12/04/10	\$ 106,430.16	\$ 53,215.08	\$ 53,215.08	\$ 6,609.31	\$ 18,391.13	\$ 1,942.35	\$ 18,667.85	\$ 7,604.44
12/11/10	\$ 93,888.00	\$ 46,944.00	\$ 46,944.00	\$ 5,830.44	\$ 16,223.85	\$ 1,713.46	\$ 16,467.95	\$ 6,708.30
12/18/10	\$ 84,153.52	\$ 42,076.76	\$ 42,076.76	\$ 5,225.93	\$ 14,541.73	\$ 1,535.80	\$ 14,760.53	\$ 6,012.77
12/25/10	\$ 100,900.56	\$ 50,450.28	\$ 50,450.28	\$ 6,265.92	\$ 17,435.62	\$ 1,841.44	\$ 17,697.96	\$ 7,209.35
01/01/11	\$ 170,304.24	\$ 85,152.12	\$ 85,152.12	\$ 10,575.89	\$ 29,428.57	\$ 3,108.06	\$ 29,871.36	\$ 12,168.24
01/08/11	\$ 108,602.60	\$ 54,301.30	\$ 54,301.30	\$ 6,744.22	\$ 18,766.53	\$ 1,982.00	\$ 19,048.89	\$ 7,759.66
01/15/11	\$ 108,011.80	\$ 54,005.90	\$ 54,005.90	\$ 6,707.53	\$ 18,664.44	\$ 1,971.22	\$ 18,945.27	\$ 7,717.44
01/22/11	\$ 121,849.48	\$ 60,924.74	\$ 60,924.74	\$ 7,566.85	\$ 21,055.59	\$ 2,223.75	\$ 21,372.40	\$ 8,706.15
01/29/11	\$ 96,073.88	\$ 48,036.94	\$ 48,036.94	\$ 5,966.19	\$ 16,601.57	\$ 1,753.35	\$ 16,851.35	\$ 6,864.48
02/05/11	\$ 121,554.88	\$ 60,777.44	\$ 60,777.44	\$ 7,548.56	\$ 21,004.68	\$ 2,218.38	\$ 21,320.72	\$ 8,685.09
02/12/11	\$ 134,943.68	\$ 67,471.84	\$ 67,471.84	\$ 8,380.00	\$ 23,318.27	\$ 2,462.72	\$ 23,669.12	\$ 9,641.73
02/19/11	\$ 144,037.08	\$ 72,018.54	\$ 72,018.54	\$ 8,944.70	\$ 24,889.61	\$ 2,628.68	\$ 25,264.10	\$ 10,291.45
02/26/11	\$ 151,088.04	\$ 75,544.02	\$ 75,544.02	\$ 9,382.57	\$ 26,108.01	\$ 2,757.36	\$ 26,500.84	\$ 10,795.24
03/05/11	\$ 149,070.68	\$ 74,535.34	\$ 74,535.34	\$ 9,257.29	\$ 25,759.41	\$ 2,720.54	\$ 26,147.00	\$ 10,651.10
Subtotal	\$ 4,911,260.70	\$ 2,911,662.09	\$ 1,999,598.61	\$ 248,350.13	\$ 691,061.28	\$ 72,985.38	\$ 701,459.15	\$ 285,742.67

Benchmark Goal @ 2% \$ 912,063.48

Remainder until 1% / 1% Split \$ -

**WEST VIRGINIA LOTTERY
WEEKLY SETTLEMENT FOR CHARLES TOWN**

Week Ending Date	Week Ending March 5, 2011
To be Deposited on:	March 11, 2011
Amount Played	87,121,572.90
Amount Won	78,226,280.64
Amount Promo	228,835.00
MWAP Contribution	<u>39,682.48</u>
Adjusted Gross Terminal Revenue	<u>8,626,774.78</u>
Administrative Costs @ 4%	0.00
Excess Lottery Fund @ 4%	<u>345,070.99</u>
Net Terminal Revenue	<u>8,281,703.79</u>
Surcharge @ 10%	828,170.38
State Share Excess @ 58%	480,338.82
Track Share of Capital Reinvestment @ 42%	347,831.56
<i>Track Share of Capital Reinvestment @ 42% - 96%</i>	\$ 333,918.30
<i>Track Share of Capital Reinvestment @ 42% - 4%</i>	\$ 13,913.26
Adjusted Net Terminal Revenue	<u>7,453,533.41</u>
Racetrack @ 46.50% / 42%	3,130,484.03
Lottery Fund @ 30% / 0%	0.00
Excess Lottery Fund @ 0% / 41%	3,055,948.68
Race Track Purses @ 7% / 14% / 8%	596,282.67
Workers' Compensation Debt Reduction @ 7%	0.00
Employee Pension Fund @ 1% / .5%	37,267.67
Greyhound Development @ .75%	55,901.50
Thoroughbred Development @ .75%	55,901.50
Racing Commission @ 1%	74,535.34
County/Municipality @ 2%	149,070.68
3% Funds:	
Tourism Promotion Fund @ 1.375%	102,486.08
Development Office Promotion Fund @ .375%	27,950.75
Research Challenge Fund @ .5%	37,267.67
Capitol Renovation and Improvement Fund @ .6875%	51,243.04
2004 Capitol Complex Parking Garage Fund @ .0625%	4,658.46
1% Funds:	
State Capitol Complex Parking Garage @ 1%	0.00
Cultural Facilities and Capitol Resources @ .5%	0.00
Capitol Dome and Capitol Improvements @ .5% / 1%	<u>74,535.34</u>
	<u>7,453,533.41</u>

VIDEO LOTTERY REPORT
FY 2009

Table Game Revenues
FY 2011

FY 2009		FY 2010		FY 2011		FY 2011	
Date	Amount	Date	Amount	Date	Amount	Date	Amount
7/5/2008 *	169,912.56	7/4/2009 *	128,262.42	7/3/2010	115,402.58		
7/12/2008	176,592.38	7/11/2009	168,815.08	7/10/2010	205,731.64		
7/19/2008	160,344.08	7/18/2009	160,652.98	7/17/2010	161,386.76		
7/26/2008	162,982.74	7/25/2009	158,869.08	7/24/2010	160,368.28		
8/2/2008	178,171.04	8/1/2009	174,493.08	7/31/2010	157,802.08		
8/9/2008	123,538.04	8/8/2009	138,408.80	8/7/2010	136,494.98		
8/16/2008	82,482.89	8/15/2009	81,222.14	8/14/2010	78,376.68		
8/23/2008	76,426.18	8/22/2009	76,260.31	8/21/2010	76,199.02		
8/30/2008	89,459.86	8/29/2009	80,472.92	8/28/2010	72,460.03	July/Aug 10	154,185.68
9/6/2008	91,644.46	9/5/2009	80,798.15	9/4/2010	76,362.84		
9/13/2008	79,729.93	9/12/2009	86,286.92	9/11/2010	82,969.36		
9/20/2008	71,269.36	9/19/2009	70,010.15	9/18/2010	67,638.78		
9/27/2008	79,735.73	9/26/2009	69,316.87	9/25/2010	70,435.06	Sept. 2010	94,247.84
10/4/2008	75,186.22	10/3/2009	72,286.04	10/2/2010	71,013.86		
10/11/2008	77,139.04	10/10/2009	69,650.63	10/9/2010	69,311.50		
10/18/2008	80,668.26	10/17/2009	73,560.21	10/16/2010	75,234.62		
10/25/2008	64,379.44	10/24/2009	67,581.66	10/23/2010	70,290.80		
11/1/2008	68,352.42	10/31/2009	64,528.30	10/30/2010	65,615.04	Oct-10	105,903.60
11/8/2008	70,823.02	11/7/2009	63,741.59	11/6/2010	61,337.62		
11/15/2008	65,565.50	11/14/2009	65,959.64	11/13/2010	64,595.28		
11/22/2008	63,883.80	11/21/2009	59,547.05	11/20/2010	56,010.08		
11/29/2008	69,850.12	11/28/2009	72,399.98	11/27/2010	71,170.90	Nov-10	108,717.67
12/6/2008	55,696.68	12/5/2009	51,006.51	12/4/2010	53,215.08	Dec-10	118,721.11
12/13/2008	60,178.04	12/12/2009	52,460.58	12/11/2010	46,944.00		
12/20/2008	52,189.19	12/19/2009	32,834.39	12/18/2010	42,076.76		
12/27/2008	72,205.91	12/26/2009	53,406.34	12/25/2010	50,450.28		
1/3/2009	96,504.65	1/2/2010	92,980.40	1/1/2011	85,152.12		
1/10/2009	53,286.62	1/9/2010	55,020.46	1/8/2011	54,301.30		

1/17/2009	56,068.87	1/16/2010	60,551.28	1/15/2011	54,005.90	
1/24/2009	71,474.63	1/23/2010	69,943.53	1/22/2011	60,924.74	
1/31/2009	61,089.80	1/30/2010	48,527.75	1/29/2011	48,036.94	Jan-11 106,189.21
2/7/2009	83,539.63	2/6/2010	37,155.14	2/5/2011	60,777.44	
2/14/2009	76,054.44	2/13/2010	44,334.00	2/12/2011	67,471.84	
2/21/2009	91,838.41	2/20/2010	76,946.12	2/19/2011	72,018.54	
2/28/2009	80,806.88	2/27/2010	72,024.40	2/26/2011	75,544.02	
3/7/2009	48,837.13	3/6/2010	76,936.85	3/5/2011	74,535.34	
3/14/2009	96,025.39	3/13/2010	71,007.37			
3/21/2009	79,002.82	3/20/2010	74,335.38			
3/28/2009	79,250.83	3/27/2010	69,941.88			
4/4/2009	75,968.30	4/3/2010	70,636.28			
4/11/2009	75,964.94	4/10/2010	69,692.79			
4/18/2009	80,598.22	4/17/2010	69,335.92			
4/25/2009	75,571.46	4/24/2010	68,714.11			
5/2/2009	73,957.05	5/1/2010	68,799.06			
5/9/2009	76,697.22	5/8/2010	67,403.54			
5/16/2009	71,925.70	5/15/2010	70,186.32			
5/23/2009	81,395.43	5/22/2010	64,695.71			
5/30/2009	82,161.55	5/29/2010	67,157.40			
6/6/2009	74,895.74	6/5/2010	77,371.80			
6/13/2009	67,327.23	6/12/2010	66,106.29			
6/20/2009	75,500.53	6/19/2010	64,888.48			
6/27/2009	67,354.10	6/26/2010	63,950.29			
6/30/2009 ***	32,059.58	6/30/2010	29,667.19			
TOTALS	4403564.04	4041141.56	2911662.09		687965.11	

Sandy McDonald

From: "Al Cobb, PanelWrights" <al@panelwrights.com>
To: <dstellato@jeffersoncountywv.org>; <webmaster@jeffersoncountywv.org>; <laura@jeffersoncountywv.org>; <sandy@jeffersoncountywv.org>; <nhosby@jeffersoncountywv.org>
Sent: Monday, March 07, 2011 11:15 AM
Subject: Building the Most Energy-Efficient Structure in West Virginia

Your submission:

Your Name: Al Cobb, PanelWrights
Your Email Address: al@panelwrights.com
Subject: Building the Most Energy-Efficient Structure in West Virginia
Message: Fellow West Virginians,

PanelWrights is building the most energy-efficient structure in West Virginia. My name is Al Cobb. I'm a general contractor in Jefferson County and have been in business here for over 12 years. The project I'd like to share with you is a small commercial building that will be used as the CraftWorks at Cool Spring studio in Jefferson County, just outside Charles Town. The reason I think you'll be interested in this project is that I'm convinced it will be the most energy-efficient structure in West Virginia. In fact, I'm promoting the project and my company using exactly those words.

My company PanelWrights specializes in super-energy efficient structures. I've been involved in countless homes that were built off-grid or as net-zero energy homes. I have extensive experience in projects that have been designed and built to a standard such as LEED, Energy Star, Green Globes, Earth Craft, and recently completed Washington DC's first Passive House. These projects all share a common goal: to use less energy. This concept is one that I believe every builder, homeowner, code official and legislator ought to passionately support. The experiences I've had in building both residential and commercial structures over the past three decades is being directed at the CraftWorks Studio. This project is using high levels of insulation (Structural Insulated Panels) and air-sealing techniques that provide an exceptionally efficient envelope. The structure is being outfitted with an energy monitoring system that I co-developed here in West Virginia. The combination of techniques and whole structure monitoring will allow anyone to log on to the world wide web and see how much energy our little 2000 square foot building consumes. This strategy is quite different from the point-based systems mentioned above. I don't believe we should add up our points and pat ourselves on the back while we cut the ribbon on opening day, and then walk away with no further energy efficiency results being proven or required. We should verify our accomplishments by monitoring our energy consumption. It's simple and it works.

So why am I bothering you with this information about this small project in the Eastern Panhandle?

First, I want you to know that you're all invited to see that energy efficiency is real, achievable, and being proven by a small builder in West Virginia. I want you to consider a trip to see our ribbon cutting ceremony on June 4th, 2011. I hope that you'll look at what we can affordably achieve and think how this process can be replicated throughout our building industry and what that could mean in West Virginia.

Secondly, I want you to familiarize yourself with the pending adoption of new energy codes for construction. I would like to share my story of how building green and energy efficient is what has kept this business alive through the past three years while my fellow builders are folding

with alarming consistency. It is the embrace of higher energy efficiency mandated by the codes that makes buildings better and more affordable. Unfortunately, there are a number of industry dinosaurs who would have you believe raising the bar is a bad thing. How does reducing one's utility bill not make sense when we consistently show savings from reduced energy consumption more than offsets marginal increased building costs? This is simple math when we look at a monthly mortgage payment that is combined with a monthly utility bill.

Finally, I hope you'll spread the word about my claim of building the Most Energy-Efficient Structure in West Virginia - you can follow PanelWrights blog for updates. It may bring out the skeptics and we can educate them. It may bring out competing claims by others and we can learn from each other while fighting for the title. Or it may just be a way to promote a simple idea that yields big results.

I enjoy living and working in West Virginia as a builder, an educator, and a public speaker. I founded and operate the trade school known as SIPschool that attracts builders, architects, and engineers from all over the country and occasionally internationally. It is this training that helps to educate and inspire fellow builders to build better structures. I welcome your feedback, your support, and hopefully your company this June 4th, when we can admire our handiwork and share a frosty Mountaineer lager brewed up the road in Martinsburg.

Al Cobb

304-876-0265

www.panelwrights.com

Ethics Reporter

Since the Last Reporter

Since the January edition of the **REPORTER**, the West Virginia Ethics Commission published three Advisory Opinions interpreting provisions of the West Virginia Governmental Ethics Act and the laws governing Boards of Education.

At its February 3 meeting, the West Virginia Ethics Commission approved opinions relating to the permissibility of a board of education using public resources to promote an excess levy, the permissibility of a county commissioner conducting business with the county in multiple situations and the permissibility of a county commissioner's business contracting

with a conservation district.

ADVISORY OPINION REPORT

Advisory Opinion 2010-23 concerned the permissibility of a board of education using public resources to promote an excess levy.

In this case, a county board had caused an excess levy to be placed on a special election ballot. The proceeds of the levy were to be spent on staff salaries and benefits. In order to promote community education about the levy, the county superintendent scheduled community meetings and also offered school employees an hour off with pay to attend.

In its review of the request, the Ethics Commission examined the provisions of 6B-2-5(b) which prohibits the use of a public office to produce a private gain for oneself or another.

In its opinion, the Ethics Commission ruled that since the excess levy was dedicated to providing salaries and benefits for school system employees, the use of public resources to promote the levy, including allowing paid time off for employees to attend meetings, would constitute a violation of the Ethics Act.

However, the Commission chose not to offer guidance on what other promotional activities a county board could undertake by using public resources to promote a levy in instances where a potential "private gain" was not so clearly identifiable as it was in this case.

Advisory Opinion 2011-01 concerned the permissibility of a county commissioner conducting business with the county in multiple situations.

The commissioner is a property appraiser who is involved in appraising

**February, 2011
Page Two**

estates and consulting on estates which subsequently come before the commission for probate proceedings. The commissioner seeks guidance on whether she can continue on with this professional undertaking and under what circumstances.

Additionally, the commissioner owns a nursing home which accepts the placement of persons under the protection of the county sheriff and seeks guidance on the permissibility of that business activity.

The commission has no direct jurisdiction over the sheriff's management of protected persons but it does set the budget of the sheriff's department.

The Ethics Commission reviewed the provisions of 6B-2-5(b) which prohibits a public official from using their office for private gain, 6B-2-5(d) prohibiting a public official from having an interest in a contract over which they have authority or control, and

6B-2-5(g) which prohibits a public official from appearing in a representative capacity before a body in which he or she serves.

In addition, the Ethics Commission considered the application of 6B-2-5(j) prohibiting a public official from voting on a matter in which they have an interest, but also outlining recusal procedures that may be followed to mitigate the conflict.

The Commission also analyzed the language of Chapter 61-10-15 making it unlawful for a member of a county board to have either direct or indirect pecuniary interests in matters over which they exercise voice, influence or control.

In its opinion, the Ethics Commission ruled that the county commissioner could not permissibly appraise estates that are probated by the commission or be appointed by the sheriff to do the same without violating 61-10-15. Nor can the commissioner appear in any capacity as an expert consultant on the value of estates

that come before the commission on probate.

In regard to the other question posed in this request, the Ethics Commission also ruled that because the county commission has budgetary control over the sheriff, the commissioner's nursing home business may not permissibly accept the assignment of any protected persons from the sheriff without also violating 61-10-15.

Advisory Opinion 2011-02 addressed the permissibility of a county commissioner's business contracting with a conservation district.

In this case, a newly elected county commissioner owns a construction business and desires to compete for a bid being offered by a conservation district that serves his county. The district encompasses three counties and the county commission on which the requester serves provides \$2,700 to the district's budget. The project on which the commission desires to bid will be funded by funds that are not

provided by the county commission.

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 have control or authority, along with the language of applicable Ethics Commission rules on the subject. Additionally, the Commission analyzed the provisions of 61-10-15 which prohibit county officials from having direct or indirect pecuniary interests in contracts over which they exercise voice, influence or control.

The Ethics Commission determined the Ethics Act presents no impediments to the commissioner seeking a contract with the conservation district since the members of the district board are not appointed by the commission and the mere appropriation of funds to the district does not provide the county commission with the degree of control contemplated in the Ethics Act relative to a potential conflict.

With regard to the proposed activity's permissibility under 61-10-15, the Ethics Commission ruled that the county commissioner could contract with the conservation district as long as no county funds were involved in the project and if the commissioner recused himself from all future appropriation (or other) matters pertaining to the district that came before the county commission in the future.

In this instance, the Ethics Commission found that the county commission has no appointive power over the district and is not required to provide funding for it either—and in this instance only provides a minimal amount of funds on a voluntary basis.

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(Only includes opinions published since the January edition of THE REPORTER)

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2011-02:

Permissibility of a county commissioner's business contracting with a conservation district

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NONE PUBLISHED

STATE GOVERNMENT

NONE PUBLISHED

TRADE
ASSOCIATIONS AND
LOBBYISTS

NONE PUBLISHED

MISCELLANEOUS

NONE PUBLISHED

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**WEST VIRGINIA ETHICS COMMISSION
2011 ADVISORY OPINIONS
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MISCELLANEOUS

NONE PUBLISHED

ADVISORY OPINION NO. 2010-23

Issued On February 3, 2011 By The

WEST VIRGINIA ETHICS COMMISSION

2011 FEB -7 AM 10: 53

WEST VIRGINIA
SECRETARY OF STATE

OPINION SOUGHT

A Member of a County Board of Education asks whether public resources, including personnel, may be used to promote the passage of an excess levy.

FACTS RELIED UPON BY THE COMMISSION

The Requester is an elected member of a County Board of Education. As with many school boards throughout West Virginia, his County from time to time hosts special elections for school bonds and excess levies to support the county school system. In the most recent levy, a majority of the funds raised will be used to supplement the salaries of school employees, and to fund fringe benefits for them and their dependents.

According to the Requester, in a recent levy election, the Superintendent directed principals to encourage attendance at a community rally the school board was hosting to promote the passage of the excess levy. Specifically, the Requester states that employees were offered the opportunity to leave work one hour early, with pay, in exchange for attending the rally. It is unclear whether the opportunity was available to all employees, hourly and salaried alike.¹

Although Ethics Advisory Opinions only apply to prospective conduct, the Requester generally asks whether public resources, including personnel, may be used to promote the passage of an excess levy. He further asks: "Specifically, is it proper for a school board or a county superintendent to offer school employees who attend a rally to publicly support the levy to leave an hour early from work, with pay, in exchange for attending that rally?"

CODE PROVISIONS RELIED UPON BY THE COMMISSION

W. Va. Code § 6B-2-5(b) reads:

A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person. Incidental use of equipment or resources available to a public official or public employee by virtue of his or her position for personal or business purposes resulting in de minimis

¹ One could argue that since salaried employees are not compensated by the hour, an early release does not necessarily result in an expense to the government. The Commission notes, however, that even when salaried public employees are away from their work site during their regular publicly compensated work hours, they must use accrued leave time, e.g. sick, annual or personal days.

private gain does not constitute use of public office for private gain under this subsection. The performance of usual and customary duties associated with the office or position or the advancement of public policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.

ADVISORY OPINION

In establishing the Ethics Act, the Legislature sought to create a code of ethics to guide public officials and employees in their public employment. The expressed goal was to assist public servants in avoiding conflicts between their public service and any outside personal interests. W.Va. Code § 6B-1-2(d).

At first blush, this situation appears to be unique, since the potential conflict exists between two competing public services; indeed the Act excepts from its prohibitions the advancement of public policy. But here the majority of the funds raised through the excess levy inure to the personal benefit of school employees, whose increased compensation and benefits depend upon the electorate's support of the levy.

Thus, the Commission must determine whether the expenditure of public funds, including personnel, to promote the passage of the levy constitutes the prohibited use of public office for private gain.

Here, the majority of the funds raised through the passage of an excess levy will go to school employees and their dependents. Thus, they have a personal interest in the levy's passage.² Further, appearing at a pro-levy rally does not constitute the "performance of usual and customary duties associated with the ... position" permitted by the Ethics Act. Authorizing time off with pay effectively compensates individuals to advocate for the passage of a ballot measure that directly benefits them. This is one of the types of actions the Ethics Act's prohibition against the use of office for private gain seeks to prevent.³

As a result, the Commission finds that public resources, including personnel, may not be used to promote the passage of an excess levy wherein school personnel are the primary beneficiaries. Thus, neither the Superintendent nor the county board may grant paid time off to school employees in exchange for attending a rally in support of the levy, or otherwise provide a financial incentive to school employees to support the levy.⁴

² The Ethics Commission takes administrative notice that the passage of the excess levy provides a public benefit by improving public education.

³ See also AO 2009-02 wherein the Ethics Commission stated: "Since the Legislature has not authorized Counties to spend public monies on wellness programs for County elected officials, we find that it would violate W. Va. Code § 6B-2-5(b)(1) for the County to extend the benefits of its wellness program to its elected officials."

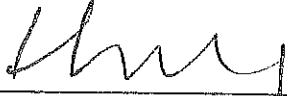
⁴ Public servants are permitted to volunteer on their own time, using their own resources, to advocate on behalf of the passage (or defeat) of an excess levy, bond or other ballot measure.

The Commission notes that, given the lack of clear guidance, it imputes no ill motive to the County Superintendent. Further, nothing in this opinion should be construed to prevent the County Superintendent, as the appointed voice of the County BOE, from advocating for passage of any excess levy. Indeed, this activity constitutes the "performance of usual and customary duties associated with the ... position" permitted by the Ethics Act.

Although the facts fall within the parameters of the Ethics Act's prohibition against the use of public office for private gain due to the direct connection between the passage of the levy and financial gain to school employees, that connection in other elections is not so obvious. For example, a levy may have as its sole purpose authorizing the construction of a new school, or there could be a municipal election for a more general ballot measure. One cannot definitively identify private beneficiaries of a favorable outcome on any such election.⁵

Thus, the broader question presented is whether public resources may be used to promote such a levy without violating the Ethics Act. In the absence of a direct financial benefit to school employees, then it is more difficult to establish the existence of private gain. As a result, this issue falls outside the purview of the Ethics Act. Instead, other laws and policy determinations govern this matter. The Ethics Commission has limited jurisdiction: to interpret the Ethics Act. Should the Requester desire a more definitive ruling on his more general question regarding the use of public resources to promote a levy, the Commission recommends that he consult with the West Virginia State Auditor's Office, the State Department of Education, the West Virginia's Secretary of State's Office, the Office of the Attorney General, and/or the Legislature.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.*, 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.


Jonathan E. Turak, Acting Chairperson

⁵ Yet a partisan election for a levy or bond will always have at least two sides: for and against.

ADVISORY OPINION NO. 2011-01

Issued On February 3, 2011 By The 2011 FEB -7 AM 10:23

WEST VIRGINIA ETHICS COMMISSION

SECRET
OFFICE OF THE ATTORNEY GENERAL
STATE OF WEST VIRGINIA

OPINION SOUGHT

A County Council Member requests guidance on several issues relating to two businesses she owns, both of which interact regularly with County officials.

- (1) May a County Council Member who is also a Certified Personal Property Appraiser appraise estates that may later be probated in the County in which she serves as a County Council Member? If so, is she required to recuse herself from any probate matters coming before the County Council when she has appraised the estate that is being probated?
- (2) May a County Council Member who is also a Certified Personal Property Appraiser appear on a list of appraisers that the Office of the Fiduciary Supervisor, an arm of the County Council, prepares and provides to people interested in obtaining such expert assistance for estate matters that may later be probated in the County in which she serves as a County Council Member?
- (3) If a County Council Member appraised an estate, the value of which and/or her compensation therefor, is later challenged, may she appear in any capacity, including being called as a witness to the value of the estate and/or the amount of her requested compensation? Indeed, may she ever appear in any estate proceeding before the County Council, its Fiduciary Supervisor, or any County Council appointed Fiduciary Commissioner?
- (4) May a County Council Member who owns a nursing home accept the placement of "protected persons" in her facility by a Sheriff who is their court appointed conservator?

FACTS RELIED UPON BY THE COMMISSION

In West Virginia, as in other states, there are specific statutory provisions that govern the administration of a decedent's estate. In the Requester's county, a Fiduciary Supervisor oversees parts of the probate process pursuant to W. Va. Code § 44-3A-1 *et seq.* The County Council or County Clerk appoints an administrator to serve as the fiduciary of the estate. W. Va. Code § 41-5-1 or § 44-1-4. Under certain circumstances, the County Council may appoint the Sheriff to administer an estate. W. Va. Code § 44-1-11. The Sheriff's fee is based on the value of the estate. *Id.*

An administrator may be a personal representative. W. Va. Code § 42-1-1(29). A personal representative shall appraise the deceased's real estate and personal probate

property. W. Va. Code § 44-1-14(a). A personal representative, including the Sheriff in his capacity as appointed estate administrator, may hire an expert to appraise the deceased's property. W. Va. Code § 44-1-14(i). The administrator or personal representative files a final settlement report of the estate with the County Clerk. W. Va. Code § 44-4-14a. The County Clerk sends the final report to the County Council for approval. W. Va. Code § 44-4-18. "An expert so retained [to appraise the estate] shall be compensated a reasonable sum by the personal representative from the assets of the estate. The compensation and its reasonableness is subject to review and approval by the county [council], upon recommendation of the fiduciary supervisor." W. Va. Code § 44-1-14(a).

The Requester is a newly elected member of an elected County Council which has the same duties and responsibilities as a County Commission. The member and her husband jointly own a business related to the administration and probate of estates. The business assists clients in the filing of probate forms and in other ways associated with probating an estate. Like County Commissions, the County Council has jurisdiction over estate related disputes. See *generally* W. Va. Code § 7-1-3. Additionally, the Office of the Fiduciary Supervisor, an arm of the County Council, prepares a list of local businesses willing and qualified to appraise property and assist with probate matters; it provides the entire list to people interested in obtaining such expert assistance. The Requester's name is on the list.

When a personal representative retains the Requester as an expert appraiser—either because of selection from the Fiduciary Supervisor's list, or independent thereof—the Requester's role relative to the probate of the estate is limited to assisting and advising the personal representative in appraising any asset or property. She does not appear before the County Council, County Clerk, Fiduciary Commissioner or Fiduciary Supervisor in any probate proceeding—contested or uncontested—in the traditional sense of representing a party.

In the event that there is a challenge to the Requester's appraised value of an estate or to the amount of compensation the Requester seeks, then the Requester is involved in the proceedings to resolve such disputes. While she does not appear in a representative capacity, she does appear as a witness to explain or justify either her appraisal or amount of requested compensation, or both, and to answer any questions put to her by the County Council, Fiduciary Commissioner or Fiduciary Supervisor in any such probate proceeding.

The Requester also owns a nursing home which accepts "protected persons" as residents. A "protected person" is "[a]ny person determined to be 'mentally incompetent', 'intellectually disabled' or 'mentally handicapped'...." W. Va. Code §44A-1-2. The County Council has no jurisdiction or involvement in such matters. At times, however, a court appoints the Sheriff as conservator over the interests of a protected person. W. Va. Code § 44A-1-8. The Sheriff is authorized to select which nursing home to place a person under his care, pursuant to W. Va. Code § 44A-3-1(a), although the Sheriff makes all payments through private, not public, funds.

The Sheriff is an elected County official. His department's budget, as with all County officials, must be approved by the County Council. W. Va. Code § 7-7-7.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

W. Va. Code § 6B-2-5(b) reads, in relevant part:

A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person.

W. Va. Code § 6B-2-5(d) reads, in relevant part:

(1) In addition to the provisions of section fifteen, article ten, chapter sixty-one of this code, no elected ... public official ... or member of his or her immediate family or business with which he or she is associated may be a party to or have an interest in the profits or benefits of a contract which the official ... may have direct authority to enter into, or over which he or she may have control....

W. Va. Code § 6B-2-5(g) reads, in relevant part:

Except as otherwise provided in section three, four or five, article two, chapter eight-a of this code: (1) No elected ... public official ... shall, during his or her public service ... with a governmental entity authorized to hear contested cases or promulgate or propose rules, appear in a representative capacity before the governmental entity in which he or she serves ... in the following matters:

- (A) A contested case involving an administrative sanction, action or refusal to act;
- (B) To support or oppose a proposed rule;
- (C) To support or contest the issuance or denial of a license or permit;
- (D) A rate-making proceeding; and
- (E) To influence the expenditure of public funds.

(2) As used in this subsection, "represent" includes any formal or informal appearance before, or any written or oral communication with, any public agency on behalf of any person: *Provided*, That nothing contained in this subsection shall prohibit, during any period, a former public official or employee from being retained by or employed to represent, assist or act in a representative capacity on behalf of the public agency by which he or she was employed or in which he or she served....

W. Va. Code § 6B-2-5(j) reads in relevant part

(1) Public officials, excluding members of the Legislature who are governed by subsection (i) of this section, may not vote on a matter:

(A) In which they, an immediate family member, or a business with which they or an immediate family member is associated have a financial interest. Business with which they are associated means a business of which the person or an immediate family member is a director, officer, owner, employee, compensated agent, or holder of stock which constitutes five percent or more of the total outstanding stocks of any class.

(3) For a public official's recusal to be effective, it is necessary to excuse him or herself from participating in the discussion and decision-making process by physically removing him or herself from the room during the period, fully disclosing his or her interests, and recusing him or herself from voting on the issue.

W. Va. Code § 61-10-15 reads, in relevant part:

(a) It is unlawful for any member of a county commission... to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in the furnishing of any supplies in the contract for or the awarding or letting of a contract if, as a member... he or she may have any voice, influence or control....

ADVISORY OPINION

In establishing the Ethics Act, the Legislature sought to create a code of ethics to guide public officials and employees in their public employment. The expressed goal was to assist public servants in avoiding conflicts between their public service and any outside personal interests.

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 county officials 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.

Question #1

The Requester must exercise caution in performing the duties of her appraisal business

so as to avoid any appearance of impropriety to avoid violating W. Va. Code § 6B-2-5(b). In those instances when the Requester has appraised an estate, then she should recuse herself from any matters coming before the County Council involving the probate of the subject estate. The Ethics Commission recommends full recusal in all such situations. Full recusal requires, when the Council addresses an agenda item requiring it to consider probating estates which includes one or more the Requester has appraised, that the Requester disclose the fact that she has appraised one or more of the estates now pending before the Council, and then physically remove herself from the room during the discussion, deliberation, and disposition of all such estates that she has appraised. See W. Va. Code § 6B-2-5(j).

Under certain circumstances, the County Council may appoint the Sheriff to administer an estate. W. Va. Code § 44-1-11. The Sheriff's fee is based on the value of the estate. Id. The Sheriff, as estate administrator, may retain the services of an expert to appraise the deceased's property. W. Va. Code § 44-1-14(i).

Since the County Council is the ultimate decision-maker over the Sheriff's budget, the Commission must determine whether the Requester may appraise any estates over which the Sheriff has been appointed by the County Council as the administrator. The Ethics Act prohibits an interest in a contract over which the Requester "may have direct authority to enter into, or over which he or she may have control." W. Va. Code § 6B-2-5(d). Here, the County Council, although it exercises general control over the Sheriff's budget and appoints him as administrator of estates, does not directly control his selection of an appraiser of an estate. As a result, the Ethics Act's prohibition against having an interest in a public contract does not preclude the Requester from serving the Sheriff in that capacity.

The provisions of W.Va. Code § 61-10-15, a criminal misdemeanor statute, however, are stricter, and prohibit the Requester from being pecuniarily interested, directly or indirectly, in any contract over which she may have any voice, influence or control. Any person who violates this provision is guilty of a misdemeanor and may be removed from public office. See *generally Alexander v. Ritchie*, 53 S.E.2d 735 (W. Va. 1949). The Ethics Commission has held in the past that an Elected County Official's power to appoint constitutes "voice, influence or control" over public contracts administered by the Board or Authority over which the County Official has appointment power. See Advisory Opinion 2004-10a and Advisory Opinion 2004-10b. The situation presented here is unique, however, since the appointment power is over a co-equal elected county official.

Nonetheless, since she is a member of the body that both controls the Sheriff's budget and appoints the Sheriff as administrator, the Commission finds that the Requester has the requisite voice, influence or control sufficient to prohibit her from contracting with the Sheriff to perform appraisals of estates. The Commission also notes that the private gain provision of the Ethics Act compels this same result, since the Sheriff's fee is based on the value of the estate.

Question #2

The County Council's Office of the Fiduciary Supervisor prepares a list of local businesses willing and qualified to appraise property and assist with probate matters; it provides the entire list to people interested in obtaining such expert assistance. The Requester's name is on the list along with a number of other comparable businesses.

Upon information and belief, there is nothing on the list that identifies the Requester as a County Council Member neither is her business highlighted or otherwise given preferential treatment on the list or during the distribution thereof. Notwithstanding the foregoing, the Commission finds that the mere appearance of the Requester's business on the list provides the opportunity for the public to perceive an appearance of impropriety. For example, an estate executor may select the Requester's business over an equally qualified competitor in the mistaken assumption that s/he will receive more favorable treatment from the County Council as a result. This is the type of conflict of interest that the Ethics Act attempts to eliminate. As a result, the Requester's business should be removed from the Fiduciary Supervisor's list.

Question #3

In the event that any estate that she has appraised results in a hearing or other proceeding before the Council, the Requester must also recuse herself as outlined above. Further, if any person, or the County Council, challenges or questions the value of an estate she has appraised and the Council is called upon to determine the value thereof, then the Requester may **not** appear, even as a witness, before the Council, for to do so would violate W. Va. Code § 6B-2-5(b).

Similarly, she may neither appear in a representative capacity or as a witness when the Council determines the amount of compensation to which the Requester is entitled for her services as an expert. This situation is different from the facts presented in Advisory Opinion 2009-13 wherein the Commission ruled that a Staff Attorney for a State Regulatory Agency was permitted to represent himself before the agency on behalf of his own interests. There, the Requester was merely a Staff Attorney and the decision-makers were his superiors. Here, the Requester is an equal of the decision-makers before whom she would otherwise appear. Thus, the opportunity to use her public position for private gain is greater than that of a mere Staff Attorney who has no vote in matters pending before his Agency.

As a result, although the Requester may continue to conduct her appraisal business, she must comply with the conditions hereinabove set forth.

Question #4

The Requester owns and operates a nursing home. At times, the Sheriff, as court appointed conservator, will place "protected persons" in the Requester's nursing home. Although the payment for the expenses related thereto comes from private funds, the

Sheriff acts in his official capacity, having been appointed by virtue of his official position.

The Ethics Act prohibits an interest in a contract over which the Requester "may have direct authority to enter into, or over which he or she may have control." W. Va. Code § 6B-2-5(d). As earlier noted, the County Council is the ultimate decision-maker in the Sheriff's budget. The County Council is not responsible for appointing the Sheriff as conservator of "protected persons", nor does it control his selection of a nursing home for any protected persons. As a result, the Ethics Act does not preclude the Requester from accepting protected persons from the Sheriff for placement in her nursing home.


The Commission must next analyze whether the provisions of W.Va. Code § 61-10-15 prohibit the Requester from accepting protected persons from the Sheriff. In Advisory Opinion 99-29, when asked to apply the limitations in § 61-10-15 to the question of whether a County School Board Member's business could contract with a training center with which the School Board had a close relationship, the Commission stated that, in weighing various factors, "[T]he Commission finds this to be a close question." Similarly, here, the Commission finds it to be a close question.

Since the County Council is the ultimate decision-maker over the Sheriff's budget and the Sheriff serves as conservator by virtue of his **official** position, the Commission finds that these factors are sufficient to conclude that the Requester, as a County Council Member, **has** the requisite voice, influence or control in the Sheriff's contracts with her nursing home.

Thus, W.Va. Code § 61-10-15 prohibits the Requester from accepting protected persons from the Sheriff for placement in her nursing home. As a result, the Requester may only accept the placement of a protected person in her nursing home if the Sheriff seeks and receives a contract exemption. In order to obtain a contract exemption, the Sheriff needs to demonstrate that the Commission's decision herein creates an undue hardship, substantial interference in government operations, or excessive cost.

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.

Pursuant to W. Va. Code § 6B-2-3, any person acting in good faith reliance on an advisory opinion issued by the Ethics Commission is immune from the sanctions of W. Va. Code § 61-10-15, and shall have an absolute defense to any criminal prosecution for actions taken in good faith reliance upon such opinion.


Jonathan E. Turak, Acting Chairperson

ADVISORY OPINION NO. 2011-02

Issued On February 3, 2011 By The

WEST VIRGINIA ETHICS COMMISSION

2011 FEB -7 AM 10:23

SECRETARY OF STATE

OPINION SOUGHT

A County Council Member asks whether his business may contract with a Conservation District.

FACTS RELIED UPON BY THE COMMISSION

A newly elected County Council Member owns a construction business. He asks whether his company may bid on a contract being let by a Conservation District. The Conservation District consists of three counties, including the county where the Requester serves as an elected County Council Member.

Conservation Districts were created to conserve land from soil erosion. See W.Va. Code § 19-21A-2. The Members of the Districts are elected. W.Va. Code § 19-21A-6.

County Commissions/County Councils may provide funds to Conservation Districts; however, they are not statutorily mandated to do so. The relevant provisions of the West Virginia Code state:

The governing body of any governmental division which may reasonably be expected to receive a benefit from the construction, improvement, operation or maintenance of any works of improvement may expend money for such construction, improvement, operation or maintenance if this expectation exists as to any part of the governmental division and even though such works of improvement are not located within the corporate limits of the governmental division or are not within this state: *Provided*, That if the expenditure is not made directly by the governmental division for such purpose, it shall be made only through a conservation district or watershed improvement district organized under the laws of this state, but it shall not be necessary that any part of the governmental division be within the limits of the district through which the expenditure is made. The governing bodies or governmental divisions may set up in their respective budgets funds to be spent for such purposes and municipalities and counties may levy and collect taxes for such purposes in the manner provided by law: *Provided, however*, That in case sufficient funds cannot be raised by ordinary levies, additional funds may be raised by municipalities and counties as provided by section sixteen, article eight, chapter eleven of this code.

W.Va. Code § 19-21A-11. Counties may also enter into agreements with Districts for the purpose of constructing flood control projects. This code section, W.Va. Code § 19-21A-13, reads:

The county commission of each county and the governing body of each municipality in the state are hereby authorized and empowered to enter into a contract or agreement with the conservation district or districts for the purpose of constructing flood control projects within their respective counties or municipalities or adjacent thereto and to use the projects as recreational areas or public parks. For the purpose of defraying the cost of any such project or projects, the county commission or the governing body of any municipality is hereby authorized to borrow from the federal government or from any federal agency having money to loan, a sum sufficient to cover the cost of such project or projects. For the purpose of retiring any indebtedness incurred under the provisions of this section, notwithstanding any other provisions of law, the county commission or the governing body of any municipality is hereby authorized to lay and impose a county or citywide levy as the case might be.

This fiscal year, the Requester's County Council has allocated \$2,700.00 to the Conservation District. The District intends to submit another request for funding this fiscal year. The project on which the Requester seeks to bid is not being funded by county funds.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

W. Va. Code § 6B-2-5(d)(1) provides in part that ... no elected or appointed public 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...

W.Va. C.S.R. § 158-8-4 states that... [P]ublic officials or public employees or members of their immediate family are considered to be "associated" with a business if they or their immediate family member are a director, officer or holder of stock which constitutes five percent or more of the total outstanding stocks of any class.

W. Va. Code § 61-10-15(a) states in part that ... It is unlawful for any member of a county commission ... to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in the furnishing of any supplies in the contract for or the awarding or letting of a contract if, as a member, officer, secretary, supervisor, superintendent, principal or teacher, he or she may have any voice, influence or control...

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 county officials 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. In this case, the County Council does not appoint the Members of the Conservation District; instead, the voters of the respective counties elect the Conservation District's Members. Further, the County Council does not approve the Conservation District's budget nor is it statutorily mandated to fund the District.

The County Council is authorized to appropriate money to the District and has done so in the past. However, the Commission has previously ruled that providing funding to a governing body, standing alone, does not constitute direct authority or control for purposes of the public contract prohibition in the Ethics Act, W.Va. Code § 6B-2-5(d). Specifically, in A.O. 94-08, the Commission ruled that it would not violate the Ethics Act for a County Commissioner to contract with a County Solid Waste Authority although the County appointed two of its members and had the authority to determine the amount of funding for the Authority. See also A.O. 93-05 (Commission ruled that the Ethics Act did not prohibit a County Commissioner from contracting with a Public Service District). In these opinions, while the subject contracts did not violate the Ethics Act, the Commission found that they were prohibited by the stricter provisions in W.Va. Code § 61-10-15. As such, the Commission finds that the contract in question is permissible pursuant to the Ethics Act as the allocation of funds does not rise to direct authority or control; however, as the Requester is a member of a county council, it is necessary to examine the application of the stricter provisions in W.Va. Code § 61-10-15.

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 any "member of a county commission, district school officer, secretary of a board of education, supervisor or superintendent, principal or teacher of public schools or any member of any other county or district board or any county or district officer" 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. See *generally*

Alexander v. Ritchie, 53 S.E.2d 735 (W.Va. 1949).

The Ethics Commission has held in the past that an elected county official's power to appoint constitutes "voice, influence or control" over public contracts administered by the board or authority over which the county official has appointment power. See A.O. 2004-10A and A.O. 2004-10B. However, the relationship between conservation districts and county commissions is unique as: Conservation Members are elected, not appointed; the Districts may consist of one or more counties; County Commissions/County Councils are not statutorily required to fund these Districts; and county commissions exercise no control over their budgets.

In A.O. 99-26 the Commission ruled that a County School Board Member could contract with a County Parks and Recreation Commission although the County's special education levy provided about 6% of the Park Commission's operating budget. Similarly, the Commission ruled in A.O. 2010-14 that a School Board's financial support in the form of providing free office space to a teacher's credit union, a non-profit organization, did not constitute the requisite degree of control to trigger the limitations in W.Va. Code § 61-10-15.

In A.O. 99-29, when asked to apply the limitations in § 61-10-15 to the question of whether a County School Board Member's business could contract with a training center with which the School Board had a close relationship, the Commission stated that, in weighing various factors, "[T]he Commission finds this to be a close question." Similarly, here, the Commission finds it to be a close question. In the case presented, the financial support provided by the Requester's county to the District is limited. In contrast, there may be situations where a county provides significant funds to a District.

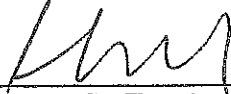
Weighing the various factors, the Commission finds that a County Council Members business may contract with a Conservation District under the following circumstances: (1) the contract is let via a sealed bid process; (2) the project is **not** funded by County money; (3) the project is **not** the subject of an agreement between the District and the County including any agreement for flood control as authorized by W.Va. Code § 19-21A-13 ; and (4) the affected Member recuses himself from the District's appropriation request or any request for funding. See W.Va. Code § 6B-2-5(j).

For recusal to be proper under the Ethics Act, he must disclose his interest and excuse himself from participating in the discussion and decision-making process by physically removing himself from the room during the discussion and vote on the matter. Further, he may vote on the County's overall budget, but must recuse himself if a line item affects the Conservation District and if a line item specifically addresses any such line item. See A.O. 2010-13.

This opinion should not be construed as allowing a County Commissioner to contract with Conservation District's for any other purpose than those outlined herein. Further, it

does not authorize the employment of County Commissioners or County Council Members, their spouses or dependents or by Conservation Districts in the County where they serve.

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.



Jonathan E. Turak, Acting Chairperson

To: ALL County Commissioners'
& Staff

From: CCAWV - Vivian Parsons

Date: 3-10-11

Legislative Update:

Hi folks

Below is the most recent updated list of bills that CCAWV is tracking. Please see the "notes column" for Association comments & requests. If requested, please make calls to your legislators! Thanks for all your help!

If you have questions or comments, give me a call at 304-415-1608. Three days left and counting...Hope to see some of you over at the capital!

Action Bills - 2011 Regular Session					
Bill	Title	SA (Same As)/ SI (Similar To)	Last Action	Committee Reference	Notes
<u>SJR 9</u> (None)	Proposing amendment to Constitution designated The Silenced Majority Local Levy and Bond Amendment	SI HJR 29	03/10/11 - To House On 2nd reading, Calendar 2nd Reading	Senate Reference 1 - Judiciary Senate Reference 2 - Finance	CCAWV supports This bill is still sitting on the (inactive) Regular House Calendar. We need calls to House Rules Committee to get the bill moved to Special Calendar!
<u>SJR 10</u> (None)	Proposing amendment to Constitution designated Repeal The Two Consecutive Term Limitation for Sheriffs Amendment	SI HJR 28	03/10/11 - To House On 3rd reading, Special Calendar 3rd Reading, Special Calendar	House Reference 1 - Constitutional Revision House Reference 2 - Judiciary Senate Reference 1 - Judiciary	CCAWV supports
<u>SB 96</u> (None)	Relating generally to certain county officials	SI HB 2927	03/10/11 - To House On 3rd reading, Special Calendar 3rd Reading.	House Reference 1 - Judiciary Senate Reference 1 - Government	

			Special Calendar	Organization Senate Reference 2 - Finance	
SB 177 (None)	Authorizing Department of Revenue promulgate legislative rules		03/10/11 - To House On 2nd reading, Special Calendar 2nd Reading, Special Calendar	House Reference 1 - Judiciary Senate Reference 1 - Finance Senate Reference 2 - Judiciary	This bundle of rules bills contains the rule that will allow counties to create a worker's comp pool. CCAWV supports.
SB 193 (None)	Relating to law-enforcement certification generally	SA HB 2538	03/10/11 - To House From Special Calendar, 3rd reading, placed on Calendar 3rd Reading	House Reference 1 - Judiciary Senate Reference 1 - Judiciary	
SB 235 (None)	Revising County Economic Opportunity Development District Act	SA HB 2762	03/09/11 - To Senate Communicated to Concurrence	House Reference 1 - Finance Senate Reference 1 - Energy, Industry and Mining Senate Reference 2 - Finance	This bill is the county sales tax TIF bill. CCAWV supports
SB 242 (None)	Dedicating portion of coal severance tax to county of origin	SI HB 2386 SI HB 2912	03/10/11 - To House On 2nd reading, Special Calendar 2nd Reading, Special Calendar	House Reference 1 - Finance Senate Reference 1 - Judiciary Senate Reference 2 - Finance	CCAWV supports Need calls of support to House Members.
SB 272 (None)	Relating to WV Tax Increment Financing Act	SA HB 2852	02/25/11 - To House Finance In Committee	House Reference 1 - Finance Senate Reference 1 - Energy, Industry and Mining Senate Reference 2 - Finance	CCAWV opposes this bill....it expands TIF authority to Class III & IV municipalities Continue to call House members to oppose.
SB 277 (None)	Limiting amount property reappraisal can increase over previous amount	SI HB 2944 SI HB 2672	03/03/11 - To House Finance In Committee	House Reference 1 - Finance Senate Reference 1 - Government Organization Senate Reference 2 - Finance	CCAWV has concerns with this bill. No movement from House Finance so far.
SB 307 (None)	Creating Intermediate Court of Appeals	SI HB 3150 SI HB 3165	03/03/11 - To House Judiciary In Committee	House Reference 1 - Judiciary House Reference 2 - Finance Senate Reference 1 - Judiciary Senate Reference 2 - Finance	This bill has not moved in the House.
SB 344 (None)	Relating to special method for appraising qualified capital additions to manufacturing facilities	SA HB 2950	03/10/11 - To House From Calendar, 1st reading, placed on Special Calendar 1st Reading, Special Calendar	House Reference 1 - Finance Senate Reference 1 - Economic Development Senate Reference	CCAWV is opposed to special tax treatment of salvage value. The bill has moved from the inactive regular house calendar to the special calendar. Please make calls to House members to

				2 - Finance	oppose.
SB 391 (None)	Relating to community voting locations generally	SI HB 2748 SI HB 2857 SI HB 3229	03/10/11 - To House From Calendar, 1st reading, placed on Special Calendar 1st Reading, Special Calendar	House Reference 1 - Judiciary Senate Reference 1 - Judiciary Senate Reference 2 - Finance	CCAWV supports as long as authority is permissive
SB 420 (None)	Clarifying county commissioners must reside in district they represent		03/04/11 - To House Judiciary In Committee	House Reference 1 - Political Subdivisions House Reference 2 - Judiciary Senate Reference 1 - Government Organization Senate Reference 2 - Judiciary	
SB 424 (None)	Creating Natural Gas Horizontal Well Control Act	SA HB 3042 SI HB 2878	03/09/11 - To House Finance In Committee	House Reference 1 - Judiciary House Reference 2 - Finance Senate Reference 1 - Energy, Industry and Mining Senate Reference 2	Some question on local regulatory authority
SB 428 (None)	Increasing fees charged by clerk of circuit court for medical professional liability actions	SI HB 3127	03/10/11 - To House From Calendar, 1st reading, placed on Special Calendar 1st Reading, Special Calendar	House Reference 1 - Judiciary House Reference 2 - Finance Senate Reference 1 - Judiciary Senate Reference 2 - Finance	Original bill increased medical malpractice filing fee by \$20 to go into county general fund. Bill was amended in House Judiciary to add other filing fees that go to domestic violence & to legal aid for the poor.
SB 465 (None)	Creating Marcellus Gas and Manufacturing Development Act	SA HB 3099	03/10/11 - To House On 3rd reading with restricted right to amend, Calendar 3rd Reading	Senate Reference 1 - Energy, Industry and Mining Senate Reference 2 - Finance	CCAWV has agreed to an amendment that restricts special tax treatment to Marcellus gas by-product manufacturing in an effort to keep these processes in WV. Bill is on inactive House calendar striving for agreement among stakeholders.
SB 495 (None)	Relating generally to use of electronic voting systems	SA HB 3058	03/10/11 - To House On 3rd reading, Special Calendar 3rd Reading, Special Calendar	House Reference 1 - Judiciary House Reference 2 - Finance Senate Reference 1 - Judiciary Senate Reference 2 - Finance	
SB 510 (None)	Relating to requirements for new facility projects of public agencies and projects receiving state funds	SA HB 2957 SI HB 2024 SI HB 2401	03/07/11 - To House Finance In Committee	House Reference 1 - Government Organization House Reference 2 - Finance Senate Reference 1 - Finance	

SB 544 (None)	Relating to municipal policemen's and firemen's pension and relief funds		03/10/11 - To House On 3rd reading, Special Calendar 3rd Reading, Special Calendar	House Reference 1 - Finance Senate Reference 1 - Pensions Senate Reference 2 - Finance	Amended in House Finance to remove additional revenue from surcharge on homeowner policy premiums dedicated to VFDs. Revenue for VFD workers' comp premiums now in HB 3271 & SB 553.
SB 553 (None)	Creating workers' compensation insurance subsidy program for volunteer fire departments	SA HB 3191	03/07/11 - To House Finance In Committee	House Reference 1 - Judiciary House Reference 2 - Finance Senate Reference 1 - Finance	CCAWV supports. Creates program for distributing state appropriated funds for VFD workers' comp premium increases.
SB 581 (None)	Changing beginning date for early voting; allowing Saturday early voting	SI HB 2748 SI HB 2856	03/10/11 - To House On 2nd reading, Special Calendar 2nd Reading, Special Calendar	House Reference 1 - Judiciary Senate Reference 1 - Judiciary	
SB 613 (None)	Relating to state elections and early voting	SI HB 3038	03/03/11 - To House Finance In Committee	House Reference 1 - Finance Senate Reference 1 - Judiciary	
SB 616 (None)	Relating to post-employment benefits generally		03/03/11 - To House Finance In Committee	House Reference 1 - Finance Senate Reference 1 - Finance	This bill has not moved in the House
HB 2013 (None)	Requiring the West Virginia Enhanced 911 Council to propose Emergency Medical Dispatch procedures		03/10/11 - To Senate On 2nd reading 2nd Reading	House Reference 1 - Political Subdivisions House Reference 2 - Judiciary Senate Reference 1 - Government Organization Senate Reference 2 - Judiciary	
HB 2164 (None)	Relating to public school support computation of local share		02/17/11 - To Senate Education In Committee	House Reference 1 - Education House Reference 2 - Finance Senate Reference 1 - Education Senate Reference 2 - Finance	This bill has not moved in the Senate.
HB 2208 (None)	Providing for actual costs to be paid for municipal audits and reducing the cap on audits for Class IV municipalities		03/08/11 - To Senate On 2nd reading to Finance In Committee	House Reference 1 - Political Subdivisions House Reference 2 - Finance Senate Reference 1 - Government Organization Senate Reference 2 - Finance	No county funds involved.
HB 2345 (None)	Changing the membership of the PEIA Financial Board		03/09/11 - To Senate Laid over on 2nd reading 3/9/11 2nd Reading	House Reference 1 - Political Subdivisions House Reference 2	

				- Government Organization Senate Reference 1 - Government Organization Senate Reference 2 - Finance	
HB 2402 (None)	Redefining the term "public record" as it is used in the Freedom of Information Act		01/27/11 - To Senate Judiciary In Committee	House Reference 1 - Judiciary Senate Reference 1 - Judiciary	No movement in the Senate
HB 2464 (None)	Adding additional requirements to the Ethics Act		03/08/11 - To House Message received Conference	House Reference 1 - Judiciary Senate Reference 1 - Judiciary	
HB 2551 (None)	Relating generally to estates and trusts and their administration	SA SB 190	03/08/11 - To Senate On 2nd reading to Finance In Committee	House Reference 1 - Judiciary House Reference 2 - Finance Senate Reference 1 - Judiciary Senate Reference 2 - Finance	
HB 2696 (None)	Authorizing the county commission of Boone County to transfer its title and interests in the Boone Memorial Hospital	SA SB 232	03/04/11 - To House Approved by Governor 3/2/11 - Journal To Governor	House Reference 1 - Political Subdivisions House Reference 2 - Judiciary Senate Reference 1 - Government Organization Senate Reference 2 - Judiciary	Bill completed legislative process and signed by Governor.
HB 2703 (None)	Relating to qualifications of members of certain county commissions		03/02/11 - To Senate Government Organization In Committee	House Reference 1 - Political Subdivisions House Reference 2 - Judiciary Senate Reference 1 - Government Organization	This bill pertains to members of commissions at the county level (i.e. civil service commission) Not County Commissioners
HB 2765 (None)	Relating to the retirement plans administered by the West Virginia Consolidated Public Retirement Board	SA SB 230	03/09/11 - To House received message	House Reference 1 - Pensions and Retirement House Reference 2 - Finance Senate Reference 1 - Pensions Senate Reference 2 - Finance	
HB 2766 (None)	Relating to contribution rate for the Deputy Sheriff Retirement System	SA SB 221	03/08/11 - To House received message	House Reference 1 - Pensions and Retirement House Reference 2 - Finance Senate Reference 1 - Pensions	This bill increases the employer's contribution cap from 10.5% to 13%. This was the compromise, rather than completely removing the cap and leaving contribution level at the discretion of the PERS board. CCAWV supports compromise.

				Senate Reference 2 - Finance	
HB 2879 (None)	Providing a one-time, nonbase building, supplemental salary increase for all eligible state employees	SI SB 615 SA SB 273	03/09/11 - To House Message received Conference	House Reference 1 - Finance	This is the "Salary" bill. It includes state employees, teachers, school service personal and was amended in Senate to include Judges. Bill has gone to conference on the differences.
HB 2935 (None)	Repealing an outdated article of election code relating to voting systems	SA SB 487	03/08/11 - To House received message	House Reference 1 - Judiciary Senate Reference 1 - Judiciary	
HB 2936 (None)	Changing the date of the canvassing of votes in a primary election	SA SB 284	03/10/11 - To Senate On 3rd reading 3rd Reading	House Reference 1 - Judiciary Senate Reference 1 - Government Organization Senate Reference 2 - Judiciary	CCAWV supports change. Makes primary same as general (from the Friday following a primary election to the Monday following a primary election)
HB 2939 (None)	Clarifying the definition of compensation for purposes of calculating required contributions to the public employees retirement system		03/08/11 - To House received message	House Reference 1 - Pensions and Retirement House Reference 2 - Finance Senate Reference 1 - Pensions Senate Reference 2 - Finance	
HB 2953 (None)	Relating to dedication of coalbed methane severance tax proceeds	SA SB 372	03/10/11 - To Senate On 2nd reading 2nd Reading	House Reference 1 - Energy, Industry and Labor, Economic Development and Small Business House Reference 2 - Finance Senate Reference 1 - Finance	
HB 3044 (None)	Relating to civil forfeiture actions related to criminal activity	SI SB 223	03/03/11 - To Senate Judiciary In Committee	House Reference 1 - Judiciary House Reference 2 - Finance Senate Reference 1 - Judiciary	
HB 3075 (None)	Increasing the time period in the hold-harmless provision when distributing state aid to local health departments		03/10/11 - To Senate On 3rd reading 3rd Reading	House Reference 1 - Health and Human Resources House Reference 2 - Finance Senate Reference 1 - Finance	
HB 3119 (None)	Increasing the expenditure limit on public service district construction and purchase contracts	SA SB 442	03/10/11 - To Senate On 2nd reading 2nd Reading	House Reference 1 - Political Subdivisions House Reference 2 - Finance	

				Senate Reference 1 - Government Organization	
HB 3145 (None)	Providing a one-time bonus to certain annuitants of the Public Employees Retirement System and the State Teachers Retirement System	SI SB 15 SI SB 10	03/10/11 - To House On Unfinished Business, Calendar Unfinished Business	House Reference 1 - Pensions and Retirement House Reference 2 - Finance	
HB 3185 (None)	Allowing county commissions to waive or reduce impact fees and capital improvement fees of affordable housing units in their county	SA SB 533	03/10/11 - To Senate On 2nd reading 2nd Reading	House Reference 1 - Political Subdivisions House Reference 2 - Judiciary Senate Reference 1 - Judiciary Senate Reference 2 - Finance	
HB 3205 (None)	Reducing jail sentence for successful completion of education and rehabilitation programs		03/09/11 - To House Completed legislative action	House Reference 1 - Judiciary House Reference 2 - Finance Senate Reference 1	CCAWW supports
HB 3268 (None)	Relating to who may claim a homestead exemption		03/01/11 - To Senate Finance In Committee	House Reference 1 - Finance Senate Reference 1 - Finance	CCAWW has concerns. Would provide for survival spouse to continue to be eligible for homestead exemption even if under 65 yr. old and not disabled
HB 3271 (None)	Relating to the distribution of state funds to volunteer fire companies and departments		03/08/11 - To Senate On 2nd reading to Finance In Committee	House Reference 1 - Finance Senate Reference 1 - Government Organization Senate Reference 2 - Finance	CCAWW supports Creates program for distributing state appropriated (\$7.5 million) funds for VFD workers' comp premium increases. Ends in 2014. Contains reporting requirements back to legislature for future funding suggestions.

Vivian Parsons

± Font size -

JESA Resignation

From : John L. Matthews {SAC Medical} <John.Matthews@dhs.gov>

Fri, Feb 18, 2011 05:32 PM

Subject : JESA Resignation

To : wkelley@frontiernet.net

Pete:

It is with a heavy heart that I must submit my resignation from the JCESA Board. I think that my opinions and feelings on how EMS is delivered runs at a right angle to what the County is prepared to fund. Unfortunately, I do not have the time to engage in such a politically charged situation with what appears to be very little County level support. I fear my "frank and candid" opinions will do more damage to the effort than to assist you in moving this program forward.

I thank you for your counsel of the last year and a half and I wish nothing but the best to you and the other members of the Board as you forge "new ground". I wish nothing but the best for you and the JCESA, your leadership and involvement will, one day, "pay off" and the residents and visitors of Jefferson County will have the EMS system they deserve to have.

I will return all issued door access key cards and printed documents to the Director in the next few weeks.

My resignation is effective immediately.

Best,

JM

John L. Matthews
Special Agent-in-Charge
Federal Air Marshal Service- Headquarters
Medical Programs Division
(703) 487-3282 (HQ office)
(609) 813 3053 (ACY office)
(954) 609-0062 (cellular)



JEFFERSON COUNTY EMERGENCY SERVICES AGENCY

419 Sixteenth Avenue
Ranson, WV 25438
E-mail – jcesa@jcesa.org
Telephone – 304-728-3287
Fax – 304-728-6221

March 7, 2011

The Honorable Patsy Noland, President
Jefferson County Commission
P.O. Box 250
Charles Town, WV 25414

Dear Madam President:

Attached is an email I received from John Matthews advising me of his resignation from the Jefferson County Emergency Services Agency's Board. His resignation is to be effective immediately.

I do not know if he advised you directly, so I'm doing so to keep you informed.

Any questions regarding this matter, please don't hesitate to contact me.

Sincerely,

R.M. (Pete) Kelley
President

RMK/jls

Attachment

RECEIVED

MAR 10 2011

Jefferson County Commission

IN THE COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA
IN RE: ESTATE OF MILDRED OLGA VALENTINE, DECEASED

ORDER

This 10th day of February, 2011, came Charles B. Howard, the Petitioner in this matter, in person and by his attorney, John K. Dorsey, Esquire; Mary Strickland, Frances Harrell and Ann Sheffield, in person and by their attorney, Robert Barrat, Esquire; Henry W. Morrow, Jr., Esquire, guardian ad litem in this matter; and Stephan V. Groh, Esquire, Assistant Prosecuting Attorney for Jefferson County; upon the prior filing by Charles B. Howard of his Petition for probate in solemn form of the Last Will and Testament of Mildred Olga Valentine, upon notice duly given to all interested parties for the hearing of the Petition.

The Commission proceeded to receive a preliminary report from S. Lynn Fields, Deputy Probate Clerk and Stephan V. Groh, Assistant Prosecuting Attorney, concerning the status of the Petition and a pending motion of Robert Barrat for the disqualification of Charles B. Howard, Esquire, from any further participation in this action.

Prior to the consideration of the Petition and Mr. Barrat's motion, the Commission temporarily recessed to allow the Assistant Prosecuting Attorney the opportunity to seek advice and counsel as to the presence of any conflict of interest, actual or perceived, that would prohibit the Jefferson County Prosecuting Attorney, or any of his assistants, from providing legal counsel to the Commission in light of a member of the office being a proponent of

the Will.

Upon expiration of the recess, Mr. Groh reported that he had received informal advice from the West Virginia Office of Disciplinary Counsel that under the factual situation he had presented to them the Jefferson County Prosecuting Attorney, and any assistant thereunder, would have a conflict of interest. Thereupon, the Assistant Prosecuting Attorney was granted leave to withdraw as counsel to the Commission.

Being without counsel, the Commission on its own motion unanimously elected to continue the matter until such time as the Commission is able to retain special counsel to advise it in this matter.

The Commission then considered the need for the appointment of a fiduciary for the estate in the absence of the appointment of an executor or administrator. Upon a motion from the guardian ad litem, with the acquiescence of Mr. Barrat coupled with a request for the appointment of the Sheriff, it is hereby **ORDERED** that, pending the grant of letters of administration, the Sheriff of Jefferson County is hereby appointed as Curator of the Estate of Mildred Olga Valentine, with all powers, duties, authorities and responsibilities as set forth in West Virginia Code §44-1-5.

It further appearing to the Commission that the Petition for Probate in Solemn Form is ripe for hearing, it is hereby **ADJUDGED** and **ORDERED** that this matter shall be brought on for a hearing on its merits on the 23rd day of March, 2011, at 10:00

o'clock, a .m., in the Meeting Room on the lower level of the Charles Town Library at 200 East Washington Street, Charles Town, West Virginia 25414, with access at the side entrance on Samuel Street.

The Clerk will enter the foregoing as of the day and year first above written and will transmit an attested copy thereof to John K. Dorsey, Esq., P.O. Box 42, Charles Town, WV 25414; Robert Barrat, Esq., 308 S. Queen Street, Martinsburg, WV 25401-3232; Henry W. Morrow, Jr., Esq., P.O. Box 459, Charles Town, WV 25414; and the following parties of record:

Susan Smith, 3617 Hurst Drive NE, Milledgeville, GA 31061-7997;

Peggy Dwyer, 711 Ramon Drive, Pittsburgh, PA 15238;

Georgia Z. Anderson, 7262 Cold Harbor Road, Apt. 101,
Mechanicsville, VA 23111;

Mary Z. Strickland, 8810 N.W. 4th Street, Pembroke Pines, FL 33024;

Emily T. Pritchett, 1130 N. Grady Avenue, Lakeland, FL 33805;

Ann Z. Sheffield, 256 S. Beaver Dam Road, Waverly, VA 23890;

Frances A. Harrell, 210 E. Main Street, Waverly, VA 23890;

Claudia Clatterbuck, 12711 Harpers Ferry Road, Purcellville, VA
20132;

Amanda Nay Hubert, 5785 Bencrest Way, Haymarket, VA 20169;

Janeen Smith Garpow, 241 Eagles Rest, Milledgeville, GA 31061;

Andrew Clark, 200 Stevenson Square, Alexandria, VA 22304;

The Holy Rosary Catholic Church, 35 Franklin Street, Buckhannon, WV
26201-2253;

St. James Catholic Church, 49 Crosswinds Drive, Charles Town, WV
25414;

St. Francis of Assisi Catholic Church, 115 1st Avenue, Brunswick,
MD 21716;

St. Jude Children's Research Hospital, 501 St. Jude Place, Memphis,
TN 38105;

Myrna Ryan, P. O. Box 682, Charles Town, WV 25414;

Omaha Home for Boys, 4343 N. 52nd Street, Omaha, NE 68104;

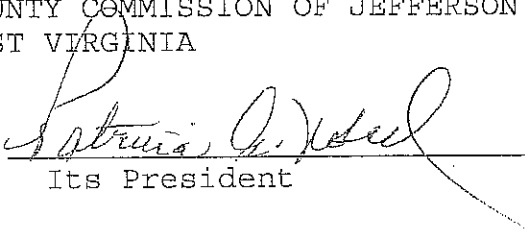
The City of St. Jude, 2048 W. Fairview Avenue, Montgomery, AL
36108;

Missionary Oblates of Mary Immaculate, 9480 N. De Mazenod Drive,
Belleville, IL 62223;

Salesian Missions, 2 Lefevre Lane, New Rochelle, NY 10801-5710;

Arthur L. Ryan, 208 Cheeskogili Lane, Loudon, TN 37774.

COUNTY COMMISSION OF JEFFERSON COUNTY
WEST VIRGINIA

BY: 
Its President

**NOTICE OF PUBLIC HEARING
COUNTY COMMISSION OF JEFFERSON COUNTY**

The County Commission of Jefferson County will hold a public meeting on Wednesday, March 23, 2011 at 1:30 p.m. in the Old Charles Town Library meeting room on the ground floor of the Library, 200 E. Washington Street, Charles Town, West Virginia 25414.

The purpose of the Public Hearing is to approve the Levy Estimate for Fiscal Year 2012. Also at this public hearing, the Commission will receive public comment concerning the County's budget.

The public is invited to attend.

**By Order of the County
Commission of Jefferson County
Patricia A. Noland, President**

Commission Office Use Only

Date on Agenda: 3/10/11

Appt Time or New Business: 11:45

SCHEDULED
FOR 3-23
WITH BUDGET

AGENDA REQUEST FORM

Name: F. Mark Schiavone

Department or Entity: DCPM

Estimation of amount of time needed for appointment: 5 min

Date Requested – 1st Choice: 11 March 2011

Date Requested – 2nd Choice: _____

If a specific date is needed, please provide reason for specific date: Sufficient time is required to advertise a public hearing if so desired.

Subject: Decision on Levy Rate/Public Hearing

Please provide the County Commission with a description of your request or presentation, including any background information: The Commission has the authority to lower, maintain, or raise the levy rate for FY 2012. Preliminary assessment indicates that if left to float, the levy rate will increase by roughly 2¢ per \$100 valuation for Class II properties. This is because overall valuation of property in the County continues to decline. If the Commission desires to lower or increase this rate a public hearing must be held (§11-8-6e).

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

Attachments: (1) State Auditor's Office levy rate determination worksheets.

IN THE COURT OF THE COUNTY COMMISSION OF
JEFFERSON COUNTY, WEST VIRGINIA

IN RE: THE ESTATE OF SALLIE SHEPHERD SPAULDING.

ORDER SETTING HEARING

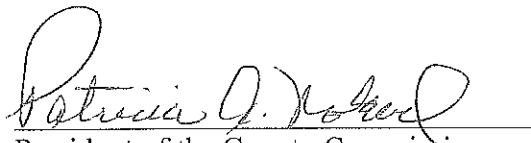
This day came the Petitioner, by counsel, David A. Camilletti, Esquire, having previously filed a duly verified Petition of Peter Spaulding for Elective Share. It appears to the Court by said Petition that the Petitioner is entitled to a hearing on this matter.

It is therefore ORDERED that the Petition of Peter Spaulding for Elective Share shall be set down for hearing before the County Commission of Jefferson County, West Virginia on the 24th day of March, 2011 at 11:00 o'clock (a.m.)/p.m., or as soon thereafter as Counsel may be heard.

It is further ORDERED that the Petitioner shall cause a duly attested copy of this Order and Petition of Peter Spaulding for Elective Share be served upon Henry W. Morrow, Jr., Executor of the Estate of Sallie Shepherd Spaulding, P.O. Box 459, Charles Town, WV 25414 certified mail, return receipt requested and by regular first class mail.

The Clerk shall enter this Order as of the day and date below written and shall transmit three (3) attested copies to David A. Camilletti, Esquire, 103 W. Liberty Street, Charles Town, West Virginia.

ENTERED this 24th day of February, 2011.



President of the County Commission

The Jefferson County Commission proposes to name persons to serve on the following Authorities, Boards, Commissions, or Committees on Thursday, March 31, 2011, or as soon thereafter as the Commission may decide:

**Jefferson County Planning Commission - 3 - Three year terms
expiring March 31, 2014**

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.

The Jefferson County Commission proposes to name persons to serve on the following Authorities, Boards, Commissions, or Committees on Thursday, March 31, 2011, or as soon thereafter as the Commission may decide:

**Jefferson County Development Authority- 4 - Three year terms
expiring April 5, 2014 & One unexpiring term ending April 5, 2012**

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.