

**AGENDA**  
**JEFFERSON COUNTY COMMISSION**  
**THURSDAY, JUNE 23, 2011**  
**9:30 A.M.**

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

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CALL TO ORDER

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

- Jefferson County Commission Public Hearing - June 9, 2011
- Jefferson County Commission Regular Meeting - June 9, 2011

APPROVAL OF PURCHASE ORDERS

- June 16, 2011
- June 23, 2011

APPROVAL OF ACCOUNTS PAYABLE

PUBLIC COMMENT

**PRESENTATIONS:**

1. 9:40 a.m. Jennifer Maghan, County Clerk  
- Approval of Depository Bonds
  
2. 9:45 a.m. Roger Goodwin, Chief County Engineer  
- Request a complete release of the Construction Bond security for Rattlesnake Run, Inc./ Thomas Harding for the Oxford Meadows Subdivision, Lots 1-14 (File #06-07) - Discussion/Action  
- Request to accept and execute Tolling of Construction Bond for Avalon Hills Subdivision, Lots 1-14 and Residue Lots A, B, C & D - File #06-24 Discussion/Action
  
3. 10:00 a.m. Andrew P. Blake, Acting City Manager City of Ranson  
- Request to approve an ordinance annexing 8.74 acres, more or less, owned by Alger's Auto Recycling, Inc. Into the City of Ranson, West Virginia Discussion/Action
  
4. 10:15 a.m. Steve Rawlings, West Virginia Risk Pool  
- Workers Compensation - Discussion/Action
  
5. 10:30 a.m. **Break**

6. 10:45 a.m. Mark Schiavone, Director of Capital Planning & Management
  - Request to approve Revision D to the General Fund - Discussion/Action
  - Adoption of 4 impact fee studies and decision to proceed to public hearing on updated impact fee ordinances - Discussion/Action
  
7. 11:00 a.m. Gabrielle Corey
  - Request to Support Jobs and Economic Security by Fixing Coal Mine Permitting System - Discussion/Action
  
8. 11:15 a.m. Lynn Fields, Probate Office
  - Hearing regarding the Second Accounting by David A. DeJarnett, Fiduciary Commissioner, and review of the proposed Order prepared by Ray A. Byrd, Esq. regarding the Estate of John J. Warfield - Discussion/Action

**UNFINISHED BUSINESS:**

9. Request to approve and include two positions in the maintenance department (carpentry and auto mechanic) which were inadvertently omitted from the final budget deliberation to be reinstated into next year's budget (DM) - Discussion/Action
  
10. Jefferson County Development Authority - Joint resolution regarding 1988 liability on the Development Authority - Discussion/Action
  
11. Proposed purchase of the Cement Mill Property - Discussion/Decision/Action
  
12. State regulations for charities and "for profits" with regard to cooking and selling food at public events and letter sent to the Jefferson County Board of Health (DM) - Discussion/Action

**NEW BUSINESS:**

13. Request to approve Nancy Jean Malcolm as a Deputy Reserve with the Jefferson County Deputy Sheriffs Reserve Program - Discussion/Action
  
14. Request for approval of Resolution for the Governor's Community Participation Grant Program for the African American Association/Fisherman's Hall in the amount of \$16,400.00 - Discussion/Action
  
15. Request for approval of Resolution for the Governor's Community Participation Grant Program for the African American Association/Fisherman's Hall in the amount of \$8,000.00 - Discussion/Action

16. Request for approval of Resolution, Contract and Agreement for the Governor's Community Participation Grant Program for the Jefferson County Black History Preservation Society - Historic Locke House in the amount of \$500.00 - Discussion/Action
17. Request for approval of Resolution, Contract and Agreement for the Governor's Community Participation Grant Program for Freedom Run in the amount of \$8,400.00 - Discussion/Action
18. Request for approval of Resolution, Contract and Agreement for the Governor's Community Participation Grant Program for Focus Coalition in the amount of \$7,000.00 - Discussion/Action
19. Request an open discussion with the Prosecuting Attorney and the Jefferson County Magistrates regarding space issues - Possible Executive Session - (PN)
20. Decision on the Proposed Land Development Fee Schedule and Building Permit Changes - Discussion/Action
21. Request for approval of job offer to Dawn Childs to fill vacant Office Manager position in the Department of Planning and Zoning - Discussion/Action

**COUNTY ADMINISTRATOR REPORTS**

- Presentation of the FY2013 Non-Profit's Budget Requests

**COUNTY COMMISSION REPORTS**

**BREAK FOR LUNCH**

**~~~~~ AFTERNOON SESSION ~~~~~**

22. 12:30 **ADJOURN**

**CORRESPONDENCE:**

Weekly settlement reports for the Charles Town Races received from the West Virginia Lottery, week ending May 28, 2011.

Weekly settlement reports for the Charles Town Races received from the West Virginia Lottery, week ending June 4, 2011.

Weekly settlement reports for the Charles Town Races received from the West Virginia Lottery, week ending June 11, 2011 and summary.

Newsletter received from the Eastern Panhandle Free Clinic for Spring/Summer 2011.

Copy of letter from the WV Division of Highways regarding the Statewide Transportation Improvement Program (STIP) expenditures.

Copy of letter from the WV Division of Highways regarding the Rt. 340 Traffic Study and the expansion of the U.S. Customs and Border Protection facility adjacent to Rt. 340.

Correspondence from the American Red Cross providing updates on its training programs.  
Regular Board Meeting Minutes of May 2, 2011 received from the Jefferson County Public Service District.

Emergency Board Meeting Minutes of May 12, 2011 received from the Jefferson County Public Service District.

Invitation to the Jefferson County Commission to attend Paul & Eliza Bayles Retirement Party on June 26, 2011, 3:00 p.m. to 6:00 p.m. at the Ranson Civic Center.

Copy of letter from the Department Of Agriculture expressing its disappointment that the Jefferson County Public Service District has joined the EPA in the legal battle with the American Farm Bureau Federation.

*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.*

## **Minutes**

### **Jefferson County Commission**

**Thursday, June 9, 2011**

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

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

#### **PLEDGE OF ALLEGIANCE**

Commissioner Widmyer led the Pledge of Allegiance.

#### **APPROVAL OF MINUTES**

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

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

#### **APPROVAL OF PURCHASE ORDERS**

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

#### **APPROVAL OF ACCOUNTS PAYABLE**

Motion by Ms. Morgan to approve the accounts payable in the amount of \$261,628.62. Motion seconded by Ms. Widmyer and unanimously approved.

#### **PUBLIC COMMENT**

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

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

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

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

**PRESENTATIONS:**

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

**(A short power outage occurred.)**

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

**The Commission reconvened at 10:40 a.m.**

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

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

**Mark Schiavone continued:**

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

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

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

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

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

Mr. Manuel called the hearing to order.

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

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

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

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

COPY

BEFORE THE COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA

IN RE: ESTATE OF JOHN J. WARFIELD, DECEASED

Date of Death: February 23, 2006

JAMES B. PACKARD-GOMEZ, ADMINISTRATOR CTA

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

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

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

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

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

**DECREES:**

- a. That Mr. Packard-Gomez is personally liable and required to repay and/or reimburse and/or account to the Estate of John J. Warfield the sum of \$1,117,030.09 for the loan to 1519 Wisconsin Avenue, LLC, together with interest at the legal rate (equaling \$1,269,206.31 as of January 8, 2009 plus \$298.38 per day after January 8, 2009);
- b. That the Estate is liable to John T. Buzek, Edmond Buzek, and Jeanne Busack for their attorney fees, costs, and expenses because the actions of John T. Buzek, Edmond Buzek, and Jeanne Busack and their counsel have greatly benefitted the Estate and have resulted in an Order requiring substantial sums be paid to or delivered to the Estate; and
- c. That Mr. Packard-Gomez is personally liable for and shall be required to repay and/or reimburse and/or account to the Estate of John J. Warfield the amount of John T. Buzek's, Edmond Buzek's, and Jeanne Busack's attorney fees, costs, and expenses.

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

It is so **ORDERED**.

Dated: \_\_\_\_\_

June 9, 2011

Patricia A. Meland  
President of Jefferson County Commission

Lawrence B. May  
Member of Jefferson County Commission

Sign Wrdinger  
Member of Jefferson County Commission

Dale Manuel  
Member of Jefferson County Commission

Scott Sells  
Member of Jefferson County Commission

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

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

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

#### **COUNTY ADMINISTRATOR REPORTS:**

##### **Sandra McDonald, Deputy County Administrator**

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

#### **COUNTY COMMISSION REPORTS:**

##### **Commissioner Widmyer:**

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

##### **Commissioner Morgan:**

- No report this week.

##### **Commissioner Pellish:**

- No report this week.

##### **Commissioner Manuel:**

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

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

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**PATRICIA A. NOLAND, PRESIDENT**

**SPECIAL SESSION:**

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

At a Special Session of the County Commission of said County and State continued and held at the Old Charles Town Library Ground Floor meeting room thereof on Thursday, June 9, 2011, beginning at 7:00 o'clock p.m.

**PRESENT:** Commissioners: Dale Manuel, Lyn Widmyer and Walt Pellish.  
Commissioners Patsy Noland and Frances Morgan were absent due to prior obligations.

**In re: PUBLIC HEARING - Policy Neutral Zoning Ordinance Amendments**

Commissioner Manuel opened the Public Hearing for Policy Neutral Zoning Ordinance Amendments.

Steve Barney, Zoning Administrator, gave a brief presentation via PowerPoint.  
Jennifer Brockman, Director of Planning and Zoning was present and gave comment.

Verbal comments were provided by the following individuals:

Joseph Hoffman  
Ed Burns

The Commission agreed to receive written comment concerning the Policy Neutral Zoning Ordinance Amendments until Thursday, June 23, 2011.

A discussion and possible decision for this topic will be held on Thursday, June 30, 2011 during the regular scheduled Commission meeting.

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

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PATRICIA NOLAND, COMMISSION PRESIDENT

**Nichelle Hosby**

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**From:** Jennifer Maghan [jmaghan@jeffersoncountywv.ORG]  
**Sent:** Thursday, June 16, 2011 4:45 PM  
**To:** 'Tim Boyde'  
**Cc:** 'Nichelle Hosby'  
**Subject:** Depository Bonds - Agenda Item

Commission Office Use Only  
Date on Agenda: 23 June or 30 June  
Appt Time or New Business: 10 am  
AGENDA REQUEST FORM

Name: Jennifer Maghan  
Department or Entity: County Clerk  
Estimation of amount of time needed for appointment: 10 min  
Date Requested -1~ Choice:  
Date Requested -2~ Choice: \_\_\_ 23 June or 30 June \_\_\_\_\_

If a specific date is needed, please provide reason for specific date: Before 30 June all bonds of public monies must be approved by the County Commission. However, the financial institutions have not mailed our depository bonds yet. Approval is subject to review and signature of the Prosecuting attorney who will be contacted as soon as the documents arrive.

Subject: Approval of Depository Bonds

Please provide the County Commission with a description of your request or presentation, including any background information: request approval and acceptance of depository bonds once Mr. Lorenzetti has reviewed and signed the documents. All banks were called on April 13 and letters were sent requesting that we have all depository bonds on or before May 30<sup>th</sup>. As of June 16<sup>th</sup>, all banks were contacted again and messages were left.

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): Approval of depository bonds in the amount of: for the following banks, BB&T, United Bank, Bank of Charles Town and Jefferson Security bank.

Attachments: No attachments follow at this time as the documents are not in hand.

Very Truly Yours,

Jennifer S. Maghan  
Jefferson County Clerk  
100 East Washington Street  
Charles Town, WV 25414

tel: 304-728-3347  
fax: 304-728-3279

Visit us on-line: [jeffersoncountyclerkwv.com](http://jeffersoncountyclerkwv.com)



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Commission Office Use Only

Date on Agenda: 6-23-11

Appt Time or New Business: ~~1/17/11~~  
~~1/17/11~~  
Old Business

AGENDA REQUEST FORM

HELD  
OVER  
6-23

UPDATE  
ONCE  
N/A  
N/A  
N/A  
N/A

Name: Roger Goodwin

Department or Entity: Department of Engineering

Estimation of amount of time needed for appointment: 5 minutes

Date Requested – 1<sup>st</sup> Choice: May 19, 2011

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

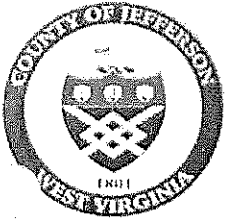
If a specific date is needed, please provide reason for specific date:

Subject: Bond reduction and/or release.

Please provide the County Commission with a description of your request or presentation, including any background information: Complete release of the Construction Bond security for Rattlesnake Run, Inc./Thomas Harding for the Oxford Meadows Subdivision, Lots 1-14 (File #06-27) – Letter of Credit #60004966069 with Susquehanna Bank, Greencastle, Pennsylvania.

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): I authorize a complete release of the \$410,587.00 from the construction bond amount for Rattlesnake Run, Inc./Thomas Harding – Oxford Meadows Subdivision, Lots 1-14 (File #06-27).

Attachments: Construction Bond Release Letter  
Letter from Thomas Harding dated 5/3/2011



## JEFFERSON COUNTY COMMISSION

124 East Washington Street, P.O. Box 250, Charles Town, WV 25414

Phone: (304) 728-3284 - Fax: (304) 725-9716

Web: [www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)

PRESIDENT

*Patry Noland*

VICE PRESIDENT

*Dale Manuel*

COMMISSIONER

*Frances Morgan*

COMMISSIONER

*Walt Pellish*

COMMISSIONER

*Lyn Widmyer*

May 19, 2011

Mr. Scott B. Slick  
Assistant Vice President  
Susquehanna Bank  
35 North Carlisle Street  
Greencastle, Pennsylvania 17225-0400

RE: Irrevocable Letter of Credit #60004966069 dated June 25, 2008, Construction Bond Surety for Rattlesnake Run, Inc./Thomas Harding – Oxford Meadows Subdivision, Lots 1-14 & Residue (PCFile #06-27).

Dear Mr. Slick:

The County Commission of Jefferson County, at its May 19, 2011 meeting, approved release of the construction bond for the Oxford Meadows Subdivision (PC File #06-27; Plat Book 25, Pg. 53) conditioned upon recordation of the merger deed approved by Jennifer M. Brockman, Director of Planning & Zoning on May \_\_, 2011. The merger deed being for the purpose of eliminating all interior boundary lines therein and restoring the property to a single lot containing 44,580 acres of land.

The County Commission of Jefferson County authorizes a complete release of the remaining \$410,587.00 construction bond amount for Rattlesnake Run, Inc./Thomas Harding – Oxford Meadows Subdivision, Lots 1-14 (PCFile #06-27).

You are hereby authorized to fully release the remaining amount for the above referenced Irrevocable Letter of Credit, originally issued in amount of \$410,587.00. The release is subject to the conditions herein stated.

Please contact the Jefferson County Department of Engineering at (304)-728-3257 if you have any questions.

Sincerely,

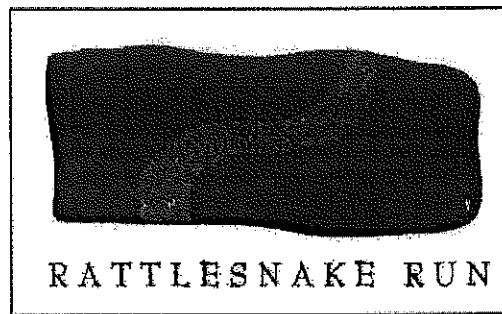
Patrician A. Noland, President  
Jefferson County Commission

PAT:rfb

cc: Mr. Thomas Harding  
Rattlesnake Run  
P. O. Box 1451  
Shepherdstown, WV 25443  
Department of Engineering

COUNTY ADMINISTRATOR  
*Tim Boyde*

DEPUTY COUNTY ADMINISTRATOR  
*Sandy Slusher McDonald*



PO Box 1451 - Shepherdstown WV 25443 - RattlesnakeRun.net  
304 671 7292

Rebecca Burns/ Roger Goodwin  
Jefferson County Engineering  
Charles Town WV

RECEIVED

MAY - 6 2011

JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

Cc Dave Pill, John Snyder, Judy Moore

May 3 2011

**Re: Construction bond release for Oxford Meadows**

Dear Mr Goodwin and Ms Burns

As you may be aware, we are transferring the 45 acres that make up the Oxford Meadows subdivision back to the original owner, Edna Snyder. The transaction is nearly complete with the deed preparation and funds secured awaiting closing on the property. Per our conversations, I can confirm that no improvements have been made to the land and we are ready to move ahead with the transfer.

However, there are several house-keeping items that need to be completed in order to finalize the transfer of the land.

Further to my meeting with both of you and our ongoing discussions, I would now like to formally request the bond release for Oxford Meadows subdivision on Ridge Road Shenandoah Junction in Jefferson County WV.

Our attorney Dave Pill has submitted a draft of the merger deed to the Planning Department for review. This deed removes all the internal lot lines within the 45 acres and renders it as one parcel.

The county still holds the Construction Bond which secures the improvements that would be required if the subdivision were to be completed. As such, there is a letter of credit issued by Susquehanna Bank to secure those improvements. In order for Mrs Snyder to get clean title to the land the bond and letter of credit need to be released prior to the transfer of the land.

After several meetings with Roger Goodwin and Rebecca Burns, I understand that the Engineering Department has agreed to recommend a total release of the bond by the County provided that there is a mechanism in place to ensure the subdivision could not be constructed. In order to effectuate that agreement, a merger deed has been prepared and submitted to the Planning Department. This deed eliminates all the internal lot lines and makes the 45 acres into one parcel of land.

However, there are necessary steps that need to be followed in a particular order so that all parties are satisfied. The sequence of events include the Merger Deed being approved by the County, the County Commission releasing the Construction Bond and then, the County sending a letter to Susquehanna notifying them of the County's release. Once this happens, the settlement will take place. In order for the County to be assured that the Merger Deed is recorded, the settlement attorney Dave Pill has agreed to record the Merger Deed just prior to the recordation of the Property Conveyance Deed.

Accordingly, I am respectfully requesting a release of the Construction Bond for the Oxford Meadows subdivision.

Thank you for your assistance in this matter.

Yours

A handwritten signature in black ink, appearing to read 'Thomas Harding', written over a horizontal line.

Thomas Harding  
Vice President  
Rattlesnake Run Inc

Commission Office Use Only

Date on Agenda:

Appt Time or New Business:

**AGENDA REQUEST FORM**

Name: Roger Goodwin

Department or Entity: Department of Engineering

Estimation of amount of time needed for appointment: 5 minutes

Date Requested – 1<sup>st</sup> Choice: June 23, 2011

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

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

Subject: Tolling of Construction Bond for Avalon Hills Subdivision, Lots 1-14 & Residue Lots A, B, C & D – File #06-24.

Please provide the County Commission with a description of your request or presentation, including any background information: Sarah (Dee) Carl Metz – Sarah F. Carl Family Limited Partnership, owner/developer, has requested tolling of the construction bond for the Avalon Hills Subdivision, Single Family Lots 1-14 and Residue A, B, C & D.

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): I authorize the Commission and Staff to accept and execute the Tolling of Bonding Agreement with the owner/developer of the Avalon Hills Subdivision, Single Family Lots 1-14 and Residue A, B, C & D - File #06-24.

Attachments: Tolling of Bonding Agreement  
Roger Goodwin's Memo dated June 15, 2011

## MEMORANDUM

### Jefferson County, West Virginia Engineering Department

TO: County Commission of Jefferson County

FROM: Roger Goodwin  
Chief County Engineer

DATE: June 16, 2011

SUBJECT: Avalon Hills Subdivision (JCPC File no. 06-24) – Tolling of Bonding Request

This memorandum is in response to the attached letter from Dee (Sarah) Carl Metz – Sarah F. Carl Family Limited Partnership, dated May 11, 2011, requesting to be allowed to toll the bond on the Avalon Hills Subdivision. My comments are as follows:

1. The project is a residential subdivision consisting of 14 single family lots in the Avalon Hills Subdivision located on Roper North Fork Road (Route 340/3) Shepherd Grade Road, in the Kabletown Tax District, Tax Map 11, Parcel 6 and 6.1
2. The Developer is the:  
  
Sarah F. Carl Family Limited Partnership  
C/o Sarah (Dee) Carl Metz  
14707 Essington Road  
Rockville, MD 20853
3. The initial/current bond amount is \$422,058.00
4. No work has started and no lots have been sold.
5. The developer is requesting to be allowed to toll the bond for the following reason:

“...due to the economic downturn and a lack of capital to develop this project.”

6. The bonding policy states that:

*"During periods of economic downturn (i.e., downturn in housing market due to economic conditions, loss of source of project financing/capitol necessary to begin the project, etc.), as determined by the Jefferson County Commission, the owner/developer may defer construction and obtain temporary partial release of construction bond and surety on projects that are recorded and bonded, but have not started construction of site improvements and/or sold any lots or portions of the subdivided parcel."*

7. Tolling of the bond will result in the following:

- A. The developer is required to execute the Tolling of Bonding Agreement and provide a merger deed and a \$10,000 surety as a Site Stability Bond.

The Tolling of Bonding Agreement will be recorded at the County Clerk's office so that the restriction placed on the lots preventing them from being sold will be found through a title search. The merger deed and the Site Stability Bond will be held by the Bonding Administrator. If the developer defaults on any of the terms of the agreement the County Commission can direct the Bonding Administrator to record the merger deed at the County Clerk's office. The merger deed merges all the lots and returns the parcel/property to its original state prior to subdivision of the land, essentially removing the subdivision plat from record. In addition, the \$10,000 surety for the Site Stability Bond is forfeited to the County Commission.

- B. Tolling of the bond has a 4-year time limit. If the developer fails to re-post the full construction bond before expiration of the time limit, the developer will be in default of the agreement.
- C. The developer cannot begin any site improvements or sell any lots as long as the bond is being tolled.
- D. In order to begin installation of the site improvements and/or to sell lots, the developer is required to stop tolling the bond. In doing so, the developer is required to re-post the full amount of the construction bond at the current construction costs at that time. Once the construction bond is reposted, the merger deed and the \$10,000 surety are returned to the

developer.

- E. The developer may toll the bond on any subdivision, or phase of a subdivision, only one time. Once the developer stops tolling of the bond and re-posts the new construction bond the developer shall complete the required site improvements in accordance with the bonding policy.

**Recommendation:** The project meets the requirements to be allowed to toll the bond. Recommend authorizing the Commission President and staff to execute the Tolling of Bonding Agreement with the developer, provided the County Commission finds that it is justified due to current economic conditions.

**AGREEMENT REGARDING BONDING OBLIGATIONS AND  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**AVALON HILLS SUBDIVISION**

**THIS AGREEMENT REGARDING BONDING OBLIGATIONS AND DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS** (this "Declaration") is made and entered into as of the \_\_\_\_ day of June 2011, by Sarah Carl Metz ("Declarant"), and the **COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA** (the "County Commission").

**WHEREAS**, Declarant is the owner of a certain tract of land located in Jefferson County, West Virginia, legally described in the deed found recorded in the Jefferson County Clerk's Office in Deed Book 1051 Page 733 (the "Land"); and

**WHEREAS**, the Land has been legally subdivided (the "Subdivision") into Avalon Hills Subdivision consisting of (14) single family lots (the "Lots") pursuant to and in accordance with the subdivision ordinance of Jefferson County, West Virginia in effect on July 18, 1979 (the "Subdivision Ordinance"), and as shown on that certain plat of the Avalon Hills Subdivision, Lots 1-14 and Residues A, B, C & D recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 25 at Page 61 – 61I (the "Final Plat"); and

**WHEREAS**, Declarant posted a bond with the County Commission, in the form of a *letter-of-credit*, in the amount of \$422,058.00 (the "Existing Infrastructure Bond") to secure the completion of all infrastructure improvements to be made in connection with the development of the Subdivision (the "Infrastructure Improvements") as itemized on that certain Construction Bond – Estimate, dated October 2, 2007 (the "Bond Estimate"), and approved by the Jefferson County Department of Planning, Zoning & Engineering (the "Department") on October 3, 2007; and

**WHEREAS**, due to economic conditions in the home building industry, the Declarant has decided to delay construction of the Infrastructure Improvements and, accordingly, has requested that the County Commission modify the Declarant's original bonding obligations with respect to the Subdivision (the "Original Bonding Obligations") until such time as the Declarant commences construction of the Infrastructure Improvements; and

**WHEREAS**, the County Commission has determined that it is in the best interests of Jefferson County to modify the Original Bonding Obligations until such time as the Declarant commences construction of the Infrastructure Improvements subject to the condition that Declarant execute and record this Declaration which shall run with the Land and be enforceable by the County Commission.

**NOW, THEREFORE**, in consideration of the premises and the covenants and agreements hereinafter set forth, Declarant declares as follows:

1. **Incorporation of Recitals; Defined Terms.** The foregoing recitals are hereby incorporated into this Declaration by this reference as if fully set forth herein. Capitalized terms used herein and not defined or cross-referenced herein shall have the meanings ascribed to such terms in the Subdivision Ordinance.
  
2. **Modification of Original Bonding Obligations.**
  - (a) The County Commission's agreement to modify the Original Bonding Obligations shall be subject to the satisfaction of the following condition precedent (the "Modification Conditions"):
    - (i) The Declarant submits to the Department a surety in the amount of \$10,000 as a Site Stability Bond.
  
  - (b) Upon satisfaction of the Modification Condition, the County Commission shall return the Existing Infrastructure Bond to the Declarant and the Original Bonding Obligations shall be deemed modified as follows:
    - (i) Unless and until Declarant commences the construction of any Infrastructure Improvements, the Declarant's bonding obligations with respect to Subdivision shall be limited to posting a \$10,000 surety as a Site Stability Bond with the County Commission and complying with the provisions of the Bonding Policy with respect to the Site Stability Bond; provided, however, that no infrastructure improvements shall be required to be made to the Land as a condition of keeping the Site Stability Bond in place.
  
    - (ii) No Infrastructure Improvements, including without limitation any Site Stability Work, shall occur or be permitted on the Land (other than the continuance of an agricultural use existing on the land prior to this agreement, and/or mowing and other routine maintenance required to preserve the appearance of the Land and the health and safety of the community) unless and until the Declarant submits to the Department, and the Department approves, a new cost estimate for all Infrastructure Improvements, and the Declarant posts an approved surety with the County Commission in the amount of 115% of said estimate in accordance with the Bonding Policy (the "New Infrastructure Bond"). Upon posting of the New Infrastructure Bond, and provided Declarant is not then in default under this Declaration, the County Commission shall return the surety for the Site Stability Bond to the Declarant.

(iii) Once the New Infrastructure Bond has been posted with the County Commission, the County Commission shall hold the New Infrastructure Bond in accordance with the Bonding Policy and the Declarant shall thereafter comply with all provisions of the Bonding Policy. The County Commission shall be under no obligation to grant further modifications to the Declarant's bonding obligations with respect to the Subdivision. The provisions of this Section 2(b)(iii) shall survive termination of this Declaration.

3. **Covenant Not to Commence Construction.** In consideration of the County Commission's agreement to modify the Original Bonding Obligations, Declarant covenants and agrees that prior to satisfying the conditions set forth in Section 2(b)(ii) above, Declarant shall not commence, or cause any third party to commence, the construction of any Infrastructure Improvements, including without limitation any Site Stability Work.
4. **Covenant Prohibiting Construction of Homes or Sale or Transfer of Lots.** In consideration of the County Commission's agreement to modify the Original Bonding Obligations, Declarant covenants and agrees that prior to satisfying the conditions set forth in Section 2(b)(ii) above, (a) Declarant shall not commence, or cause any third party to commence, the construction of any single family residence or other structure on any portion of the Land, and (b) Declarant shall not sell or transfer any Lot. Notwithstanding the foregoing, Declarant may transfer the entire Subdivision to a single transferee subject to the terms and provisions of this Declaration; provided, that such transferee expressly assumes the obligations of Declarant under this Declaration by a written agreement satisfactory to the County Commission.
5. **Covenant to Maintain "Good Standing" with the State of West Virginia.** In consideration of the County Commission's agreement to modify the Original Bonding Obligations, Declarant covenants and agrees that prior to satisfying the conditions set forth in Section 2(b)(ii) above, Declarant shall continually maintain "good standing" with the State of West Virginia with regard to this parcel/property. This shall include:
  - (a) Maintaining a current and valid organization/business certificate, license, or any other document required by the West Virginia Secretary of State to conduct business in the State of West Virginia. The Declarant shall be in default of this agreement if at any time during the term of this agreement the organization/business is dissolved or revoked by the West Virginia Secretary of State and its good standing is allowed to lapse; and
  - (b) Not be delinquent on the real estate property taxes by more than 30 calendar days from the first payment due date set by the Jefferson

County Assessor. The Declarant shall be in default of this agreement if at any time during the term of this agreement, the real estate property taxes on this property are delinquent more than 30 calendar days.

The Declarant shall provide to the County Commission, on a periodic basis as determined by the County Commission and/or their staff, documentation evidencing that the Declarant is continually maintaining good standing with the State of West Virginia, to the satisfaction of the County Commission.

**6. Default.**

- (a) The failure of Declarant to observe or perform any of the covenants, conditions or obligations of this Declaration shall constitute a default under this Declaration. If Declarant fails to cure any default within thirty (30) days after the issuance of a notice by the County Commission, specifying the nature of the default; the County Commission may exercise any rights and remedies it may have hereunder or applicable law. Notwithstanding the foregoing, Declarant shall not be entitled to any notice of a violation of the covenant not to sell or transfer any Lot under Section 4(b) of this Declaration.
- (b) The County Commission shall have the right to bring any proceedings at law or in equity against the Declarant for violating or attempting to violate or defaulting upon any of the provisions contained in this Declaration, and to recover actual damages for any such violation or default. Such proceeding shall include the right to restrain by injunction any violation or threatened violation by the Declarant or any other person of any of the terms, covenants or conditions of this Declaration, or to obtain a decree to compel performance of any such terms, covenants or conditions. All of the remedies permitted or available to the County Commission under this Declaration or at law or in equity shall be cumulative and not alternative, and the invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy. In any action brought by the County Commission pursuant to these provisions, the County Commission will be entitled to costs (including but not limited to its reasonable attorneys' fees). In addition, the County Commission shall have the right to draw on the Site Stability Bond and apply the proceeds thereof in accordance with the Bonding Policy.
- (c) The maximum length of time for tolling the bond shall be four (4) years. At the time of executing this agreement, the Declarant shall execute a merger deed that merges the lots back into the parent tract. The merger deed shall be held by the Bonding Administrator for the Jefferson County Commission. If the Declarant fails to repost the New

Infrastructure Bond and the Bond Surety within four (4) years of the date of this agreement, the County Commission shall have the right to record the merger deed and revoke all project approvals; and the \$10,000 surety for the Site Stability Bond shall be forfeited to the County Commission. The merger deed may not be recorded by the County Commission if the Declarant reposts the Construction Bond and Bond Surety prior to expiration of the four (4) year tolling period; in such case, the merger deed shall be returned by the County Commission to the Declarant. In the event of recordation of the merger deed, the parent tract and residue parcel shall retain all future development rights under the land development ordinances in effect at the time the future application for land development is presented to the County.

7. **Waiver.** No waiver by the County Commission of any default under this Declaration shall be effective or binding unless made in writing by the County Commission and no such waiver shall be implied from any failure of the County Commission to take any action with respect to any default or violation.
8. **Binding Effect.** The terms of this Declaration shall constitute covenants running with the land and shall bind the Land described herein and inure to the benefit of and be binding upon the Declarant and all parties having any right, title or interest in the Land (or any part thereof), their heirs, successors, successors-in-title and assigns. This Declaration is not intended to supersede, modify, amend or otherwise change the provisions of any prior instrument affecting the land burdened hereby.
9. **Amendment of Declaration.** This Declaration may not be amended except by a written agreement executed by the Declarant and the County Commission and recorded in the Office of the County Clerk of Jefferson County, West Virginia.
10. **Declaration Shall Continue Notwithstanding Breach.** It is expressly agreed that no breach of this Declaration shall entitle the Declarant to cancel, rescind, or otherwise terminate this Declaration
11. **Term of this Declaration.** This Declaration shall be effective as of the date first above written and shall continue in full force and effect until the Declarant satisfies the conditions set forth in Section 2(b)(ii) above. Upon the termination of this Declaration, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of this Declaration, except for the provisions of Section 2(b)(iii) above, shall terminate and have no further force or effect.
12. **Recordation.** This agreement shall be recorded in the Office of the Clerk of the Jefferson County Commission in both the name of the developer and the

project name. It shall be the Declarant's responsibility to record the agreement and provide the Bonding Administrator with confirmation of such recordation in the form of the deed book and page number reference.

AVALON HILLS SUBDIVISION, LOTS 1-14, PARCELS A, B, C & D  
(Subdivision Name)

Jefferson County Planning Commission File No. 06-24

SARAH F. CARL FAMILY LIMITED PARTNERSHIP/SARAH CARL METZ  
(Applicant/Developer Name)

By: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

**(Notary Certification Shall Be On The Same Page As The Signatures Being Notarized)**

STATE OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_, to wit:

I \_\_\_\_\_, a Notary Public in and for the State and County aforesaid, do hereby certify that \_\_\_\_\_ and \_\_\_\_\_, as \_\_\_\_\_ and \_\_\_\_\_, respectively of the \_\_\_\_\_, whose names are signed to the foregoing, this day personally appeared before me in my State and County aforesaid and acknowledged their signatures above (and the Corporate Seal as the genuine Seal of the said corporation).

Given under my hand this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires: \_\_\_\_\_

COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA

By: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Print Name: Patricia A. Noland, President, Jefferson County Commission

**(Notary Certification Shall Be On The Same Page As The Signatures Being Notarized)**

STATE OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_, to wit:

I \_\_\_\_\_, a Notary Public in and for the State and County aforesaid, do hereby certify that \_\_\_\_\_ and \_\_\_\_\_, as \_\_\_\_\_ and \_\_\_\_\_, respectively of the \_\_\_\_\_, whose names are signed to the foregoing, this day personally appeared before me in my State and County aforesaid and acknowledged their signatures above (and the Corporate Seal as the genuine Seal of the said corporation).

Given under my hand this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
ATTEST:

\_\_\_\_\_  
Jennifer S. Maghan  
Clerk, County Commission of Jefferson County, WV

Jefferson County - Tolling of Bonding Agreement  
Avalon Hills Subdivision, JCPC File No. 06-24

**Sandy McDonald**

---

**From:** "Engineering Department" <engineering@jeffersoncountywv.org>  
**To:** "Nichelle Hosby" <nhosby@jeffersoncountywv.org>; <sandy@jeffersoncountywv.org>  
**Cc:** "Engineering Department" <engineering@jeffersoncountywv.org>; "Roger Goodwin" <rgoodwin@jeffersoncountywv.org>; "Stephanie Grove" <sgrove@jeffersoncountywv.org>  
**Sent:** Thursday, June 16, 2011 11:58 AM  
**Attach:** 2090\_001.pdf  
**Subject:** FW: Avalon Hills Subdivision Tolling Agreement

Sandy and Nichelle,

The Tolling of Bonding Agreement for Avalon Hills needs to be placed on the upcoming agenda for June 23, 2011.

I also need to confirm that Oxford Meadows is on this agenda as well it was postponed at previous meeting to this date.

If you have any questions let me know.

Thanks.

Becky



Commission Office Use Only  
 Date on Agenda: 6/30/11  
 Appt Time or New Business: 10:45

AGENDA REQUEST FORM

Name: City of Ranson (Andrew P. Blake - Acting City Manager)

Department or Entity: Administration - Council

Estimation of amount of time needed for appointment: 10 minutes

Date Requested - 1<sup>st</sup> Choice: June 23<sup>rd</sup>, 2011

Date Requested - 2<sup>nd</sup> Choice: June 30<sup>th</sup>, 2011

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

Subject: **An annexation ordinance annexing 8.74 acres, more or less, owned by Alger's Auto Recycling, Inc. into the City of Ranson, West Virginia**

Please provide the County Commission with a description of your request or presentation, including any background information: **This ordinance annexes 8.74 acres of land currently owned by Alger's Auto Recycling, Inc. into the City of Ranson with an Industrial (1) zoning classification. This land is currently under contract and is being annexed for the purpose of operating a business engaged in the scrap metal, brass, and aluminum recycling. The land is contiguous to the City of Ranson's corporate limits.**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): **Ministerial approval of annexation order**

Attachments: **Ordinance, Certificate of Annexation Pursuant to an Ordinance, Certificate, Order, and Plat**

**ORDINANCE #2011-224**

**AN ANNEXATION ORDINANCE ANNEXING 8.74 ACRES, MORE OR LESS, OWNED BY ALGER'S AUTO RECYCLING, INC. INTO THE CITY OF RANSON, WEST VIRGINIA.**

WHEREAS, West Virginia Code § 8-6-4 permits a municipality to, by ordinance, annex additional territory without ordering a vote on the question if (1) a majority of the qualified voters of the additional territory file with the governing body a petition to be annexed and (2) a majority of all freeholders of the additional territory, whether they reside or have a place of business therein or not, file with the governing body a petition to be annexed;

WHEREAS, the Petitioner, Alger's Auto Recycling, Inc. (Alger's), is the sole owner of a 8.74 acre parcel of real estate situate the Charles Town District, Jefferson County, West Virginia, contiguous to the City of Ranson's municipal boundary and it seeks to have this additional territory annexed into the City of Ranson;

WHEREAS, the Petitioner is the only qualified voter within the additional territory, as defined by West Virginia Code § 8-6-4(b);

WHEREAS, there are no other freeholders or qualified voters residing in the area sought to be annexed;

WHEREAS, the majority of qualified voters of the additional territory sought to be annexed has petitioned the City of Ranson to have the additional territory annexed into the municipality by either the freeholders petition or qualified voters petition in accordance with West Virginia Code § 8-6-4;

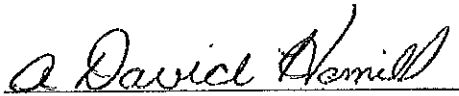
WHEREAS, the additional territory is contiguous with the municipal boundaries of the City of Ranson, and

WHEREAS, the Petitioner has requested Industrial (I) zoning contiguous with annexation.


NOW, THEREFORE, BE IT ORDAINED THAT the City Council of the City of Ranson (1) adopts the recitals set forth above as true and correct and hereby incorporates them in the ordinance as if set out in full; (2) finds and is satisfied that the petition is sufficient in every respect; (3) directs that Ranson Municipal Code § 19-20(f) "Industrial District" be amended by inserting subsection (5) to read as follows: "Alger's Auto Recycling, Inc. - An 8.74 acre parcel of land sharing a common northern border with 16<sup>th</sup> Avenue; extending south to an alleyway owned by the City of Ranson and shown on the plat of the lands of the Charles Town Mining Manufacturing Improvement Company recorded in Deed Book X at page 1; extending west bordering parcels 215, 215.1 and 215.2 on Tax Map 1; and, extending east to an alleyway owned by the City of Ranson and shown on the plat of the lands of the Charles Town Mining Manufacturing Improvement Company recorded in Deed Book X at page 1"; (4) agrees to the attached annexation agreement and directs the Mayor to execute the same; and (5) directs the recorder to enter this fact upon the City's journal and forward a certificate to that effect to the County Commission of Jefferson County, West Virginia, requesting that the Commission enter an Order annexing the property described in the petition to the City of Ranson such that after the date of entry of the County Commission's Order, the corporate limits of the City of Ranson shall be modified as set forth therein.

First Read:  
Date: 3/15/2011

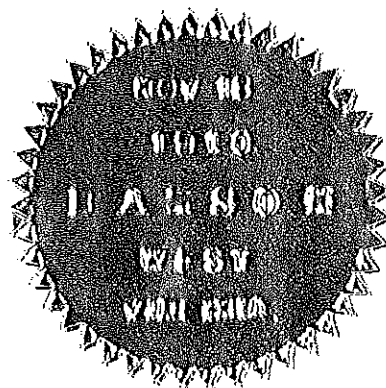
Second Read:  
Date: 6/7/2011

  
A. David Hamill  
Mayor

ATTEST:

  
Ray A. Braithwaite  
Recorder

AFFIX CITY SEAL



**CERTIFICATE OF ANNEXATION PURSUANT TO AN ORDINANCE**

**ORDINANCE 2011-224**

**AN ANNEXATION ORDINANCE ANNEXING 8.74 ACRES, MORE OR LESS, OWNED  
BY ALGER'S AUTO RECYCLING, INC. INTO THE CITY OF RANSON, WEST  
VIRGINIA.**

WHEREAS, West Virginia Code § 8-6-4 permits a municipality to, by ordinance, annex additional territory without ordering a vote on the question if (1) a majority of the qualified voters of the additional territory file with the governing body a petition to be annexed and (2) a majority of all freeholders of the additional territory, whether they reside or have a place of business therein or not, file with the governing body a petition to be annexed;

WHEREAS, the Petitioner, Alger's Auto Recycling, Inc. (Alger's), is the sole owner of a 8.74 acre parcel of real estate situate the Charles Town District, Jefferson County, West Virginia, contiguous to the City of Ranson's municipal boundary and it seeks to have this additional territory annexed into the City of Ranson;

WHEREAS, the Petitioner is the only qualified voter within the additional territory, as defined by West Virginia Code § 8-6-4(b);

WHEREAS, there are no other freeholders or qualified voters residing in the area sought to be annexed;

WHEREAS, the majority of qualified voters of the additional territory sought to be annexed has petitioned the City of Ranson to have the additional territory annexed into the municipality by either the freeholders petition or qualified voters petition in accordance with West Virginia Code § 8-6-4;

WHEREAS, the additional territory is contiguous with the municipal boundaries of the City of Ranson, and

WHEREAS, the Petitioner has requested Industrial (I) zoning contiguous with annexation.

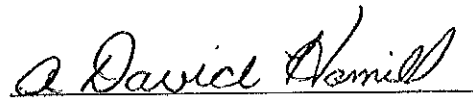
NOW, THEREFORE, BE IT ORDAINED THAT the City Council of the City of Ranson (1) adopts the recitals set forth above as true and correct and hereby incorporates them in the ordinance as if set out in full; (2) finds and is satisfied that the petition is sufficient in every respect; (3) directs that Ranson Municipal Code § 19-20(f) "Industrial District" be amended by inserting subsection (5) to read as follows: "Alger's Auto Recycling, Inc. - An 8.74 acre parcel of land sharing a common northern border with 16<sup>th</sup> Avenue; extending south to an alleyway owned by the City of Ranson and shown on the plat of the lands of the Charles Town Mining Manufacturing Improvement Company recorded in Deed Book X at page 1; extending west bordering parcels 215, 215.1 and 215.2 on Tax Map 1; and, extending east to an alleyway owned by the City of Ranson and shown on the plat of the lands of the Charles Town Mining Manufacturing Improvement Company recorded in Deed Book X at page 1"; (4) agrees to the attached annexation agreement and directs the Mayor to execute the same; and (5) directs the recorder to enter this fact upon the City's journal and forward a certificate to that effect to the County Commission of Jefferson County, West Virginia, requesting that the Commission enter an Order annexing the property described in the petition to the City of Ranson such that after the date of entry of the County Commission's Order, the corporate limits of the City of Ranson shall be modified as set forth therein.

First Read:

Date: 3/15/2011

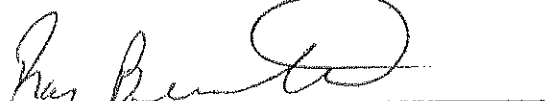
Second Read:

Date: 6/7/2011



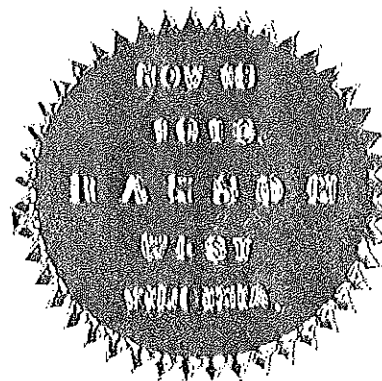
A. David Hamill  
Mayor

ATTEST:



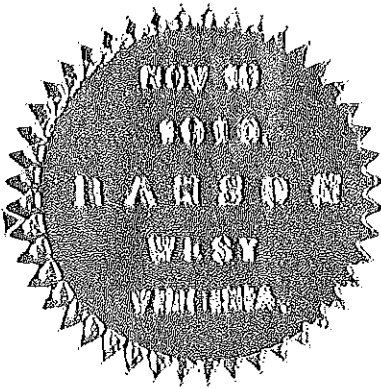
Ray A. Braithwaite  
Recorder

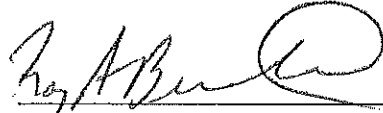
AFFIX CITY SEAL



**CERTIFICATE**

The undersigned, being the recorder for the City of Ranson, hereby certifies that the above ordinance is a true copy of the ordinance of the City of Ranson entered into its journal as of the 7<sup>th</sup> day of June, 2011.



  
\_\_\_\_\_  
Ray A. Braithwaite  
Recorder

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

In Re: Annexation of Additional Territory of the City of Ranson Pursuant to West Virginia Code §8-6-4.

### ORDER

A certificate of the governing body of the City of Ranson has this day filed showing that an annexation has been made, in the manner required by law, to the corporate limits thereof, and that by such annexation the said corporate limits are extended as follows:

A tract of land belonging in the Charles Town District bordering 16<sup>th</sup> Avenue and contiguous to the municipal boundaries of Ranson and more particularly described as follows:

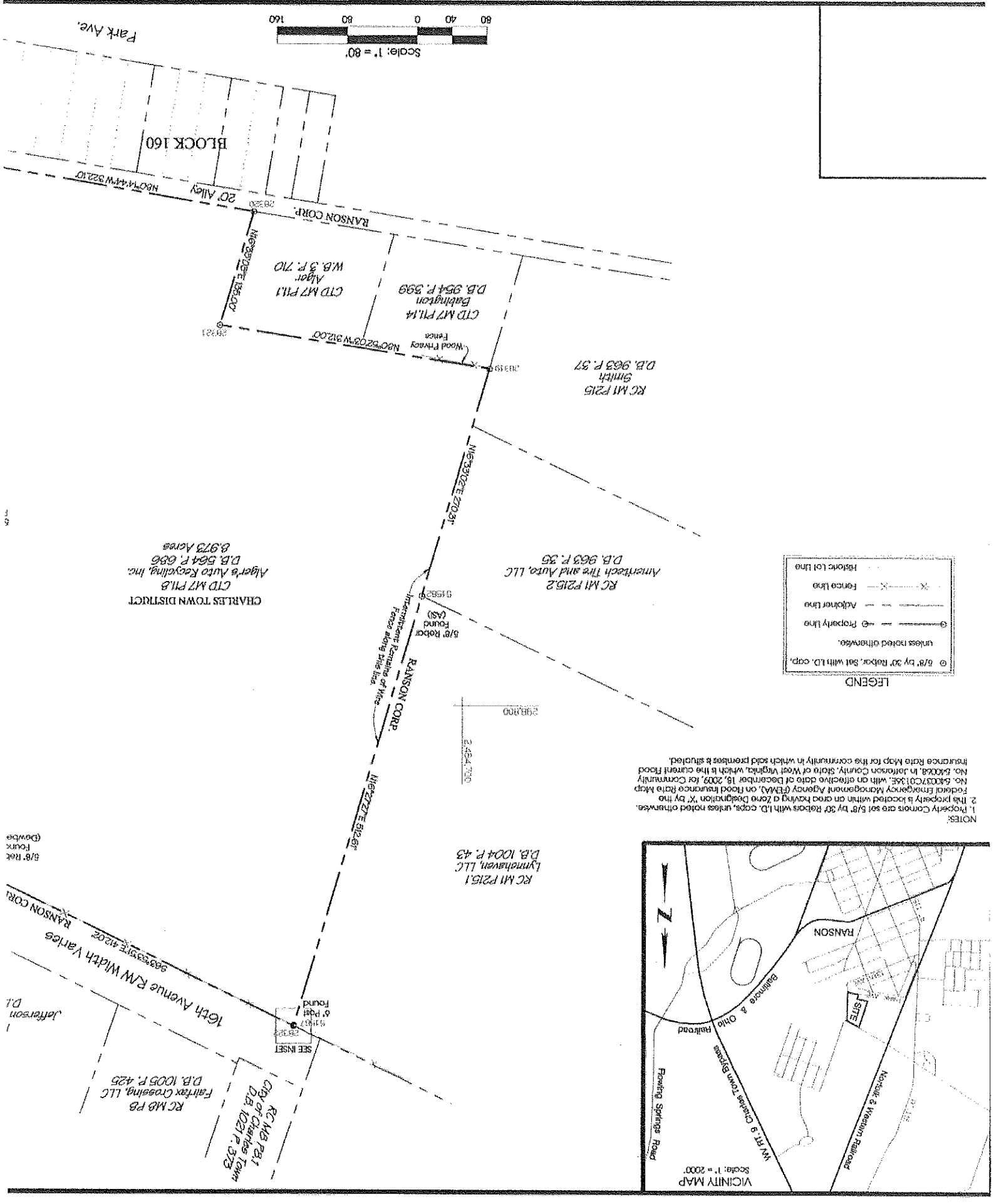
Beginning at the northeast corner of the lands of Alger's Auto Recycling, Inc., and being a common boundary with 16<sup>th</sup> Avenue/Universal Forrest Products Road and also being the northeast corner of Parcel 3 as the same is more particularly shown on a plat made by Charles R. Atherton, CE, dated November 29, 1967, which is attached to a deed to Randolph Alger and Pauline Alger from Willard O. Lloyd and wife dated December 30, 1967 and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia in Deed Book 292 at Page 556, thence with the southern limit of 16<sup>th</sup> Avenue/Universal Forrest Products Road NW 60-00 419.9' to a point, said point being the northwest corner of Parcel 4, being the same tract conveyed under Randolph Alger and Pauline Alger from Willard O. Lloyd and wife by deed dated May 15, 1973 and recorded in the aforesaid Clerk's Office in Deed Book 358 at Page 501, and is more particularly shown on a plat made by Charles R. Atherton dated April 14, 1973 which is attached to that deed, thence with formerly the Lloyd residue SW 20-41 782.8' to a new point, thence with lands reserved in a deed from Pauline Alger to David Lee Alger, et al which is recorded in the aforesaid Clerk's Office in Deed Book 510 at Page 43 SE 76-27 312' to a point, thence SW 20-41 133' to the northern limit of an alleyway shown on the plat of the lands of the Charles Town Mining Manufacturing Improvement Company which is recorded in the aforesaid Clerk's Office in Deed Book X at Page 1 and being in the municipal line of the City of Ranson, thence with the northern limit of the alley and with the southern boundaries of Parcel 2 and 1 as the same are more particularly shown on tow plats, the first by Charles R. Atherton, RPE dated March 28, 1966 and recorded in the aforesaid Clerk's Office in Deed Book 279 at Page 457, and second by John Kusner dated September 4, 1964 and recorded in the aforesaid Clerk's Office in Deed Book 269 at Page 323, SE 75-30 227.88' thence to the western limit of an alleyway as shown on the aforesaid Charles Town Mining Manufacturing Improvement Company plat, thence with the alleyway NE 04-31 764.42' to a point, thence NE 25-30 37.3' to the point of beginning.

It is therefore **ORDERED** that such annexation to said corporate limits of Ranson be, and the same is hereby **APPROVED** and **CONFIRMED**, and the Clerk of the Commission is directed to deliver to the said Council of the City of Ranson a certified copy of this Order, as soon as practical after the entry of the same.

COUNTY COMMISSION OF JEFFERSON COUNTY,  
WEST VIRGINIA

BY: \_\_\_\_\_  
President

Entered: \_\_\_\_\_

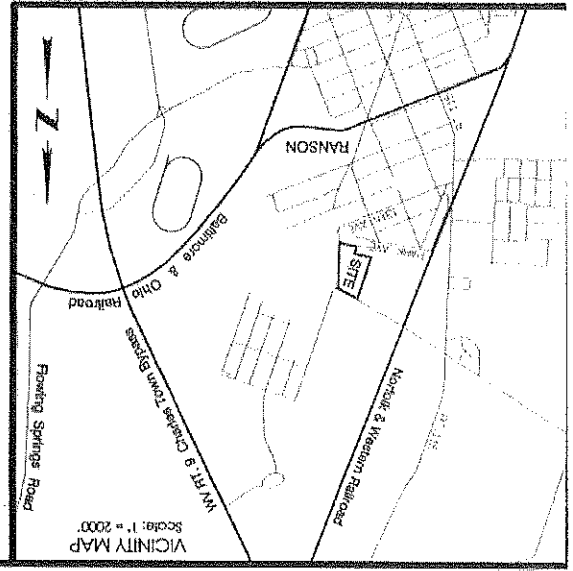


**LEGEND**

⊙ 5/8" by 20" Rebar, Set with I.D. caps, unless noted otherwise.	—	Property line
—	—	Adjoiner line
—	—	Fence line
—	—	Historic lot line

**NOTES:**

1. Property corners are set 5/8" by 20" Rebars with I.D. caps, unless noted otherwise.
2. This property is located within an area having a Zone Designation "X" by the Federal Emergency Management Agency (FEMA), on Flood Insurance Rate Map No. 580037C0135E, with an effective date of December 19, 2009, for Community No. 580038, in Jefferson County, State of West Virginia, which is the current Flood Insurance Rate Map for the community in which said premises is situated.



5/8" Rebar  
Four  
(Dowbe)

Jefferson D.I.  
16th Avenue R/W with Varies  
RANSON CORP.

RC M8 P81  
City of Charles Town  
D.B. 1021 P. 373

RC M8 P8  
Fairfax Crossing, LLC  
D.B. 1005 P. 425

RC M1 P215.1  
Lynchaven, LLC  
D.B. 1004 P. 43

RC M1 P215.2  
Ameritech Tire and Auto, LLC  
D.B. 963 P. 35

RC M1 P215  
Smith  
D.B. 963 P. 37

CTD M7 P11.4  
Babington  
D.B. 954 P. 399

CTD M7 P11.1  
Alger  
W.B. 3 P. 710

CHARLES TOWN DISTRICT  
CTD M7 P11.8  
Alger's Auto Recycling, Inc.  
D.B. 564 P. 686  
8,973 Acres



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

**AGENDA REQUEST FORM**

Name: Steve Rawlings

Department or Entity: WV Risk Pool

Estimation of amount of time needed for appointment: 15 min

Date Requested – 1<sup>st</sup> Choice: 6-23-11

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

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

Subject: **Worker's Compensation – Discussion/Action**

Please provide the County Commission with a description of your request or presentation, including any background information: **Discussion of Worker's Compensation under the WV Risk Pool**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): **to approve the WV Risk Pool proposal on the Worker's Compensation Plan.**

Attachments:



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

**AGENDA REQUEST FORM**

Name: County Commission

Department or Entity: \_\_\_\_\_

Estimation of amount of time needed for appointment: 10 minutes

Date Requested – 1<sup>st</sup> Choice: \_\_\_\_\_

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

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

Subject: **Break**

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:



62

Commission Office Use Only  
Date on Agenda: 6/27/11  
Appt Time or New Business: 10:45am  
~~Unfinished Business~~

HOLD OVER FOR ACTION  
C 9-1-11 IMPLEMENTED

AGENDA REQUEST FORM

Name: F. Mark Schiavone

Department or Entity: DCPM

Estimation of amount of time needed for appointment: 15 min

Date Requested – 1<sup>st</sup> Choice: 2 June 2011

Date Requested – 2<sup>nd</sup> Choice: 9 June 2011

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

Subject: Adoption of 4 impact fee studies and decision to proceed to public hearing on updated impact fee ordinances

Please provide the County Commission with a description of your request or presentation, including any background information: A public workshop and public hearing on the 4 draft impact fee studies were held on 4<sup>th</sup> and 12<sup>th</sup> of May, respectively. Written comments were received and a response from DCPM and the consultant to the School Impact Fee study were given to the County Commission. The Law Enforcement study was updated to include the most current trip generation data – the Fire & EMS study already included such.

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): Move to approve the draft School | Law Enforcement | Parks & Recreation | Fire & EMS impact fee studies and to direct staff to proceed to update the associated ordinances and schedule a public hearing.

Attachments: Updated Law Enforcement Impact Fee Study.

# **Law Enforcement Impact Fees**

## **December 2010**

### **Department of Capital Planning and Management – Office of Impact Fees**

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## 1.0 Executive Summary

This document updates the Jefferson County Law Enforcement Impact Fee from the impact fee study done in December of 2007. The maximum justifiable fee schedule for new residential and commercial land uses are presented in Table 1.

**Table 1. CY 2010 Maximum Justifiable Impact Fees**

<b>Residential Impact Fee</b>		
<b>Housing Type</b>	<b>PPH</b>	<b>Fee /1</b>
Single Family	2.63	<b>\$279</b>
Townhome/Duplex	2.01	<b>\$213</b>
Multi-family	1.98	<b>\$210</b>
<b>Non Residential Impact Fee</b>		
<b>Commercial Use Category</b>	<b>Adj Trip Ends</b>	<b>Fee /2</b>
Com/Shop Ctr 25,000 SF or less	24.27	<b>\$378</b>
Com/Shop Ctr 25,001 – 50,000 SF	22.51	<b>\$350</b>
Com/Shop Ctr 50,001 – 100,000 SF	19.69	<b>\$307</b>
Com/Shop Ctr 100,001 – 200,000 SF	17.05	<b>\$266</b>
Com/Shop Ctr over 200,000 SF	14.63	<b>\$228</b>
Office/Inst 10,000 SF or less	11.33	<b>\$176</b>
Office/Inst 25,001 – 50,000 SF	9.18	<b>\$143</b>
Office 25,001 – 50,000 SF	7.78	<b>\$121</b>
Office/Inst 50,001 – 100,000 SF	6.67	<b>\$104</b>
Office/Inst over 100,000 SF	5.69	<b>\$89</b>
Business Park	6.38	<b>\$99</b>
Light Industrial	3.49	<b>\$54</b>
Warehousing	1.78	<b>\$28</b>
Manufacturing	1.91	<b>\$30</b>

**Notes**

/1 Expressed as fee per dwelling unit

/2 Expressed as fee per 1,000 square feet usable space

### 1.1 Trends Driving the Fee Schedule

Relative to the 2007 fee study, the law enforcement impact fee schedule is higher for both residential and nonresidential development. There are a number of factors which serve to increase or decrease the fee schedules:

- The capitalization of the Sheriff's inventory is significantly higher than in 2007. There is \$1.28 million more invested in police cruisers and the equipment required to outfit them relative to the inventory in 2007.
- Commercial demand, as jobs within specific commercial categories, have increased in all sectors (refer to Appendix 1 and overall economic summaries from the West Virginia Bureau of Employment Programs). Beyond this increase, the number of calls for emergency law enforcement service to commercial establishments has increased relative to the 2004 study. Since the previous study, several major commercial ventures have

been completed in the county and these appear to have driven this increase in law enforcement calls to non-residential addresses.

Thus, although both residential population and non-residential vehicular trips have increased, the value of the Sheriff's assets increased at a greater pace, driving the fee calculations up relative to their place in 2007. There was also a shift in the calls to addressable locations, with more calls coming from non-residential addresses in 2010 relative to 2007. This fact shifted much of the increase toward the non-residential component while the residential fee saw only a modest rise relative to the 2007 fee calculation.

## **1.2 What are Impact Fees?**

Impact fees are one-time payments that may be assessed by a locality to offset the costs associated with providing necessary public services. Impact fees for the County are proportionate and reasonably related to the capital facility service demands of new development. The fee methodologies establish that the fees will substantially benefit new development. The County's impact fee methodology also identifies the extent to which newly developed properties are entitled to various types of credits to avoid potential double payment of capital costs.

TischlerBise, Inc. (formerly Tischler & Associates) had previously evaluated possible methodologies and documented appropriate demand indicators by type of development, for each type of fee. Specific capital costs have been identified using local data and current dollars. The formula used to calculate each impact fee is diagrammed in Figure 1. Also, for each type of fee the report includes a summary table indicating the specific factors used to derive the impact fee. These factors are also referred to as Level-Of-Service (LOS) standards. This current study utilizes the same approach previously applied by TischlerBise.

## **1.3 How are Impact Fees Calculated?**

There are three basic approaches used to evaluate the various components of Jefferson County's impact fees. A **plan-based method** is best suited for public facilities that have adopted plans or commonly accepted service delivery standards to guide capital improvements. This method is not used in the Law Enforcement Impact Fee.

The **incremental expansion** methodology documents the current Level-Of-Service (LOS) for each type of public facility in both quantitative and qualitative measures. LOS standards are determined in a manner similar to the current replacement cost approach used by property insurance companies. However, in contrast to insurance practices, Jefferson County will not use the funds for renewal and/or replacement of existing facilities. Rather the County's intent is to use impact fee revenue to expand or provide additional facilities, as needed to accommodate new development. An incremental expansion cost method is best suited for public facilities that will be expanded in regular increments, with LOS standards based on current conditions in the community. This methodology is used to calculate all components of the Law Enforcement Impact Fee.

A third method, known as the **buy-in approach**, is based on the rationale that new development will pay for its share of the useful life and remaining capacity of recently constructed facilities. This methodology is not used in this report.

Another general requirement that is common to impact fee methodologies is the evaluation of credits. There are several types of credits that have been considered. First, a **future revenue credit** has been evaluated to avoid potential double payment for capital facilities through on-going revenues that may fund system improvements. For example, this type of potential double payment may occur if facilities are bond financed.

The second type of credit is a **site-specific credit** for system improvements that have been included in the impact fee calculations. Policies and procedures related to site-specific credits for system improvements are addressed in the ordinance that establishes the County's fees. However, the general concept is that developers may be eligible for site-specific credits or reimbursements only if they provide system improvements that have been included in the impact fee calculations. Project improvements normally required as part of the development approval process are not eligible for credits against impact fees.

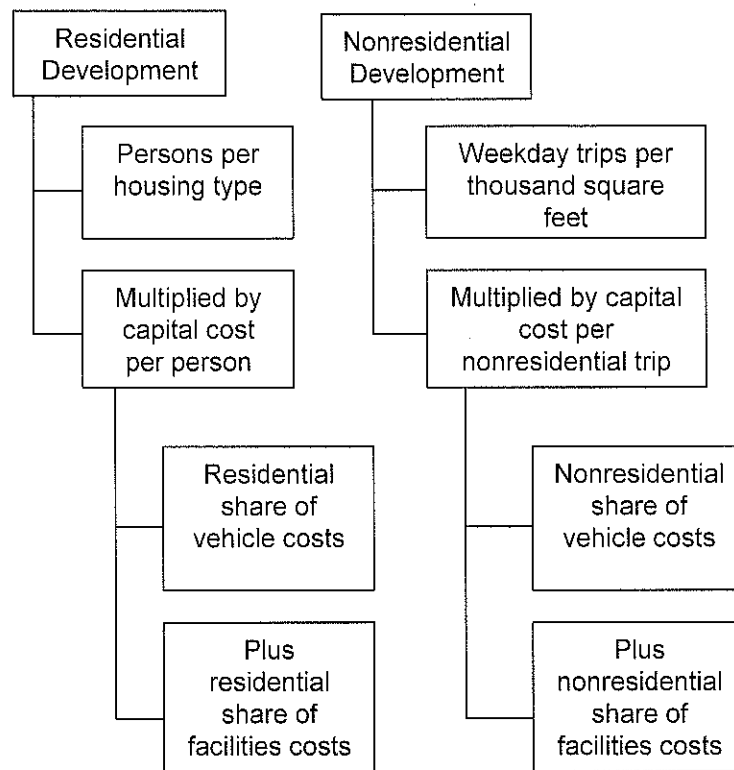
The Law Enforcement Impact Fee Calculations are entirely based on the incremental expansion approach. There are no general obligation bonds or excess levies for the benefit of Law Enforcement and all funding for law enforcement capital expenses has historically come from general revenue funds, thus there are no credits to consider in any of the fee calculations. The impact fees are based on a countywide service area, although the five incorporated municipalities presently maintain separate law enforcement agencies and by ordinance this fee only applies to the unincorporated portions of the county. Fees for residential development are assessed per housing unit and are collected prior to issuance of a building permit. For nonresidential development, the fees are assessed per thousand square feet of floor area and are also collected prior to issuance of a building permit.

## **2.0 Base Data**

The incremental expansion methodology has been used to determine impact fees for law enforcement including facilities and vehicles for the Sheriff's Office. As shown in Figure 1, the Law Enforcement Impact Fee uses different demand generators for residential and nonresidential development. Residential impact fees are calculated on a per capita basis and then converted to an appropriate amount by type of housing using household size multipliers. To calculate nonresidential impact fees, TischlerBise had previously recommended using nonresidential vehicle trips as the best demand indicator for Sheriff facilities, vehicles, and communications equipment. That approach was continued in this study.

In addition to the demand generators, discussed above, the other set of base data are the capital inventories for law enforcement. This includes the Sheriff's vehicle and facilities inventories.

**Figure 1. Law Enforcement Impact Fee Methodology Chart**



## 2.1 Demand Generators

The demand generators for either residential or nonresidential construction are first determined and then proportioned in a manner which reflects the Sheriff's workload.

- Discussions with the Sheriff's office indicate that roughly 50% of all time and resources are spent responding to criminal and traffic calls for service, with the remaining 50% being spent on calls for service related to civil processing.
- Of all criminal and traffic calls (50% of total workload), 67% are spent on calls to residential addresses (down from 87% in 2007) while 33% are spent on calls to nonresidential addresses (up from 13% in 2007). This proportioning is of the total calls to physical addresses and omits calls for roadside service since these cannot be allocated to either residential or nonresidential development (a person could be on their way to work or home or passing through the county).

These proportions are outlined in Table 2.

**Table 2. Law Enforcement Demand Breakdown**

			multiplier	
Total Workload /1	100%		100.0%	
Criminal/Traffic	50%			
of which residential		67%	33.5%	
of which non-residential		33%	16.5%	
Civil	50%			
of which residential		100%	50.0%	

**References**

/1 Memo from E. Maloney - Sheriff's Department. Analysis of January to Nov 2010 workload.

Table 3 lists the base generators for residential (number of residents) and nonresidential (number of nonresidential vehicular trips) for CY 2010. The methodology for calculating the nonresidential trips is presented in Appendix 1.

**Table 3. Base Generators for 2010**

<b>Population Base Data</b>	<b>Value</b>	<b>Note</b>
2009 County Population	52,750	/1
2010 Non Residential Trips	74,628	/2

**References**

/1 American Fact Finder - US Census. Accessed on 1 Dec 2010  
 /2 Appendix 1.

**2.2 Law Enforcement Capital Inventory**

The Sheriff's capital inventory includes two major groups: facilities and vehicles. Since 2007 there has been a significant increase both in the number of law enforcement vehicles and in the cost to replace them. Over time each law enforcement vehicle requires more sophisticated electronics and recording equipment, raising the vehicle replacement cost. The Sheriff's land and building inventory has remained unchanged relative to the 2007 study.

**Table 4. Sheriff's Facilities Capital Inventory**

	<i>Square Feet</i>	<i>Cost/SF*</i>	<i>Cost</i>	<i>Notes</i>
Sheriff's Building - Bardane	15,000	\$ 250	\$ 3,750,000	/1
Blue Ridge Community Facility	1,000	\$ 115	\$ 115,000	/2
<b>Total Cost</b>			<b>\$3,865,000</b>	<b>/3</b>

**References**

/1 Building sited on 2.51 acres. Cost is actual total acquisition and construction costs.  
 /2 Building replacement cost is an estimate  
 /3 Data verified by Lt. Hansen, JCSD, November 2010

**Table 5. Sheriff's Vehicle Capital Inventory**

<i>Vehicle</i>	<i># Units in Service FY 2011</i>	<i>2011 Replacement Cost /2</i>	<i>Total Cost FY 2011</i>	<i>Ref (A, B or C)</i>
Ford Crown Victoria	31	\$55,150.00	\$1,709,650.00	C
Ford Explorer	9	\$52,744.00	\$474,696.00	C
Jeep Cherokee	3	\$54,340.00	\$163,020.00	C
Chevrolet Motorhome	1	\$155,000.00	\$155,000.00	C
BMW 5401	1	\$6,500.00	\$6,500.00	C
Buick Leasbre	1	\$5,000.00	\$5,000.00	C
Chrysler Concorde	1	\$3,000.00	\$3,000.00	C
Ford Taurus	1	\$47,043.00	\$47,043.00	C
Dodge Durango	3	\$27,059.00	\$81,177.00	C
<b>Total Vehicles</b>	<b>52</b>		<b>\$2,645,086.00</b>	

**Additional Law Enforcement Items**

<i>Item</i>	<i># Units in Service FY 2011</i>	<i>2011 Replacement Cost /2</i>	<i>Total Cost FY 2011</i>	<i>Ref (A, B or C)</i>
Traffic Monitoring Cam	6	\$24,100.00	\$144,600.00	A
<b>Total equipment</b>	<b>6</b>		<b>\$144,600.00</b>	

**Total Asset Value** **\$2,789,686.00**

**References**

- 2010 vehicle inventory provided by Lt. Hansen, Sheriff's office [CTS ID 3093]
- (A) Recent purchase (within past year)
- (B) Vendor quote
- (C) Insurance estimate of replacement cost

**2.2 Consultant Study**

The current study as well as the previous fee study were conducted in-house using staff of the Jefferson County Commission. The current best practice is to engage a fee study consultant at some point in the fee update cycle in order to introduce any new best practices. Since nearly 7 years has passed since the last consultant-generated fee recalculation, it is appropriate to include that future cost at this time.

The cost for a study in three years is estimated to be \$10,000. This amount is allocated to the projected increase in population and non-residential trips over the next three years. The US Census Bureau estimated the 2006 population of Jefferson County at 52,750 and the population estimate for 2009 was 50,960. Assuming the past 3-year trend continues for the next three years, this yields a 3-year population increase of 2,060 persons. During the same time, staff project an additional 6,607 non-residential vehicular trips. Taken

together, these additional increments (8,667) divided by the estimated future study cost of \$10,000 result in a study cost per person or non-residential vehicular trip to be \$0.86.

### 3.0 Fee Calculations

Fees are calculated by relating the demand generators to the capitalized costs for facilities and vehicles. The results of these calculations are presented in Table 6. The data from Table 6 serves as the source for the final calculated maximum justifiable fees, expressed per housing unit type or commercial use category. Those data are presented in Table 7, which is a duplicate of the data in Table 1. A detailed explanation of the methodology follows these tables.

**Table 6. Fee Calculations – Demand Unit Costs**

Category	Demand Unit Cost		Demand Unit Break Down		
	Per Person	Per Trip	Civil	Criminal/Traffic	
			Residential	Residential	Non Residential
Facilities	\$61.18	\$8.55	\$36.64	\$24.55	\$8.55
Vehicles	\$44.16	\$6.17	\$26.44	\$17.72	\$6.17
Consultant Study	\$ 0.86	\$ 0.86			
<b>Totals</b>	<b>\$106.20</b>	<b>\$15.57</b>			

**Table 7. Fee Calculations - Maximum Justifiable Impact Fees**

Residential Impact Fee		
Housing Type	PPH	Fee /1
Single Family	2.63	\$279
Townhome/Duplex	2.01	\$213
Multi-family	1.98	\$210
Non Residential Impact Fee		
Commercial Use Category	Adj Trip Ends	Fee /2
Com/Shop Ctr 25,000 SF or less	24.27	\$378
Com/Shop Ctr 25,001 – 50,000 SF	22.51	\$350
Com/Shop Ctr 50,001 – 100,000 SF	19.69	\$307
Com/Shop Ctr 100,001 – 200,000 SF	17.05	\$266
Com/Shop Ctr over 200,000 SF	14.63	\$228
Office/Inst 10,000 SF or less	11.33	\$176
Office/Inst 25,001 – 50,000 SF	9.18	\$143
Office 25,001 – 50,000 SF	7.78	\$121
Office/Inst 50,001 – 100,000 SF	6.67	\$104
Office/Inst over 100,000 SF	5.69	\$89
Business Park	6.38	\$99
Light Industrial	3.49	\$54
Warehousing	1.78	\$28
Manufacturing	1.91	\$30

**Notes**

/1 Expressed as fee per dwelling unit

/2 Expressed as fee per 1,000 square feet usable space

### **3.1 Fee Calculation Methodology**

The **Demand Unit Cost** expressed as *Per Person* for facilities and vehicles constitutes the total *per person* cost of law enforcement. These values serve to ultimately calculate the Law Enforcement Impact Fee for each residential dwelling unit type, based on the average persons per household for those dwelling types. Conversely, the *Per Trip* costs for facilities and vehicles constitute the total *per nonresidential vehicular trip* cost of law enforcement. These values serve to calculate the Law Enforcement Impact Fee for each commercial use category (for a set of predefined uses) and also serve as the base of any custom commercial fee calculations. The commercial fee schedule is calculated by relating the per vehicular trip cost to the number of weekday vehicular trips associated with each commercial use. The trip numbers are adjusted since traffic engineers count entry and exit to a property as two separate trips, thus the minimum trip adjustment is 50%. For commercial land uses that tend to capture on-property trips, such as large shopping centers, the adjustment is higher.

#### **3.1.1 Residential Fee Calculations**

The per person costs of \$61.81 for facilities and \$44.16 for vehicles presented in Table 6 are derived as follows:

- The per person cost for vehicles or facilities is the sum of the residential civil component plus the residential criminal component. These are the third and fourth columns, respectively, in Table 6.
- The residential civil component (third column, Table 6) is the total capitalization of either facilities or vehicles (from Table 4 and Table 5) multiplied by the value of 50% as presented in Table 2 (recall that half of the Sheriff's work load is in responding to civil matters and that all of those calls are residential). Finally, this value is divided by the total county residential population from Table 3 to yield the cost per person for the civil component of facilities or of vehicles.
- The residential criminal component (fourth column, Table 6) is calculated in a similar manner with the exception that it is the product of the total capitalization of either facilities or vehicles multiplied by the value of 33.5% (from Table 2). This product is again divided by the total residential population to yield the cost per person for the criminal component of either facilities or of vehicles.

#### **3.1.2 Nonresidential Fee Calculations**

- For the nonresidential criminal component, the values in the fourth column of Table 6 are derived by multiplying the total capital costs for either vehicles or facilities (from Table 4 and Table 5) by the value of 16.5% from Table 2 (this is the product of the ratio of civil calls to commercial vs. residential addresses times the 50% workload for criminal vs. civil calls). This value is divided by the total number of nonresidential vehicular trips expressed in Table 3.
- There is no nonresidential civil component as previously discussed.

## Appendix 1. Non-Residential Weekday Trips

Table 8. Base Data for Non Residential Weekday Trips - Projected for 2010

Land Use	Knowns			Calculated Values				
	Wkly Trip Ends Per 1000 sq ft employee	Square Feet per employee	2010 Jobs	Total Floor Area (lxJ)	Total Floor Area per 1000 (J)	Total Trips/Floor Area (J*F)	Trip Adjustment	Total Daily Trips
<b>Comm Shop Ctr (820)</b>								
100K gross leasable area	68.17	450	6,610	2974500	2974.5	202771.665	32%	64887
<b>General Office (710)</b>								
10K gross leasable area	22.64	228	2,786	635106.67	635.1067	14378.8149	50%	7189
<b>Light Industrial (110)</b>								
	6.97	433	1,691	732251.11	732.2511	5103.79024	50%	2552
			11,087					<b>74628</b>
	/1	/2	/3	/4	/5	/6	/7	/8

### References

- /1 Wkly Trip Ends Per 1,000 sq ft - Table 1 - memo dated 3 June 2004 from Chris Cullinan, T&A.
- /2 From ITE Trip Generation, 7th edition.
- /3 Data from CY2010 Q1 worksheet using First Quarter FY 2010 BEP data
- /4 Calculated value - product of Square feet per employee and 2010 Jobs.
- /5 Calculated value - Total Floor Area divided by 1000.
- /6 Calculated value - product of Total Floor Area per 1000 and Weekly Trip Ends per 1000 sq ft.
- /7 Trip Adjustment - Table 2 - memo dated 3 June 2004 from Chris Cullinan, T&A. Original source data from ITE Trip Generation, 6th Edition.
- /8 Calculated value - Total Trips per floor area divided by trip adjustment.

Table 8 data source is Microsoft Excel Workbook 2010 12 03 BEP Data.xls

## Appendix 2. Fee Schedule History

Table 9. Law Enforcement Impact Fee Schedule History.

Residential Impact Fee Housing Type	2005 /1	2006 /2	2007 /2	2008 /1	2011 /3
	Impact Fee per Dwelling Unit				
Single Family	\$120	\$127	\$135	\$262	\$279
Town home/Duplex	\$92	\$105	\$112	\$200	\$213
Multi-family	\$90	\$105	\$112	\$197	\$210
<b>Non Residential Impact Fee Commercial Use Category</b>	<b>Impact Fee per 1,000 square feet gross usable floor area</b>				
Com/Shop Center 25,000 SF or less	\$214	\$226	\$241	\$126	\$378
Com/Shop Center 25,001 – 50,000 SF	\$198	\$209	\$223	\$117	\$350
Com/Shop Center 50,001 – 100,000 SF	\$172	\$182	\$194	\$101	\$307
Com/Shop Center 100,001 – 200,000 SF	\$148	\$156	\$166	\$87	\$266
Com/Shop Center over 200,000 SF	\$127	\$134	\$143	\$75	\$228
Office/Inst 10,000 SF or less	\$99	\$105	\$112	\$58	\$176
Office/Inst 10,001 – 25,000 SF	\$80	\$84	\$89	\$47	\$143
Office/Inst 25,001 – 50,000 SF	\$68	\$72	\$77	\$40	\$121
Office/Inst 50,001 – 100,000 SF	\$58	\$61	\$65	\$34	\$104
Office/Inst over 100,000 SF	\$49	\$52	\$55	\$29	\$89
Business Park	\$56	\$59	\$63	\$33	\$99
Light Industrial	\$30	\$32	\$34	\$18	\$54
Warehousing	\$22	\$23	\$25	\$13	\$28
Manufacturing	\$17	\$18	\$19	\$10	\$30

**Note:**

/1 Fee Study.

/2 Annual Inflation Adjustment.

/3 Proposed new fee schedule for CY 2011 –this study.

	School		Law	Parks/Rec	Fire/EMS	Total Residential Fee		Relative to Current Fee
	Option 1	Option 2				Option 1	Option 2	
<b>Single Family</b>	13,451		279	587	770	15,087	2,017	
<1500 sq ft		12,168					13,804	734
1501-2500 sq ft		16,176					17,812	4,742
2501-3500 sq ft		18,752					20,388	7,318
>3500 sq ft		20,650					22,286	9,216
<b>Duplex/Townhome</b>	6,854		213	449	588	8,104	8,104	(1,764)
<b>Multifamily Apt</b>	4,442		210	442	580	5,674	5,674	(1,920)
<b>Manufactured SW</b>	10,940		279	587	588	12,394	12,394	(676)



<p>Commission Office Use Only</p> <p>Date on Agenda: <u>4/23/11</u></p> <p>Appt Time or New Business: <u>10:45am</u></p>
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**AGENDA REQUEST FORM**

**Name:** F. Mark Schiavone

**Department or Entity:** DCPM

**Estimation of amount of time needed for appointment:** 5 min

**Date Requested – 1<sup>st</sup> Choice:** 23 June 2011

**Date Requested – 2<sup>nd</sup> Choice:** 30 June 2011

**If a specific date is needed, please provide reason for specific date:** Last meeting of the month means the BR must be keyed into the system that afternoon.

**Subject:** Revision D to the General Fund

**Please provide the County Commission with a description of your request or presentation, including any background information:** This is a final revision of some department lines in order to bring them into budget prior to the close of the fiscal year.

**Recommended motion (Please type out the wording of the motion that you would like the Commission to approve):** Move to approve revision D to the General Fund.

**Attachments:** Revision D detail sheet

Budget Revision D to the General Fund

Account	Description	Current Approved	Debit	Credit	Final Approved
001-401-01-108-002-GG-000	CO COMM EXTRA HELP	20,000	5000		15,000
001-401-02-223-000-GG-000	CO COMM PROF SERVICES	82,255		15000	97,255
001-401-02-230-000-GG-000	CO COMM CONTRCTD SERVICE	30,845	10000		20,845
	CHECKSUMS	133,100	15,000	15,000	133,100
001-413-01-104-000-GG-000	ELEC CO CLK FICA EXPENSE	9,046	808		8,238
001-413-01-104-001-GG-000	ELEC CO CLK MEDICARE EXP	2,116	189		1,927
001-413-01-106-000-GG-000	ELEC CO CLK RETIREMENT	6,823	341		6,482
001-413-01-108-001-GG-000	ELEC CO CLK OVERTIME	13,116	2247		10,869
001-413-02-214-000-GG-000	ELEC CO CLK TRAVEL	5,090	559		4,531
001-413-02-216-000-GG-000	ELEC CO CLK MAIN/REP EQU	6,000		4440	10,440
001-413-02-219-000-GG-000	ELEC CO CLK BLD/EQUIP RN	27,833		4146	31,979
001-413-02-220-000-GG-000	ELEC CO CLK ADS/LEGAL PU	5,699	1031		4,668
001-413-03-341-000-GG-000	ELEC CO CLK MAT/SUPPLIES	76,883	3411		73,472
	CHECKSUMS	152,606	8,586	8,586	152,606

Commission Office Use Only  
Date on Agenda: 6/23/11  
Appt Time or New Business: 11:00 am

**AGENDA REQUEST FORM**

Name Gabrielle Corey

Department or Entity: \_\_\_\_\_

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

Date Requested – 1<sup>st</sup> Choice: June 23, 2011

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

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

Subject: **Support for Jobs and Economic Security by Fixing Coal Mine Permitting System**

Please provide the County Commission with a description of your request or presentation, including any background information: **Approve Resolution Calling on Policymakers to Support Jobs and Economic Security by Fixing Coal Mine Permitting System**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): **Move to approve Resolution Calling on Policymakers to Support Jobs and Economic Security by Fixing Coal Mine Permitting System.**

Attachments: **Resolution**

COPY

**RESOLUTION CALLING ON POLICYMAKERS TO SUPPORT JOBS AND ECONOMIC SECURITY BY FIXING COAL MINE PERMITTING SYSTEM**

**BE IT KNOWN**, the Jefferson County Commission is a strong supporter of coal mines in West Virginia and throughout Appalachia and calls upon our Congress and President to support jobs and economic opportunity in coal communities across our region; and

**WHEREAS**, the links between coal production, economic growth, prosperity and energy security are unbreakable; and

**WHEREAS**, coal is a main source of energy throughout the world, provides half the electricity used in the United States and as much as 98 percent of the electricity generated in the region; and

**WHEREAS**, coal mining is responsible for more than 90,000 jobs in West Virginia alone; provides coal mining jobs that pay 100 percent higher wages than the average wage in the state; and generates nearly \$15 billion in economic output in the state; and

**WHEREAS**, coal mining in West Virginia is balancing the economic needs and environmental expectations of its citizens; and

**WHEREAS**, coal mine lands are being restored, as part of the reclamation process, to meet ongoing economic, recreational, educational, transportation and housing needs of local communities and the state; and

**WHEREAS**, the ongoing backlog in permit approvals, the lack of transparency in the federal permitting process, and ongoing court challenges to permit applications are jeopardizing jobs, economic opportunity and coal production throughout West Virginia and the region.

**NOW, THEREFORE, BE IT RESOLVED**, that the Jefferson County Commission calls upon the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the President's Council on Environmental Quality, the West Virginia congressional delegation and other congressional delegations in the region, and state and local government officials to support coal production and the jobs, economic growth and energy security provided by coal mining by fixing a regulatory system that is frustrating these vital objectives.

ADOPTED THIS \_\_\_\_\_ DAY OF JUNE 2011.

County Commission of Jefferson County:

\_\_\_\_\_  
Patricia Noland, President

\_\_\_\_\_  
Dale Manuel

\_\_\_\_\_  
Frances Morgan

\_\_\_\_\_  
Lyn Widmyer

\_\_\_\_\_  
Walt Pellish

Commission Office Use Only  
 Date on Agenda: 6/23/11  
 Appt Time or New Business: 11:15

**AGENDA REQUEST FORM**

Name: Ray A. Byrd, Esquire

Department or Entity: \_\_\_\_\_

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

Date Requested – 1<sup>st</sup> Choice: 06-23-11

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

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

Subject: **2<sup>nd</sup> Accounting by David DeJarnett, Fiduciary Commissioner regarding the Estate of John J. Warfield, deceased**

Please provide the County Commission with a description of your request or presentation, including any background information: **Decision on the 2<sup>nd</sup> Accounting by David DeJarnett, Fiduciary Commissioner regarding the Estate of John J. Warfield, deceased and proposed Order prepared by Ray A. Byrd, Esq.**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): **Move to approve the proposed Order prepared by Ray A. Byrd, Esquire, counsel for the Petitioners, which Order incorporates Judge Sanders' directives and includes statutory interest as appropriate.**

Attachments: **Second Accounting of the Estate of John J. Warfield, deceased, by David DeJarnett, Fiduciary Commissioner**

BEFORE THE COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA

IN RE: ESTATE OF JOHN J. WARFIELD, DECEASED

Date of Death: February 23, 2006

JAMES B. PACKARD-GOMEZ, ADMINISTRATOR CTA

**ORDER ADOPTING, IN PART, AND MODIFYING, IN PART, THE REPORT OF FIDUCIARY COMMISSIONER, DAVID A. DeJARNETT DATED MAY 10, 2011**

On or about December 28, 2008, James B. Packard-Gomez, Administrator CTA, signed his Second Accounting regarding the administration of the Estate of John J. Warfield (hereinafter the "Estate"). On or about January 21, 2009, the Petitioners, John T. Buzek, Edmond Buzek, and Jeanne Busack, served their OBJECTIONS AND EXCEPTIONS TO THE SECOND INTERIM ACCOUNTING FOR THE PERIOD ENDED DECEMBER 31, 2008 alleging various acts of wrongdoing against Mr. Packard-Gomez.

Thereafter, the Fiduciary Commissioner conducted a hearing on August 17, 2010, and heard the testimony of one (1) witness, Mr. Packard-Gomez. The parties also introduced three (3) exhibits into evidence numbered 1, 2, and 3.

John T. Buzek, Edmond Buzek, and Jeanne Busack filed their proposed **RECOMMENDED ORDER** on September 27, 2010. Mr. Packard-Gomez did not file a recommended order even though he was afforded until October 28, 2010, to do so.

On or about May 10, 2011, the Fiduciary Commissioner issued a Report of Fiduciary Commissioner with regard to the Objections and Exceptions To Second Accounting For The Period Ended December 31, 2008. Pursuant to W.Va. Code §44-4-15, the Report of Fiduciary Commissioner is to be held in the Fiduciary Commissioner's office for a minimum period of ten

days to permit the parties to file any exceptions and/or objections to the Report of Fiduciary Commissioner. Pursuant to W.Va. Code §44-4-17, the “county commission, at its first regular term occurring not less than ten days after the report has been filed in the office of its clerk, shall examine the same, with the evidence and such exceptions to the report as may be filed at any time before such examination.”

On or about May 17, 2011, Petitioners served their EXCEPTIONS, OBJECTIONS AND ASSIGNMENT OF ERRORS TO THE REPORT OF FIDUCIARY COMMISSIONER, DAVID A. DeJARNETT. Mr. Packard-Gomez did not file any exceptions or objections.

The Jefferson County Commission examined the Report of Fiduciary Commissioner and considered the Petitioners’ exceptions, objections, and assignments of error at a meeting on Thursday, June 9, 2011 at 11:00 a.m.

As a preliminary matter, the Jefferson County Commission **GRANTS** the motion of John K. Dorsey to withdraw as counsel for Mr. Packard-Gomez and/or the Estate. The Fiduciary Commissioner and counsel for the Petitioners, Ray A. Byrd, had no objection to Mr. Dorsey’s motion to withdraw as counsel for Mr. Packard-Gomez and/or the Estate.

The Jefferson County Commission adopts and approves the Report of Fiduciary Commissioner, David DeJarnett dated May 10, 2011, in its entirety except for three (3) modifications. A number of these modifications are primarily based on the June 7, 2011, ORDER of the Circuit Court of Jefferson County relating to the First Accounting For The Period Ended January 31, 2008 which was incorporated as an order of the Jefferson County Commission and made part of the record in this proceeding.

First, the Jefferson County Commission **ORDERS, ADJUDGES, and DECREES** that that, regardless of whether or not the sum is characterized as a loan to 1519 Wisconsin Avenue, LLC, a membership interest in 1519 Wisconsin Avenue, LLC, or a right of action against 1519 Wisconsin Avenue, LLC and/or other parties, Mr. Packard-Gomez is personally liable and required to repay and/or reimburse and/or account to the Estate of John J. Warfield the sum of \$1,117,030.09 for the loan to 1519 Wisconsin Avenue, LLC, together with interest at the legal rate (equaling \$1,269,206.31 as of January 8, 2009 plus \$298.38 per day after January 8, 2009).

Second, the Jefferson County Commission **ORDERS, ADJUDGES, and DECREES** that the Estate is liable to John T. Buzek, Edmond Buzek, and Jeanne Busack for their attorney fees, costs, and expenses because the actions of John T. Buzek, Edmond Buzek, and Jeanne Busack and their counsel have greatly benefitted the Estate and have resulted in an Order requiring substantial sums be paid to or delivered to the Estate. The Jefferson County Commission also **ORDERS, ADJUDGES, and DECREES** that Mr. Packard-Gomez is personally liable for and shall be required to repay and/or reimburse and/or account to the Estate of John J. Warfield the amount of John T. Buzek's, Edmond Buzek's, and Jeanne Busack's attorney fees, costs, and expenses.

Third, the Jefferson County Commission **ORDERS, ADJUDGES, and DECREES** that Mr. Packard-Gomez is liable for statutory interest under W.Va. Code §56-6-31, §44-6-1 *et seq.*, and §44-4-11 on all amounts for which he must account and is required to repay/reimburse the Estate, including, but not limited to the \$57,933.66 in disbursements referenced in the Report of Fiduciary Commissioner dated May 10, 2011 [\$27,380.66 for "Administrative Expenses", \$4,500.00 for "Appraisal Fees", \$150.00 for "Bank Service Charges", and \$25,903.00 for

“Professional Fees”], and the \$3,953.11 causing the imbalance in the second accounting referenced in the Report of Fiduciary Commissioner dated May 10, 2011. As a result, Mr. Packard-Gomez is liable for statutory interest at the rate of ten percent (10%) on all amounts for which he must account and is required to repay/reimburse the Estate from the date such amount was misapplied to the date such amount is returned to the Estate.

To the extent the Report of Fiduciary Commissioner and/or this Order is inconsistent with the Petitioners’ Recommended Order and their EXCEPTIONS, OBJECTIONS AND ASSIGNMENT OF ERRORS TO THE REPORT OF FIDUCIARY COMMISSIONER, DAVID A. DeJARNETT, the objections and exceptions of the Petitioners to the Report of Fiduciary Commissioner and to Jefferson County Commission’s adoption and approval of such Report contrary to their objections and exceptions are noted.

Dated: \_\_\_\_\_

\_\_\_\_\_  
President of Jefferson County Commission

\_\_\_\_\_  
Member of Jefferson County Commission

\_\_\_\_\_  
Member of Jefferson County Commission

\_\_\_\_\_  
Member of Jefferson County Commission

\_\_\_\_\_  
Member of Jefferson County Commission

BEFORE THE COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA

IN RE: ESTATE OF JOHN J. WARFIELD, DECEASED

Date of Death: February 23, 2006

JAMES B. PACKARD-GOMEZ, ADMINISTRATOR CTA

**ORDER ADOPTING, IN PART, AND MODIFYING, IN PART, THE REPORT OF FIDUCIARY COMMISSIONER, DAVID A. DeJARNETT DATED MAY 10, 2011**

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John T. Buzek, Edmond Buzek, and Jeanne Busack filed their proposed **RECOMMENDED ORDER** on September 27, 2010. Mr. Packard-Gomez did not file a recommended order even though he was afforded until October 28, 2010, to do so.

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On or about May 17, 2011, Petitioners served their EXCEPTIONS, OBJECTIONS AND ASSIGNMENT OF ERRORS TO THE REPORT OF FIDUCIARY COMMISSIONER, DAVID A. DeJARNETT. Mr. Packard-Gomez did not file any exceptions or objections.

The Jefferson County Commission examined the Report of Fiduciary Commissioner and considered the Petitioners' exceptions, objections, and assignments of error at a meeting on Thursday, June 9, 2011 at 11:00 a.m.

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The Jefferson County Commission adopts and approves the Report of Fiduciary Commissioner, David DeJarnett dated May 10, 2011, in its entirety except for three (3) modifications. A number of these modifications are primarily based on the June 7, 2011, ORDER of the Circuit Court of Jefferson County relating to the First Accounting For The Period Ended January 31, 2008 which was incorporated as an order of the Jefferson County Commission and made part of the record in this proceeding.

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To the extent the Report of Fiduciary Commissioner and/or this Order is inconsistent with the Petitioners’ Recommended Order and their EXCEPTIONS, OBJECTIONS AND ASSIGNMENT OF ERRORS TO THE REPORT OF FIDUCIARY COMMISSIONER, DAVID A. DeJARNETT, the objections and exceptions of the Petitioners to the Report of Fiduciary Commissioner and to Jefferson County Commission’s adoption and approval of such Report contrary to their objections and exceptions are noted.

Dated: \_\_\_\_\_

\_\_\_\_\_  
President of Jefferson County Commission

\_\_\_\_\_  
Member of Jefferson County Commission

\_\_\_\_\_  
Member of Jefferson County Commission

\_\_\_\_\_  
Member of Jefferson County Commission

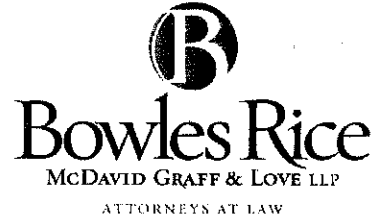
\_\_\_\_\_  
Member of Jefferson County Commission

Rec'd  
6/9/11

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May 10, 2011

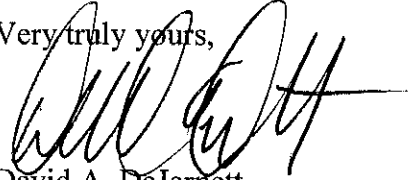
David A. DeJarnett  
Telephone — (304) 264-4232  
Facsimile — (304) 267-3822

E-Mail Address:  
ddejarnett@bowlesrice.com

INTERESTED PARTIES LISTED ON ATTACHED

Re: Estate of John J. Warfield, deceased

Enclosed, please find a copy of the Report of Fiduciary Commissioner in the above-referenced matter with regard to the Objections And Exceptions To Second Accounting For The Period Ended December 31, 2008. I will hold this Report in my office for ten (10) days from the date hereof before I sign and submit the same to the County Commission. You may submit any objections to this Report to me, and I will forward such objections, along with my signed Report, to the County Commission. After I have forwarded my signed Report to the County Commission, you may file any objections you may have thereto with the County Commission.

Very truly yours,  
  
David A. DeJarnett

DAD/dad  
Enclosure

May 10, 2011  
Page 2

John K. Dorsey, Esquire  
104 West Congress Street  
Post Office Box 42  
Charles Town, WV 25414

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SCHRADER BYRD & COMPANION, PLLC  
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John T. Buzek  
5941 Piney Court  
Lakeworth FL 33463

David A. Camilletti, Esq.  
201 N. George St., Suite 202  
Charles Town, WV 25414

BEFORE THE COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA

IN RE: ESTATE OF JOHN J. WARFIELD, DECEASED

Date of Death: February 23, 2006

JAMES B. PACKARD-GOMEZ, ADMINISTRATOR CTA

**REPORT OF FIDUCIARY COMMISSIONER**

BE IT KNOWN THAT James B. Packard-Gomez, Administrator CTA, as personal representative of the Estate of John J. Warfield, deceased (hereinafter the "Estate"), did exhibit before the undersigned Fiduciary Commissioner, the attached Second Accounting for the period ended December 31, 2008, and that said Second 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 Second Accounting of James B. Packard-Gomez, Administrator CTA, as personal representative of the Estate, on January 22, 2009, and on January 29, 2009. There were objections and exceptions to said Second Accounting filed with the undersigned Fiduciary Commissioner by John T. Buzek, Edmond Buzek, and Jeanne Busack (the "Objectionors"), by counsel, Ray A. Byrd, Esquire, of Schrader Byrd & Companion, PLLC, on or about January 21, 2009.

That on or about May 22, 2009, the undersigned Fiduciary Commissioner did forward his Report to the County Commission of Jefferson County, West Virginia, along with the original of the Second Accounting and the original of the Objections and Exceptions made to the same. The undersigned Fiduciary Commissioner's Report requested that the County Commission refer the

accounting and the exceptions back to the undersigned Fiduciary Commissioner to conduct a hearing. In July, 2009, the County Commission entered the following into its records: "No exceptions having been filed and none appearing on the face of this Account; it is confirmed by the Commission and ordered to be recorded." Having entered this order, the County Commission did not affirmatively refer the accounting and the exceptions back to the undersigned Fiduciary Commissioner, although the President of the Commission, Dale Manuel, signed the Report of Fiduciary Commissioner which ordered that the accounting and the exceptions be referred back to the undersigned Fiduciary Commissioner. The undersigned Fiduciary Commissioner was not informed of the actions of the County Commission until July, 2010.

Thereafter, the Fiduciary Commissioner conducted a hearing on August 17, 2010, on the Objections And Exceptions To Second Interim Accounting For The Period Ended January 31, 2008. The Objectors appeared in person and by counsel, Ray A. Byrd, Esquire, and James B. Packard-Gomez appeared in person and by counsel, John K. Dorsey, Esquire. The Fiduciary Commissioner heard the testimony of one (1) witness, namely that of Mr. Packard-Gomez. The Objectors introduced three (3) exhibits into evidence numbered 1-3.

Prior to the taking of testimony, Mr. Dorsey objected to the conduct of a hearing on the Objections and Exceptions filed by the Objectors in light of the order entered by the County Commission. The undersigned Fiduciary Commissioner conducted the hearing over such objection believing that the County Commission, when it reviews the matter, will conclude that the order is in error and that it intended to refer the accounting and the exceptions back to the undersigned Fiduciary Commissioner.

Thereafter, at the request of the Fiduciary Commissioner, on or about September 27, 2010, the Objectors submitted a "Recommended Order" which was 27 pages in length. Despite the request to do so, Mr. Packard-Gomez did not a recommended order and did not object to the "Recommended Order" submitted by the Objectors.

#### **FINDINGS OF FACT**

1. Findings of Fact nos. 1-72 from the REPORT OF FIDUCIARY COMMISSIONER dated July 6, 2010 are incorporated herein by reference.

2. Mr. Packard-Gomez refused to answer whether or not the Second Accounting reflects the assets in the Estate as of December 31, 2008, on the grounds that his answer would violate his Fifth Amendment right against self-incrimination. Mr. Packard-Gomez still refused to answer after being compelled to do so. As a result, that question is taken as being answered in the affirmative and established as fact. EXHIBIT 2 and August 17, 2010 hearing transcript at page 74. However, in rendering this RECOMMENDED ORDER, the Fiduciary Commissioner did not consider, take into account, or base his decision on the specific question, the assertion of the Fifth Amendment privilege, the failure to answer, or the question as being answered in the affirmative by refusing to answer it. Simply put, it played no part in this decision.

3. The SECOND ACCOUNTING covered the time period from February 1, 2008, through December 31, 2008. The SECOND ACCOUNTING identified the following assets as of the conclusion of the accounting period on December 31, 2008:

Morgan Stanley account #: 642 064807 092 (Estate checking account)	\$5,462.91
Wachovia Bank Money Market account #: 1010053825836	\$74.27
Allstate Variable Annuity #: 5920198318 to John C. Warfield Trust	\$3,878.84
Loan receivable from JJ Development Inc.	\$7,097.00
JJ Development Inc. Capital Stock	\$69,212.00
1519 Wisconsin Avenue., LLC Membership Pledged to PNC Bank	\$1,117,030.09
1519 Wisconsin Ave., LLC Membership	\$839,833.30
Total	\$2,042,588.41

EXHIBIT 2.

4. A comparison of the FIRST ACCOUNTING and the SECOND ACCOUNTING reveals that during the time period between February 1, 2008, through December 31, 2008, Mr. Packard-Gomez changed the description of the "Loan to 1519 Wisconsin Avenue., LC....\$1,117,030.09" as reflected in the FIRST ACCOUNTING, to "1519 Wisconsin Avenue, LLC Membership Pledged to PNC Bank....\$1,117,030.09" as reflected in the SECOND ACCOUNTING. August 17, 2010 hearing transcript at pages 79-89.

5. The Will does not include any express authority for Mr. Packard-Gomez, the Personal Representative, to invest Estate assets in the amount of \$1,117,030.09 with 1519 Wisconsin Avenue, L.L.C.

6. Mr. Packard-Gomez has made no efforts to seek repayment of the \$1,117,030.09 from 1519 Wisconsin Avenue, LLC, Go-Pac Industries, Inc., Mr. Erwin Gomez-Packard, or himself.

7. The SECOND ACCOUNTING identifies "Administrative Expenses" as an Estate Disbursement in the amount of \$27,380.66. EXHIBIT 2.

8. Mr. Packard-Gomez did not supply the Fiduciary Commissioner with the vouchers or receipts supporting the administrative expenses in the amount of \$27,380.66. August 7, 2010 hearing transcript at pages 113-114 and 118-119.

9. Mr. Packard-Gomez did not obtain the consent of all beneficiaries and creditors and/or the approval of any Court before he caused the estate to pay these administrative expenses in the amount of \$27,380.66.

10. These administrative expenses include \$18,624.45 to Mr. Packard-Gomez for alleged travel expenses such as making fifteen (15) trips to Charles Town in 2006, August 17, 2010 hearing transcript at pages 139-141, making two hundred fifty-six (256) trips to the U.S. Post Office in 2006 even though Mr. Packard-Gomez and his business entities also used the P. O. Box, August 17, 2010 hearing transcript at pages 142-144, and making one hundred and seven (107) trips to Harpers Ferry in 2007 to prepare Mr. Warfield's home for sale, August 17, 2010 hearing transcript at pages 144-146.

11. The SECOND ACCOUNTING identifies "Appraisal Fees" as an Estate disbursement in the amount of \$4,500.00. EXHIBIT 2 and August 17, 2010 hearing transcript at pages 151-152.

12. Mr. Packard-Gomez did not supply the Fiduciary Commissioner with the vouchers or receipts supporting the expense of appraisal fees in the amount of \$4,500.00. Mr. Packard-Gomez also did not supply the Fiduciary Commissioner with a copy of the actual appraisal.

13. Mr. Packard-Gomez did not obtain the consent of all beneficiaries and creditors and/or the approval of any Court before he caused the estate to pay the appraisal fees in the amount of \$4,500.00.

14. The SECOND ACCOUNTING identifies "Bank Service Charges" as an Estate Disbursement in the amount of \$150.00. EXHIBIT 2 and August 17, 2010 hearing transcript at pages 153-154.

15. Mr. Packard-Gomez did not supply the Fiduciary Commissioner with the vouchers or receipts supporting the Bank Service Charges in the amount of \$150.00.

16. Mr. Packard-Gomez did not obtain the consent of all beneficiaries and creditors and/or the approval of any Court before he caused the estate to incur these Bank Service Charges in the amount of \$150.00.

17. The SECOND ACCOUNTING identifies "Professional Fees" as an Estate Disbursement in the amount of \$25,903.00. EXHIBIT 2.

18. Mr. Packard-Gomez did not supply the Fiduciary Commissioner with the vouchers or receipts supporting the professional fees in the amount of \$25,903.00. August 17, 2010 hearing transcript at pages 155-157.

19. Mr. Packard-Gomez supplied the Fiduciary Commissioner with an invoice from Yolanda Faerber & Associates. August 17, 2010 hearing transcript at pages 157-160.

20. Mr. Packard-Gomez failed to obtain the consent of all beneficiaries and creditors and/or the approval of any Court before he caused the estate to pay these Professional Fees in the amount of \$25,903.00.

21. The amounts on the Second Accounting do not balance. For example, the assets in the Estate as of January 31, 2008 (\$2,042,588.41) plus proceeds to the Estate “after December 31, 2008” [sic] (\$52,922.64) minus disbursements from the Estate after January 31, 2008 (\$57,933.66) equal \$2,037,577.39. However, the assets in the Estate as of December 31, 2008, as reported equal \$2,033,624.28, a difference of \$3,953.11.

#### STANDARD OF REVIEW

An estate administrator has the burden to prove that he handled the estate correctly. The West Virginia Supreme Court of Appeals has held that “the burden of proof will be upon such administrator to show by legal and competent evidence the correctness of all disbursements by him or his agent, without which he should not be credited therewith.” Syl. Pt. 2, Fields v. Lawyer, 97 S.E. 597, 83 W. Va. 128 (1918). The administrator also has the burden of proving his own innocence if he comes under suspicion for fraud in the handling of the estate. See Dillon v. Dillon, 178 W. Va. 531, 534 (1987) (quoting Syl. Pt. 10, Work v. Rogerson, 152 W. Va. 169, 171 (1968)). As long as an “indication of fraud” exists, the administrator will face “a presumption of fraud . . . and the burden of going forward with the evidence rests upon the fiduciary to establish the honesty of the transaction.” Work, 152 W. Va. at 185.

An estate administrator owes a fiduciary duty to those interested in the estate. See Zikos v. Clark, 214 W. Va. 235, 240 (2003) (quoting Latimer v. Mechling, 171 W. Va. 729 (1983)).

The West Virginia Supreme Court of Appeals has held that

[a]n executor or administrator of the estate of a deceased person is under a duty to take custody of the estate and to administer it in such a manner as to preserve and protect it for ultimate distribution. In the discharge of such duty, he is held to the highest degree of good faith; and is required to exercise that degree of care and diligence which prudent persons ordinarily exercise, under like circumstances, in their own personal affairs. In determining whether funds belonging to the estate should or should not be invested at interest, he is required to exercise ordinary care and reasonable diligence.

Syl. Pt. 4, In re Estate of Lapinsky v. Sparacino, 148 W. Va. 38, 132 S.E.2d 765 (1963). The West Virginia Supreme Court of Appeals recently elaborated on the definition of “fiduciary duty.” For example, the Court stated that:

[w]e previously have defined a fiduciary duty as “[a] duty to act for someone else's benefit, while subordinating one's personal interests to that of the other person. It is the highest standard of duty implied by law[.]” Elmore v. State Farm Mut. Auto. Ins. Co., 202 W. Va. 430, 435, 504 S.E.2d 893, 898 (1998) (quoting Black's Law Dictionary 625 (6<sup>th</sup> ed. 1990)). *See generally Black's Law Dictionary* 523 (7<sup>th</sup> ed. 1999) (“A duty of utmost good faith, trust, confidence, and candor owed by a fiduciary (such as a lawyer or corporate officer) to the beneficiary (such as a lawyer's client or a shareholder); a duty to act with the highest degree of honesty and loyalty toward another person and in the best interests of the other person (such as the duty that one partner owes to another).”)

Lucas v. Fairbanks Capital Corp., 31744 and 31745 (W.Va. March 18, 2005)

In West Virginia, an estate administrator must exhibit “the highest degree of good faith” in the discharge of his office. Zikos, 214 W. Va. at 240. This duty of good faith supersedes any “moral obligation” the administrator may have to a third party. See Latimer, 171 W. Va. at 734 (finding that “The law does not permit [an administrator] . . . to give precedence to a moral

obligation over his legal duty to act in the best interests of the estate”). The administrator must perform his duties with the “ordinary care and reasonable diligence which prudent persons ordinarily exercise.” Zikos, 214 W. Va. at 240.

Where prudent, an administrator should invest estate funds at interest. See Tabler v. Weller, 176 W. Va. 267, 269 (1986) (quoting Syl. Pt. 4, Estate of Lapinsky, 148 W. Va. at 39). The administrator should use “ordinary care and reasonable diligence” in making this decision. See id. If a court later determines that an administrator should have invested the estate assets, it will hold the negligent administrator liable to the estate for the lost profits. See W. Va. Code § 44-6-1; Estate of Lapinsky, 148 W. Va. at 48-49.

The administrator cannot have an interest adverse to the beneficiaries without breaching his fiduciary duty. See Smith v. First Cmty. Bancshares, Inc., 212 W. Va. 809, 821 (2002). He cannot even have an interest that *may* interfere with his duties. See Bd. of Trustees v. Mankin Inv. Co., 118 W. Va. 134, 142 (1936). Nor can he manipulate the estate to his own advantage. See Smith, 212 W. Va. at 821. He has an obligation “to deal fairly with him [the beneficiary] and to communicate to him all material facts in connection with the transaction.” Id. (quoting Restatement (Second) of Trusts § 170 (1959)). To take an interest in the estate without breaching his fiduciary duty, an administrator must gain the consent of the beneficiaries. See id.

West Virginia law governs this proceeding regardless of what the local custom may be in Jefferson County. For example, the West Virginia Supreme Court of Appeals has stated that

[t]he executor apparently argued with some success below that the local practice in some instances ignored the provisions of Chapter 44. In Syllabus Point 4 of City of Fairmont v. Hawkins, 172 W. Va. 240, 304 S.E.2d 824 (1983), we stated: “Where a specific statute or ordinance exists prescribing how official acts should be done, the statutory mandate may not be circumvented by permitting the public official to show that in the past the required statutory

procedure has been ignored." The trial court erred in allowing into evidence testimony on what the local practice in this area of the law was.

Tabler v. Weller, 176 W.Va. 267, 342 S.E.2d 234, fn.7 (1986)

In an analogous area of the law, the West Virginia Supreme Court of Appeals has similarly held that "a trustee shall not place himself in a situation where his interests conflict with his duty as a fiduciary." Smith v. First Community Bancshares, Inc., 212 W. Va. 809, 821, 575 S.E.2d 419 (2002) (citing Lapinsky's Estate v. Sparacino, 148 W. Va. 38, 45, 132 S.E.2d 765, 769 (1963)). The Court has also held that "[a] trustee cannot place himself in a position where his self-interest will and possibly may conflict with his duties as trustee. Nor must the trustee place himself in a position where his self-interest is antagonistic to the interests of the trust." Smith v. First Community Bancshares, Inc., 212 W. Va. 809, 821, 575 S.E.2d 419 (2002) (citing Board of Trustees v. Mankin Inv. Co., 118 W. Va. 134, 142, 189 S.E. 96, 99 (1936)).

Moreover, the Court has held that "[i]n administering a trust, the trustee is generally prohibited from manipulating the trust property to his own advantage." Smith v. First Community Bancshares, Inc., 212 W. Va. 809, 821, 575 S.E.2d 419 (2002) (citing Syl. Pt. 1 of Robinson v. Hall, 116 W. Va. 433, 181 S.E. 542 (1935)). The Court has also stated that a fiduciary has a duty of loyalty requiring her "to administer the trust solely in the interest of the beneficiary." Smith v. First Community Bancshares, Inc., 212 W. Va. 809, 821, 575 S.E.2d 419 (2002) (citing Restatement (Second) of Trusts § 170, p. 364 (1959)). Finally, the Court has stated that "[i]t has been generally recognized that the fact that a trustee has an interest conflicting with that of a beneficiary is a circumstance which may properly be considered in determining whether the trustee is acting from an improper motive in exercising his discretionary power." Pollock v. Phillips, 186 W.Va. 99, 102, 411 S.E.2d 242 (W. Va. 1991).

## CONCLUSIONS OF LAW

**I. THE OBJECTION OF OBJECTIONORS TO MR. PACKARD-GOMEZ "CONVERTING" THE "LOAN TO 1519 WISCONSIN AVENUE, LLC" TO A CAPITAL CONTRIBUTION AND/OR MEMBERSHIP INTEREST IN 1519 WISCONSIN AVENUE, LLC, AS SHOWN ON THE SECOND ACCOUNTING SHOULD BE SUSTAINED AND THE ENTRY REPRESENTING THIS ITEM SHOULD BE MODIFIED.**

Objectionors rightfully focus on the words used in the second accounting to determine what actions the personal representative did or did not undertake during the accounting period. A comparison of the FIRST ACCOUNTING and the SECOND ACCOUNTING reveals that during the time period between February 1, 2008, through December 31, 2008, Mr. Packard-Gomez changed the description of the "Loan to 1519 Wisconsin Avenue., LC....\$1,117,030.09" as reflected in the FIRST ACCOUNTING, to "1519 Wisconsin Avenue, LLC Membership Pledged to PNC Bank....\$1,117,030.09" as reflected in the SECOND ACCOUNTING. August 17, 2010 hearing transcript at pages 79-89.

The Objectionors take this entry literally and conclude that Mr. Packard-Gomez converted an item of debt into an item of equity. In other words, converted a loan payable to the estate by 1519 Wisconsin Avenue, LLC into a membership interest in 1519 Wisconsin Avenue, LLC. Your Fiduciary Commissioner finds no fault in the Objectionors taking the entry literally. Due to the lack of sufficient communication between Mr. Packard-Gomez and the Objectionors, the Objectionors have no choice.

However, during his testimony, Mr. Packard-Gomez did not describe any transaction with respect to this entry during the accounting period that would constitute a conversion of a loan receivable to equity. In fact, Mr. Packard-Gomez did not describe any

transaction with respect to this entry and had no explanation for the different descriptions used on the FIRST ACCOUNTING as compared to the SECOND ACCOUNTING. Mr. Packard-Gomez and his advisors appear to continue to struggle with how to report this item, and such difficulty continues to cause the parties interested in the estate to struggle to understand the status of this item.

If a loan receivable from the LLC (or a right of action against the LLC) was converted to an equity interest in the LLC by the action or omission of Mr. Packard-Gomez, then such action or omission was a breach of his fiduciary duty. The decedent's Will does not include any express authority for Mr. Packard-Gomez to invest Estate assets (whether that be a loan receivable or a right of action) in the amount of \$1,117,030.09 with 1519 Wisconsin Avenue, LLC, and he failed to obtain the consent of all beneficiaries and creditors and/or the approval of any Court to do so. Moreover, Mr. Packard-Gomez did not adhere to the procedures for making investments of Estate assets as set forth in West Virginia Code §44-6-1 et seq. and he did not request the direction of the Circuit Court of Jefferson County, West Virginia. Therefore, Mr. Packard-Gomez did not have authority under the Will or authority under West Virginia law to invest Estate assets in 1519 Wisconsin Avenue, LLC.

However, even if such a conversion occurred, the Objectors have not shown the amount of their damages. Therefore, your Fiduciary Commissioner does not recommend that Mr. Packard-Gomez be required to reimburse or payback to the estate the sum of \$1,117,030.09 as requested by the Objectors.

The Objectors have not uncovered any proof that a conversion occurred. Your Fiduciary Commissioner is left with the conclusion previously reached in the context of the first accounting as a result of the extensive documentary evidence and testimony then obtained. This asset entry should be described as a “right of action against 1519 Wisconsin Avenue, LLC and/or other parties.” Section 44-1-22 of the West Virginia Code provides that “[a] personal representative may sue or be sued upon any judgment for or against, or any contract of or with, his decedent.” Mr. Packard-Gomez owed a fiduciary duty to the Estate to take reasonable steps to assert any claims the Estate may have had to recover the value of \$1,117,030.09 lost when PNC Bank exercised its rights under the pledge agreement and liquidated and collected \$1,117,030.09 from John J. Warfield’s Morgan Stanley Account. *See also Isbell v. Flippen*, 41 S.E.2d 31, 33 (Va. 1947) (Providing that “[o]ne of the primary obligations of the personal representative is to collect the assets of the estate, which, of course, includes the duty to reduce choses in action to judgment [citations omitted].”)

**II. MR. PACKARD-GOMEZ DID NOT SATISFY HIS BURDEN TO ESTABLISH CERTAIN DISBURSEMENTS AS LEGITIMATE ESTATE EXPENSES, INCLUDING DISBURSEMENTS HE MADE TO HIMSELF.**

Section 44-4-2 of the West Virginia Code provides that “[a] statement of all the money, and an inventory of all securities, stocks, bonds and all other property, including the value thereof, which any personal representative, guardian, curator or committee, has received, become chargeable with or disbursed, within one year from the date of the fiduciary’s qualification, or within any succeeding year, together with the vouchers for such disbursements, shall, within two months after the end of every such period, be exhibited by the fiduciary to the fiduciary commissioner to whom the estate or trust has been referred.” (Emphasis added).

Section 44-4-12 of the West Virginia Code provides that “[t]he fiduciary commissioner in stating and settling the account shall allow the fiduciary any reasonable expenses incurred by him as such”); see also Estate of Lapinsky, 148 W. Va. at 46 (noting by way of explanation that the court regretted the administrator did not receive the commissioner’s authorization before paying himself). The West Virginia Supreme Court of Appeals has also held that:

[t]he burden of proof is upon him and without evidence of actual and proper expenditure of the money by him or his agent and proper vouchers shown he should not receive credit therefor or any part thereof and the bare fact that his agent deducted such sum from the moneys collected will not constitute legal evidence of such disbursement.

Fields v. Lawyer, 97 S.E. 597, 598, 83 W. Va. 128 (1918)(emphasis added).

Mr. Packard-Gomez failed to meet his obligation to present sufficient vouchers substantiating the various disbursements from the Estate. Instead, Mr. Packard-Gomez made the following disbursements without doing so:

- (a) “Administrative Expenses” in the amount of \$27,380.66;
- (b) “Appraisal Fees” in the amount of \$4,500.00;
- (c) “Bank Service Charges” in the amount of \$150.00; and
- (f) “Professional Fees” in the amount of \$25,903.00.

In the present case, Mr. Packard-Gomez failed to adhere to several basic principles in West Virginia estate administration law and failed to provide a reasonable excuse for such failure. Mr. Packard-Gomez did not supply the Fiduciary Commissioner with sufficient

vouchers substantiating the various disbursements from the Estate in the amount of \$57,933.66. As a result, the Petitioners' objection to these disbursements shown on the Second Accounting should be sustained. The entries representing these disbursements should be removed from the Second Accounting by virtue of the powers of the County Commission under W.Va. Code §44-4-17 to correct errors. The removal of these disbursements will increase the balance of the Estate for which Mr. Packard-Gomez must account. In other words, Mr. Packard-Gomez must account for and bring back into or repay/reimburse the Estate the amount of \$57,933.66.

In regard to the "Professional Fees," Mr. Packard-Gomez did not adequately indicate with specificity the services provided by Yolanda Faerber & Associates which gave rise to that payment. August 17, 2010 hearing transcript at pages 157-160. Because Mr. Packard-Gomez's defenses in this proceedings benefit Mr. Packard-Gomez personally, and not the Estate, Mr. Packard-Gomez does not have the authority to spend Estate assets to defend this proceeding. For example, the West Virginia Supreme Court of Appeals has held that

[i]n the absence of a valid contract of employment, an allowance of fees to an attorney, payable out of the estate of a decedent, can only be justified upon a showing of services beneficial to the estate, or necessary to its settlement, as distinguished from services performed for a client presenting a claim against the estate.

Syl. of Beuter v. Beuter, 122 W.Va. 103, 7 S.E.2d 505 (1940); Staler v. Dodson, 195 W. Va. 646, 649-50 (1995) (finding that attorneys fees from an estate should be denied where the party's interest was adverse to the estate, but granted where it was "beneficial to the estate, or necessary to its settlement"). Thus, the mere fact of an invoice from a law firm does not establish the expense as an estate expense, especially in light of the adversarial proceedings that occurred during the accounting period.

### III. THE SECOND ACCOUNTING DOES NOT BALANCE.

The amounts on the Second Accounting do not balance. Specifically, the assets in the Estate as of January 31, 2008 (\$2,042,588.41) plus proceeds to the Estate after December 31, 2008 (\$52,922.64) minus disbursements from the Estate after January 31, 2008 (\$57,933.66) equal \$2,037,577.39. However, the assets in the Estate as of December 31, 2008, equal \$2,033,624.28, a difference of \$3,953.11. As a result, Mr. Packard-Gomez must account for and bring back into or repay/reimburse the Estate the amount of \$3,953.11.

### IV. MISCELLANEOUS

- A. The Fiduciary Commissioner recommends that the County Commission deny the request of the Objectors to require Mr. Packard-Gomez to pay the Petitioners' attorney fees, costs, and expenses because Petitioners have not adequately established that the County Commission has jurisdiction to impose such a personal liability upon Mr. Packard-Gomez.**

There is a lack of controlling or persuasive authority for any award of attorney fees by the Fiduciary Commissioner or the County Commission under the factual scenario set forth herein. The cases cited by Objectors in support of their request all arose in the Circuit Court in the very first instance. That is, in those cases, the Circuit Court was not reviewing the order of a Fiduciary Commissioner or of a County Commission requiring that the opposing party pay a party's attorney fees. Instead, the Circuit Court was considering whether it would order that the opposing party pay a party's attorney fees incurred in the matter which originated before the Circuit Court.

- B. The Fiduciary Commissioner recommends that the County Commission deny the request of the Objectors to require the Estate to pay the Objectors' attorney fees, costs, and expenses because the Objectors have not adequately established that the County Commission has jurisdiction to impose such a liability upon the Estate.**

The Estate should not be liable for the payment of the Petitioners' legal fees since such an expense would affect all of the beneficiaries of the Estate. Not all of the beneficiaries of the Estate joined in the Petition or in the relief requested by the Petition. The cases cited by Petitioners in support of their request all arose in the Circuit Court in the very first instance. That is, in those cases, the Circuit Court was not reviewing the order of a Fiduciary Commissioner or of a County Commission requiring that the opposing party pay a party's attorney fees. Instead, the Circuit Court was considering whether it would order that the opposing party pay a party's attorney fees incurred in the matter which originated before the Circuit Court. Therefore, the Fiduciary Commissioner finds that there is a lack of mandatory or persuasive authority to support a recommendation that the County Commission order that the Estate pay the legal fees and costs of the Petitioners.

- C. The Fiduciary Commissioner recommends that the County Commission rule that Mr. Packard-Gomez is personally liable for all of the outstanding fees and costs of the Fiduciary Commissioner because Mr. Packard-Gomez was in default of his duties as Administrator CTA.**

Section 44-5-9 of the West Virginia Code provides that "[t]he costs of any proceedings, authorized or directed to be brought against any fiduciary to enforce or compel his compliance with the requirements of the law, shall include a reasonable fee to the fiduciary commissioner at whose instance the same are had, and shall be charged and paid as the court may direct. In every case where the fiduciary is in default, without reasonable excuse therefor, the costs shall be adjudged against and paid by the fiduciary personally. In no case shall the

costs be adjudged against the fiduciary commissioner unless he instituted the proceedings in bad faith.”

In the present case, Mr. Packard-Gomez failed to adhere to several basic principles in West Virginia estate administration law and failed to provide reasonable excuse for such failure. As a result, Mr. Packard-Gomez should be personally responsible for all of the fees and costs of the Fiduciary Commissioner.

**WHEREFORE**, based upon the foregoing findings of fact and conclusions of law, the Fiduciary Commissioner recommends to the Jefferson County Commission, as follows:

- 1. That the Second Accounting be not accepted as submitted and that it be corrected by the County Commission by modifying the entry ““1519 Wisconsin Avenue, LLC Membership Pledged to PNC Bank....\$1,117,030.09” to instead read as “Right of action against 1519 Wisconsin Avenue, LLC and/or other parties ....\$1,117,030.09:”**
- 2. That the Second Accounting be not accepted as submitted and that it be corrected by the County Commission by removal of the disbursements represented by the following entries:**
  - a. “Administrative Expenses” in the amount of \$27,380.66;
  - b. “Appraisal Fees” in the amount of \$4,500.00;
  - c. “Bank Service Charges” in the amount of \$150.00; and
  - d. “Professional Fees” in the amount of \$25,903.00.
- 3. Mr. Packard-Gomez must account for and bring back into or repay/reimburse the Estate (a) the amounts shown on item 2 immediately preceding for failing to provide the Fiduciary Commissioner appropriate vouchers substantiating the appropriateness of these disbursements or otherwise establishing that they are proper and appropriate Estate expenses, and (b) the sum of \$3,953.11 for failing to balance the Second Accounting:**
- 4. To the Fiduciary Commissioner directly, the fees and costs recoverable under section 44-5-9 of the West Virginia Code in regard to the second accounting, in the amount of \$5,111.43.**

The undersigned Fiduciary Commissioner attests that he has mailed a copy of this Report to the following interested parties by United States Mail, postage prepaid and securely affixed on the 10<sup>th</sup> day of May, 2011.

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Charles Town, WV 25414

Respectfully submitted, this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by:

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David A. DeJarnett, Esq., Fiduciary  
Commissioner for Jefferson County, West  
Virginia

**ESTATE OF JOHN J WARFIELD  
 SECOND ACCOUNTING  
 JAMES B PACKARD-GOMEZ, ADMINISTRATOR  
 FOR THE PERIOD ENDED December 31, 2008**

**ASSETS IN ESTATE, 1/31/2008**

Estate of John James Warfield, Morgan Stanley account #: 642 064807 092	\$ 5,462.91
Wachovia Bank Money Market account #: 1010053825836	74.27
Allstate Variable Annuity #: 5920198318 to John C Warfield Trust	3,878.84
Loan Receivable from J J Development, Inc.	7,097.00
J J Development Inc. Capital Stock	69,212.00
1519 Wisconsin Ave., LLC Membership Pledged to PNC Bank	1,117,030.09
1519 Wisconsin Ave., LLC Membership	<u>839,833.30</u>
<b>ASSETS IN ESTATE, 1/31/2008</b>	<b>\$ 2,042,588.41</b>

**Proceeds after 12/31/2008**

Allstate Variable Annuity #: 5920198318 to John C Warfield Trust	3,878.84
AMX Travelers Checks found my James Packard Gomez	1,000.00
Cancellation of Homeowners Insurance	230.74
Interest Income and Gain on Securities from Morgan Stanley Estate Account	43.58
Loan Proceeds James Packard- Gomez	47,696.83
Transfer of funds from Wachovia Bank Account	72.65
<b>Total Proceeds after 12/31/2008</b>	<b>\$ 52,922.64</b>

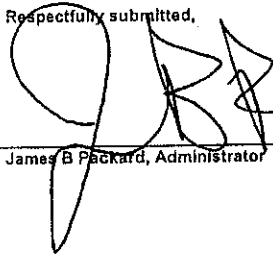
**Disbursements after 1/31/2008**

Administrative Expenses	27,380.66
Appraisal Fees	4,500.00
Bank Service Charges	150.00
Professional Fees	25,903.00
<b>Total Disbursements after 1/31/2008</b>	<b>\$ 57,933.66</b>

**ASSETS IN ESTATE, 12/31/2008**

Estate of John James Warfield, Morgan Stanley account #: 642 064807 092	\$ 451.89
Wachovia Bank Money Market account #: 1010053825836	-
Allstate Variable Annuity #: 5920198318 to John C Warfield Trust	7,097.00
Loan Receivable from J J Development, Inc.	69,212.00
J J Development Inc. Capital Stock	1,117,030.09
1519 Wisconsin Ave., LLC Membership Pledged to PNC Bank	<u>839,833.30</u>
1519 Wisconsin Ave., LLC Membership	<u>839,833.30</u>
<b>ASSETS IN ESTATE, 12/31/2008</b>	<b>\$ 2,033,624.28</b>

Respectfully submitted,

 Admin

James B Packard, Administrator Estate of John J Warfield

Date 12/28/08

Estate of John J Warfield  
Transactions from  
2/01/2008 to 12/31/2008

Ordinary Income/Expense	Type	Date	Num	Name	Memo	Clr	Split	Amount	Balance
Income									
AMX Travelers Checks	Deposit	02/22/2008			recovered by Carl Stephanus in a box of postcards purch at est auct		JPG Est of JWW 642-064807 Cash	50.00	50.00
	Deposit	02/22/2008			recovered by Carl Stephanus in a box of postcards purch at est auct		JPG Est of JWW 642-064807 Cash	100.00	100.00
	Deposit	02/22/2008			recovered by Carl Stephanus in a box of postcards purch at est auct		JPG Est of JWW 642-064807 Cash	100.00	200.00
	Deposit	02/22/2008			recovered by Carl Stephanus in a box of postcards purch at est auct		JPG Est of JWW 642-064807 Cash	100.00	300.00
	Deposit	02/22/2008			recovered by Carl Stephanus in a box of postcards purch at est auct		JPG Est of JWW 642-064807 Cash	100.00	400.00
	Deposit	02/22/2008			recovered by Carl Stephanus in a box of postcards purch at est auct		JPG Est of JWW 642-064807 Cash	100.00	500.00
	Deposit	02/22/2008			recovered by Carl Stephanus in a box of postcards purch at est auct		JPG Est of JWW 642-064807 Cash	100.00	600.00
	Deposit	02/22/2008			recovered by Carl Stephanus in a box of postcards purch at est auct		JPG Est of JWW 642-064807 Cash	100.00	700.00
	Deposit	02/22/2008			recovered by Carl Stephanus in a box of postcards purch at est auct		JPG Est of JWW 642-064807 Cash	100.00	800.00
	Deposit	02/22/2008			recovered by Carl Stephanus in a box of postcards purch at est auct		JPG Est of JWW 642-064807 Cash	100.00	900.00
	Deposit	02/22/2008			recovered by Carl Stephanus in a box of postcards purch at est auct		JPG Est of JWW 642-064807 Cash	100.00	1,000.00
Total AMX Travelers Checks								1,000.00	1,000.00
Income									
AMX Travelers Checks	Deposit	04/01/2008			John C Warfield received		Wachovia Bank John C Warfield	3,878.84	3,878.84
Total Annuity John C								3,878.84	3,878.84
Interest Income									
Estate xxx807	General Journal	01/31/2008					-SPLIT-	8.48	8.48
	General Journal	02/29/2008	3.12.10				JPG Est of JWW 642-064807 Cash	1.82	10.30
	General Journal	03/31/2008	3.12.11				JPG Est of JWW 642-064807 Cash	1.50	11.80
	General Journal	04/30/2008	3.12.12				JPG Est of JWW 642-064807 Cash	1.03	12.83
	General Journal	05/31/2008	3.12.13				JPG Est of JWW 642-064807 Cash	1.04	13.87
	General Journal	06/30/2008	3.12.14				JPG Est of JWW 642-064807 Cash	0.95	14.82
	General Journal	06/30/2008	3.12.15				JPG Est of JWW 642-064807 Cash	0.96	15.78
	General Journal	09/31/2008	3.12.20				JPG Est of JWW 642-064807 Cash	0.90	16.68
	General Journal	09/30/2008	3.12.21				JPG Est of JWW 642-064807 Cash	17.56	34.24
	General Journal	10/31/2008					JPG Est of JWW 642-064807 Cash	0.77	35.01
	General Journal	11/30/2008					JPG Est of JWW 642-064807 Cash	0.75	35.76
Total Estate xxx807								19.08	19.08
Wachovia Acct	Deposit	01/28/2008					Wachovia Bank John C Warfield	0.17	0.17
Total Wachovia Acct								0.17	0.17
Total Interest Income								19.25	19.25
Total Income								4,898.09	4,898.09
Expense									
Administrative Expenses	Check	02/01/2008	0234	Robyn Snyder	groomer final bill paid for Johns dog		JPG Est of JWW 642-064807 Cash	250.00	250.00
	General Journal	02/13/2008	3.12.15		counter fee to John Dorsey Estate Matters		Loan to/from JPG	103.38	353.38
	Check	02/14/2008	0235	J J Development	johns portion of filing fees		JPG Est of JWW 642-064807 Cash	299.46	652.84
	Check	02/20/2008	0236	CT Corporation	changing registered agent of Corporation		JPG Est of JWW 642-064807 Cash	1,146.34	1,799.18
	General Journal	03/02/2008	3.12.17		Estate matter, Ec James, Merrybeth, Ray, Shawn		Loan to/from JPG	149.38	1,948.56
	General Journal	03/04/2008	3.12.18		FedEx Fax - pre court		Loan to/from JPG	38.72	1,987.28
	General Journal	03/04/2008	3.12.16		PO Box		Loan to/from JPG	242.00	2,229.28
	Check	03/28/2008	0311	Travellers	surety bond wv		JPG Est of JWW 642-064807 Cash	450.00	2,679.28
	Check	03/28/2008	0312	CCSI	courier fee to WV		JPG Est of JWW 642-064807 Cash	176.67	2,855.95
	Check	05/01/2008	0312	Mr. Lilly	estate expenses for admin, travel.....		Wachovia Bank John C Warfield	3,878.84	6,081.95

Estate of John J Warfield  
Transactions from  
2/01/2008 to 12/31/2008

Type	Date	Num	Name	Memo	Clr	Amount	Balance
Check	05/06/2008	0239	Tri State Reporting Inc	courier fee to WV		175.00	6,256.95
Check	09/22/2008	0272	Tri State Reporting Inc	courier fee to WV		437.40	5,819.55
Check	12/27/2008		Wachovia Bank	misc adj to wachovia bank acct		1.62	5,817.93
General Journal	12/31/2008			FY 08, 07, 08 traveling exp incurred by Administrator		18,624.45	25,320.42
						25,320.42	25,320.42
<b>Total Administrative Expenses</b>							
Appraisal Fees						4,500.00	4,500.00
Total Appraisal Fees						4,500.00	4,500.00
Bank Service Charges						150.00	150.00
Total Bank Service Charges						150.00	150.00
Insurance							
Homeowners							
Total Homeowners							
Deposit	02/13/2008			Deposit Refund from Homeowners Insurance		-230.74	-230.74
Total Insurance						-230.74	-230.74
Professional Fees							
Accounting							
Total Accounting							
Legal Fees							
Check	04/08/2008	0313	Gus Stellanou			2,000.00	2,000.00
Check	02/19/2008	0233	Bowles Rice McDavid Graff			350.00	1,650.00
Check	02/25/2008	0238	Bowles Rice McDavid Graff			1,000.00	600.00
General Journal	05/08/2008		Tobin Occorn Ewing	paid to tobin occorn ewing with 1519 LLC funds for estate matters		2,150.00	3,500.00
General Journal	09/17/2008		Tobin Occorn Ewing	paid to tobin occorn ewing for legal services regarding the ref of 1519 Build		5,000.00	8,500.00
Check	05/20/2008	0241	Yolanda Stellanou Faerber			4,000.00	4,500.00
Check	05/21/2008	0240	Bowles Rice McDavid Graff			1,070.00	3,430.00
Check	09/30/2008	0273	Yolanda Stellanou Faerber			3,000.00	400.00
Check	12/25/2008	0275	Yolanda Stellanou Faerber			2,333.00	16,570.00
Check	12/25/2008	0274	John Dorsey			5,000.00	18,903.00
						23,903.00	23,903.00
Total Legal Fees						25,903.00	25,903.00
Total Professional Fees						25,903.00	25,903.00

**Estate of John J Warfield**  
**Expenses Paid by Mr. James Packard-Gomez**

Type	Date	Num	Name	Memo	Clr	Split	Amount	Balance
General Journal	02/13/2008	3.12.15		Reg. Balance				2,060.24
Check	02/20/2008	0237	James Packard Gomes	courier fee to John Dorsey Estate Matters		Administrative Expenses	103.38	2,163.62
General Journal	03/02/2008	3.12.17		Estate matter, Ed, James, Marybeth, Ray, Shawn		JPG Est of JJW 642-064807 Cash	-471.34	1,692.28
General Journal	03/02/2008	3.12.18		Fedex Fax - pre court		Administrative Expenses	149.38	1,841.66
General Journal	03/04/2008	3.12.16		PO Box		Administrative Expenses	38.72	1,880.38
General Journal	05/08/2008			paid to tobin account ewing with 1519 LLC funds for estate m		Administrative Expenses	242.00	2,122.38
Deposit	05/13/2008			JAMES MADE THIS DEPOSIT		JPG Est of JJW 642-064807 Cash	2,150.00	4,272.38
General Journal	05/17/2008		Tobin Occorr Ewing	paid to tobin account ewing for legal services regarding the ref of 1519 Build			5,000.00	9,272.38
General Journal	05/17/2008		New Windsor Bank	paid for Appraisal of 1519 Building			5,000.00	14,272.38
Deposit	09/26/2008			DEPOSIT MADE BY GOPAC INDUSTRIES TO COVER LE			4,500.00	18,772.38
Deposit	12/27/2008			to pay bill for John Dorsey and Yolanda Faerber		JPG Est of JJW 642-064807 Cash	3,000.00	21,772.38
General Journal	12/31/2008			FY 06, 07, 08 traveling exp incurred by Administrator		JPG Est of JJW 642-064807 Cash	7,300.00	29,072.38
General Journal	12/31/2008			Return of Executor Fee		Administrative Expenses	18,624.45	47,696.83
						Administrative Expenses	-47,696.83	0.00
							<u>-2,060.24</u>	<u>0.00</u>
							<u>-2,060.24</u>	<u>0.00</u>

Total Loan to/from JPG

TOTAL

BEFORE THE COUNTY COURT OF JEFFERSON COUNTY,  
WEST VIRGINIA

IN RE: THE ESTATE OF JOHN J.  
WARFIELD,

DAVID A. DEJARNETT,  
FIDUCIARY COMMISSIONER

JAMES B. PACKARD-GOMEZ,  
Administrator C.T.A.

**OBJECTIONS AND EXCEPTIONS TO THE  
SECOND INTERIM ACCOUNTING FOR THE  
PERIOD ENDED DECEMBER 31, 2008**

NOW COMES John T. Buzek, Edmund Buzek and Jeanne Busack (hereinafter "Petitioners"), by and through their counsel, Schrader Byrd & Companion, PLLC, pursuant to the applicable provisions of *W. Va. Code §44-4-1 et seq.*, and for their objections and exceptions to the Second Interim Accounting for the period ended December 31, 2008, heretofore filed by James B. Packard-Gomez, Administrator C.T.A., state as follows:

(1) The Petitioners object and except to the general form of the Second Interim Accounting because of its failure to provide a chronological list of each disbursement identifying the name of the payee, the amount disbursed and the failure to provide a specific voucher to support each such disbursement, and thus the Second Interim Accounting does not comply with the applicable provisions of West Virginia law. From a review of the Second Interim Accounting, it is impossible to discern what individual disbursements are included in the collective totals generally set forth under "Disbursements After 1/31/2008" and whether such disbursements are estate related.

(2) The Petitioners object and except to the "Administrative Expenses" in the amount of Twenty-Seven Thousand Three Hundred Eighty and 66/100 Dollars (\$27,380.66) and request copies

of all individual vouchers and/or receipts that collectively total the sum of \$27,380.66. From the face of the accounting, it is not possible to discern what is included in this collective total or whether it is or is not estate related.

(3) The Petitioners object and except to the disbursement captioned "Appraisal Fees" in the amount of Four Thousand Five Hundred Dollars (\$4,500.00) and request a copy of the voucher or receipt reflecting payment of that sum. Additionally, these Petitioners object to this disbursement on the basis that it does not appear from the face of the Accounting that this expense is estate related. Additionally, the Petitioners request a copy of the underlying appraisal.

(4) The Petitioners object and except to the disbursement captioned "Professional Fees" in the amount of Twenty-Five Thousand Nine Hundred Three and 00/100 Dollars (\$25,903.00) and request a copy of all vouchers and/or receipts for each individual disbursement that collectively totals \$25,903.00. Additionally, the Petitioners object to the payment of any professional fees by the estate for services and/or expenses incurred by the Administrator C.T.A. that were incurred in connection with any of the proceedings before the Fiduciary Commissioner the purpose of which is to require the Administrator C.T.A. to comply with applicable law. Those expenses and fees would appear to be "personal" in nature as opposed to services that are beneficial to the estate in general.

(5) The Petitioners object and except to the item captioned "Loan Receivable from J.J. Development, Inc." in the amount of Seven Thousand Ninety-Seven Dollars (\$7,097.00) and request documentation to support that entry. The basis of the Objection is that the Administrator C.T.A. did not have authority to loan and/or advance funds to that corporation.

(6) The Petitioners object and except to the entry captioned "J.J. Development, Inc. Capital Stock" in the amount of Sixty-Nine Thousand Two Hundred and 12/100 Dollars

(\$69,212.00). The basis of this Objection is that from other documents and information supplied by the Administrator C.T.A., the valuation of decedent's interest in J.J. Development, Inc. appears to be substantially and significantly understated. From such information, it appears that the value of decedent's interest in J.J. Development, Inc., should, at a minimum be Two Hundred Eighty-Six Thousand One Hundred Forty-Nine Dollars (\$286,149.00).

(7) The Petitioners object and except to the entry captioned "1519 Wisconsin Ave., LLC Membership Pledged to PNC Bank" in the amount of One Million One Hundred Seventeen Thousand Thirty and 09/100 Dollars (\$1,117,030.09). On the first interim Accounting filed for the period ending January 31, 2008, this item was captioned "Loan to 1519 Wisconsin Ave., LLC". From a review of the Second Interim Accounting, it appears that the Administrator C.T.A. is attempting to reclassify this asset as a membership interest in a limited liability company. In any event, the Administrator C.T.A. did not have the authority to advance these sums to the limited liability company as a loan, nor as a capital contribution to a limited liability company. Such an advancement would be a violation of pertinent West Virginia law as codified under West Virginia Code §44-6-1, et. seq. The Administrator C.T.A. should be charged personally with the principal of what is lost, with interest at the legal rate, as a result of his negligent and improper conduct in failing to secure the return of that principal, with interest, to the estate as provided in West Virginia Code §44-4-11.

(8) The Petitioners object and except to the entry captioned "1519 Wisconsin Ave., LLC Membership" in the amount of Eight Hundred Thirty-Nine Thousand Eight Hundred Thirty-Three and 30/100 Dollars (\$839,833.30). From information heretofore provided and evidence produced at hearings before the Fiduciary Commissioner on January 8 and 9, 2009, this amount constitutes

cash advances by the Administrator C.T.A. from the estate to a privately owned limited liability company and as such, are "illegal" investments and were made in violation of applicable West Virginia law as codified in West Virginia Code §44-6-1 et. seq. As a result, the Petitioners request that the Administrator C.T.A. be personally surcharged with each illegal and/or improper advance from the date such advance was made until such funds are returned to the estate, with interest at the applicable legal rate.

(9) The Petitioners object and except to the item captioned "Loan Proceeds James Packard-Gomez" in the amount of Forty-Seven Thousand Six Hundred Ninety Six and 83/100 Dollars (\$47,696.83) to the extent that such entry implies an obligation on the estate to repay said sums to the Administrator C.T.A. From the information supplied, it appears that all or a substantial portion of this sum (\$47,696.83) was used to reimburse the Administrator C.T.A. for various expenses and/or to pay professional fees which are the subject of Petitioners' objection set forth in paragraph four (4) above.

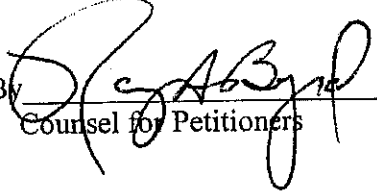
(10) The Petitioners object and except to the Second Interim Accounting because it does not balance. The value of assets in the estate on January 31, 2008 plus proceeds received less disbursements exceeds the value of assets in the estate on December 31, 2008 by the sum of \$3,953.11. The Petitioners request that the Administrator C.T.A. be personally surcharged with this deficiency.

(11) The Petitioners object and except to each and every other disbursement reflected on the Second Interim Accounting for the time period ending December 31, 2008, to the extent that proper vouchers and/or receipts are not submitted to substantiate the same and the failure to indicate that

the disbursement was an appropriate estate expense. The Petitioners reserve the right to file additional Objections and Exceptions as permitted by applicable law.

The Administrator C.T.A. for the estate has the burden to demonstrate that he handled the estate correctly. The West Virginia Supreme Court of Appeals has held that "the burden of proof will be upon such administrator to show by legal and competent evidence the correctness of all disbursements by him or his agent, without which he should not be credited therewith." Syl. Pt. 2, *Fields v. Lawyer*, 83 W. Va. 128, 97 S.E. 597 (1918). Therefore, the Petitioners request that the Administrator C.T.A. be personally surcharged, with interest at the legal rate, for each and every disbursement that is not appropriately supported by vouchers and/or receipts, for every disbursement that the Administrator C.T.A. fails to show by legal and competent evidence was correct and estate related and/or for any disbursement that is not specifically approved by the Fiduciary Commissioner.

JOHN T. BUZEK, EDMUND BUZEK and  
JEANNE BUSACK, Petitioners

By   
Counsel for Petitioners


Ray A. Byrd, Esq., WV Bar #570  
John Porco, Esq., WV Bar #6946  
SCHRADER BYRD  
& COMPANION, PLLC  
The Maxwell Centre  
32-20th Street, Suite 500  
Wheeling, West Virginia 26003  
(304)233-3390

CERTIFICATE OF SERVICE

Service of the foregoing Objections and Exceptions was had upon James B. Packard-Gomez, Administrator, C.T.A., by serving a true copy thereof upon James B. Packard-Gomez and his counsel, John K. Dorsey, Esq., at the addresses set forth below by United States mail, postage prepaid, this 21<sup>st</sup> day of January, 2009.

John K. Dorsey, Esq.  
104 W. Congress Street  
P. O. Box 42  
Charles Town, WV 25414

James B. Packard-Gomez  
P.O. Box 40190  
Washington, D.C. 20016

  
Counsel for Petitioners

COPY

BEFORE THE COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA

IN RE: ESTATE OF JOHN J. WARFIELD, DECEASED

Date of Death: February 23, 2006

JAMES B. PACKARD-GOMEZ, ADMINISTRATOR CTA

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

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

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

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

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

**DECREES:**

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

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

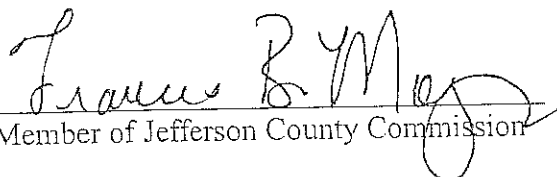
c. That Mr. Packard-Gomez is personally liable for and shall be required to repay and/or reimburse and/or account to the Estate of John J. Warfield the amount of John T. Buzek's, Edmond Buzek's, and Jeanne Busack's attorney fees, costs, and expenses.

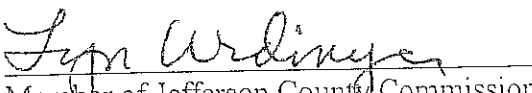
The June 7, 2011, ORDER of the Circuit Court of Jefferson County is attached and, pursuant to the directive of the Circuit Court of Jefferson County, that ORDER is incorporated herein as an order of the Jefferson County Commission and made part of the record in this proceeding.

It is so **ORDERED.**


Dated: June 9, 2011

  
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President of Jefferson County Commission

  
\_\_\_\_\_  
Member of Jefferson County Commission

  
\_\_\_\_\_  
Member of Jefferson County Commission

  
\_\_\_\_\_  
Member of Jefferson County Commission

  
\_\_\_\_\_  
Member of Jefferson County Commission



**RECOMMENDED ORDER SUBMITTED BY PETITIONERS JOHN T. BUZEK, EDMOND BUZEK AND JEANNE BUSACK** with the Fiduciary Commissioner on March 25, 2009.

5. On or about July 6, 2010, the Fiduciary Commissioner issued a Report of Fiduciary Commissioner with regard to the Petition and the Objections and Exceptions To First Accounting For The Period Ended January 31, 2008. The notice of the Fiduciary Commissioner advised the parties that they may submit objections to him or file objections with the Jefferson County Commission.

6. On or about July 27, 2010, John T. Buzek, Edmond Buzek, and Jeanne Busack served their **EXCEPTIONS, OBJECTIONS AND ASSIGNMENT OF ERRORS TO THE REPORT OF FIDUCIARY COMMISSIONER, DAVID A. DeJARNETT**. Mr. Packard-Gomez did not file any exceptions or objections with the Fiduciary Commissioner or with the County Commission.

7. The Jefferson County Commission examined the Report of Fiduciary Commissioner and considered John T. Buzek's, Edmond Buzek's, and Jeanne Busack's exceptions, objections, and assignments of error at a meeting on Tuesday, September 7, 2010 at 1:00 p.m. Mr. Packard-Gomez requested the Jefferson County Commission to accept as correct the Report of Fiduciary Commissioner as submitted.

8. Thereafter, on October 21, 2010, the Jefferson County Commission entered an **ORDER ADOPTING, IN PART, AND MODIFYING, IN PART, THE REPORT OF FIDUCIARY COMMISSIONER, DAVID A. DeJARNETT DATED JULY 6, 2010**.

9. On page 1, the Order of the Jefferson County Commission is stamped as being recorded on October 27, 2010.

10. On page 8, the Order of the Jefferson County Commission is dated October 21, 2010, so the Jefferson County Commission "rendered, had, or made" the Order on October 21, 2010.

11. On page 2, the Order of the Jefferson County Commission provides that “Mr. Packard-Gomez did not file any exceptions or objections” to the Report of Fiduciary Commissioner and that “Mr. Packard-Gomez requested the Jefferson County Commission to accept as correct the Report of Fiduciary Commissioner as submitted.”

12. John T. Buzek, Edmond Buzek, and Jeanne Busack presented and filed their Petition in Error on February 17, 2011 (civil action no. 11-C-54).

13. James Packard-Gomez presented and filed his Petition for Appeal and Writ of Error on February 28, 2011 (civil action no. 11-C-70).

14. The Court adopts, affirms, and incorporates the Jefferson County Commission dated October 21, 2010 except as otherwise provided in this Order.

#### CONCLUSIONS OF LAW

1. A close and thorough examination of West Virginia law reveals that the Jefferson County Commission and Fiduciary Commissioner have the absolute, exclusive, and unlimited authority and jurisdiction to address the matters raised in this proceeding because John T. Buzek’s, Edmond Buzek’s, and Jeanne Busack’s objections relate to the settlement of the accounting over which the Jefferson County Commission and Fiduciary Commissioner have unlimited jurisdiction.

2. Before the Judicial Reorganization Amendment of 1974, Article VIII, Section 24 of the West Virginia Constitution provided that County Courts [County Commissions] “shall have jurisdiction in all matters of probate, the appointment and qualification of personal representatives...and the settlement of their accounts...” Interpreting this provision, the West Virginia Supreme Court of Appeals held that

[c]ounty courts are of limited jurisdiction in the sense that their powers are prescribed by Section 24, Article VIII, West Virginia Constitution, **but in all matters of probate, the appointment of the fiduciaries named in said Section 24, and the settlement of their accounts, they are courts of record, vested with judicial powers and unlimited in their jurisdiction** where, in regular session, jurisdiction of both subject matter and parties is had.

Syl. Pt. 3 of *Boone v. Boone*, 123 W. Va. 696, 17 S.E.2d 790 (1941) (emphasis added)<sup>1</sup>.

3. As part of the Judicial Reorganization Amendment of 1974, Article VIII, Section 24 of the West Virginia Constitution was re-written to the present day Article IX, Section 11 of the West Virginia Constitution.

4. The Judicial Reorganization Amendment of 1974 also re-wrote the constitutional authority of circuit courts. With regard to the jurisdiction, power, and authority of circuit courts, Article VIII, Section 6 of the West Virginia Constitution provides that

[o]n and after January one, one thousand nine hundred seventy-six, the Legislature may provide that all matters of probate, the appointment and qualification of personal representatives, guardians, committees and curators, and the settlements of their accounts, shall be vested exclusively in circuit courts or their officers, but until such time as the Legislature provides otherwise, jurisdiction in such matters shall remain in the county commissions or tribunals existing in lieu thereof or the officers of such county commissions or tribunals.

(Emphasis added). However, the Legislature has never taken action to give jurisdiction for these matters to the Circuit Courts, and thus, County Commissions are still vested with, and have unlimited jurisdiction over, all matters of probate, the appointment of the fiduciaries, and the settlement of their accounts per the former Article VIII, Section 24 of the West Virginia Constitution and the *Boone* decision and its progeny. The Legislature has specifically provided that the County Commissioners have jurisdiction over all matters of probate, the appointment and qualification of personal representatives, guardians, committees, curators and the settlement of their accounts. See W. Va. Code §7-1-3.

1

See also *State ex rel. Linger v. County Court of Upshur County*, 150 W.Va. 207, 217, 144 S.E.2d 689 (1965) (Providing that "[u]nder Article VIII, Section 24 of the Constitution of this State, county courts have jurisdiction and, as courts of record, are vested with judicial powers in all matters of probate, the appointment and qualification of personal representatives, guardians, committees, and curators, and the settlement of their accounts, and in all matters relating to apprentices. *In re: Boggs' Estate*, 135 W. Va. 288, 63 S.E.2d 497; *In re: Boyce's Estate*, 146 W. Va. 93, 118 S.E.2d 318; *State ex rel. Remke v. Falland*, 145 W. Va. 364, 115 S.E.2d 326; *Furman v. Hunt*, 135 W. Va. 716, 65 S.E.2d 1; *In re: Will of Winzenrith*, 133 W. Va. 267, 55 S.E.2d 897; *Gapp v. Gapp*, 126 W. Va. 874, 30 S.E.2d 530; *Ritchie v. Armentrout*, 124 W. Va. 399, 20 S.E.2d 474; *Boone v. Boone*, 123 W. Va. 696, 17 S.E.2d 790; *Starcher v. South Penn Oil Company*, 81 W. Va. 587, 95 S.E. 28; *Tomblin v. Peck*, 73 W. Va. 336, 80 S.E. 450.")

5. The West Virginia Supreme Court of Appeals recognized such fact in the decision of *McClure v. McClure*, 403 S.E.2d 197 (1991). In *McClure*, the Court cited to Syllabus Point 2 of *State ex rel. Linger v. County Court of Upshur County*, 150 W.Va. 207, 217, 144 S.E.2d 689 (1965), supra, holding that

[u]nder Article VIII, Section 24 of the Constitution of this State, county courts have jurisdiction and, as courts of record, are vested with judicial powers in all matters of probate, the appointment and qualification of personal representatives, guardians, committees, and curators, and the settlement of their accounts, and in all matters relating to apprentices.

Then, in footnote 2, the Court stated that “[t]he powers of the county commission are now contained in Article IX, Section 11 of the West Virginia Constitution. While the county commission’s probate powers are not specifically detailed, as they were under Article VIII, Section 24 of the Constitution of 1872, the legislature has lodged these powers with the county commission. See W.Va. Code, 44-1-1, *et seq.*”

6. One need to look no further than the former Article VIII, Section 24 of the West Virginia Constitution, the *Boone* decision and its progeny, and sections 44-4-10<sup>2</sup>, 44-4-11<sup>3</sup>, 44-6-1, and 44-6-2

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2

Section 44-4-10 of the West Virginia Code provides, in part, that “[i]n case the fiduciary commissioner finds a shortage of money or securities, he shall cause a rule to be issued against the fiduciary to show cause before the circuit court, or judge thereof in vacation, of the county wherein such fiduciary qualified, why such fiduciary should not be required to replace any moneys or securities that have been improperly applied or disposed of, or the value thereof. The proceedings upon every such rule shall be considered for all purposes to be proceedings in equity, and the orders and decrees therein shall be enforceable accordingly. The court or judge thereof shall have full power to require the fiduciary to replace any moneys, securities or property that have been improperly applied or disposed of, or the value thereof, or to pay or transfer the same or any moneys, securities or property, with which the fiduciary may be charged, into a proper account or otherwise, as the court or judge thereof may order. If the order or decree is not complied with within a time to be fixed by the court, the powers of the fiduciary shall be revoked and annulled, and the court shall so order. The failure of the fiduciary to comply with the order or decree shall also be a breach of the fiduciary’s bond.”

3

Section 44-4-11 of the West Virginia Code provides that “[i]f any personal representative, guardian, curator or committee shall, by his negligence or improper conduct, lose any debt or other money, he shall be charged with the principal of what is so lost and interest thereon in like manner as if he had received such principal. And if any personal representative, guardian, curator or committee shall pay any debt, the recovery of which could be prevented by reason of illegality of consideration, or lapse of time, or otherwise, when he knows, or by the exercise of due diligence could ascertain, the facts by which the same could be so prevented, no credit shall be allowed him therefor.” (Emphasis added).

of the West Virginia Code to realize and understand that the Jefferson County Commission and Fiduciary Commissioner have the absolute, exclusive, and unlimited authority and jurisdiction over Mr. Packard-Gomez and the issues presented in this proceeding.

7. From a review of the constitutional provision and applicable case law heretofore cited, it is clear that in all matters involving personal representatives and the settlement of their accounts the county courts are courts of record, vested with judicial powers and in regard to such matters unlimited in their jurisdiction. Although Mr. Packard-Gomez is a nonresident, upon his appointment as Administrator C.T.A. by the Jefferson County Commission, he voluntarily submitted to the jurisdiction of the Jefferson County Commission and the Fiduciary Commissioner in all matters involving the administration of the John J. Warfield Estate, particularly on all matters involved with the settlement of his accounts. *See* W. Va. Code §44-5-3(c) as to how personal service may be accomplished over a nonresident administrator. Service on Mr. Packard-Gomez through the Jefferson County Clerk as his statutory attorney-in-fact has not been necessary up to this point because he has either accepted service of all matters personally or such service was accepted by his counsel. Mr. Packard-Gomez has been personally present in all proceedings held in these matters and has never placed on the record any objection over the lack of any jurisdiction over him personally.

8. The Will does not include any express authority for Mr. Packard-Gomez to loan Estate assets in the amount of \$1,117,030.09 to 1519 Wisconsin Avenue, LLC. Furthermore, Mr. Packard-Gomez violated W.Va. Code 44-1-22<sup>4</sup> when he failed to take reasonable steps to enforce claims on behalf

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4

Section 44-1-22 of the West Virginia Code provides that “[a] personal representative may sue or be sued upon any judgment for or against, or any contract of or with, his decedent.”

of the Estate and the indebtedness of \$1,117,030.09 is such a claim.<sup>5</sup> In fact, the Fiduciary Commissioner states that “[t]his amount [\$1,117,030.09] could have been more appropriately classified as a right of action against 1519 Wisconsin Avenue, LLC and/or other parties.” *Report of Fiduciary Commissioner at 39*. See *Isbell v. Flippen*, 41 S.E.2d 31, 33 (Va. 1947)(Providing that “[o]ne of the primary obligations of the personal representative is to collect the assets of the estate, which, of course, includes the duty to reduce choses in action to judgment [citations omitted]. Indeed, failure to proceed promptly with the collection of assets due the decedent’s estate is negligence, for which the personal representative may be liable under Code, §5406.”)

9. As a result, Mr. Packard-Gomez is required to account for the \$1,117,030.09 loaned to 1519 Wisconsin Avenue, LLC, and thus, Mr. Packard-Gomez must repay the Estate the \$1,117,030.09, together with interest at the legal rate (equaling \$1,269,206.31 as of January 8, 2009 plus \$298.38 per day after January 8, 2009) under W.Va. Code 44-4-11<sup>6</sup>.

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5

In a section entitled **EXPERT TESTIMONY** (pages 22-23), the **REPORT OF FIDUCIARY COMMISSIONER** makes the following observation:

F. Mr. Byrum opines that, under West Virginia Code §44-1-22, Mr. Packard-Gomez owed a fiduciary duty to the Estate to take reasonable steps to enforce claims on behalf of the Estate, that the indebtedness of \$1,117,030.09 is such a claim, but that Mr. Packard-Gomez has breached that fiduciary duty because he has failed to recover the \$1,117,030.09 on behalf of the Estate.

*EXHIBIT 23*. Mr. Byrum opined that Mr. Packard-Gomez “certainly had a duty on behalf of the estate to recover those assets which has been subject to the pledge agreement or the proceeds of liquidation....” *January 9, 2009 hearing transcript at 66*. Mr. Byrum also opined that the failure of Mr. Packard-Gomez to recover the \$1,117,030.09 on behalf of the Estate from either 1519 Wisconsin Avenue, LLC, Go-Pac Industries, Inc., Mr. Erwin Gomez-Packard, or himself is a breach of fiduciary duty. *January 9, 2009 hearing transcript at 68*. As a result, Mr. Byrum opines that Mr. Packard-Gomez may be required to account for the \$1,117,030.09 loaned to 1519 Wisconsin Avenue, LLC, and that, in other words, Mr. Packard-Gomez may be required to personally repay the Estate the \$1,117,030.09 together with interest at the legal rate (equaling \$1,269,206.31 as of January 8, 2009 plus \$298.38 per day after January 8, 2009). *January 9, 2009 hearing transcript at 66-71 and EXHIBIT 25*.

6

Section 44-4-11 of the West Virginia Code provides that “[i]f any personal representative, guardian, curator or committee shall, by his negligence or improper conduct, lose any debt or other money, he shall be charged with the principal of what is so lost and interest thereon in like manner as if he had received such principal. And if any personal representative, guardian, curator or committee shall pay any debt, the recovery of which could be prevented by reason of illegality of consideration, or lapse of time, or otherwise, when he knows, or by the exercise of due diligence could ascertain, the facts by which the same could be so prevented, no credit shall be allowed him therefor.”

10. Mr. Packard-Gomez's outrageous breaches of fiduciary duty as outlined in John T. Buzek's, Edmond Buzek's, and Jeanne Busack's papers and in the Report of Fiduciary Commissioner make him personally liable for their attorney fees, costs, and expenses. See e.g. Syl. Pt. 3, Sally-Mike Properties v. Yokum, 179 W. Va. 48, 365 S.E.2d 246 (1986)(Providing that "[t]here is authority in equity to award to the prevailing litigant his or her reasonable attorney's fees as 'costs,' without express statutory authorization, when the losing party has acted in bad faith, vexatiously, wantonly or for oppressive reasons."). In fact, John T. Buzek's, Edmond Buzek's, and Jeanne Busack's expert witness, Mr. Thomas Byrum opined that "[w]hile engaging in this continuing breach of his fiduciary duty, Mr. Packard as Administrator c.t.a. was simply using the funds of the estate as his own private bank....Mr. Packard's conduct in this capacity raises to the level where not only are money damages appropriate but also exemplary or punitive damages are called for...."

11. The West Virginia Supreme Court has awarded attorney fees for breach of fiduciary duty where the fiduciary engaged in "willful, wanton, outrageous, and reckless conduct." Pauley v. Gilbert, 206 W. Va. 114, 123, 522 S.E.2d 208 (1999). In Pauley, the Court reasoned that "Ms. Gilbert's actions in failing to perform her legally- prescribed fiduciary duties and in misappropriating the corpus of Ms. Pauley's trust account for her own use constituted 'bad faith, vexatious, wanton [and]...oppressive' behavior meriting an award of attorney's fees in Ms. Pauley's favor for her efforts in prosecuting this lawsuit to recover monies that are lawfully hers." Pauley at 123. The Third Circuit granted fees where the fiduciary breached his duty "in a way that resulted in a direct benefit to himself." Dardovitch v. Haltzman, 190 F.3d 125, 147 (1999)<sup>7</sup>.

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7

In Dardovitch, the United States Court of Appeals made the following observations and findings in fairly similar litigation:

a trustee may be found liable for a beneficiary's attorney's fees when the trustee has acted wrongfully, especially where the litigation itself is made necessary by the trustee's defalcation.

\*\*\*

We think it clear that the lengthy pre-Accounting litigation was necessitated by Haltzman's persistent

12. The Estate is also liable for John T. Buzek's, Edmond Buzek's, and Jeanne Busack's attorneys' fees, costs, and expenses because their acts have benefitted the Estate, and the expenditure of those fees and costs were, and are, necessary for the settlement of the Estate. In short, John T. Buzek, Edmond Buzek, and Jeanne Busack benefitted the Estate by instituting these proceedings against Mr. Packard-Gomez to ensure the proper administration and settlement of the Estate.

13. For example, the County Commission's ordered that "Mr. Packard-Gomez (1) must account for and (2) bring back into or repay/reimburse the Estate the amount of \$1,398,511.67 as of September 21, 2010, plus \$278.39 per day after September 21, 2010 until such amount is returned to the Estate...." Likewise, the Report of Fiduciary Commissioner ordered that "Mr. Packard-Gomez be personally liable for all fees and costs of the Fiduciary Commissioner incurred to date in the amount of \$10,542.87...." under W.Va. Code §44-5-9. Moreover, John T. Buzek, Edmond Buzek, and Jeanne Busack continue their efforts to recover the additional amount of \$1,117,030.09, together with interest at the legal rate as discussed above.

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refusal to provide Dardovitch with an accounting.

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Furthermore, the litigation provided a benefit to the Trust, as it brought about an accounting of the Trust that exposed breaches of fiduciary duty. Under the trustees' apparent understanding of the term "beneficiary," no one was entitled to seek an accounting. Thus, by bringing the litigation, Dardovitch forced the trustees to give an account for their actions, which they otherwise would not have done. This was undoubtedly of benefit to the Trust. In addition, aside from the intrinsic benefit of having an accounting performed, the accounting here exposed the breach of fiduciary duty discussed above. As a result of this exposure, a substantial amount of funds will be preserved for the beneficiaries.

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One of the situations in which a court may award attorney's fees is where the litigation results in a benefit to the trust as whole. *See Trimble*. Here, as a result of Dardovitch's objections to the account, Haltzman was ordered to return certain fees to the Trust, and will not be permitted in the future to withdraw additional fees. Furthermore, the District Court appropriately ordered the trustee himself, as opposed to the Trust, to pay the fees. By accepting the additional fees for the collection actions, Haltzman, an attorney, not only breached his fiduciary duty, but did so in a way that resulted in a direct benefit to himself. This case is thus unlike those in which a trustee breaches his duty by making an improper investment, which causes a loss to the trust estate but no corresponding gain to the trustee. Although, as discussed above, Haltzman did not engage in per se impermissible self-dealing, his breach of trust resulting in a direct profit to him justifies the District Court's award of attorney's fees in favor of Dardovitch to be paid by Haltzman.

14. The following decisions of the Court recognize John T. Buzek's, Edmond Buzek's, and Jeanne Busack's ability to recover their attorneys' fees, costs, and expenses from the Estate. *See e.g.* Beuter v. Bueter, 122 W. Va. 103, 7 S.E.2d 505 (1940); Security Natl. Bank & Trust Co. v. Willim, 153 W. Va. 299, 168 S.E.2d 555 (1969); Wheeling Dollar Sav. & Trust Co. v. Leedy, 158 W. Va. 926, 216 S.E.2d 560 (1975); Farrar v. Young, 159 W. Va. 853, 230 S.E.2d 261 (1976); and Statler v. Dodson, 195 W. Va. 646, 466 S.E.2d 497 (1995). In Farrar, the Court held that

[t]he standard by which a court should be guided in allowing or disallowing attorneys' fees as a charge against an estate is whether the legal services rendered were designed to capture assets for the estate or were otherwise necessary to the settlement thereof. . . .

"In the absence of a valid contract of employment an allowance of fees to an attorney, payable out of the estate of a decedent, can only be justified upon a showing of services beneficial to the estate, or necessary to its settlement, as distinguished from services performed for a client presenting a claim against the estate."

In the case under consideration the plaintiff, Mildred Young, instituted this suit, not only in her individual capacity but also as the administratrix of the estate of R. S. Farrar. In the latter capacity she sought the recovery of monies for the estate. In this respect the services rendered by counsel were designed to benefit the estate and . . . reasonable attorneys' fees therefore are properly chargeable to the estate. In considering the reasonableness thereof it is pertinent to note that counsel also represented Mrs. Young in her individual capacity as an adversary against the defendants. The ruling of the trial court is, therefore, reversed on this issue and reasonable attorneys' fees, chargeable to the estate, shall be allowed to the plaintiff.

[W]e arrive at the same conclusion relative to attorneys' fees for services rendered to the defendant, Robert E. Farrar. He was sued, not only in his individual capacity but also as a co-administrator of the estate. Furthermore, in the latter capacity, he filed a counterclaim against Mrs. Young, seeking restoration of certain funds to the estate. Therefore, to the extent that the services rendered were designed to benefit the estate reasonable legal fees shall be allowed to the defendant, Robert E. Farrar.

Farrar at W.Va. at 862-64, S.E.2d at 266-67.

15. All of the services rendered by counsel for John T. Buzek, Edmond Buzek, and Jeanne Busack in these proceedings were designed to either recover funds for the benefit of the Estate or to compel Mr. Packard-Gomez to comply with applicable law. These services have benefitted the

Estate and counsel's fees, costs, and expenses are properly chargeable to the Estate.<sup>8</sup>

16. John T. Buzek, Edmond Buzek, and Jeanne Busack, are 3 of 6 beneficiaries who are to equally divide the residue of the Estate. The remaining 3 beneficiaries have incurred no expense but yet will receive an equal share of the residue. It is inequitable for John T. Buzek, Edmond Buzek, and Jeanne Busack to bear all of the expense and carry the laboring oar so to speak, but then in return, receive significantly less than the remaining 3 beneficiaries who chose not to participate in the proceeding.

17. With regard to James Packard-Gomez's Petition for Appeal and Writ of Error, section 58-3-4 of the West Virginia Code provides that "[s]uch petition shall be presented within four months after such judgment, order or proceeding was rendered, had or made, and shall assign errors." On page 8, the Order of the Jefferson County Commission is dated October 21, 2010, so the Jefferson County Commission "rendered, had, or made" the Order on October 21, 2010. *EXHIBIT 1*. The West Virginia Supreme Court of Appeals has held that

[t]he provisions of Code, 58-3-4, governing writs of error from circuit courts to county courts and requiring that the petition therefor be presented in the circuit court within four months **from the date of the order** of the county court to which the writ of error is prosecuted, and be accompanied by the original record of the proceedings in the county court in lieu of a transcript thereof, are mandatory....

Syl. of *Miller v. Miller*, 117 W.Va. 138, 184 S.E. 246 (1936) (emphasis added). *EXHIBIT 2*.

18. The Court dismisses Mr. Packard-Gomez's Petition for Appeal and Writ of Error because the relevant Order is dated October 21, 2010, but Mr. Packard-Gomez did not present and file his

---

8

John T. Buzek, Edmond Buzek, and Jeanne Busack respectfully disagree with the statement contained in the Report of Fiduciary Commissioner providing that "[t]here is a lack of controlling or persuasive authority for any award of attorneys fees by the Fiduciary Commissioner or the County Commission under the factual scenario set forth herein." *Report of Fiduciary Commissioner at 49*. The Jefferson County Commission and Fiduciary Commissioner have the absolute, exclusive, and unlimited authority and jurisdiction over Mr. Packard-Gomez and the issues presented in this proceeding under the former Article VIII, Section 24 of the West Virginia Constitution, the *Boone* decision and its progeny, and sections 44-4-10, 44-4-11, 44-6-1, and 44-6-2 of the West Virginia Code. As a result, the Jefferson County Commission and Fiduciary Commissioner are empowered to award the requested attorney fees, costs, and expenses.

Petition for Appeal and Writ of Error until February 28, 2011, more than four months after October 21, 2010.

19. The Order of the Jefferson County Commission, on page 8, provides that “Mr. Packard-Gomez did not file any exceptions or objections” to the Report of Fiduciary Commissioner and that “Mr. Packard-Gomez requested the Jefferson County Commission to accept as correct the Report of Fiduciary Commissioner as submitted.” As a result, Mr. Packard-Gomez has waived his right to appeal the affirmed findings and conclusions of the Fiduciary Commissioner. See e.g. *Mayhew v. Mayhew*, 205 W.Va. 490, 519 S.E.2d 188, 204 (1999)(“Our law is clear in holding that, as a general rule, we will not pass upon an issue raised for the first time on appeal.”); *Tiernan v. Charleston Area Med. Ctr., Inc.*, 203 W.Va. 135, 140 n. 10, 506 S.E.2d 578, 583 n. 10 (1998)(“Issues not raised on appeal...are deemed waived.”); *State v. Miller*, 197 W.Va. 588, 597, 476 S.E.2d 535, 544 (1996)(“Indeed, if any principal is settled in this jurisdiction, it is that, absent the most extraordinary circumstances, legal theories not raised properly in the lower court cannot be broached for the first time on appeal.”); and *Whitlow v. Board of Ed. of Kanawha County*, 190 W.Va. 223, 226, 438 S.E.2d 15, 18 (1993)(“When a case has proceeded to its ultimate resolution below, it is manifestly unfair for a party to raise new issues on appeal.”)

20. The Court dismisses James Packard-Gomez Petition for Appeal and Writ of Error to the extent it seeks to appeal the affirmed findings and conclusions of the Fiduciary Commissioner because James Packard-Gomez never objected and affirmatively waived his right to appeal such matters.

21. Section 44-4-15 of the West Virginia Code provides that “[u]pon completion of such report of settlement of account the fiduciary commissioner shall give notice thereof...and hold the report, vouchers, and any evidence taken in connection with the report, in his office for ten days, during which time any person interested may inspect the same *and file exceptions thereto.*” (Emphasis

added).

22. Likewise, Section 44-4-17 of the West Virginia Code provides that “[t]he county commission, at its first regular term occurring not less than ten days after the report has been filed in the office of its clerk, shall examine the same, with the evidence *and such exceptions to the report as may be filed at any time before such examination. It shall correct any errors which shall appear from the exceptions*, and any appearing on the face of the account, whether excepted to or not.” (Emphasis added).

23. Moreover, the notice of the Fiduciary Commissioner advised the parties that they may submit objections to him or file objections with the Jefferson County Commission.

24. On page 2, the Order of the Jefferson County Commission provides that “Mr. Packard-Gomez did not file any exceptions or objections” to the Report of Fiduciary Commissioner and that “Mr. Packard-Gomez requested the Jefferson County Commission to accept as correct the Report of Fiduciary Commissioner as submitted.”

25. The Court dismisses James Packard-Gomez Petition for Appeal and Writ of Error because Mr. Packard-Gomez has waived his right to appeal the affirmed findings and conclusions of the Fiduciary Commissioner.

26. Moreover, even if the Court declined to dismiss the Petition for Appeal and Writ of Error of James Packard-Gomez on these grounds, and if it were to consider the Petition for Appeal and Writ of Error of James Packard-Gomez, the record is clear that the County Commission correctly decided the five (5) ASSIGNMENTS OF ERROR cited in James Packard-Gomez’s Petition for Appeal and Writ of Error.

27. The Court adopts, affirms, and incorporates the Jefferson County Commission dated October 21, 2010 except as otherwise provided in this Order.

**WHEREFORE**, in addition to the relief provided for in the Order of the Jefferson County Commission dated October 21, 2010, the Court also **ORDERS, ADJUDGES, and DECREES**:

- a. That Mr. Packard-Gomez is personally liable and required to repay and/or reimburse and/or account to the Estate of John J. Warfield the sum of \$1,117,030.09 for the loan to 1519 Wisconsin Avenue, LLC, together with interest at the legal rate (equaling \$1,269,206.31 as of January 8, 2009 plus \$298.38 per day after January 8, 2009);
- b. That the Estate is liable to John T. Buzek, Edmond Buzek, and Jeanne Busack for their attorney fees, costs, and expenses because the actions of John T. Buzek, Edmond Buzek, and Jeanne Busack and their counsel have greatly benefitted the Estate and have resulted in an Order requiring substantial sums be paid to or delivered to the Estate; and
- c. That Mr. Packard-Gomez is personally liable for and shall be required to repay and/or reimburse and/or account to the Estate of John J. Warfield the amount of John T. Buzek's, Edmond Buzek's, and Jeanne Busack's attorney fees, costs, and expenses.

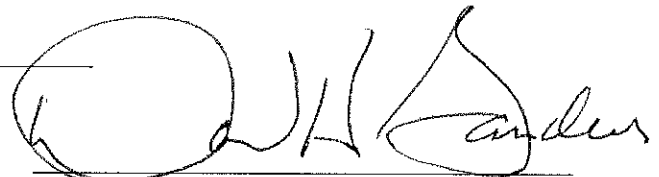
**WHEREFORE**, the Court also **ORDERS, ADJUDGES, and DECREES** that the Petition for Appeal and Writ of Error of James Packard-Gomez (1) is untimely and (2) assigns error to several findings and conclusions of the Fiduciary Commissioner to which James Packard-Gomez never objected and affirmatively waived and to which he asked be accepted as correct as submitted. Moreover, the BRIEF OF JAMES-PACKARD GOMEZ raises for the first time legal arguments not addressed in the five (5) ASSIGNMENTS OF ERROR cited in James Packard-Gomez's Petition for Appeal and Writ of Error and such arguments are waived. In addition, James Packard-Gomez never filed exceptions to the findings and conclusions of the Fiduciary Commissioner to which he now assigns error. As a result, the Court dismisses the Petition for Appeal and Writ of Error of James Packard-Gomez.

However, even if the Court declined to dismiss the Petition for Appeal and Writ of Error of James Packard-Gomez on these grounds, and if it were to consider the Petition for Appeal and Writ of Error of James Packard-Gomez, the record is clear that the County Commission correctly decided the five (5) ASSIGNMENTS OF ERROR cited in James Packard-Gomez's Petition for Appeal and Writ of Error. Therefore, the Court nevertheless **ORDERS, ADJUDGES, and DECREES** that the objections of James Packard-Gomez are overruled for reasons contained in the Report of Fiduciary Commissioner dated July 6, 2010, and/or in the Order of the Jefferson County Commission dated October 21, 2010.

**WHEREFORE**, the Court adopts, affirms, and incorporates the Order of the Jefferson County Commission dated October 21, 2010 except as otherwise provided in this Order. Furthermore, the Court **ORDERS, ADJUDGES, and DECREES** that the matter be remanded back to the Jefferson County Commission and that the Jefferson County Commission is directed to enter an Order incorporating the provisions of this Order.

The Circuit Clerk is directed to send certified copies of this Order to counsel of record.

ENTERED: 6/7/11



The Honorable David H. Sanders  
Judge of the 23<sup>rd</sup> Judicial Circuit



Commission Office Use Only

Date on Agenda:

Appt Time or New Business:

AGENDA REQUEST FORM

Name Dale Manuel

Department or Entity: Jefferson County Commission

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

Date Requested – 1<sup>st</sup> Choice: June 23, 2011

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

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

Subject: **Two positions in the maintenance department (carpentry and auto mechanic).**

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

**To include two positions, carpentry and auto mechanic, in the maintenance department which were inadvertently omitted from the final budget deliberation and reinstate into next year's budget.**

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

**Motion to include two positions, carpentry and auto mechanic, in the maintenance department which were inadvertently omitted from the final budget deliberation and reinstate into next year's budget.**

Attachments:

Commission Office Use Only  
Date on Agenda: 5-5-11  
Appt Time or New Business:

HOLD  
TO

(8)

HOLD  
6-23-11

AGENDA REQUEST FORM

Name Dale Manuel

Department or Entity: Jefferson County Commission

Estimation of amount of time needed for appointment: 15 minutes

Date Requested – 1<sup>st</sup> Choice May 5, 2011      May 19<sup>th</sup>, 2011

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

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

Subject: **Two positions in the maintenance department (carpentry and auto mechanic).**

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

**To include two positions, carpentry and auto mechanic, in the maintenance department which were inadvertently omitted from the final budget deliberation and reinstate into next year's budget.**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): **Motion to include two positions in the maintenance department (carpentry and auto mechanic) which were inadvertently omitted from the final budget deliberation to be reinstated into next year's budget.**

Attachments:

**Sandy McDonald**

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**From:** "Dale Manuel" <dmanuel@frontiernet.net>  
**To:** "Tim Boyde" <tboyde@jeffersoncountywv.org>; "Sandy McDonald"  
<sandy@jeffersoncountywv.org>; <sgrove@jeffersoncountywv.org>  
**Sent:** Friday, April 22, 2011 10:57 AM  
**Subject:** new positions  
Please place the following on next week's agenda:

I move to include two positions in the maintenance department (carpentry and auto mechanic) which were inadvertently omitted from the final budget deliberation to be reinstated into next year's budget.

Thanks,  
Dale Manuel

THE COUNTY COMMISSION OF JEFFERSON COUNTY DEPARTMENT OF MAINTENANCE

WILLIAM POLK, DIRECTOR

PO Box 250

CHARLES TOWN, WV 25414

Phone: 304-728-4642

Fax: 304-728-3376

[bpolk@jeffersoncountywv.org](mailto:bpolk@jeffersoncountywv.org)

Dear Commissioners:

Below is a summary for the proposed positions for the Jefferson County Maintenance Department to include a full-time Auto Mechanic and Carpenter.

**Auto Mechanic:**

The county averages about 250 oil changes per year for a fleet of approximately ninety-seven vehicles. The average cost is approximately \$40.00 per oil change. Tire rotations cost approximately \$17.50 each and the hourly rate for a mechanic averages \$71.60 (see attached *Vendor summary*) depending on location and vehicle type.

County Maintenance personnel and other staff spend countless hours to ensure proper vehicle maintenance, repair and upkeep costing the county in excess of \$15,600.00 a year.

*For a full time Auto Mechanic with the proper skills, education and/or training the expense would be approximately \$50,996.32 which is the proposed yearly salary including benefits. Concluding a County savings in excess of \$27,891.18. The details are reiterated below:*

Jefferson County Maintenance Department 2011 New Employee Cost Savings Proposal - Auto Mechanic				
Yearly Overview				
<i>Vendor Services</i>	<i>Estimated Hours</i>	<i>Average Hourly Expense</i>	<i>Serviced Vehicles</i>	<i>TOTALS</i>
<i>Personnel Expenditures</i>	<i>725 hrs.</i>	<i>21.50</i>	<i>97</i>	<i>\$15,587.50</i>
<i>Oil Changes</i>	<i>250</i>	<i>\$40.00</i>	<i>97</i>	<i>\$10,000.00</i>
<i>Tire Maintenance/Repair</i>	<i>100</i>	<i>\$17.50</i>	<i>97</i>	<i>\$17,500.00</i>
<i>Mechanical Labor</i>	<i>500</i>	<i>\$71.60</i>	<i>97</i>	<i>\$35,800.00</i>
<i>Total expenses for outside Vehicle maintenance/repair</i>				<i>\$78,887.50</i>
<i>County Auto Mechanic</i>				<i>\$50,996.32</i>
<i>Minimum County Savings</i>				<i>\$27,891.18</i>

**Carpenter:**

The County Commission of Jefferson County is currently enduring expenses in excess of \$87,000.00 annually for an on-site contractor or vendors currently being utilized for carpentry task.

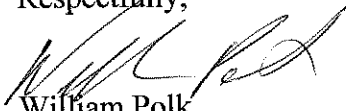
*For a full time Carpenter with the proper skills, education and/or training the expense would be approximately \$58,276.96 which is the proposed yearly salary including benefits. Concluding a County savings of \$29,600.71. The details are reiterated below:*

Jefferson County Maintenance Department 2011 New Employee Cost Savings Proposal - Carpenter	
Service	Yearly Expense
<b>Independent Carpenter/Vendors - Currently Onsite</b>	<b>\$87,877.67</b>
<b>County Carpenter (including benefits)</b>	<b>\$58,276.96</b>
<i>Minimum County Savings</i>	<i>\$29,600.71</i>

The averages reflected above does not include masonry work, window replacements or the work performed in the Mason Building or the Judge's area in the Old Court House.

Thank you for your time and consideration.

Respectfully,



William Polk  
Maintenance Director

Vendor Rates	
Vendor	Hourly Rate
C.A.R.S	\$ 74.88
Country Roads Tire and Auto	\$ 79.90
Creamer's	\$ 74.88
Miller's Chrysler Jeep	\$ 65.00
McKinney's Auto Repair	\$ 60.00
Thomassen Ford	\$ 75.00
Totals	\$ 429.66
Average Vendor Rates	\$ 71.61

THE COUNTY COMMISSION OF JEFFERSON COUNTY DEPARTMENT OF MAINTENANCE  
WILLIAM POLK, DIRECTOR  
PO BOX 250  
CHARLES TOWN, WV 25414  
Phone: 304-728-4642 Fax: 304-728-3376  
[bpolk@jeffersoncountywv.org](mailto:bpolk@jeffersoncountywv.org)

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After careful review of my Departmental budget and speaking with elected officials, the chart below reflects additional reductions made to specific line items as discussed during my budget work session on Wednesday, March 16, 2011.

<b>Revised Budget Reductions</b>			
<b>Courthouse</b>		<b>Other Buildings</b>	
Maintenance Repair - Buildings	-\$15,000.00	Maintenance Repair - Buildings	-\$40,000.00
Maintenance Repair - Autos	\$7,000.00	Contracted Services	-\$47,000.00
Professional Services	-\$2,500.00	Other Departmental Cuts - Auto	-\$47,000.00
REVISED TOTAL	-\$10,500.00		-\$134,000.00
<b>TOTAL BUDGET REDUCTION</b>			<b>-\$144,500.00</b>
<b>POSITIONS WITH BENEFITS</b>			<b>109,272.00</b>
<b>COUNTY SAVINGS</b>			<b>35,228.00</b>

The adjustments made are subject to change contingent upon your approval to hire a staff Auto Mechanic and Carpenter for the Jefferson County Maintenance Department.



Commission Office Use Only

Date on Agenda: 2-24-11

Appt Time or New Business: \_\_\_\_\_

HOLD  
TO  
3-3-11

**AGENDA REQUEST FORM**

Name: Tim Boyde, County Administrator

Department or Entity: County Commission

Estimation of amount of time needed for appointment: \_\_\_\_\_

Date Requested – 1<sup>st</sup> Choice: February 24, 2011

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

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

**Subject: Jefferson County Development Authority - Joint Resolution regarding 1988 liability on the Development Authority**

Please provide the County Commission with a description of your request or presentation, including any background information: **Joint Resolution of the Jefferson County Development Authority and the Jefferson County Commission in support of the removal of the 1988 liability in the amount of \$200,000 from the Jefferson County Development Authority's financials and the correlating note payable in the amount of \$200,000 from the Jefferson County Commission's financials**

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

Attachments: Resolution

**Board of  
Directors  
2011-2012**

Mark Dyck  
Interim President

Howard Mills  
Vice President

Ann Paonessa  
Secretary/Treasurer

James D. Campbell  
Linda Case  
William H. Chesley  
Helen Dettmer  
Paul Espinosa  
Ira Hale

Conrad C. Hammann  
Dale Manuel  
Howard Mills  
P. David Mills  
James A. Tolbert

**Staff**

Thomas Bayuzik, Jr.  
Executive Director

Whitney Barrett  
Research Assistant

Lane Donley  
Administrative  
Assistant

PO BOX 237  
CHARLES TOWN  
WV 25414

304.728.3255  
f: 304.725.3133

WWW.JCDA.NET

**JEFFERSON COUNTY**  
DEVELOPMENT AUTHORITY

February 16, 2011

**RECEIVED**

FEB 17 2011

**JEFFERSON COUNTY COMMISSION**

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

Dear Commissioner Noland:

On behalf of the Jefferson County Development Authority Board, I am writing to request your support for the attached joint resolution to resolve the issues surrounding a \$200,000 debt to the Jefferson County Commission, which has been carried as a liability on the Development Authority's books since 1988. The Development Authority Board approved this resolution at its February 15, 2011 meeting.

As the Commission is aware, the Development Authority received a finding on its most recent audit due to the fact that no formal documents existed to substantiate this debt and that the County Commission's financials reflected no correlating note payable. The Development Authority understands that, as a result, the Commission also received a finding on its most recent audit and the debt was returned to the Commission's books as a note payable. Efforts have been made by members of the County's staff and me to uncover records to substantiate the debt with little result. The former Executive Director of the Development Authority, Jane Peters, believes a loan was made in 1988 by the Commission to the Development Authority to resolve a water and sewer infrastructure issue in the Burr Industrial Park, allowing for its development. The Commission's minutes from 1988 conflict with this recollection, however, and the Public Service District can find no records from that same time period that show a payment from the County Commission or the Development Authority in similar amounts. The Commission's minutes from 1988 do show a land purchase in the amount of \$200,000 for a portion of the Burr farm which was later deeded to the Development Authority. There is no mention of the transaction being regarded as a loan to the Development

Authority, however, and no formal agreement exists to this effect.

The Board wishes to work with the Commission to resolve this issue, correct its financials and avoid future audit findings. Since there are no documents to fully substantiate the loan, the Board respectfully requests that the Commission agree, through support for the attached joint resolution, to permanently remove the debt from its books, allowing the Development Authority to do the same.

We look forward to resolving this issue with you and are open to alternate suggestions. Please contact me with any additional questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Bayuzik', written over a faint circular stamp.

Thomas Bayuzik  
Executive Director

Enclosure

**A JOINT RESOLUTION OF THE JEFFERSON COUNTY DEVELOPMENT AUTHORITY AND THE JEFFERSON COUNTY COMMISSION IN SUPPORT OF THE REMOVAL OF THE 1988 LIABILITY IN THE AMOUNT OF \$200,000 FROM THE JEFFERSON COUNTY DEVELOPMENT AUTHORITY'S FINANCIALS AND THE CORRELATING NOTE PAYABLE IN THE AMOUNT OF \$200,000 FROM THE JEFFERSON COUNTY COMMISSION'S FINANCIALS.**

WHEREAS, the Jefferson County Development Authority (JCDA) has carried a \$200,000 debt to the Jefferson County Commission (JCC) as a liability on its financials since 1988; and

WHEREAS, the JCDA received a finding on its most recent audit due to the fact that no formal documents existed to substantiate this debt and that the JCC's financials reflected no correlating note payable; and

WHEREAS, the JCC also received a finding on its most recent audit due to the fact that its financials did not reflect a \$200,000 note payable from the JCDA; and

WHEREAS, the \$200,000 note payable from the JCDA has been returned to the JCC's financials to correct the audit finding; and

WHEREAS, no formal documents exist from 1988 to substantiate a loan from the JCC to the JCDA; and

WHEREAS, efforts by both the JCDA and the JCC to obtain any documentation from 1988 substantiating the loan have failed to provide any clarity; and

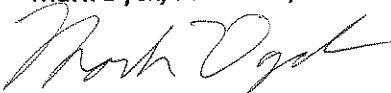
WHEREAS, any funds that may have been loaned to the JCDA by the JCC to foster development of Burr Industrial Park in 1988 have been well invested and resulted in a thriving business park that now includes more than 60 companies employing well over 1,000 employees and has generated more than millions of dollars in property taxes over the years; and

WHEREAS, it is in the best interest of the JCDA and the JCC to formally and collaboratively resolve this matter in writing, thereby creating a record;

**NOW, THEREFORE, BE IT RESOLVED THAT THE JEFFERSON COUNTY DEVELOPMENT AUTHORITY AND THE JEFFERSON COUNTY COMMISSION DO HEREBY SUPPORT THE REMOVAL OF THE 1988 LIABILITY IN THE AMOUNT OF \$200,000 FROM THE JEFFERSON COUNTY DEVELOPMENT AUTHORITY'S FINANCIALS AND THE CORRELATING NOTE PAYABLE IN THE AMOUNT OF \$200,000 FROM THE JEFFERSON COUNTY COMMISSION'S FINANCIALS.**

Signed and approved this 17 day of FEBRUARY, 2011

Mark Dyck, President, Jefferson County Development Authority



Signed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2011

Patricia A. Noland, President, Jefferson County Commission

DRAFT

## Minutes

### Jefferson County Commission

Thursday, March 3, 2011

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A meeting of the Jefferson County Commission was held on Thursday, March 3, 2011 at the Old Charles Town Library meeting room located at 200 E. Washington Street, Charles Town, WV 25414. Present were Commissioners Patsy Noland, Dale Manuel, Frances Morgan and Walt Pellish; Tim Boyde, County Administrator, Debbie Stellato, Administrative Assistant and Jimmy Eddie, Bailiff. (An audio tape of this March 3, 2011 meeting is available through the Jefferson County Commission Office.)

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

#### PLEDGE OF ALLEGIANCE

Commissioner Pellish led the Pledge of Allegiance.

#### APPROVAL OF MINUTES

Motion by Ms. Morgan to approve the Minutes of the February 10, 2011 regular afternoon session of the Jefferson County Commission as presented. Motion seconded by Mr. Pellish and unanimously approved.

Motion by Ms. Morgan to approve the Minutes of the February 24, 2011 regular session meeting of the Jefferson County Commission as presented. Motion seconded by Mr. Pellish and unanimously approved.

Motion by Mr. Manuel to approve the Minutes of the Public Hearing held on February 24, 2011 as presented. Motion seconded by Ms. Noland and unanimously approved. Ms. Morgan and Mr. Pellish abstained from voting as they were not present at the public hearing.

#### APPROVAL OF PURCHASE ORDERS

Motion by Mr. Manuel to approve Purchase Orders in the amount of \$29,438.68, being purchase order numbers: 49340, 49339, 49337, 49341, 48683, 48685, 49307, 49308, 49282, 49298, 49101, 49102, 49299, 48107, 49294, 49297, 49441, 49442, 49388, 49440, 49512, 48609 and 49513. Motion seconded by Ms. Morgan and unanimously approved.

#### APPROVAL OF ACCOUNTS PAYABLE

Motion by Ms. Morgan to approve the accounts payable in the amount of \$139,796.38. Motion seconded by Mr. Manuel and unanimously approved.

#### PUBLIC COMMENT

Robin Huyett Thomas, current President of StopPATH West Virginia and local resident thanked the Commission for interceding in the matter on behalf of the citizens of Jefferson County.

Debbie Royalty of Charles Town, West Virginia thanked the Commission for interceding in the StopPATH matter on

behalf of the citizens of Jefferson County.

**PRESENTATIONS:**

**1. Decision regarding the request for release of funds from the Parks & Recreation Land Fund for engineering services to develop Hite Road Park.**

Motion by Mr. Pellish to release the requested funds from the Parks & Recreation Land Fund to be utilized for engineering services to develop Hite Road Park. Motion seconded by Mr. Manuel and unanimously approved.

The Commissioners expressed their thanks to the Parks & Recreation staff and to the stakeholders for all of their hard work in making the park a reality.

**2. Al Britton, General Manager of Hollywood Casino at Charles Town Races, accompanied by Bill Hales, Assistant General Manager, provided the Commission with an update on various aspects of the Hollywood Casino since the introduction of table games on July 1, 2010.**

Mr. Britton advised that since table games were added on July 1, 2010 the facility has experienced better-than-average growth leading to additional job creation and revenue. The casino has hired more than 600 new employees and 470 card dealers with approximately 65% of the new dealers coming from Jefferson and Berkeley counties. He informed the Commission that revenues from slots, table games and horse racing were up in the second quarter of 2010, discussed security in the casino charitable contributions and Hollywood Casino and Penn National Gaming, Inc.'s "good neighbor policy."

**3. Jennifer Maghan, County Clerk, provided an update for the upcoming elections.**

Ms. Maghan presented historical data/documentation obtained from the official record of the County Commission Order Book in support of the outstanding loan amount of \$200,000.00 from the Jefferson County Development Authority.

**4. Request for approval of the Joint Resolution of the Jefferson County Development Authority and the Jefferson County Commission in support of the removal of the \$200,000.00 1988 liability from the Jefferson County Development Authority's financials and the correlating \$200,000.00 note payable from the Jefferson County Commission's financials.**

Mark Schiavone, Director, Capital Planning and Management Department, advised that he spoke to Ora Ash, in charge of local government services for the West Virginia Auditor's Office, regarding how the matter should best be handled. It was Mr. Ash's recommendation that the \$200,000.00 loan be made into a grant.

Motion by Ms. Noland to direct the county's legal counsel to research the available records and submit to the Commission a formal legal opinion stating that the subject \$200,000.00 appears to have been a loan from the Jefferson County Commission to the Jefferson County Development Authority, that no repayments appear to have been made towards the loan to date and that counsel's legal opinion would be that the Jefferson County Commission turn the loan into a grant to the Development Authority. Motion seconded by Mr. Manuel and approved 3 to 1, with Ms. Morgan voting against the motion.

**5. Appointments and Interviews:**

- **HOME Consortium Council – one unexpired term ending June 13, 2013.**

The Commissioners were in agreement that this decision would be held over for one week.

- **Historic Landmarks Commission – one 3-year term ending March 6, 2014.**

Motion by Ms. Morgan to reappoint Michael Musick to one 3-year term ending March 6, 2014. Motion seconded by Mr. Manuel and unanimously approved.

**NEW BUSINESS:**

**6. Legislative Updates:**

**Commissioner Noland:**

- **HB3185** - Passed the House on March 2, 2011 and has gone to the Senate.
- **SB245** - Chesapeake Bay Protection Bill.
- **HB2871** - Brownsfields bill - appears to be stalled in the Senate.
- **JR58** - No updates.

**Commissioner Manuel:**

- **JR29** - Presently taking counts to determine if a super majority could be obtained.
- **SJR11** - Bill regarding business personal property tax – County Commissioners' Association of West Virginia opposes this bill.

**7. Discussion regarding change in policy concerning number of signatures on checks issued.**

Motion by Mr. Manuel to direct Mr. Boyde to submit to the Commission a proposed policy with regard to the number of original signatures required on all checks issued, taking into consideration the different categories of checks to be written. Motion seconded by Ms. Morgan and unanimously approved.

**The Commission took a 10-minute break at 10:36 a.m.**

**The Commission reconvened its regular meeting at 10:43 a.m.**

**8. Letter of Intent on three properties viewed on the Commission tour (DM).**

Motion by Mr. Manuel to enter into an Executive Session to discuss the proposed letters of intent on the three properties viewed on the Commission tour. Motion seconded by Mr. Pellish and approved 3 to 1. Ms. Morgan voted "against" and, for the record, objected to the characterization in Item #10 that it was a "Commission tour" as she chose not to participate. **The Commission entered into an Executive Session at 10:50 a.m.**

Motion by Mr. Manuel to end the Executive Session and return to the regular meeting. Motion seconded by Ms. Morgan and unanimously approved. **The Commission ended the Executive Session and reconvened its regular meeting at 11:30 a.m.**

Motion by Mr. Manuel that the Commission send out a Letter of Intent under the signature of the President with prior legal review on one property that was viewed by some of the Commissioners and, after that letter is sent, accepted by Seller and returned signed by Seller to the Commission, that letter would immediately become a public document and be made a part of the public record. Motion seconded by Mr. Pellish and approved 3 to 1, with Ms. Morgan voting "against."

9. **Stephanie Grove, Assistant Prosecuting Attorney** provided an update on pending county legal matters.

Ms. Grove inquired whether the Commission had made a determination as to whether or not to refer Jefferson County residents wishing to dispute their water bills to the West Virginia Public Service Commission Consumer Advocacy Department for assistance.

**Ralph Lorenzetti, Prosecuting Attorney for Jefferson County** joined the discussion. Upon Mr. Lorenzetti's suggestion, the Commissioners unanimously agreed that Mr. Lorenzetti would arrange a video conference with the Attorney General to enable the Commission to discuss the PSC's methods of citizen assistance so as to make a better informed decision to either refer the residents to the PSC or intervene itself on behalf of the Jefferson County citizens.

10. **Direction/Decision on current CD Renewal (PN).**

Motion by Ms. Morgan that the Commission direct the County Administrator, in conjunction with the Sheriff, to contact several local banks to attempt to locate the best deal available for a renewal of the CD coming due, using caution so as to prevent incurring a prepayment/early withdrawal penalty. Motion seconded by Mr. Pellish and unanimously approved.

11. **Establishment of policy to appoint alternate Commissioners to committees (PN).**

It was agreed that the Commission will work with the County Administrator to establish a formal policy for substituting a Commissioner to attend a meeting in place of the appointed committee member should the regular Commissioner be unable to attend his/her scheduled committee meeting on a certain date and it is determined that it is important to have a Commission presence at that particular committee meeting.

#### **COUNTY ADMINISTRATOR REPORTS:**

- Rep. Shelly Moore Capito will be at the Berkeley County Development Office on Foxcroft Avenue in Martinsburg on March 8, 2011 from 10:30 a.m. to 11:45 a.m. for a roundtable discussion on any topic of interest. Those who will be attending should inform Mr. Boyde so that he can R.S.V.P.
- Mr. Boyde inquired of the Commission how they would like to address the work sessions for the elected officials. He suggested the sessions could be added to the afternoon agendas in the upcoming weeks. The Commissioners directed Mr. Boyde to proceed to schedule the elected on the agendas.
- Advised there is a public hearing scheduled on March 17, 2011 to discuss the general status of the budget, i.e, where the County is now and where it intends to be. Mr. Boyde will ascertain the time of the hearing and report back to the Commission.
- Reminder to the Commissioners to try to be available on March 24, 25 and 28 in order to be able to make final adjustments to budget items, if needed. The proposed budget must be completed by

March 28, 2011. Several of the Commissioners had a problem with March 24<sup>th</sup> and asked Mr. Boyde to attempt to schedule something on March 23, 2011 instead.

Mr. Manuel mentioned that he would like an idea of how revenue investments will change in the budget.

- Mr. Boyde inquired if the Commission would like to have a public hearing on the levy rate. He advised that if nothing is done the levy rate will automatically go up by 1%.

Ms. Morgan urged that a date be set now for a public hearing, which date could be used as a "placeholder" if necessary.

- Mr. Boyde reported that he would submit a proposed restructuring plan within the next week.

#### **COUNTY COMMISSIONER REPORTS:**

##### **Commissioner Morgan:**

- Attended a Farmland Protection Board monitoring of a farm. She further advised that the telephone number to the new Farmland Protection Board Administrator, Elizabeth Wheeler, is (304) 724-1414.

##### **Commissioner Pellish:**

- Attended a special session of the West Virginia Development Authority to look at the Bardane Farmers' Market situation. The market will be closed.

##### **Commissioner Manuel:**

- Met with Rachel Poling, Wildlife Technician, USDA Wildlife Services. Ms. Poling is working to try to stop the spread of rabies in geese and pigeons.

There being no further business, motion by Mr. Manuel to adjourn. Motion seconded by Ms. Morgan and unanimously approved. Meeting was adjourned at 12:03 p.m. Upon rising the Commission recessed until Thursday morning next beginning at 9:30 o'clock a.m.

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PATSY A. NOLAND, PRESIDENT

**Nichelle Hosby**

**From:** Jennifer Maghan [jmaghan@jeffersoncountywv.ORG]  
**Sent:** Thursday, February 24, 2011 4:34 PM  
**To:** 'Tim Boyde'  
**Cc:** 'Nichelle Hosby'  
**Subject:** Sorry - wrong dates - Agenda Request Item  
**Attachments:** img-224170538-0001.pdf

For office use only  
Date on Agenda:  
Appt Time or New Business:

**Agenda Request Form**

11:30 AM  
3/3/11

**Name:** Jennifer Maghan, County Clerk  
**Department or Entity:** County Clerk  
**Estimation of amount of time needed for appointment:** 10 min  
**Date Requested 1<sup>st</sup> Choice** – Mar 3, 2011  
**Date Requested 2<sup>nd</sup> Choice** – Mar 3, 2011

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

As Specific Date is needed as Agenda Item 13 from the 2/24/11 meeting was postponed to be heard on Feb 3, 2011

**Subject:** Presentation of historical data to support recovering the outstanding loan amount of \$200,000 from the JCDA

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

It is requested of the Commission to take into account a prior motion and documentation that was presented on May 26, 2010 to support the recovery or \$200,000 from JCDA.

**Official Record of the County Commission Order Book:**

- On May 26, 2010 the County Commission unanimously approved to record a receivable for outstanding loan to JCDA from 1989 in the Amount of \$200,000. (Attach #1)
- On May 26, 2010 the Commission approved the same situation for a loan in the amount of \$105,000 for the Solid Waste Authority. The Solid Waste Authority is repaying the remainder of \$65,661 in monthly installment payments and are very close to repaying the loan amount (Attach #1) (Remaining Balance due is \$7,551.00)
- County Commission Order book, Pg 189 from 1988 authorizes the "transfer of funds from the Jail Improvement Fund and the Capital Outlay Fund for the purpose of acquiring the Burr-McGarry Farm for Industrial development." (Attachment #6)
- Please notice that the JCDA's Balance Sheets from both June 30, 1989 – June 30, 2009 indicates clearly under "Long-term liabilities" that \$200,000 is Due to Jefferson County (Attachment #3 & #4)
- Please note the Financial Statement for JCDA reflects that Jefferson County Commission advanced funds to the Authority for the purpose of financing the Burr Business/Bardane Industrial Park. The loan bears no interest and is repayable when park property is sold. (Attachment # 5)

- Please note the letter from Jane Peters, former Director of the JCDA, in paragraph three, where an acknowledgement is made that the “ necessary \$200,000 to do the upgrade, with the understanding that they (County Commission) would be paid at the end of the entire Burr project” (Attachment #7)

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

Move to deny debt forgiveness of \$200,000 for the 1988 zero percent interest loan made to the JCDA and to work out a plan to have the loan repaid in monthly installments.

Very Truly Yours,

Jennifer S. Maghan  
Jefferson County Clerk  
100 East Washington Street  
Charles Town, WV 25414

tel: 304-728-3347

fax: 304-728-3279

Visit us on-line: [jeffersoncountyclerkwv.com](http://jeffersoncountyclerkwv.com)



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MISSION OF  
JENNIFER S. MAGHAN, County Clerk

100 East Washington Street, Charles Town, West Virginia 25414  
304-728-3215 (office) 304-728-1957 (fax)  
jmaghan@jeffersoncountywv.org Jeffersoncountyclerkwv.com

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**APPROVED**

JUN 03 2010

May 26, 2010

The County Commission  
of Jefferson County  
Charles Town, WV

To: County Commission

Request for approval of adjusting entries to record the following:

1. Record the receivable for outstanding loan to Solid Waste Authority from June 2007 which had never been recorded on JCC books. The finance office had no record of the original loan. The original zero interest loan in the amount of \$105,000 was never recorded. After reconciling the reimbursements thru June 2009 in the amount of \$39,339.00 the balance we will be booking is **\$65,661.00** as an Other Receivable.
2. Record the receivable for outstanding loan to JCDA from 1989 in the amount of **\$200,000.00**. This information was found during the review of our component units financial statements for 2009 from the WV State Auditor's Office. This amount has been recorded by the Development Authority since 1989; however, this was never recorded as a receivable on our books. The auditor's office recommended that we book this as due from other government units.
3. Please approve for the entry so that we will be in compliance on our FY 2010 Financial Statement.

Thank you for your assistance in this matter.

S. BRAN

ATTACHMENT # 1

Jefferson County Commission  
Journal Entry to Record Outstanding Receivable due  
from Jefferson County Development Authority for  
Burr-McGarry Park Infrastructure since 1989

During the preparation of the 2010 Financial Statement, Fred Hess, from the WV State Auditors Office found that one of our component units has a notes payable in the amount of \$200,000.00 due to Jefferson County Commission. The development authority has been carrying this liability since 1989 yet Jefferson County Commission had not recorded this amount as a receivable on our books. Since this is still an outstanding loan to JCDA, we are obligated to record it. I have enclosed documents supporting this information.

The Journal Entry to Record is as follows:

	DR	CR
001-115-00-000	\$ 200,000.00	
001-299-000		\$ 200,000.00

To record outstanding note due from JCDA-Burr McGarry Industrial Park

Attachment # 2

Jefferson County Development Authority

Balance Sheet

June 30, 1989

Assets

Current Assets

Cash on hand	\$ 100	
Cash in bank - operating	8 155	
Cash investments	<u>53 651</u>	
Total current assets		\$ 61 906

Property, Plant and Equipment

Furniture and equipment	12 225	
Less accumulated depreciation	<u>( 7 390)</u>	
Net property, plant and equipment		4 835

Other Asset

Land held for resale		<u>977 057</u>
Total Assets		<u>\$1 043 798</u>

Liabilities and Entity Capital

Current Liabilities

Note payable - line of credit	\$ 31 632	
Accrued interest	<u>399</u>	
Total current liabilities		\$ 32 031

Long-term Liabilities

Notes payable	600 000	
Due to Jefferson County	<u>200 000</u>	
Accrued interest	<u>48 032</u>	
Total long-term liabilities		<u>848 032</u>

Total Liabilities 880 063

Entity Capital

163 735

Total Liabilities and Entity Capital \$1 043 798

The accompanying notes are an integral part of these financial statements.

Attachment #3

Jefferson County Development Authority  
**STATEMENT OF NET ASSETS (CONTINUED)**  
 June 30, 2009

**LIABILITIES**

**Current Liabilities**

Accounts payable - trade	\$ 11,882
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<b>Total current liabilities</b>	<u>11,882</u>
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**Current liabilities payable from restricted assets**

Accounts payable - TeleCenter	13,029
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Notes payable - TeleCenter	<u>16,553</u>
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<b>Total current liabilities payable from restricted assets</b>	<u>29,582</u>
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**Long-term liabilities**

Due to Jefferson County Commission - park infrastructure	<u>200,000</u>
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Notes payable	6,364,658
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Accrued interest	<u>9,529</u>
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<b>Total long-term liabilities</b>	<u>6,574,187</u>
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<b>Total liabilities</b>	<u>6,615,651</u>
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**NET ASSETS**

Invested in capital assets (including park development), net of related debt	1,399,700
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Restricted	1,192,901
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Unrestricted	<u>638,333</u>
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<b>Total net assets</b>	<u>3,230,934</u>
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<b>Total liabilities and net assets</b>	<u><u>\$ 9,846,585</u></u>
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The accompanying notes are an integral part of the financial statements.

*Attachment # 4*

Jefferson County Development Authority  
**NOTES TO THE FINANCIAL STATEMENTS**  
 For the year ended June 30, 2009

**NOTE 6: NOTES PAYABLE (continued)**

Maturities of notes payable are as follows:

<u>Year</u>	<u>Interest</u>	<u>Principal</u>
2010	\$ -	\$ -
2011	-	-
2012	-	-
2013	69,194	618,297
2014	196,364	916,040
2015-2019	591,921	2,907,625
2020-2024	201,867	1,922,696
	<u>\$ 1,059,346</u>	<u>\$ 6,364,658</u>

**NOTE 7: DUE TO JEFFERSON COUNTY COMMISSION**

Due to Jefferson County Commission represents funds advanced to the Authority for the purpose of financing the Burr Business/Bardane Industrial Park. The loan bears no interest and is repayable when park property is sold.

**NOTE 8: OPTIONS**

The Authority has granted Norm Thompson Outfitters, Inc. two continuing and exclusive expansion options on 16.32 acres of land during the lease term between the parties. Consideration paid to the Authority for these options amounts to \$20,000 annually.

**NOTE 9: FIXED ASSETS**

Changes in the Authority's fixed assets consisted of the following for the year ended June 30, 2009:

	<u>Beginning</u>	<u>Additions</u>	<u>Disposals</u>	<u>Ending</u>
Audio/visual equipment	\$ 9,274	\$ -	\$ -	\$ 9,274
Office equipment	25,946	4,363	-	30,309
Telecenter computers	123,910	-	-	123,910
Telecenter furnishings	<u>145,053</u>	<u>13,105</u>	<u>-</u>	<u>158,158</u>
	<u>\$ 304,183</u>	<u>\$ 17,468</u>	<u>\$ (140,943)</u>	<u>\$ 321,651</u>

4. An 8 1/2" by 11" transparency reduction of the Final Plat, sufficiently legible to indicate the lot numbers, street names and name of the subdivision.

5. Any additional material, information or documents required by the Planning Commission.

#### Section 9.2 Design and Construction Requirements

[ Delete the following ]

a. 6. width of shoulder-- 2 feet on each side

[ Amend to read as follows ]

d. 1. Provisions for water and sewer shall be as required by Section 8.2, d.

[ Delete the following ]

e. 1. Each building site shall be designed and dimensioned so that the intended building and associated parking area cover no more than fifty percent of the building site.

[Existing Article 6 Conditional Approval: Bonding is to be changed to Article 15]

[Existing Article 15 Compliance; Administration and Enforcement to be changed to Article 16]

[Existing Article 16 Amendment; Variance; Appeal to be changed to Article 17]

[Existing Article 17 Validity; Conflict with Other Laws to be changed to Article 18]

*Dec. 1988*  
In re: EXECUTIVE SESSION

Motion by Morrow, second by Lance to go into Executive Session to discuss personnel matters and matters involving or affecting the purchase, sale, or lease of property. Motion carried.

Motion by Morrow, second by Clendening to adjourn from Executive Session to return to Regular Session. Motion carried. No action was taken.

In re: FUNDING METHOD APPROVED - BURR-MCGARRY PROPERTY - INDUSTRIAL DEVELOPMENT

Motion by Lance, second by Clendening to authorize the transfer of \$100,000.00 from the Jail Improvement Fund, subject to approval by the State Tax Commissioner; authorize transfer of \$100,000.00 from the Capital Outlay Fund; and accept a \$600,000.00 Bridge Loan from the Bank of Charles Town at the rate of 10.9% for the purpose of acquiring the Burr-McGarry Farm for industrial development. Motion carried.

The Commission agreed to notify the Landfill Manager that effective January 1, 1988 all technical aspects of the operation of the Landfill will be referred to the County Engineer and that his services will no longer be required.

The Commission authorized the county's participation in the optional Gypsy Moth Control Program and directed the County Administrator to inform the County Extension Office to proceed at with their activities for the program.

*Attache  
# C*

**Lane Donley**

**From:** Jane Peters [jpeters942@gmail.com]  
**Sent:** Thursday, April 29, 2010 12:15 PM  
**To:** Thomas Bayuzik  
**Subject:** County Contribution- Burr Industrial Park Project

Hi, Tom-

As we discussed, here is some historical background on the \$200,000 County Commission contribution to the original Burr Industrial Park project.

In 1988, the JC Development Authority purchased the Burr property and began design work on Phase 1 of the project. At the same time, the JC Public Service District had completed the design work on its original project and was under contract and preparing to go to construction on the sewer line from Charles Town to Bardane. In order to accommodate the additional sewage flow from Burr Park, it was determined that the PSD line needed to be enlarged. This could be accomplished for only \$200,000 if the change could be made quickly before the PSD started construction. Otherwise, it could have cost several million dollars to either replace the PSD line or put an additional line parallel to the line. Either of these options was fiscally ridiculous, but we were still in the early stages of the project and funding had not yet been arranged our infrastructure.

The County Commission at that time quickly agreed to provide the necessary \$200,000 to do the upgrade, with the understanding that they would be paid at the end of the entire Burr project IF the money was there to repay them at that time. I recall working with then-County Administrator David Ash on this project. I don't think there was any formal agreement between the Commission and the Authority, but the approval and dispersment of the funds should show up in 1988 County Commission minutes and records.

Please call me if you or anyone else has any questions.

Jane Peters  
(304) 886-1753

*Attachment #*

Commission Office Use Only

Date on Agenda: 6/23/11

Appt Time or New Business: Un Announced business

**AGENDA REQUEST FORM**

Name: Tim Boyde, County Administrator

Department or Entity: \_\_\_\_\_

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

Date Requested – 1<sup>st</sup> Choice: 06-23-11

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

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

Subject: **Possible Purchase of the Cement Mill Property**

Please provide the County Commission with a description of your request or presentation, including any background information: **Discuss the possible purchase taking into consideration the comments of the public at the public hearing on June 1, 2011, and make a decision to purchase the property or not.**

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

Attachments: **Minutes of the Public Hearing on June 1, 2011 and legal opinion regarding the purchase and transfer of the Cement Mill Property.**

**SPECIAL SESSION:**

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

At a Special Session of the County Commission of said County and State continued and held at the Old Charles Town Library Ground Floor meeting room thereof on Wednesday, June 1, 2011, beginning at 7:00 o'clock p.m.

**PRESENT:** Commissioners: Patricia Noland, Dale Manuel, Frances Morgan, Lyn Widmyer and Walt Pellish

**In re: PUBLIC HEARING - Proposed Purchase of the Cement Mill Property**

Commissioner Noland opened the Public Hearing for the purchasing of the Cement Mill Property.

Kirk Davis, Capital Projects Manager, gave a brief presentation via PowerPoint.

Written comments were provided by the following individuals:

Amy Matthews Amos	Peter Carmichael	Todd Metzgar
Richard A. Zigler	Beverly Hughes	Rana Harmon
Zenia Kuzma	Diana Suttentfield	Cris Kinsella
Emily Wilson		

Verbal comments were provided by the following individuals:

Delegate John Doyle	Gary Capriotti	Joe Coakley
Nicholas Redding	Cindy Jo Feeser	Emily Wilson
David Fox	Beverly Hughes	Robert Reynolds
Dennis Wark	Tom Clemens	Curt Mason
Lois C. Turco	Debbie Royalty	David Hammer
Mike Musik	Mark Dyck	John Maxey
Grant Smith	Nathaniel Hitt	Dick Latterell

Delegate Doyle read written comment from Mark Snell.

The Commission agreed to receive written comment concerning the purchasing of the Cement Mill Property until Thursday, June 16, 2011.

A discussion and possible decision for this topic will be held on Thursday, June 23, 2011 during the regular scheduled Commission meeting.

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

---

PATRICIA NOLAND, COMMISSION PRESIDENT

ALPH A. LORENZETTI, JR.  
PROSECUTING ATTORNEY

CHARLES B. HOWARD  
ASSISTANT PROSECUTING ATTORNEY

STEPHEN V. GROH  
ASSISTANT PROSECUTING ATTORNEY

BRANDON C.H. SIMS  
ASSISTANT PROSECUTING ATTORNEY



**OFFICE of THE  
PROSECUTING ATTORNEY**  
*of*  
**JEFFERSON COUNTY, WEST VIRGINIA**

P. O. Box 729  
110 N. George St., 3<sup>rd</sup> Floor  
Charles Town, WV 25414  
(304) 728-3243  
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paoffice@jeffersoncountywv.org  
www.jeffersoncountywv.org/pa

LAURENCE R. CROFFORD  
ASSISTANT PROSECUTING ATTORNEY

HASSAN RASHEED  
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**CIVIL DIVISION**

(304) 728-3346  
fax: (304) 728-3353

STEPHANIE F. GROVE  
ASSISTANT PROSECUTING ATTORNEY

JAMES CASIMIRO III  
ASSISTANT PROSECUTING ATTORNEY

June 1, 2011

Mr. Tim Boyde  
County Administrator  
Jefferson County Commission  
124 East Washington Street  
Post Office Box 250  
Charles Town, West Virginia 25414

***Re: Donation of Cement Mill Property to Civil War Preservation Trust***

Dear Mr. Boyde:

You requested that I research the County Commission's ability to purchase the Cement Mill property and subsequently donate that land to the Civil War Preservation Trust, which entity would then transfer the land to the Federal Government for the creation of a National Park. This letter is intended to respond to that request.

The Commission only possesses those powers that are granted to it. "The County Commission is a corporation created by statute, and possessed only of such powers as are expressly conferred by the Constitution and the legislature, together with such as are reasonably and necessarily implied in the full and proper exercise of the powers so expressly given. It can do only such things as are authorized by law, and in the mode prescribed." Syllabus Point 1, *State v. Teach*, 187 W.Va. 271, 418 S.E.2d 585 (1992). Accordingly, the Commission may only acquire and dispose of property in the manner provided for by the Constitution or the Legislature.

The Legislature has provided in W.Va. Code §§ 1-5-3 and 7-3-3 the manner in which the County may dispose of its property. General disposal of county property when another

government agency is not involved is addressed in W.Va. Code § 7-3-3, which section provides in relevant part that “the county commission of a county is authorized by law to sell or dispose of any property, either real or personal, belonging to the county or held by it for the use of any district thereof. The property shall be sold at public auction, at the courthouse of the county and such sale shall be conducted by the president of the county commission. . .” These provisions are applicable when the Commission is selling county property to an entity that is not another government. In contrast, W.Va. Code § 1-5-3 permits the commission to sell or transfer property directly to another public body as long as three requirements are met. “Any public body is hereby authorized to acquire by purchase, transfer or exchange any real property owned by any other public body, and any public body is hereby authorized and empowered to dispose of by sale, transfer or exchange to or with any other public body any real property owned by it, and such acquisition or disposition to be upon such terms and conditions as may be agreed upon by and between the public bodies taking into consideration (1) the lack of need for such property by the public body holding title thereto; (2) the need for such property by the public body desiring to acquire title thereto; and (3) the benefits to be derived by the public as a result of such acquisition or disposition. . .” Accordingly, under the provisions of W.Va. Code § 1-5-3, the Commission could transfer the property directly to the Federal Government.

It is my understanding that the Commission intends to donate the property after it is purchased, using a combination of Commission and grant funds, to the Civil War Preservation Trust, which entity will eventually donate the land to the Federal Government for the creation of a national park. However, the Civil War Preservation Trust is not a public body as contemplated by W.Va. Code §1-5-3. A public body is defined as the state of West Virginia, or any agency, department, board or commission thereof of whatever description, or any county court or tribunal in lieu thereof, or any county board of education or any incorporated municipality or any other political subdivision. *W.Va. Code* § 1-5-2. It is clear that a non-profit organization does not meet the definition of a public body, and as such W. Va. Code 1-5-3 does not permit the Commission to donate the land to the Civil War Preservation Trust.

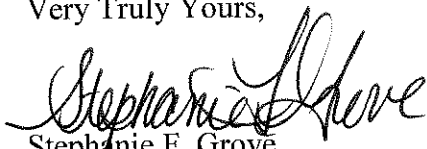
Furthermore, the County Commission has not been granted the authority to transfer land to a private entity, even a non-profit one, without holding a public auction as provided for in W.Va. Code 7-3-3. In 1968, the Attorney General issued an opinion to the City of Montgomery indicating that a City does not have authority to sell property to a non-profit for less than fair market value consideration. The City of Montgomery wished to sell some of its property to a non-profit corporation for the consideration of \$1.00 for the purpose of constructing and renting apartments to low-income families. The Attorney General opined that the City was prohibited from transferring the property for nominal consideration to the non-profit because the non-profit was not considered a public body pursuant to the provisions of W.Va. Code § 1-5-3 and there was no other enabling legislation granting the city with the authority to transfer property to a non-profit for less than adequate consideration. Like the City of Montgomery, the

County Commission has not been provided with the legislative authority to either donate property or sell property for a nominal fee to a non-profit corporation. Therefore, the Commission is prohibited from donating the Cement Mill property from the Civil War Preservation Trust.

Finally, the Commission intends to procure the property using grant funds provided by the State of West Virginia. The grant obligates the Commission to acquire the property for the purpose "of development of a battlefield park and for the interpretation of the cement mill plant, Boteler's Ford and the Battle of Shepherdstown." In addition, the grant documents indicate that "any future development of the site using this grant funding or other State or Federal funding must be approved by the Department prior to design, implementation, or construction." It would appear from the documents that the County is obligated to acquire the property with the intention of creating a park. If the property were transferred to the Civil War Preservation Trust, and the Federal Government declined to accept the transfer of the property from them, the Commission could be considered to have violated the provisions of the grant. However, the Commission could transfer the property directly to the Federal Government with the understanding that a national park would be developed on the site without risking violation of the grant terms with the State.

To summarize, the Commission does not have the authority to donate or transfer land for less than adequate consideration, and as such, cannot donate the Cement Mill Property to the Civil War Preservation Trust. However, the Commission could donate the Property directly to the Federal Government for less than adequate consideration. If you have any questions or concerns regarding this opinion, I would be happy to discuss it further with you.

Very Truly Yours,



Stephanie F. Grove  
Assistant Prosecutor

RALPH A. LORENZETTI, JR.  
PROSECUTING ATTORNEY



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June 1, 2011

Mr. Tim Boyde  
County Administrator  
Jefferson County Commission  
124 East Washington Street  
Post Office Box 250  
Charles Town, West Virginia 25414

***Re: Donation of Cement Mill Property to Civil War Preservation Trust***

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The Commission only possesses those powers that are granted to it. "The County Commission is a corporation created by statute, and possessed only of such powers as are expressly conferred by the Constitution and the legislature, together with such as are reasonably and necessarily implied in the full and proper exercise of the powers so expressly given. It can do only such things as are authorized by law, and in the mode prescribed." Syllabus Point 1, *State v. Teach*, 187 W.Va. 271, 418 S.E.2d 585 (1992). Accordingly, the Commission may only acquire and dispose of property in the manner provided for by the Constitution or the Legislature.

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government agency is not involved is addressed in W.Va. Code § 7-3-3, which section provides in relevant part that “the county commission of a county is authorized by law to sell or dispose of any property, either real or personal, belonging to the county or held by it for the use of any district thereof. The property shall be sold at public auction, at the courthouse of the county and such sale shall be conducted by the president of the county commission. . .” These provisions are applicable when the Commission is selling county property to an entity that is not another government. In contrast, W.Va. Code § 1-5-3 permits the commission to sell or transfer property directly to another public body as long as three requirements are met. “Any public body is hereby authorized to acquire by purchase, transfer or exchange any real property owned by any other public body, and any public body is hereby authorized and empowered to dispose of by sale, transfer or exchange to or with any other public body any real property owned by it, and such acquisition or disposition to be upon such terms and conditions as may be agreed upon by and between the public bodies taking into consideration (1) the lack of need for such property by the public body holding title thereto; (2) the need for such property by the public body desiring to acquire title thereto; and (3) the benefits to be derived by the public as a result of such acquisition or disposition. . .” Accordingly, under the provisions of W.Va. Code § 1-5-3, the Commission could transfer the property directly to the Federal Government.

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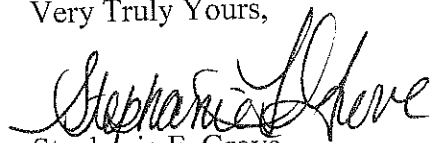
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Very Truly Yours,

  
Stephanie F. Grove  
Assistant Prosecutor

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

**AGENDA REQUEST FORM**

Name: Dale Manuel

Department or Entity: Co. Commission

Estimation of amount of time needed for appointment: 5 minutes

Date Requested – 1<sup>st</sup> Choice: 6-23-11

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

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

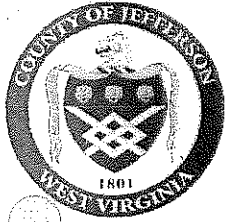
Subject: **Update on State Regulations for charities with regard to cooking and selling food at public events.**

Please provide the County Commission with a description of your request or presentation, including any background information: **Brief update on what will be forthcoming concerning charities and State Regulations for selling and cooking foods at public events.**

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

Attachments:

Sandy FYI  
COPY



# JEFFERSON COUNTY COMMISSION

124 East Washington Street, P.O. Box 250, Charles Town, WV 25414

Phone: (304) 728-3284 - Fax: (304) 725-7916

Web: [www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)

PRESIDENT  
*Patsy Noland*

VICE PRESIDENT  
*Dale Manuel*

COMMISSIONER  
*Frances Morgan*

COMMISSIONER  
*Walt Pellish*

COMMISSIONER  
*Lyn Widmyer*

June 9, 2011

Robert Johnson, Chairman  
Jefferson County Board of Health  
P. O. Box 689  
Harpers Ferry, WV 25425

Dear Chairman Johnson, Board of Health Members and staff,

The Jefferson County Commission is writing to you in order to convey our dismay with recent developments concerning foodservice regulations and enforcement in Jefferson County. It has been brought to our attention in recent weeks that, as our myriad non-profit organizations within the County are preparing for their summer fundraising events, the Board and staff have begun to take the position that only licensed foodservice establishments (such as restaurants) are permitted to provide simple cooked foods ---- hamburgers and hot dogs, for example ---- at fairs, festivals and small gatherings, for sale to the public.

At the outset, we have a concern about responsiveness. You are an important public agency serving the citizens of Jefferson County. We realize that your mission is public safety and to ensure compliance with the West Virginia Code. But we have been told that phone calls regarding these issues have not been returned to citizens and board members of non-profits. Commissioners' calls, as well, have not been timely returned by your sanitarians. Please make responsiveness and courtesy a high priority for your agency.

We understand that organizations including Rotary, Kiwanis and Animal Welfare Society have recently come to you, as they do each spring, seeking permission to provide these types of food at their fundraisers and that they have been instructed that unless they are able to comply to the letter with foodservice regulations such as hard flooring, dust/insect prevention, and to ensure the presence of a ServSafe Certified food handler, that permission would not be granted. We are sure that you are aware that a vast number of such events, which include provision of food as an ancillary part of the event, occur within the County each year (mostly during summer).

The Commission would like to express its disappointment with the position that the Board of Health appears to be taking in this regard. We have a number of concerns. First of all is the apparent lack of notice. The Board of

COUNTY ADMINISTRATOR  
*Tim Boyde*

DEPUTY COUNTY ADMINISTRATOR  
*Sandy Slusher McDonald*

*mailed 4/13/11.*

Robert Johnson, Chairman  
Jefferson County Board of Health  
June 9, 2011  
Page Two

Health's position only came to light when Rotary and Animal Welfare applied for approval, just weeks prior to the start of the summer season, and were denied. This came as a surprise to those groups. A second related concern is lack of even enforcement of the rules. It should not be the case that a group that intends to comply fully with the law should be singled out for enforcement while the Board of Health might turn a blind eye toward other organizations that might skirt the rule by not contacting the Board regarding their plans.


In addition, in this economy, the dollars that our non-profit groups raise are scarce. Please do not, by imposing regulations that are impossible for small groups to meet, run them out of business. Please be flexible, give time for the organizations to react and plan, and provide reasonable interpretations of rules that are not draconian.

We would like to convene a meeting with your Board and staff at the earliest convenient moment to discuss these matters further. Please contact our Administrator, Tim Boyde, on (304)728-3284 to set up a time and date.


Thank you for your consideration of this important matter.

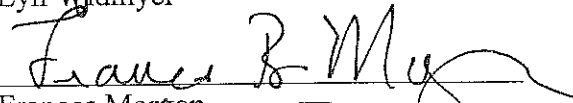
Sincerely,


JEFFERSON COUNTY COMMISSION

  
Patricia A. Noland, President

  
Dale Manuel

  
Lyn Widmyer

  
Frances Morgan

  
Walt Pellish

cc: Michael J. Lewis, M.D., PH.D.  
Cabinet Secretary, WVDHHR

The Honorable Governor Earl Ray Tomblin  
Senator John Unger, II  
Senator Herb Snyder  
Delegate John Doyle  
Delegate Tiffany E. Lawrence  
Delegate Eric Householder

Commission Office Use Only

Date on Agenda: 6/23/11

Appt Time or New Business:

AGENDA REQUEST FORM

Name: \_\_\_\_\_

Department or Entity: JCSO

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:

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

Approval of new Reserve.

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

I move to approve the appointment to the Jefferson County Reserve Program.

Attachments:



Telephone: 728-3205  
Tax Office: 728-3220  
Fax: 728-3299

## SHERIFF and TREASURER *of Jefferson County*

Robert E. Shirley  
P.O. Box 9  
Charles Town, WV 25414

June 6, 2011

### MEMORANDUM

To: Jefferson County Commission  
From: Sheriff Robert E. Shirley  
Re: Approval of new appointment

The Jefferson County Deputy Sheriff Reserves is a volunteer organization and invaluable part of the Jefferson County Sheriff's Office. The members assist the Sheriff's Office in ways too numerous to list, but a few of the ways they bring additional support to the office is thru traffic control, serving process and aiding in security at events like the Jefferson County Fair and Arts and Crafts Festival.

I am seeking favorable consideration in the appointment of Nancy Jean Malcolm to the Jefferson County Deputy Reserve Program.

She has undergone a background investigation and has been deemed suitable for appointment.

If you have any questions or are in need of additional information, please feel free to contact me.

Sincerely,

Robert E. Shirley  
Sheriff and Treasurer  
Jefferson County

Commission Office Use Only

Date on Agenda: 6-23-11

Appt Time or New Business: #12

**AGENDA REQUEST FORM**

Name: Sandy McDonald, Deputy County Administrator

Department or Entity: County Commission

Estimation of amount of time needed for appointment: \_\_\_\_\_

Date Requested – 1<sup>st</sup> Choice: June 23, 2011

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

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

Subject: **Grant Resolution - Fisherman's Hall**

Please provide the County Commission with a description of your request or presentation, including any background information: **Fiscal year 2011 Community Participation Grant Program – Fisherman’s Hall – Resolution for submission of application for grant in the amount of \$16,400**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): **Motion to approve the Resolution for the Governor's Community Participation Grant Program for the African American Association/Fisherman's Hall in the amount of \$16,400 and to authorize the President of the Commission to affix her signature to the appropriate documents**

Attachments:

# JEFFERSON COUNTY COMMISSION CHARLES TOWN, WV

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## **RESOLUTION**

The Jefferson County Commission met on the 23<sup>rd</sup> day of June, 2011 with a quorum present and passed the following Resolution:

Be It Resolved that the County Commission of Jefferson County, West Virginia, hereby authorizes Patricia A. Noland, President of the Jefferson County Commission, to act on its behalf to enter into a contractual agreement with the West Virginia Development Office to receive and to act as the administrator of grant funds pursuant to provisions of the Community Participation Program in the amount of \$16,400. The funds from this project will be used for the preservation and rehabilitation of the Fisherman's Hall.

Dated: \_\_\_\_\_

\_\_\_\_\_  
PATRICIA A. NOLAND  
PRESIDENT  
JEFFERSON COUNTY COMMISSION

ATTESTED: \_\_\_\_\_  
County Clerk

11LEDA0499

# COMMUNITY PARTICIPATION GRANT PROGRAM

## FISCAL YEAR 2011

Deadline for Return:  
JUNE 30, 2011

**GRANTEE:** Jefferson County Commission      **PROJECT NUMBER:** 11LEDA0499  
**PROJECT TITLE:** African American Association/Fisherman's Hall      **AMOUNT:** \$16,400

### SECTION 1. GRANTEE

Local Governing Agency (Grantee): Jefferson County Commission      Project Title: African American Assoc / Fisherman Hall  
 Street Address: P.O. Box 250      City: Charles Town      Zip: 25414  
 Chief Elected Official: Patricia A. Noland      Email: Sandy@jeffersoncountygov.org  
 Phone: (304) 728-3284      Fax: (304) 725-7916      Form Completed By: James A. Tolbert Sr.  
 Brief Description of Project: repair roof, repoint floors  
Repair, renovate & restore Fisherman's Hall

### SECTION 2. NONPROFIT ORGANIZATION (SUBGRANTEE)

Are funds requested for a nonprofit organization?  Yes       No  
 Nonprofit Organization: AACAJC      Executive Director: JAMES A. Tolbert, Sr.  
 Street Address: 321 SW St. P.O. Box 843      City: CHARLES TOWN      State/Zip: WV 25414  
 Phone: (304) 725-7852      Fax: (304) \_\_\_\_\_      Email: JTolbert@frontier.net  
 Website: www.      IRS Cert. (Ex: 501(c) 3, etc.): 2004      Yr. Cert: 2004  
501(c)(3)

- Federal Nonprofit Certification is attached.** This application **WILL NOT** be processed without Federal nonprofit status.  
 **State Regulation Checklist for Nonprofit Organization is attached.** This application **WILL NOT** be processed without this Checklist.

### SECTION 3. PROJECT OWNER AND LOCATION

The use of grant funds at/for private property or private gain or use is prohibited. Project sites and buildings must be publicly owned or owned by a federally certified nonprofit organization.

Owner of project site, property or building: AACAJC      Vicinity/site plan attached?       Yes       No  
 Location and address where grant funds will be used (sufficient to drive to site): 321 South West Street,  
Charles Town, WV

- Upon completion, what government agency will own, operate, or be responsible for the project? \_\_\_\_\_  
 Yes       No      Project site(s) or building(s) are owned by a government agency.  
 Yes       No      Project site(s) or building(s) are owned by a nonprofit organization. (If yes, attach copy of property deed).

### SECTION 4. FUNDING SUMMARY

A minimum of 10 percent is required as a local match. Attach commitment letters for each funding source listed below.

	Amount	Source	Status	Documentation
		Grant Program, Bank Loan, Fundraising, Fees, etc.	Pending, Approved, Ongoing, etc.	Letter, Resolution, etc.
a. Grant Funds Requested	\$16,400			
b. Local Funds (10% local match required)	\$ 1640	DONATION	Approved	✓
c. Other Funds	\$			
d. Other Funds	\$			
e. Other Funds	\$			
<b>Total Project Cost</b>	<b>\$18040</b>			

## SECTION 5. CERTIFICATION OF STATE REGULATIONS

**CHECK ITEMS 1-11 BELOW** to certify compliance with the following laws, regulations and requirements by the grantee (municipality, county commission, board of education, public service district, etc.):

1.  **Competitive bids are required for purchases exceeding \$2,500 in cost, as follows:**

▪ \$2,500 or less	▪ No bids required; however, competition is encouraged.
▪ \$2,500.01 to \$5,000	▪ Three verbal bids documented on a verbal bid summary.
▪ \$5,000.01 to \$25,000	▪ Three written bids required.
▪ \$25,000 or more	▪ Class II Legal Ads required.

2.  **Sealed bids are required for any portion of this project with an estimated value of more than \$25,000.**  
Any attempt to segregate the project into sections of less than \$25,000 shall be cause for termination. Bids shall be obtained by public notice as a Class II legal advertisement in compliance with West Virginia Code §59-3. The ad must be published in the newspaper with the largest circulation in the area once a week for two successive weeks prior to the final bid date.
3.  **State prevailing wages will be paid for all construction associated with this project. This regulation applies to any and all projects, regardless project cost.**

Wage rates may be obtained from the West Virginia Secretary of State at 304-558-6000, or [www.wvsos.com](http://www.wvsos.com). If federal funds are included, the highest rate (West Virginia or Davis-Bacon) must be paid. All contractors must have a West Virginia contractor's license. All construction must comply with **West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A**. These regulations apply to the employment of any contractor or subcontractor for this project, including the following trades and activities:

▪ Construction	▪ Painting
▪ Reconstruction	▪ Decoration
▪ Demolition	▪ Alteration
▪ Enlargement	▪ Repair
▪ Remodeling	▪ Expansion

4.  **The following documents will be required for the release of grant funds:**

▪ Copies of bids, quotes or bid summary
▪ Copy of legal ad, which must require prevailing wages for construction
▪ Copies of certified payroll records
▪ Copies of invoices

5.  **Counties and municipalities may sponsor the applications of federally certified nonprofit organizations.**  
The county or municipality must act as the administrator of any grant funds provided to nonprofit organizations, and maintain fiduciary responsibility for the expenditure of funds. Grantees are encouraged to execute intergovernmental agreements with subgrantees so that property acquired with grant funds will revert to the grantee if the nonprofit organization is dissolved.
6.  **State requirements for bidding and prevailing wage apply to federally certified nonprofit organizations.**  
Funds provided to counties and municipalities for grants to nonprofit organization are subject to all state and local requirements regarding audits, competitive bidding and prevailing wages. All construction must comply with **West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A**.
7.  **Professional services, such as consulting, shall be obtained through a request for proposals.**
8.  **Architectural or engineering services shall be pursued in accordance with West Virginia Code §5G.**
9.  **No costs should be incurred or commitments made relative to a grant prior to the approval of this grant and the execution of a contract with the State of West Virginia.**
10.  **The use of grant funds at/for private property or private gain is prohibited.**
11.  **Project sites and buildings must be publicly owned or owned by a federally certified nonprofit organization.**

**SECTION 6. PROJECT INFORMATION:**

**ELIGIBLE activities include, but are not limited to, permanent public improvements related to the following:**

- |                                       |                                   |
|---------------------------------------|-----------------------------------|
| ▪ Business and Industrial Parks       | ▪ Land and Property Acquisition   |
| ▪ City Hall and Courthouse Facilities | ▪ Libraries                       |
| ▪ Construction and Renovation         | ▪ Parks and Recreation            |
| ▪ Demolition                          | ▪ Parking Facilities              |
| ▪ Economic Development                | ▪ Preservation and Beautification |
| ▪ Emergency Services                  | ▪ Public Safety                   |
| ▪ Flood and Storm Drainage            | ▪ Street and Sidewalk Repair      |
| ▪ Infrastructure                      | ▪ Technology                      |
| ▪ Law Enforcement                     | ▪ Water, Wastewater Facilities    |

**INELIGIBLE activities include, but are not limited to, expendable items related to the following:**

- |                           |                               |
|---------------------------|-------------------------------|
| ▪ Administrative costs    | ▪ Private Property            |
| ▪ Food                    | ▪ Rent                        |
| ▪ Clothing                | ▪ Maintenance                 |
| ▪ Homeowners Associations | ▪ Salaries                    |
| ▪ Insurance Premiums      | ▪ Scholarships                |
| ▪ Maintenance             | ▪ Sports Uniforms             |
| ▪ Medical Programs        | ▪ Training and Speakers' Fees |
| ▪ National Dues           | ▪ Travel Expenses             |
| ▪ Postage                 | ▪ Utility Costs               |

**PROJECT DESCRIPTION**

Describe in **SPECIFIC TERMS** the scope of work to be completed and the proposed use(s) of grant funds.

REPAIR OR REPLACE THE ROOF. FINISH THE SECOND FLOOR WITH INSULATION, DRYWALL, ELECTRICITY, HEATING AND PLUMBING. REFINISH THE FLOORS. TRIM OUT ALL WINDOWS AND DOORS. PAINT ALL DRYWALL + TRIM. REPLACE THE INSIDE STEPS LEADING TO THE SECOND FLOOR, ADDING DRYWALL AND INSULATION IN THE STAIRWELL.

If funds are requested for a nonprofit organization, provide mission statement. Attach brochure / web pages if available.

Brochure with mission statement attached.

## **SECTION 7. ASSURANCES**

**The applicant hereby assures and certifies that it shall comply with the following regulations, policies, and requirements:**

- A. The applicant assures the State that it will perform the work for which the grant was made as determined by the State.
- B. The applicant assures the State that it has or will secure qualified personnel to administer a grant, and that the costs to administer the grant will be paid for by the applicant.
- C. The applicant assures the State that it will have started work on the project before the end of the fiscal year in which the grant award is made.
- D. The applicant assures the State that it understands that the amount of the grant award cannot be increased without the written consent of the Governor.
- E. The applicant assures the State that payment for work performed will be requested in writing with copies of invoices attached that document the costs of each work segment making up the total amount of funds requested.
- F. The applicant assures the State that it understands that ten percent of the grant award will be held by the State as retainage, pending receipt of a written certificate of substantial completion attached to any final invoices for work not already paid.
- G. The applicant assures the State that it understands that by letter the State can terminate for cause an applicant's grant agreement with the amount of funds recovered equal to the percentage of incomplete work. The applicant further assures the State that it understands that it can be terminated by letter any grant agreement with the State before costs are incurred on the project.
- H. The applicant assures the State that any changes in the scope of work specified in a grant agreement will first be submitted in writing to the State for approval by change order.
- I. The applicant assures the State that in its hiring practices for work to be performed it will comply with the equal employment provisions of Titles VI and VII of the 1964 Civil Rights Act, and Presidential Executive Orders 11246 and 11375, as amended.
- J. **The applicant assures the State that competitive bids will be solicited on any major work element exceeding \$2,500 in cost.** Competitive bidding shall be pursued in all instances.
- K. **Competitive bidding requirements, at a minimum, are as follows: Commodities and services expected to cost \$2,500 or less require no bids; however, competition is encouraged. Purchases between \$2,500.01 and \$5,000 require three verbal bids to be documented on a verbal bid quotation summary. Purchases \$5,000.01 to \$25,000 require three written bids.**
- L. **The Grantee shall solicit competitive, sealed bids for commodities and supplies related to this project which have an estimated value of more than \$25,000. Any attempts by the Grantee to segregate the project into sections having an estimated value of less than \$25,000 shall be cause for termination.** The receipt and utilization of funds procured through this program mandate that all construction contracts necessary for the undertaking and completion of this project, regardless of the source of funds utilized to pay such construction contracts, must comply with the provisions of the West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A.
- M. **Bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provisions West Virginia Code §59-3.** This notice shall be published by the Grantee in the newspaper with the largest circulation serving the general area once a week for two successive weeks prior to the final bid date.
- N. The applicant assures the State that State **prevailing wage rates will be paid on contract construction unless federal funds are included in the project, in which case, the higher of the State's or Davis-Bacon wage rates will be paid on all contract construction.**
- O. Every contract involving **construction, reconstruction, demolition, improvement, enlargement, painting, decoration, alteration, and/or repair work** which involves the employment of any contractor and/or subcontractor necessary for the undertaking and completion of this project, regardless of the source of funds utilized to pay such contract, must comply with the West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A. **This law applies to all construction contracts, regardless of cost. The receipt and utilization of funds procured under this agreement mandate that all construction contracts necessary for the undertaking and completion of this project, regardless of the source of funds utilized to pay such construction contracts, must comply with the provisions of West Virginia Code §21-5A.**
- P. The applicant assures the State that any part of the project to be occupied by the general public will be made accessible to the handicapped.
- Q. The applicant assures the State that any permits, licenses, or other requirements of particular State or Federal agencies necessary for the project's design, construction, or operation will be secured.
- R. The applicant assures the State that it will not subgrant any of the grant funds received to any of its officials or employees or the members of their families or to employees of the WVDO or members of the State Legislature in any contracts awarded for work to be performed.
- S. The applicant assures the State that it will maintain and have available for inspection on written request by the State all records kept on the project including bid documents, copies of all contracts, contractors' payrolls, time sheets, and invoices. The applicant further assures the State that it will schedule an audit of any grant funds to be included in its annual audit as performed by the State Tax Department.
- T. The applicant assures the State, by evidence of attaching a resolution, motion, or similar action passed by its governing body, that it has the legal authority to apply for this grant, commit any local matching shares, authorize the person signing the grant to act as an agent for the applicant to answer any questions by the State about the application, and to abide by the understandings and assurances described in this section.
- U. As the grantee, the county or municipality must act as the administrator of any grant funds provided to nonprofit organizations, and must maintain fiduciary responsibility for the expenditure of funds. Grantees are encouraged to execute intergovernmental agreements with sub-grantees so that property and/or assets acquired with grant funds will revert to the grantee if the nonprofit organization is dissolved.

**SECTION 8. SIGNATURE AND RESOLUTION**

**This application must contain the following:**

- Application with Original Signature**
- Resolution by Unit of Local Government**
- Documentation of Local Match (Minimum 10 Percent)**
- Nonprofit Application Checklist with Original Signature – Required for Nonprofit Organizations**
- IRS 501(c) Determination Letter - Required for Nonprofit Organizations**

To the best of my knowledge, the information contained in this application is true and correct; the submission thereof has been duly authorized by the governing body; and the applicant will comply with the regulations, policies, guidelines and requirements outlined by the State of West Virginia. If the recipient is a nonprofit organization, the county or municipality certifies that this nonprofit organization is legally authorized to receive public funds.

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

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

**Mayor or County Commission President**  
**ORIGINAL SIGNATURE REQUIRED-USE BLUE INK**

**West Virginia Development Office**  
**Community Development Division**  
**Community Participation Grant Program**  
1900 Kanawha Boulevard, East Building 6, Room 553  
Charleston, West Virginia 25305  
Phone: 304-558-4010 Fax: 304-558-2246  
[www.wvcommerce.org](http://www.wvcommerce.org)



## Checklist for Nonprofit Organizations

**Must Be Submitted With Application for Community Participation Grant Program Funding for Nonprofit Organizations**

1. Local Government Agency: Jackson County Commission Chief Elected Official: Patricia A. Roland  
 Project Title: African American Assoc / Dr. Sherman Hill Amount of Grant: \$ 16,400  
 Form Completed By: James A. Tolbert Sr Phone: (304) 778-3284 Fax: (304) 725-7914
2. Nonprofit Organization: AACAJC Executive Director: JAMES A. Tolbert, Sr.  
 Street Address, City, Zip: P.O. Box 843 Phone: (304) 725-7852 Fax: (304) \_\_\_\_\_
- Federal nonprofit certification, 501c determination letter from Internal Revenue Service attached.  
 Mission statement, brochure, or web pages explaining mission of the organization and services it provides attached.

### CERTIFICATIONS AND ASSURANCES

**CHECK ALL ITEMS BELOW** to certify compliance with the following laws, regulations and requirements:

3.  **Competitive bids are required for purchases exceeding \$2,500 in cost, as follows:**
- |                          |  |
|--------------------------|--|
| ▪ \$2,500 or less        | ▪ No bids required; however, competition is encouraged |
| ▪ \$2,500.01 to \$5,000  | ▪ Three verbal bids documented on a verbal bid summary |
| ▪ \$5,000.01 to \$25,000 | ▪ Three written bids required                          |
| ▪ \$25,000 or more       | ▪ Class II Legal Ads required                          |
4.  **Sealed bids are required for any portion of this project with an estimated value of more than \$25,000.**  
 Any attempt to segregate the project into sections of less than \$25,000 shall be cause for termination. Bids shall be obtained by public notice as a Class II legal advertisement in compliance with West Virginia Code §59-3. The ad must be published in the newspaper with the largest circulation in the area once a week for two successive weeks prior to the final bid date.
5.  **State prevailing wages will be paid for all construction associated with this project, regardless of the cost.**  
 West Virginia prevailing wages must be paid for all construction projects using state grant funds. All contractors must have a West Virginia contractor's license. These regulations apply to every contract involving construction, reconstruction, demolition, improvement, enlargement, painting, decoration, alteration, and/or repair work. If federal funds are included, the highest rate (West Virginia or Davis-Bacon) will be paid. All construction must comply with the **West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A.**
6.  **The following documents will be required for the release of grant funds.**
- |  |
|--|
| ▪ Copies of bids, quotes or verbal bid summary                           |
| ▪ Copy of legal ad, which must require prevailing wages for construction |
| ▪ Copies of certified payroll records for construction                   |
| ▪ Copies of invoices.  |
7.  **Counties and municipalities may sponsor the applications of federally certified nonprofit organizations.**  
 The county or municipality must act as the administrator of grant funds for to nonprofit organizations, and must maintain fiduciary responsibility for the expenditure of funds. Grantees are encouraged to execute intergovernmental agreements with subgrantees so that property acquired with grant funds will revert to the grantee if the nonprofit organization is dissolved.
8.  **State requirements for bidding and prevailing wage apply to federally certified nonprofit organizations.**  
 Funds provided to counties and municipalities for grants to nonprofit organizations are subject to all state and local requirements regarding audits, competitive bidding and prevailing wages. All construction must comply with the **West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A.**
9.  **Professional services shall be obtained through a request for proposals.**  
 Architectural or engineering services shall be obtained in accordance with West Virginia Code §5G.
10.  **No costs should be incurred or commitments made relative to a grant prior to the approval of this grant and the execution of a contract with the State of West Virginia.**
11.  **The use of grant funds at/for private property or private gain is prohibited.**  
 Project sites and buildings must be publicly owned or owned by a federally certified nonprofit organization.

Signature: James A. Tolbert, Sr Date: 5/18/11  
 Executive Director, Nonprofit Organization  
**ORIGINAL SIGNATURE REQUIRED**

BOOK NO 868 JEFFERSON COUNTY

THIS DEED, made this the 15 day of July 4544, 1991, by and between Sherwood Bryant and Morrissey Bryant, parties of the first part, and The African-American Community Association of Jefferson County, Inc, party of the second part.

NOW THEREFORE, WITNESSETH That for and in consideration of the premises and TEN DOLLARS (\$10 00) paid by the party of the second part to the parties of the first part, the parties of the first part, the following described property

All that certain lot or parcel of land unproved by a building known as the Star of Bethlehem Hall, situated in Charles Town, Jefferson County, West Virginia, fronting 50 feet, more or less on the east side of West Street, and Extending back easterly with the line of Lucian Tolbert a distance of 50 feet to a point, a corner with said Tolbert, thence northerly with line of said Tolbert and parallel with West Street 30 feet to a corner with Tolbert, thence again with his line easterly approximately 84-1/2 feet to the lot line of John Tolbert, thence northerly with his line 20 feet to the lot line of Sylvia Radecott, a corner, thence westerly with her line approximately 134-1/2 feet to West Street, thence with the southern boundary line of West Street 50 feet, more or less, to the point of beginning.

And being the same parcel of real estate conveyed to Alene Edna Taylor by Deed of Dean Rankin Taylor, divorced, and Warren Adam Taylor, single dated the 22nd day of October, 1974, and recorded in the aforesaid Clerk's Office

And also being the same parcel of real estate conveyed to the grantors herein by Pauline Stoptak, Trustee by deed dated December 3, 1995 of record in the office of the Clerk of the Jefferson County Commission in Deed Book 550 at page 555

Together with and including all building, all fixtures, including but not limited to all plumbing, heating, lighting, ventilation, refrigeration, incineration, air conditioning apparatus, (the Trustor hereby declaring that it is intended that the items herein enumerated shall be deemed to have been permanently installed as part of the realty), and all improvements now or hereafter existing thereon, the hereditament and appurtenances and all other rights thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, and the rents, issues, and profits of the above described property

This conveyance is made subject to any and all outstanding property taxes and assessments

This conveyance is made for and during such time as the property is used for eleemosynary purposes only and if the property is not used for said purposes the conveyance is void and the property reverts back to the grantors

1-10-97 CAROL ANN BRYANT

THEREFORE, FOR THE CONSIDERATION OF TEN DOLLARS (\$10 00) the following, before witnesses

the signatures, Sherwood Bryant and Morrissey Bryant grant the above described parcel to The African-American Community Association

WITNESSETH the following signatures and seals

GRANTORS:

*Sherwood Bryant*  
Sherwood Bryant  
*Morrissey Bryant*  
Morrissey Bryant

STATE OF VIRGINIA,

COUNTY OF Stafford, to-wit

The foregoing document was acknowledged before me, this 3<sup>rd</sup> day of July, 1997, by Sherwood Bryant and Morrissey Bryant

My commission expires 08-31-1997

*Beverly J. Miller*, Notary Public

WITNESSETH the following signatures and seals

GRANTEE

*Regina L. Jackson*  
Regina L. Jackson, President  
The African-American Community Assn.  
*Charles E. Brown*  
Charles Brown, Treasurer  
The African-American Community Assn.

STATE OF WEST VIRGINIA,

COUNTY OF JEFFERSON, to-wit

The foregoing document was acknowledged before me, this 8<sup>th</sup> day of July, 1997, by Regina L. Jackson and Charles Brown

My commission expires Aug 28, 2000

(SEAL)

OFFICIAL SEAL  
Notary Public, State of West Virginia  
AMELIA K. PARKER  
101 MOUNTAIN VIEW DR.  
KEARNEYSVILLE, WV 25430  
My Commission Expires August 28, 2000

OFFICIAL SEAL  
Notary Public, State of West Virginia  
AMELIA K. PARKER  
101 MOUNTAIN VIEW DR.  
KEARNEYSVILLE, WV 25430  
My Commission Expires August 28, 2000

INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: MAR 02 2004

Employer Identification Number:  
55-0750650

DLN:  
17053045703094

AFRICAN-AMERICAN COMMUNITY  
ASSOCIATION OF JEFFERSON COUNTY  
PO BOX 843  
CHARLES TOWN, WV 25414-0000

Contact Person: ERIC J BERTELSEN ID# 31323  
Contact Telephone Number:  
(877) 829-5500  
Public Charity Status:  
170(b) (1) (A) (vi)

Dear Applicant:

Our letter dated June 1999, stated you would be exempt from Federal income tax under section 501(c) (3) of the Internal Revenue Code, and you would be treated as a public charity during an advance ruling period.

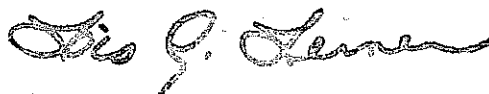
Based on our records and on the information you submitted, we are pleased to confirm that you are exempt under section 501(c) (3) of the Code, and you are classified as a public charity under the Code section listed in the heading of this letter.

Publication 557, Tax-Exempt Status for Your Organization, provides detailed information about your rights and responsibilities as an exempt organization. You may request a copy by calling the toll-free number for forms, (800) 829-3676. Information is also available on our Internet Web Site at [www.irs.gov](http://www.irs.gov).

If you have general questions about exempt organizations, please call our toll-free number shown in the heading between 8:00 a.m. - 6:30 p.m. Eastern time.

Please keep this letter in your permanent records.

Sincerely yours,



Lois G. Lerner  
Director, Exempt Organizations  
Rulings and Agreements

Letter 1050 (DO/CG)

**Juante Gebape, Inc**  
**P.O. Box 43**  
**Ranson, WV 25438**

**April 25, 2011**

**Juante Gebape Inc will commit \$1640 toward the restoration project at Fishermen Hall located on South West Street in Charles Town.**

*Julie Thomas*  
**Julie Thomas**  
**President**

*African-American  
Community Association of  
Jefferson County*

*Officers*

James A. Tolbert, Sr. - Chair  
The Rev. Timothy Robinson- Vice-  
Chair

Fonda Barron - Secretary  
Harold Stewart - Treasurer

*Board of Directors*

Dale Brown  
Sherwood Bryant  
Randolph Hilton  
Timothy Robinson  
Claude Stanton  
James Taylor

*February 2010*

The exterior renovation and work on the first floor is nearly complete. The second floor has been gutted and the plumbing and heating roughed in. If you would like to make a tax-deductible donation toward this project, please make your check payable to:

*African-American Community  
Association of Jefferson County or to  
AACAJC and mail it to:*

*AACAJC,  
P. O. Box 843,  
Charles Town, WV 25414*

*You should be aware that  
Fishermen's Hall is:*

A Charles Town Historic Landmark  
A Jefferson County Historic Landmark  
A Jefferson County Black Historic  
Landmark

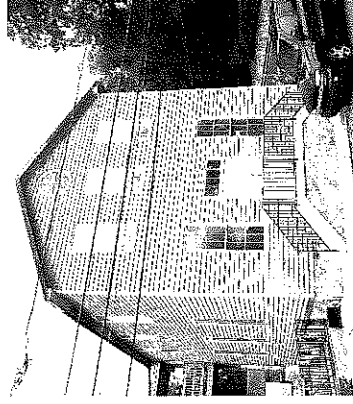
On the National Register of Historic  
Places

Located in a "Preserve America  
Community"

*Within Walking distance of Historic:*

St. Philip's Episcopal Church  
Mt. Zion Methodist Episcopal Church  
Wainwright Baptist Church  
Locke House, Star Lodge #1  
Page-Jackson Room  
Tollgate House  
Happy Retreat

*The Grand United Order*



*of Galilee Fishermen's*

**FISHERMAN'S HALL**

A Restoration Project of:  
The African American  
Community Association of  
Jefferson County  
Charles Town, WV

## **Who Were the**

### **Galilean Fishermen?**

The Grand United Order of Galilean Fishermen was a benevolent order founded in 1856 by a couple from Baltimore, MD, Hemsley and Harriet Nichols. In 1859, the organization was incorporated with a fifty-year charter. At its peak, the G.U.O.G.F. had approximately 22,000 members from Rhode Island to North Carolina, with tabernacles also in Jamaica and St. Croix. Stressing equality for men and women, it operated out of a deep Christian theology but also catered to the financial and commercial needs of its members, setting up banks and insurance companies well before the turn of the century. Of particular interest to the Research committee is what happened to the organization and why it apparently disbanded in the early twentieth century.

\*\*\*\*\*

### **Fisherman's Hall**

Built in the mid-1880's and called the Morning Star Temple, Fisherman's Hall, as it has been referred to in recent memory, is located on South West Street, in Charles Town, WV, and became the center for various community activities and meetings until the 1920's. At some point it was used

for local performances in the African-American community until, in recent years, it had fallen into disuse.

In 1994, a group of concerned citizens formed a committee to determine the building's history and to mount an effort to both restore and preserve it.

### **The, African-American Community Association of Jefferson County**

In December 1994, the interest group coalesced and incorporated under the name of the African-American Community Association of Jefferson County. In 1996, Sherwood Bryant, previous owner and currently a member of the board of directors, deeded the property to the Association.

\*\*\*\*\*

### Mission statement of the

### African American Association of Jefferson County

*The corporation shall establish an African-American Cultural center through which a series of countywide community development programs may be designed and instituted.*

## **The Restoration Project**

The restoration goal is being broken down into "chunks", i.e., exterior, interior and specific usage of interior space. The four goals for the building are:

1. *Youth involvement and development*
2. *Health and environmental education*
3. *Cultural awareness.*
4. *Historical dissemination and documentation.*

Plans include having the building at immediate vicinity added to the Historic Charles Town District, as well as having it named to the list of Jefferson County Landmarks, the West Virginia Historic Landmarks and the National Historic Landmarks.

## **Community Support**

The African-American Community Organization looks forward to supporting area residents and businesses who recognize the importance of this endeavor. Exciting fund-raising events are being planned to help underwrite the restoration research and actual renovation.

\*\*\*\*\*

Commission Office Use Only	
Date on Agenda:	6-23-11
Appt Time or New Business:	#13

**AGENDA REQUEST FORM**

Name: Sandy McDonald, Deputy County Administrator

Department or Entity: County Commission

Estimation of amount of time needed for appointment: \_\_\_\_\_

Date Requested – 1<sup>st</sup> Choice: June 23, 2011

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

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

Subject: **Grant Resolution - Fisherman's Hall**

Please provide the County Commission with a description of your request or presentation, including any background information: **Fiscal year 2011 Community Participation Grant Program – Fisherman's Hall – Resolution for submission of application for grant in the amount of \$8,000**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): **Motion to approve the Resolution for the Governor's Community Participation Grant Program for the African American Association/Fisherman's Hall in the amount of \$8,000 and to authorize the President of the Commission to affix her signature to the appropriate documents**

Attachments:

# JEFFERSON COUNTY COMMISSION CHARLES TOWN, WV

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## **RESOLUTION**

The Jefferson County Commission met on the 23<sup>rd</sup> day of June, 2011 with a quorum present and passed the following Resolution:

Be It Resolved that the County Commission of Jefferson County, West Virginia, hereby authorizes Patricia A. Noland, President of the Jefferson County Commission, to act on its behalf to enter into a contractual agreement with the West Virginia Development Office to receive and to act as the administrator of grant funds pursuant to provisions of the Community Participation Program in the amount of \$8,000. The funds from this project will be used for the preservation and rehabilitation of the Fisherman's Hall.

Dated: \_\_\_\_\_

\_\_\_\_\_  
PATRICIA A. NOLAND  
PRESIDENT  
JEFFERSON COUNTY COMMISSION

ATTESTED: \_\_\_\_\_  
County Clerk

11LEDA0132

# COMMUNITY PARTICIPATION GRANT PROGRAM

## FISCAL YEAR 2011

Deadline for Return:  
JUNE 30, 2011

GRANTEE: Jefferson County Commission PROJECT NUMBER: 11LEDA0132  
 PROJECT TITLE: African-American Community Association/Fisherman's Hall AMOUNT: \$8,000

### SECTION 1. GRANTEE

Local Governing Agency (Grantee): Jefferson County Commission Project Title: African American Association Fisherman's Hall  
 Street Address: P.O. Box 250 City: Charles Town Zip: 25414  
 Chief Elected Official: Patricia A. Roland Email: Sandy@jeffersoncountygov.org  
 Phone: (304) 728-3284 Fax: (304) 725-7916 Form Completed By: James A Tolbert Sr.  
 Brief Description of Project: refinish floors  
repair renovate & restore Fisherman's Hall

### SECTION 2. NONPROFIT ORGANIZATION (SUBGRANTEE)

Are funds requested for a nonprofit organization?  Yes  No  
 Nonprofit Organization: AACAJC Executive Director: JAMES A. Tolbert, SR  
 Street Address: 321 SW St. P.O. Box 843 City: Charles Town State/Zip: WV 25414  
 Phone: (304) 725-7852 Fax: (304) \_\_\_\_\_ Email: Jtolber@frontiernet.net  
 Website: www. IRS Cert. (Ex: 501(c) 3, etc.): 501(c)(3) Yr. Cert: 2004

- Federal Nonprofit Certification is attached. This application **WILL NOT** be processed without Federal nonprofit status.
- State Regulation Checklist for Nonprofit Organization is attached. This application **WILL NOT** be processed without this Checklist.

### SECTION 3. PROJECT OWNER AND LOCATION

The use of grant funds at/for private property or private gain or use is prohibited. Project sites and buildings must be publicly owned or owned by a federally certified nonprofit organization.

Owner of project site, property or building: AACAJC Vicinity/site plan attached?  Yes  No  
 Location and address where grant funds will be used (sufficient to drive to site): 321 South West Street  
Charles Town, WV

- Upon completion, what government agency will own, operate, or be responsible for the project? \_\_\_\_\_
- Yes  No Project site(s) or building(s) are owned by a government agency.
  - Yes  No Project site(s) or building(s) are owned by a nonprofit organization. (If yes, attach copy of property deed).

### SECTION 4. FUNDING SUMMARY

A minimum of 10 percent is required as a local match. Attach commitment letters for each funding source listed below.

	Amount	Source Grant Program, Bank Loan, Fundraising, Fees, etc.	Status Pending, Approved, Ongoing, etc.	Documentation Letter, Resolution, etc.
a. Grant Funds Requested	\$8,000			
b. Local Funds (10% local match required)	\$ 800	DONATION JUANTE GEORGE INC	Approved	✓
c. Other Funds	\$			
d. Other Funds	\$			
e. Other Funds	\$			
Total Project Cost	\$ 8,800			

## **SECTION 5. CERTIFICATION OF STATE REGULATIONS**

**CHECK ITEMS 1-11 BELOW** to certify compliance with the following laws, regulations and requirements by the grantee (municipality, county commission, board of education, public service district, etc.):

1.  **Competitive bids are required for purchases exceeding \$2,500 in cost, as follows:**

- |   |  |
|---|--|
| <input type="checkbox"/> \$2,500 or less        | <input type="checkbox"/> No bids required; however, competition is encouraged. |
| <input type="checkbox"/> \$2,500.01 to \$5,000  | <input type="checkbox"/> Three verbal bids documented on a verbal bid summary. |
| <input type="checkbox"/> \$5,000.01 to \$25,000 | <input type="checkbox"/> Three written bids required.                          |
| <input type="checkbox"/> \$25,000 or more       | <input type="checkbox"/> Class II Legal Ads required.                          |

2.  **Sealed bids are required for any portion of this project with an estimated value of more than \$25,000.**

Any attempt to segregate the project into sections of less than \$25,000 shall be cause for termination. Bids shall be obtained by public notice as a Class II legal advertisement in compliance with West Virginia Code §59-3. The ad must be published in the newspaper with the largest circulation in the area once a week for two successive weeks prior to the final bid date.

3.  **State prevailing wages will be paid for all construction associated with this project. This regulation applies to any and all projects, regardless project cost.**

Wage rates may be obtained from the West Virginia Secretary of State at 304-558-6000, or [www.wvsos.com](http://www.wvsos.com). If federal funds are included, the highest rate (West Virginia or Davis-Bacon) must be paid. All contractors must have a West Virginia contractor's license. All construction must comply with **West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A**. These regulations apply to the employment of any contractor or subcontractor for this project, including the following trades and activities:

- |   |                                     |
|---|-------------------------------------|
| <input type="checkbox"/> Construction   | <input type="checkbox"/> Painting   |
| <input type="checkbox"/> Reconstruction | <input type="checkbox"/> Decoration |
| <input type="checkbox"/> Demolition     | <input type="checkbox"/> Alteration |
| <input type="checkbox"/> Enlargement    | <input type="checkbox"/> Repair     |
| <input type="checkbox"/> Remodeling     | <input type="checkbox"/> Expansion  |

4.  **The following documents will be required for the release of grant funds:**

- Copies of bids, quotes or bid summary
- Copy of legal ad, which must require prevailing wages for construction
- Copies of certified payroll records
- Copies of invoices

5.  **Counties and municipalities may sponsor the applications of federally certified nonprofit organizations.**

The county or municipality must act as the administrator of any grant funds provided to nonprofit organizations, and maintain fiduciary responsibility for the expenditure of funds. Grantees are encouraged to execute intergovernmental agreements with subgrantees so that property acquired with grant funds will revert to the grantee if the nonprofit organization is dissolved.

6.  **State requirements for bidding and prevailing wage apply to federally certified nonprofit organizations.** Funds provided to counties and municipalities for grants to nonprofit organization are subject to all state and local requirements regarding audits, competitive bidding and prevailing wages. All construction must comply with **West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A**.

7.  **Professional services, such as consulting, shall be obtained through a request for proposals.**

8.  **Architectural or engineering services shall be pursued in accordance with West Virginia Code §5G.**

9.  **No costs should be incurred or commitments made relative to a grant prior to the approval of this grant and the execution of a contract with the State of West Virginia.**

10.  **The use of grant funds at/for private property or private gain is prohibited.**

11.  **Project sites and buildings must be publicly owned or owned by a federally certified nonprofit organization.**



## **SECTION 7. ASSURANCES**

**The applicant hereby assures and certifies that it shall comply with the following regulations, policies, and requirements:**

- A. The applicant assures the State that it will perform the work for which the grant was made as determined by the State.
- B. The applicant assures the State that it has or will secure qualified personnel to administer a grant, and that the costs to administer the grant will be paid for by the applicant.
- C. The applicant assures the State that it will have started work on the project before the end of the fiscal year in which the grant award is made.
- D. The applicant assures the State that it understands that the amount of the grant award cannot be increased without the written consent of the Governor.
- E. The applicant assures the State that payment for work performed will be requested in writing with copies of invoices attached that document the costs of each work segment making up the total amount of funds requested.
- F. The applicant assures the State that it understands that ten percent of the grant award will be held by the State as retainage, pending receipt of a written certificate of substantial completion attached to any final invoices for work not already paid.
- G. The applicant assures the State that it understands that by letter the State can terminate for cause an applicant's grant agreement with the amount of funds recovered equal to the percentage of incomplete work. The applicant further assures the State that it understands that it can be terminated by letter any grant agreement with the State before costs are incurred on the project.
- H. The applicant assures the State that any changes in the scope of work specified in a grant agreement will first be submitted in writing to the State for approval by change order.
- I. The applicant assures the State that in its hiring practices for work to be performed it will comply with the equal employment provisions of Titles VI and VII of the 1964 Civil Rights Act, and Presidential Executive Orders 11246 and 11375, as amended.
- J. **The applicant assures the State that competitive bids will be solicited on any major work element exceeding \$2,500 in cost.** Competitive bidding shall be pursued in all instances.
- K. **Competitive bidding requirements, at a minimum, are as follows: Commodities and services expected to cost \$2,500 or less require no bids; however, competition is encouraged. Purchases between \$2,500.01 and \$5,000 require three verbal bids to be documented on a verbal bid quotation summary. Purchases \$5,000.01 to \$25,000 require three written bids.**
- L. **The Grantee shall solicit competitive, sealed bids for commodities and supplies related to this project which have an estimated value of more than \$25,000. Any attempts by the Grantee to segregate the project into sections having an estimated value of less than \$25,000 shall be cause for termination.** The receipt and utilization of funds procured through this program mandate that all construction contracts necessary for the undertaking and completion of this project, regardless of the source of funds utilized to pay such construction contracts, must comply with the provisions of the West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A.
- M. **Bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provisions West Virginia Code §59-3.** This notice shall be published by the Grantee in the newspaper with the largest circulation serving the general area once a week for two successive weeks prior to the final bid date.
- N. The applicant assures the State that State **prevailing wage rates will be paid on contract construction unless federal funds are included in the project, in which case, the higher of the State's or Davis-Bacon wage rates will be paid on all contract construction.**
- O. Every contract involving **construction, reconstruction, demolition, improvement, enlargement, painting, decoration, alteration, and/or repair work** which involves the employment of any contractor and/or subcontractor necessary for the undertaking and completion of this project, regardless of the source of funds utilized to pay such contract, must comply with the West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A. **This law applies to all construction contracts, regardless of cost. The receipt and utilization of funds procured under this agreement mandate that all construction contracts necessary for the undertaking and completion of this project, regardless of the source of funds utilized to pay such construction contracts, must comply with the provisions of West Virginia Code §21-5A.**
- P. The applicant assures the State that any part of the project to be occupied by the general public will be made accessible to the handicapped.
- Q. The applicant assures the State that any permits, licenses, or other requirements of particular State or Federal agencies necessary for the project's design, construction, or operation will be secured.
- R. The applicant assures the State that it will not subgrant any of the grant funds received to any of its officials or employees or the members of their families or to employees of the WVDO or members of the State Legislature in any contracts awarded for work to be performed.
- S. The applicant assures the State that it will maintain and have available for inspection on written request by the State all records kept on the project including bid documents, copies of all contracts, contractors' payrolls, time sheets, and invoices. The applicant further assures the State that it will schedule an audit of any grant funds to be included in its annual audit as performed by the State Tax Department.
- T. The applicant assures the State, by evidence of attaching a resolution, motion, or similar action passed by its governing body, that it has the legal authority to apply for this grant, commit any local matching shares, authorize the person signing the grant to act as an agent for the applicant to answer any questions by the State about the application, and to abide by the understandings and assurances described in this section.
- U. As the grantee, the county or municipality must act as the administrator of any grant funds provided to nonprofit organizations, and must maintain fiduciary responsibility for the expenditure of funds. Grantees are encouraged to execute intergovernmental agreements with sub-grantees so that property and/or assets acquired with grant funds will revert to the grantee if the nonprofit organization is dissolved.

**SECTION 8. SIGNATURE AND RESOLUTION**

**This application must contain the following:**

- Application with Original Signature**
- Resolution by Unit of Local Government**
- Documentation of Local Match (Minimum 10 Percent)**
- Nonprofit Application Checklist with Original Signature – Required for Nonprofit Organizations**
- IRS 501(c) Determination Letter - Required for Nonprofit Organizations**

To the best of my knowledge, the information contained in this application is true and correct; the submission thereof has been duly authorized by the governing body; and the applicant will comply with the regulations, policies, guidelines and requirements outlined by the State of West Virginia. If the recipient is a nonprofit organization, the county or municipality certifies that this nonprofit organization is legally authorized to receive public funds.

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

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

**Mayor or County Commission President**  
**ORIGINAL SIGNATURE REQUIRED-USE BLUE INK**

**West Virginia Development Office**  
**Community Development Division**  
**Community Participation Grant Program**  
1900 Kanawha Boulevard, East Building 6, Room 553  
Charleston, West Virginia 25305  
Phone: 304-558-4010 Fax: 304-558-2246  
[www.wvcommerce.org](http://www.wvcommerce.org)



# Checklist for Nonprofit Organizations

**Must Be Submitted With Application for Community Participation Grant Program Funding for Nonprofit Organizations**

1. Local Government Agency: Jefferson County Commission Chief Elected Official: Patricia A. Roland  
 Project Title: African American Assoc. In Showmen Hall Amount of Grant: \$ 8,000  
 Form Completed By: James A. Tolbert Sr. Phone: (304) 728-3284 Fax: (304) 728-7916
2. Nonprofit Organization: AACAJC Executive Director: JAMES A. Tolbert, Sr.  
 Street Address, City, Zip: 321 SW St. P.O. Box 843, C.T. WV 25414 Phone: (304) 725-7852 Fax: (304) \_\_\_\_\_
- Federal nonprofit certification, 501c determination letter from Internal Revenue Service attached.  
 Mission statement, brochure, or web pages explaining mission of the organization and services it provides attached.

### CERTIFICATIONS AND ASSURANCES

**CHECK ALL ITEMS BELOW** to certify compliance with the following laws, regulations and requirements:

3.  **Competitive bids are required for purchases exceeding \$2,500 in cost, as follows:**
- |                          |  |
|--------------------------|--|
| ▪ \$2,500 or less        | ▪ No bids required; however, competition is encouraged |
| ▪ \$2,500.01 to \$5,000  | ▪ Three verbal bids documented on a verbal bid summary |
| ▪ \$5,000.01 to \$25,000 | ▪ Three written bids required                          |
| ▪ \$25,000 or more       | ▪ Class II Legal Ads required                          |
4.  **Sealed bids are required for any portion of this project with an estimated value of more than \$25,000.**  
 Any attempt to segregate the project into sections of less than \$25,000 shall be cause for termination. Bids shall be obtained by public notice as a Class II legal advertisement in compliance with West Virginia Code §59-3. The ad must be published in the newspaper with the largest circulation in the area once a week for two successive weeks prior to the final bid date.
5.  **State prevailing wages will be paid for all construction associated with this project, regardless of the cost.**  
 West Virginia prevailing wages must be paid for all construction projects using state grant funds. All contractors must have a West Virginia contractor's license. These regulations apply to every contract involving construction, reconstruction, demolition, improvement, enlargement, painting, decoration, alteration, and/or repair work. If federal funds are included, the highest rate (West Virginia or Davis-Bacon) will be paid. All construction must comply with the **West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A.**
6.  **The following documents will be required for the release of grant funds.**
- |  |
|--|
| ▪ Copies of bids, quotes or verbal bid summary                           |
| ▪ Copy of legal ad, which must require prevailing wages for construction |
| ▪ Copies of certified payroll records for construction                   |
| ▪ Copies of invoices.  |
7.  **Counties and municipalities may sponsor the applications of federally certified nonprofit organizations.**  
 The county or municipality must act as the administrator of grant funds for to nonprofit organizations, and must maintain fiduciary responsibility for the expenditure of funds. Grantees are encouraged to execute intergovernmental agreements with subgrantees so that property acquired with grant funds will revert to the grantee if the nonprofit organization is dissolved.
8.  **State requirements for bidding and prevailing wage apply to federally certified nonprofit organizations.**  
 Funds provided to counties and municipalities for grants to nonprofit organizations are subject to all state and local requirements regarding audits, competitive bidding and prevailing wages. All construction must comply with the **West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A.**
9.  **Professional services shall be obtained through a request for proposals.**  
 Architectural or engineering services shall be obtained in accordance with West Virginia Code §5G.
10.  **No costs should be incurred or commitments made relative to a grant prior to the approval of this grant and the execution of a contract with the State of West Virginia.**
11.  **The use of grant funds at/for private property or private gain is prohibited.**  
 Project sites and buildings must be publicly owned or owned by a federally certified nonprofit organization.

Signature: James A. Tolbert Sr. Date: 5/18/11  
 Executive Director, Nonprofit Organization  
**ORIGINAL SIGNATURE REQUIRED**

INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: MAR 02 2004

AFRICAN-AMERICAN COMMUNITY  
ASSOCIATION OF JEFFERSON COUNTY  
PO BOX 843  
CHARLES TOWN, WV 25414-0000

Employer Identification Number:  
55-0750650  
DLN:  
17053045703094  
Contact Person:  
ERIC J BERTELSEN ID# 31323  
Contact Telephone Number:  
(877) 829-5500  
Public Charity Status:  
170(b)(1)(A)(vi)

Dear Applicant:

Our letter dated June 1999, stated you would be exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code, and you would be treated as a public charity during an advance ruling period.

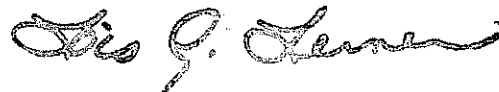
Based on our records and on the information you submitted, we are pleased to confirm that you are exempt under section 501(c)(3) of the Code, and you are classified as a public charity under the Code section listed in the heading of this letter.

Publication 557, Tax-Exempt Status for Your Organization, provides detailed information about your rights and responsibilities as an exempt organization. You may request a copy by calling the toll-free number for forms, (800) 829-3676. Information is also available on our Internet Web Site at [www.irs.gov](http://www.irs.gov).

If you have general questions about exempt organizations, please call our toll-free number shown in the heading between 8:00 a.m. - 6:30 p.m. Eastern time.

Please keep this letter in your permanent records.

Sincerely yours,



Lois G. Lerner  
Director, Exempt Organizations  
Rulings and Agreements

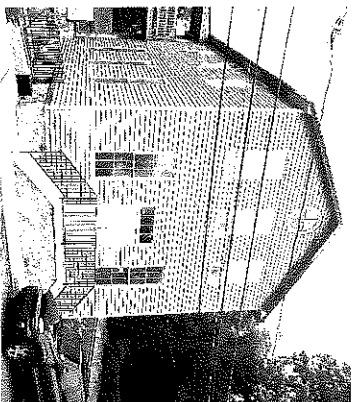
Letter 1050 (DO/CG)

*African-American  
Community Association of  
Jefferson County*

*February 2010*

The exterior renovation and work on the first floor is nearly complete. The second floor has been gutted and the plumbing and heating roughed in. If you would like to make a tax-deductible donation toward this project, please make your check payable to:  
*African-American Community Association of Jefferson County or to AACAJC and mail it to:*

*AACAJC,  
P. O. Box 843,  
Charles Town, WV 25414*



*of Solomon Fisherman*

**FISHERMAN'S HALL**

*Officers*

James A. Tolbert, Sr. - Chair  
The Rev. Timothy Robinson - Vice-Chair

Fonda Barron - Secretary  
Harold Stewart - Treasurer

*Board of Directors*

Dale Brown  
Sherwood Bryant  
Randolph Hilton  
Timothy Robinson  
Claude Stanton  
James Taylor

*You should be aware that  
Fishermen's Hall is:  
A Charles Town Historic Landmark  
A Jefferson County Historic Landmark  
A Jefferson County Black Historic  
Landmark  
On the National Register of Historic  
Places  
Located in a "Preserve America  
Community"*

*Within Walking distance of Historic:*  
St. Philip's Episcopal Church  
Mt. Zion Methodist Episcopal Church  
Wainwright Baptist Church  
Locke House, Star Lodge #1  
Page-Jackson Room  
Tollgate House  
Happy Retreat

A Restoration Project of:  
The African American  
Community Association of  
Jefferson County  
Charles Town, WV

*The Grand United Order*

## Who Were the

### Galilean Fishermen?

The Grand United Order of Galilean Fishermen was a benevolent order founded in 1856 by a couple from Baltimore, MD, Hemsley and Harriet Nichols. In 1859, the organization was incorporated with a fifty-year charter. At its peak, the G.U.O.G.F. had approximately 22,000 members from Rhode Island to North Carolina, with tabernacles also in Jamaica and St. Croix. Stressing equality for men and women, it operated out of a deep Christian theology but also catered to the financial and commercial needs of its members, setting up banks and insurance companies well before the turn of the century. Of particular interest to the Research committee is what happened to the organization and why it apparently disbanded in the early twentieth century.

\*\*\*\*\*

### Fisherman's Hall

Built in the mid-1880's and called the Morning Star Temple, Fisherman's Hall, as it has been referred to in recent memory, is located on South West Street, in Charles Town, WV, and became the center for various community activities and meetings until the 1920's. At some point it was used

for local performances in the African-American community until, in recent years, it had fallen into disuse. In 1994, a group of concerned citizens formed a committee to determine the building's history and to mount an effort to both restore and preserve it.

### The, African-American Community Association of Jefferson County

In December 1994, the interest group coalesced and incorporated under the name of the African-American Community Association of Jefferson County. In 1996, Sherwood Bryant, previous owner and currently a member of the board of directors, deeded the property to the Association.

\*\*\*\*\*

### Mission statement of the African American Association of Jefferson County

*The corporation shall establish an African-American Cultural center through which a series of countywide community development programs may be designed and instituted.*

## The Restoration Project

The restoration goal is being broke down into "chunks", ie., exterior, interior and specific usage of interior space. The four goals for the building are:

1. *Youth involvement and development*
2. *Health and environmental education.*
3. *Cultural awareness.*
4. *Historical dissemination and documentation.*

Plans include having the building at immediate vicinity added to the Historic Charles Town District, as well as having it named to the list of Jefferson County Landmarks, the West Virginia Historic Landmarks and the National Historic Landmarks.

## Community Support

The African-American Community Organization looks forward to support from area residents and businesses who recognize the importance of this endeavor. Exciting fund-raising events are being planned to help underwrite the restoration research and actual renovation.

\*\*\*\*\*

**Juante Gebape, Inc**  
**P.O. Box 43**  
**Ranson, WV 25438**

**April 25, 2011**

**Juante Gebape Inc will commit up to \$800 toward the restoration project at Fishermen Hall located on South West Street in Charles Town.**

*Julie Thomas*  
**Julie Thomas**  
**President**

Commission Office Use Only  
 Date on Agenda: 6-23-11  
 Appt Time of New Business: #14

**AGENDA REQUEST FORM**

Name: Sandy McDonald, Deputy County Administrator

Department or Entity: County Commission

Estimation of amount of time needed for appointment: \_\_\_\_\_

Date Requested – 1<sup>st</sup> Choice: June 23, 2011

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

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

**Subject: Grant Resolution, Contract and Agreement - Jefferson County Black History Preservation Society - Historic Locke House**

Please provide the County Commission with a description of your request or presentation, including any background information: **Community Participation Grant Program – Jefferson County Black History Preservation Society – Historic Locke House in the amount of \$500**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): **Motion to approve the Grant Resolution, Contract and Agreement for the Governor's Community Participation Grant Program for the JC Black History Preservation Society in the amount of \$500 and to authorize the President of the Commission to affix her signature to the appropriate documents**

# JEFFERSON COUNTY COMMISSION CHARLES TOWN, WV

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## *RESOLUTION*

The County Commission of Jefferson County, met on June 23<sup>rd</sup>, 2011 with a quorum present and passed the following Resolution:

WHEREAS, The Jefferson County Commission has agreed to assist the Jefferson County Black History Preservation Society to purchase materials and supplies needed to continue restoration of the historic Locke House with funds made available through the Governor's Community Participation Grant program in the amount of \$500.

NOW, THEREFORE BE IT RESOLVED, that the Jefferson County Commission hereby authorizes the President of the Jefferson County Commission, to act on its behalf to enter into a contractual agreement with the West Virginia Development Office and to receive and administer grant funds pursuant to provision of the Governor's Community Participation Grant Program.

Signed: \_\_\_\_\_  
COUNTY CLERK



# JEFFERSON COUNTY COMMISSION

124 East Washington Street, P.O. Box 250, Charles Town, WV 25414

Phone: (304) 728-3284 - Fax: (304) 725-7916

Web: [www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)

PRESIDENT  
*Patsy Noland*

VICE PRESIDENT  
*Dale Manuel*

COMMISSIONER  
*Frances Morgan*

COMMISSIONER  
*Walt Pellish*

COMMISSIONER  
*Lyn Widmyer*

Letter of Agreement  
Community Participation Grant Program  
between the  
Jefferson County Commission  
and the  
Star Lodge/Historic Locke House

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the Jefferson County Commission and the Star Lodge/Historic Locke House its officers, agents, and representatives.

WITNESS THAT:

WHEREAS, the Jefferson County Commission has promised and agreed to act as funding agency to assist Star Lodge/Historic Locke House to perform specific tasks through funding from the Governor's Community Participation Grant Program.

NOW, THEREFORE, the parties hereby mutually agree as follows:

1. The Jefferson County Commission will serve as funding agency for the Star Lodge/Historic Locke House.
2. The Star Lodge/Historic Locke House agrees to abide by the terms and conditions of the Governor's Community Participation Grant Program Contract between the West Virginia Development Office and the Jefferson County Commission as contained herein. (attached)
3. This agreement shall be signed by the authorized officers, agents or representatives of the Star Lodge/Historic Locke House and the President of the Jefferson County Commission.

JEFFERSON COUNTY COMMISSION

\_\_\_\_\_  
President

STAR LODGE/HISTORIC LOCKE HOUSE

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

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

COUNTY ADMINISTRATOR  
*Tim Boyde*

DEPUTY COUNTY ADMINISTRATOR  
*Sandy Slusher McDonald*

**GOVERNOR'S COMMUNITY PARTICIPATION**

**GRANT PROGRAM CONTRACT**

**between the**

**WEST VIRGINIA DEVELOPMENT OFFICE**

**and the**

**JEFFERSON COUNTY COMMISSION**

**THIS AGREEMENT**, entered into this 1st day of July, 2009, by the West Virginia Department of Finance and Administration on behalf of the West Virginia Development Office hereinafter called the "WVDEVO" and the Jefferson County Commission and its authorized officers, agents, and representatives, hereinafter called the "Grantee."

**WITNESS THAT:**

**WHEREAS**, the WVDEVO has promised and agreed to assist the Grantee to perform such tasks hereafter described in the scope of services, which is to be partially financed by funds made available through the Governor's Community Participation Grant program.

**NOW, THEREFORE**, the parties hereto do mutually agree as follows:

1. **Assistance of the Grantee.** The WVDEVO hereby agrees to assist the Grantee including all authorized officers, agents, and representatives, to perform such tasks and functions as set forth below in the scope of services.
2. **Scope of Services.** The Grantee, or its designated agent, shall do, perform and carry out, in a satisfactory and proper manner as determined by the WVDEVO, and appropriate regulatory agencies, if required, all duties, tasks, and functions necessary to purchase materials and supplies needed to continue restoration of the historic Locke House in cooperation with the Jefferson County Black History Preservation Society.
3. **Personnel.** The Grantee represents that it has, or will secure at its own expense, personnel with the necessary qualifications and experience required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with WVDEVO.
4. **Time Performance.** The Grantee will commence its duties under this Contract on July 1, 2009, and such duties shall be undertaken and completed in such sequences as to assure their expeditious completion in the light of the purpose of the Contract; but, in any event, all of the services required hereunder shall be completed by June 30, 2012. The completion date of this contract may only be extended by mutual written agreement of both parties dependent on the reappropriation of funds under the Governor's Community Participation Grant program. If no such agreement exists, the Grantee shall not receive payment for services rendered or work performed relative to this grant after June 30, 2012.
5. **Compensation.** In consideration of the services rendered by the Grantee, the WVDEVO agrees to pay the Grantee the sum of \$500. This amount constitutes complete compensation for all services rendered. In no

instance shall the agreed upon compensation exceed \$500 without the written consent of the Governor of the State of West Virginia.

6. **Method of Payment.** In order to receive payments under the terms of this Agreement, the Grantee shall submit the following: (a) a Letter of Transmittal containing a progress report, and (b) a Request for Payment Financial Report. The final ten percent shall be made available upon submission of certification of completion and acceptance of the project by the Grantee. Upon receipt of said documents, the WVDEVO shall review the same for reasonableness and appropriateness.

7. **Changes.** The WVDEVO and the Grantee may, from time to time, require changes in the scope of the services of the work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Grantee's compensation and work to be performed, which are mutually agreed upon by and between the WVDEVO and the Grantee, shall be incorporated in written amendments to this Contract.

8. **Sub-Grantees and Reversion of Property.** The Grantee may administer funds on behalf of sub-grantees, provided that such a sub-grantee is certified as a nonprofit organization by the United States Internal Revenue Service and the West Virginia Secretary of State's Office. Should such a sub-grantee cease to exist, all commodities or supplies purchased with funds provided under the auspices of this Contract by or for the sub-grantee shall become the property of the Grantee.

9. **Competitive Bid Procedures.** Competitive bidding shall be pursued in all instances. The Grantee must follow the more stringent of either state or local purchasing regulations. The West Virginia Purchasing Division requirements, at a minimum, are as follows: Commodities and services expected to cost \$2,500 or less require no bids, however, competition is encouraged. Purchases between \$2,500.01 and \$5,000 require three verbal bids to be documented on a verbal bid quotation summary. Purchases \$5,000.01 to \$25,000 require three written bids.

**The Grantee shall solicit competitive, sealed bids for commodities and supplies related to this project which have an estimated value of over \$25,000. Any attempts by the Grantee to segregate the project into sections having an estimated value of less than \$25,000 shall be cause for termination of this agreement under the provisions of Paragraph 28.** These bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provisions West Virginia Code §59-3. This notice shall be published by the Grantee in the newspaper with the largest circulation serving the general area once a week for two successive weeks preceding the final bid date.

The Grantee shall also, where feasible, solicit sealed bids by listing the project in the F. W. Dodge Reports, sending requests by mail to prospective suppliers or contractors, and by posting notice on a bulletin board in a public place. The Grantee shall have available upon request for review by the WVDEVO or its designated representative, bid documents and other evidence of compliance with these procedures.

10. **Project Wage Rates.** Every contract involving construction, reconstruction, demolition, improvement, enlargement, painting, decoration, alteration, and/or repair work which involves the employment of any contractor and/or subcontractor necessary for the undertaking and completion of this project, regardless of the source of funds utilized to pay such contract, must comply with the West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A. **This law applies to all construction contracts, regardless of cost.**

**The receipt and utilization of funds procured under this agreement mandate that all construction contracts necessary for the undertaking and completion of this project, regardless of the source of funds**

**utilized to pay such construction contracts, must comply with the provisions of West Virginia Code § 21-5A.**

Such provisions shall include the payment of the Fair Minimum Wage Rates as determined by the West Virginia Commissioner of Labor for each craft or classification of all workmen needed to perform the contract in the locality in which the public work is performed. For projects involving federal funds which are covered by the provisions of the Davis Bacon Act (40 U.S.C. 276-a 276a-5), the Grantee shall cause the contractor and/or subcontractors to pay the higher wage rate, federal or state.

Further, the Grantee shall note this requirement in the advertisement for bids and print these wage rates on all bid documents. The Grantee shall also have available upon request for review by the WVDEVO or its designated representative, bid documents and other evidence of compliance including copies of contractor's payrolls.

11. **Construction.** The Grantee shall procure construction contracts in accordance with West Virginia Code §5-22-1. **The state and its subdivisions shall, except as provided in this section, solicit competitive bids for every construction project exceeding \$25,000 in total cost.**

**Further, the receipt and utilization of funds procured under this agreement mandate that ALL CONSTRUCTION CONTRACTS NECESSARY FOR THE UNDERTAKING AND COMPLETION OF THIS PROJECT, regardless of the source of funds utilized to pay such construction contracts, must comply with the provisions of West Virginia Code § 21-5A.**

The term construction shall mean any construction, reconstruction, improvement, enlargement, painting, decorating, or repair of any public improvement let to contract. These bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provisions West Virginia Code §59-3. This notice shall be published by the Grantee in the newspaper with the largest circulation serving the general area once a week for two successive weeks preceding the final bid date.

Any contracts under this agreement must comply with the West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A. This law applies to all construction contracts, regardless of cost. The Grantee shall note this requirement in the advertisement for bids and print these wage rates on all bidding blanks.

The Grantee shall designate the time and place for opening such construction bids in accordance with West Virginia Code §5-22-2.

12. **Bonding.** The Grantee shall secure bonding in accordance with West Virginia Code §5-22-1. All bids submitted pursuant to this chapter shall include a valid bid bond or other surety as approved by the state of West Virginia or its subdivisions. Following the solicitation of such bids, the construction contract shall be awarded to the lowest qualified responsible bidder, who shall furnish a sufficient performance and payment bond: provided, that the state and its subdivisions may reject all bids and solicit new bids.

In the procurement of contracts or subcontracts for construction of less than \$100,000, the Grantee shall follow local or State requirements relating to bid guarantees, performance bonds, and payment bonds, provided that the Grantee's and State's interests are adequately protected and that such contracts can be executed in a timely manner.

**In the procurement of contracts or subcontracts for construction that exceed \$100,000, the Grantee shall obtain the following:**

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. This bid guarantee shall consist of a firm commitment such as bid bond, certified check, or other negotiable instrument accompanying a bid that the bidder will, upon acceptance of the bid, execute the contractual documents as may be required with the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. This performance bond shall be executed by the successful contractor in connection with the contract to secure fulfillment of the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. This payment bond shall be executed in connection with a contract to assure payment is required by law of all persons supplying labor and materials in the execution of the work provided for in the contract.

13. **Architecture and Engineering.** The Grantee shall procure architectural or engineering services in accordance with of the West Virginia Code §5G. In the procurement of architectural and engineering services for projects estimated to cost \$250,000 or more, the Grantee shall publish a Class II legal ad in compliance with West Virginia Code §59-3. In the procurement of services for projects estimated to cost less than \$250,000, the Grantee shall conduct discussions with three or more professional firms.

14. **Design-Build.** The Grantee shall procure design-build projects in accordance with West Virginia Code §5-22A-1. This applies solely to building projects. Highways, water, sewer, and all other public works projects are specifically prohibited from using the design-build method.

15. **Environmental and Historical Assessment.** The Grantee shall comply with all applicable federal, state and local environmental and historical preservation laws and regulations. The Grantee acknowledges this requirement and certifies that the project will be in compliance with such laws and regulations.

16. **Equal Employment Opportunity.** With respect to employment in carrying out the program objectives, the Grantee agrees that it will not discriminate against any employee or applicant for employment because of race, color, age, religion, sex, national origin, or physical handicap.

17. **Facilities Accessible to the Handicapped.** The Grantee shall require any facilities constructed under the auspices of this Contract to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A117.1-1961, as modified (41CFR101-17.1703 and (13CFR309.14)). The Grantee shall be responsible for conducting inspections to ensure compliance with these specifications.

18. **Facilities Operation.** The Grantee shall operate and maintain all facilities constructed under the auspices of this Contract in accordance with minimum standards as may be required or prescribed by the applicable federal, state and local statute, law, ordinance or regulation as to actual construction procedures, as well as maintenance and operation of such facilities upon completion.

19. **Interest of Members of WVDEVO and Others.** No officer, member or employee of the WVDEVO or officer, member or employee of the Grantee who exercises any function or responsibilities in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this Contract which affects his personal interest or the interest of any corporation, partnership, or association in which he is directly or indirectly interested or has any personal or pecuniary interest, nor shall any officer, member of, or employee of, the Grantee or any member of its governing body, or officer, member, or employee of the contractor have any interest, direct or indirect, in this Contract or the proceeds thereof.

20. **Officials Not To Benefit.** No member of the Legislature of the State of West Virginia, or individual performing a service for the Grantee in connection with this project, shall be admitted to any share thereof or to any benefit to arise from this Agreement.

21. **Inspections of Project Records.** At any time during normal business hours and as often as the WVDEVO or its designated representative may deem necessary, there shall be made available to the WVDEVO or its designated representative for examination, all of its records with respect to all matters covered by this Contract and permit the WVDEVO or its designated representative to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records and personnel, conditions of employment and other data relating to all matters covered by this Contract during the entire time period beginning with project approval and ending three years after the final disbursement of grant funds.

22. **Project Audits.** (a) The Grantee shall cause an audit of this program to be included in the audit of the Grantee performed by the West Virginia State Auditor's Office, Chief Inspection Division, or its designated representative in accordance with West Virginia Code §6-9-7. The audit shall be performed in conformance with generally acceptable accounting procedures.

(b) In accordance West Virginia Code §12-4-14, if the grantee is not audited by the West Virginia State Auditor's Office and the grantee received state funds or grants in the amount of fifteen thousand dollars or more, the grantee shall file an audit of the disbursement of funds with the legislative auditor's office. The audit shall be filed within two years of the disbursement of funds or grants by the grantee and shall be made by an independent certified public accountant at the cost of the corporation, association or other organization, and must show that the funds or grants were spent for the purposes intended when the grant was made. State funds or audits of state funds or grants under fifteen thousand dollars (\$15,000) may be authorized by the joint committee on government and finance to be conducted by the legislative auditor's office at no cost to the grantee.

23. **Reporting.** The Grantee shall submit any reports requested by the WVDEVO concerning financial status and program progress. Failure to provide such reports as required by WVDEVO in a timely manner shall be cause for termination of this Contract under the terms of Paragraph 7.

24. **Fiscal Management.** The Grantee shall be responsible for establishing and maintaining adequate procedures and internal financial controls governing the management and utilization of funds provided under this Contract, as well as funds provided as the Grantee's matching share.

25. **Political Activity.** No officer or employee of the Grantee whose principal employment is in connection with any activity which is financed in whole or in part pursuant to this agreement shall take part in any of the activities expressly prohibited by the Hatch Act.

26. **Repayment.** The Grantee shall refund to the State any expenditures determined to be made for an ineligible purpose for which State funds were received.

27. **Resolution of Disputes.** Resolution of disputes between the State and the Grantee concerning administrative and programmatic matters during the terms of this Agreement shall be initiated through consultation and discussion at the State's Administrative Offices with final decision on questions of policy or fact being determined by the Director of the Community Development Division or his/her designated representative. Nothing in this Agreement shall be construed as making the final decision on a question of law, or to limit in any manner any remedies or recourses available under applicable laws. Citizen's complaints or disputes regarding Grantee performance or actions relative to the approved project are the responsibility of the Grantee.

28. **Termination of Contract for Cause.** If, through any cause, the Grantee shall fail to fulfill in a necessary and proper manner his obligations under this Contract, or if the Grantee shall violate any of the covenants, agreements, or stipulations of this Contract, the WVDEVO shall thereupon have the right to terminate this Contract by giving written notice to the Grantee of such termination and specifying the effective date thereof, at least fifteen days before the effective date of such termination. The Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on the described project.

Notwithstanding the above, the Grantee shall not be relieved of liability to the WVDEVO for damages sustained by the WVDEVO by virtue of any breach of the Contract by the Grantee, and the WVDEVO may withhold any payments to the Grantee for the purpose of set-off until such time as the exact amount of damages due the WVDEVO from the Grantee is determined.

29. **Termination for Convenience of WVDEVO.** The WVDEVO may terminate this Contract at any time by giving written notice to the Grantee of such termination and specifying the effective date of termination. If the Contract is terminated by the WVDEVO as provided herein, the Grantee will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Grantee covered by this Contract, less payments of compensation previously made.

30. **Termination by the Grantee.** The Grantee may unilaterally rescind this agreement at any time prior to the commencement of the project. After project commencement, this agreement may be rescinded, modified, or amended only by mutual agreement. A project shall be deemed commenced when the Grantee makes any expenditure or incurs any obligation with respect to the project.

31. **Signing.** This Contract shall be signed by the Executive Director of the West Virginia Development Office and by the President of the Jefferson County Commission upon authorization of the Jefferson County Commission by adoption and passage of a resolution, motion or similar official action.

**IN WITNESS WHEREOF, the WVDEVO and the Grantee have executed this Agreement as of the date first above written.**

**STATE OF WEST VIRGINIA  
WEST VIRGINIA DEVELOPMENT OFFICE**

\_\_\_\_\_  
**J. Keith Burdette, Executive Director**

**JEFFERSON COUNTY COMMISSION**

By: \_\_\_\_\_  
**Patricia Noland, President**

Federal Employee Identification Number

55-6000333

\_\_\_\_\_  
F.E.I.N.



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

**AGENDA REQUEST FORM**

Name: Sandy McDonald

Department or Entity: Co. Commission

Estimation of amount of time needed for appointment: \_\_\_\_\_

Date Requested – 1<sup>st</sup> Choice: 6-23-11

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

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

Subject: **Grant Resolution, Contract and Agreement – Freedoms Run**

Please provide the County Commission with a description of your request or presentation, including any background information: **Community Partnership Grant Program – Freedoms Run in the amount of \$8,400.00**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): **Motion to approve the Grant Resolution, Contract and Agreement for the Governor’s Community Partnership Gran Program for Freedoms Run in the amount of \$8,400.00 and to authorize the President of the Commission to affix her signature to the appropriate documents**

Attachments:

# JEFFERSON COUNTY COMMISSION CHARLES TOWN, WV

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## **RESOLUTION**

The Jefferson County Commission met on the 23<sup>rd</sup> day of June, 2011 with a quorum present and passed the following Resolution:

Be It Resolved that the County Commission of Jefferson County, West Virginia, hereby authorizes Patricia A. Noland, President of the Jefferson County Commission, to act on its behalf to enter into a contractual agreement with the West Virginia Development Office to receive and administer grant funds pursuant to provision of the Community Participation Grant Program in the amount of \$8,400.00. This project is to assist in the Freedom's Run event for health and heritage and to allow runners and walkers to explore our land in a challenging and scenic marathon. This project will include equipment, promotions and staging.

Dated: \_\_\_\_\_

\_\_\_\_\_  
PATRICIA A. NOLAND  
PRESIDENT  
JEFFERSON COUNTY COMMISSION

ATTESTED: \_\_\_\_\_  
County Clerk

11LEDA0496

**COMMUNITY PARTICIPATION GRANT PROGRAM**  
**FISCAL YEAR 2011**

Deadline for Return:  
**JUNE 30, 2011**

**GRANTEE:** Jefferson County Commission  
**PROJECT TITLE:** Freedom Run/Equipment and Promotion

**PROJECT NUMBER:** 11LEDA0496  
**AMOUNT:** \$8,400

**SECTION 1. GRANTEE**

Local Governing Agency (Grantee): \_\_\_\_\_ Project Title: FREEDOMS RUN  
 Street Address: \_\_\_\_\_ City: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Chief Elected Official: \_\_\_\_\_ Email: \_\_\_\_\_  
 Phone: (304) \_\_\_\_\_ Fax: (304) \_\_\_\_\_ Form Completed By: MARK CUZZELLA MD  
 Brief Description of Project: SEE ATTACHMENT. 5 EVENT RUNNING + WALKING  
FESTIVAL. LARGEST IN STATE 2010. RAISES FUNDS FOR  
COMMUNITY WELLNESS PROJECTS + HERITAGE TOURISM

**SECTION 2. NONPROFIT ORGANIZATION (SUBGRANTEE)**

Are funds requested for a nonprofit organization?  Yes  No  
 Nonprofit Organization: EASTERN AREA HEALTH EDUCATION CNTR Executive Director: ARON HENRY  
 Street Address: 2500 FOUNDATION WAY City: MARTINSBURG State/Zip: WV 25901  
 Phone: (304) 269 9202 Fax: (304) 269 9092 Email: henrya@ecbhse.wvu.edu  
 Website: www.Freedomsrun.org IRS Cert. (Ex: 501(c)3, etc.): SDIC3 Yr. Cert: 2004

- Federal Nonprofit Certification is attached. This application **WILL NOT** be processed without Federal nonprofit status.
- State Regulation Checklist for Nonprofit Organization is attached. This application **WILL NOT** be processed without this Checklist.

**SECTION 3. PROJECT OWNER AND LOCATION**

The use of grant funds at/for private property or private gain or use is prohibited. Project sites and buildings must be publicly owned or owned by a federally certified nonprofit organization.

Owner of project site, property or building: \_\_\_\_\_ Vicinity/site plan attached?  Yes  No  
 Location and address where grant funds will be used (sufficient to drive to site): \_\_\_\_\_

Upon completion, what government agency will own, operate, or be responsible for the project? \_\_\_\_\_  
 Yes  No Project site(s) or building(s) are owned by a government agency.  
 Yes  No Project site(s) or building(s) are owned by a nonprofit organization. (If yes, attach copy of property deed).

**SECTION 4. FUNDING SUMMARY**

A minimum of 10 percent is required as a local match. Attach commitment letters for each funding source listed below.

	Amount	Source	Status	Documentation
		Grant Program, Bank Loan, Fundraising, Fees, etc.	Pending, Approved, Ongoing, etc.	Letter, Resolution, etc.
a. Grant Funds Requested	\$8,400			
b. Local Funds (10% local match required)	\$ 15,000	TITLE SPONSOR	Approved	Letter
c. Other Funds	\$			
d. Other Funds	\$			
e. Other Funds	\$			
Total Project Cost	\$			

**SECTION 5. CERTIFICATION OF STATE REGULATIONS**

**CHECK ITEMS 1-11 BELOW** to certify compliance with the following laws, regulations and requirements by the grantee (municipality, county commission, board of education, public service district, etc.):

1.  **Competitive bids are required for purchases exceeding \$2,500 in cost, as follows:**

▪ \$2,500 or less	▪ No bids required; however, competition is encouraged.
▪ \$2,500.01 to \$5,000	▪ Three verbal bids documented on a verbal bid summary.
▪ \$5,000.01 to \$25,000	▪ Three written bids required.
▪ \$25,000 or more	▪ Class II Legal Ads required.

2.  **Sealed bids are required for any portion of this project with an estimated value of more than \$25,000.**  
 Any attempt to segregate the project into sections of less than \$25,000 shall be cause for termination. Bids shall be obtained by public notice as a Class II legal advertisement in compliance with West Virginia Code §59-3. The ad must be published in the newspaper with the largest circulation in the area once a week for two successive weeks prior to the final bid date.

N/A

3.  **State prevailing wages will be paid for all construction associated with this project. This regulation applies to any and all projects, regardless project cost.**

N/A

Wage rates may be obtained from the West Virginia Secretary of State at 304-558-6000, or [www.wvsos.com](http://www.wvsos.com). If federal funds are included, the highest rate (West Virginia or Davis-Bacon) must be paid. All contractors must have a West Virginia contractor's license. All construction must comply with **West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A**. These regulations apply to the employment of any contractor or subcontractor for this project, including the following trades and activities:

▪ Construction	▪ Painting
▪ Reconstruction	▪ Decoration
▪ Demolition	▪ Alteration
▪ Enlargement	▪ Repair
▪ Remodeling	▪ Expansion

4.  **The following documents will be required for the release of grant funds:**

N/A

▪ Copies of bids, quotes or bid summary
▪ Copy of legal ad, which must require prevailing wages for construction
▪ Copies of certified payroll records
▪ Copies of invoices

5.  **Counties and municipalities may sponsor the applications of federally certified nonprofit organizations.**  
 The county or municipality must act as the administrator of any grant funds provided to nonprofit organizations, and maintain fiduciary responsibility for the expenditure of funds. Grantees are encouraged to execute intergovernmental agreements with subgrantees so that property acquired with grant funds will revert to the grantee if the nonprofit organization is dissolved.
6.  **State requirements for bidding and prevailing wage apply to federally certified nonprofit organizations.**  
 Funds provided to counties and municipalities for grants to nonprofit organization are subject to all state and local requirements regarding audits, competitive bidding and prevailing wages. All construction must comply with **West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A**.
7.  **Professional services, such as consulting, shall be obtained through a request for proposals.**
8.  **Architectural or engineering services shall be pursued in accordance with West Virginia Code §5G.**
9.  **No costs should be incurred or commitments made relative to a grant prior to the approval of this grant and the execution of a contract with the State of West Virginia.**
10.  **The use of grant funds at/for private property or private gain is prohibited.**
11.  **Project sites and buildings must be publicly owned or owned by a federally certified nonprofit organization.**

### Scope of Work and Proposed Use of Grant Funds for Freedom's Run

Consistent with how things often happen in small towns, a large idea was born in a small shop on German Street in Shepherdstown, West Virginia. **Freedom's Run: An Event for Health and Heritage** is a walking and running event with distances ranging from a one mile kids fun run, a 5k, a 10k, a half marathon and a full 26.2 mile marathon. Physician Mark Cucuzzella, passionate about reversing current trends of inactivity, and citizen activist Lois Turco, who sees the rich value in our region for generations to come, created Freedom's Run.

In 2009 and 2010 we hosted Freedom's Run ([www.Freedomsrun.org](http://www.Freedomsrun.org)) through **4 National Parks**- Harpers Ferry NHP, the C&O Canal NHP, the Potomac Heritage Trail, and Antietam National Battlefield. The event gave *opportunity for all* with multiple distances. The inaugural event hosted 1650 participants from 37 states. We sold out in 2010 with participation of 2700 entrants from 42 states and became the largest running event in West Virginia and the region. We raised money for school based gardens and fitness trails. The outcome was building a 1.5 mile trail, garden, and wetland at **Page Jackson Elementary**, assisting a similar project at **South Jefferson Elementary**, donating over \$5000 to the **Hedgesville HS** Community Track Project, and reconstructing a green house at **TA Lowery Elementary**. We promoted the significance of the land we were running on and engaged the community in year round participation in training runs and other events.

Thanks to State and local grants for advertisements, the economic impact to the region grew exponentially in 2010. 40% of runners spent at least one night in a hotel and 80% dined regionally. We have ar the **2011 Road Runners Club of America East Coast Regional Championship Race**, an honor for a third year event. We have created a series of events and just hosted the Inaugural **Two Rivers Heritage Half Marathon** in Harpers Ferry.

Our post race online survey with 550 responses have given us lots of important data Here is a sample. We asked: "Do you plan to return/would you encourage others to visit our region/participate?". The Response is 93% yes, 6 % maybe, and only 1% no. Another question: "Overall how would you rate the Freedom's Run event?" On a 1-5 scale with 5 being the best- 76.5% gave this 5 and 21% gave it a 4. Amazingly over 97% of our participants were either Very Satisfied (the large majority) or Satisfied with the event.

The grant money will be used for promotion of the event in the East Coast and Nationally. We aim to make this a destination race. We are competing against professionally run events with large corporate dollars. We want to be the small gem with the large community and economic impact. Here is a list of advertising costs. **We have received rates of less than half of regular rates as a non-profit.**

Boston Marathon	\$899
Summit Publishing	\$3450
Run Washington	\$3000
Competitor	\$2000
Blue Ridge Outdoors	\$800
Observer	\$600
HBP printing	\$500
Total	\$11,249



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[Mission](#)

[Preceptors](#)

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## Mission

Central to the mission of the Eastern Area Health Education Center is service to the community. These services are provided in two ways:

1. The provision of service to the community via AHEC faculty and trainees.
2. The provision of education to the community via community-based outreach education. The Eastern AHEC's mission of service and education complements West Virginia University's land-grant mission of services to the state.

### The Eastern AHEC... Building Better Communities

The Area Health Education Center system in West Virginia complements a variety of on-going training efforts to improve the chronic problem of maldistribution of health care providers throughout the state. We will develop four regional area health education centers. Each having the unique mission of graduate medical and health professions education. This the Eastern AHEC will be the first of the four AHEC's to become operational. The following objectives will be utilized by all four AHEC's allowing for regional variations, to establish their educational programs:

- **Objective (1)** Incorporate non-profit regional area health education center to coordinate, supplement, and focus graduate health professions education to enhance community recruitment and retention of primary care providers.
- **Objective (2)** Strengthen rural faculty by linking existing primary care residency programs with RHEP sites where medical and other health science students are trained.
- **Objective (3)** Integrate graduate-level interdisciplinary team "block" rotations (8 weeks) dealing with issues, clinical and community, typical of rural primary care practice.
- **Objective (4)** Adapt distance and adult learning concepts, technology, and library support systems to maintain knowledge and skills among rural providers, faculty, and consumers through continuing education.
- **Objective (5)** Expand an existing health careers program (HSTA) for underrepresented and disadvantaged students statewide by establishing an AHEC-piece of the career path from high school to primary care residency and to rural primary care practice.
- **Objective (6)** Focus upon recruitment and retention efforts at the community level by directing all AHEC learning activities to increase the probabilities of successfully recruiting and retaining providers in underserved areas.

**SECTION 6. PROJECT INFORMATION:**

**ELIGIBLE activities include, but are not limited to, permanent public improvements related to the following:**

- |                                       |                                   |
|---------------------------------------|-----------------------------------|
| ▪ Business and Industrial Parks       | ▪ Land and Property Acquisition   |
| ▪ City Hall and Courthouse Facilities | ▪ Libraries                       |
| ▪ Construction and Renovation         | ▪ Parks and Recreation            |
| ▪ Demolition                          | ▪ Parking Facilities              |
| ▪ Economic Development                | ▪ Preservation and Beautification |
| ▪ Emergency Services                  | ▪ Public Safety                   |
| ▪ Flood and Storm Drainage            | ▪ Street and Sidewalk Repair      |
| ▪ Infrastructure                      | ▪ Technology                      |
| ▪ Law Enforcement                     | ▪ Water, Wastewater Facilities    |

**INELIGIBLE activities include, but are not limited to, expendable items related to the following:**

- |                           |                               |
|---------------------------|-------------------------------|
| ▪ Administrative costs    | ▪ Private Property            |
| ▪ Food                    | ▪ Rent                        |
| ▪ Clothing                | ▪ Maintenance                 |
| ▪ Homeowners Associations | ▪ Salaries                    |
| ▪ Insurance Premiums      | ▪ Scholarships                |
| ▪ Maintenance             | ▪ Sports Uniforms             |
| ▪ Medical Programs        | ▪ Training and Speakers' Fees |
| ▪ National Dues           | ▪ Travel Expenses             |
| ▪ Postage                 | ▪ Utility Costs               |

**PROJECT DESCRIPTION**

Describe in **SPECIFIC TERMS** the scope of work to be completed and the proposed use(s) of grant funds.

SEE ATTACHED

If funds are requested for a nonprofit organization, provide mission statement. Attach brochure /web pages if available.

SEE ATTACHED

## **SECTION 7. ASSURANCES**

The applicant hereby assures and certifies that it shall comply with the following regulations, policies, and requirements:

- A. The applicant assures the State that it will perform the work for which the grant was made as determined by the State.
- B. The applicant assures the State that it has or will secure qualified personnel to administer a grant, and that the costs to administer the grant will be paid for by the applicant.
- C. The applicant assures the State that it will have started work on the project before the end of the fiscal year in which the grant award is made.
- D. The applicant assures the State that it understands that the amount of the grant award cannot be increased without the written consent of the Governor.
- E. The applicant assures the State that payment for work performed will be requested in writing with copies of invoices attached that document the costs of each work segment making up the total amount of funds requested.
- F. The applicant assures the State that it understands that ten percent of the grant award will be held by the State as retainage, pending receipt of a written certificate of substantial completion attached to any final invoices for work not already paid.
- G. The applicant assures the State that it understands that by letter the State can terminate for cause an applicant's grant agreement with the amount of funds recovered equal to the percentage of incomplete work. The applicant further assures the State that it understands that it can be terminated by letter any grant agreement with the State before costs are incurred on the project.
- H. The applicant assures the State that any changes in the scope of work specified in a grant agreement will first be submitted in writing to the State for approval by change order.
- I. The applicant assures the State that in its hiring practices for work to be performed it will comply with the equal employment provisions of Titles VI and VII of the 1964 Civil Rights Act, and Presidential Executive Orders 11246 and 11375, as amended.
- J. **The applicant assures the State that competitive bids will be solicited on any major work element exceeding \$2,500 in cost.** Competitive bidding shall be pursued in all instances.
- K. **Competitive bidding requirements, at a minimum, are as follows: Commodities and services expected to cost \$2,500 or less require no bids; however, competition is encouraged. Purchases between \$2,500.01 and \$5,000 require three verbal bids to be documented on a verbal bid quotation summary. Purchases \$5,000.01 to \$25,000 require three written bids.**
- L. **The Grantee shall solicit competitive, sealed bids for commodities and supplies related to this project which have an estimated value of more than \$25,000. Any attempts by the Grantee to segregate the project into sections having an estimated value of less than \$25,000 shall be cause for termination.** The receipt and utilization of funds procured through this program mandate that all construction contracts necessary for the undertaking and completion of this project, regardless of the source of funds utilized to pay such construction contracts, must comply with the provisions of the West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A.
- M. **Bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provisions West Virginia Code §59-3.** This notice shall be published by the Grantee in the newspaper with the largest circulation serving the general area once a week for two successive weeks prior to the final bid date.
- N. The applicant assures the State that **State prevailing wage rates will be paid on contract construction unless federal funds are included in the project, in which case, the higher of the State's or Davis-Bacon wage rates will be paid on all contract construction.**
- O. Every contract involving **construction, reconstruction, demolition, improvement, enlargement, painting, decoration, alteration, and/or repair work** which involves the employment of any contractor and/or subcontractor necessary for the undertaking and completion of this project, regardless of the source of funds utilized to pay such contract, must comply with the West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A. **This law applies to all construction contracts, regardless of cost. The receipt and utilization of funds procured under this agreement mandate that all construction contracts necessary for the undertaking and completion of this project, regardless of the source of funds utilized to pay such construction contracts, must comply with the provisions of West Virginia Code §21-5A.**
- P. The applicant assures the State that any part of the project to be occupied by the general public will be made accessible to the handicapped.
- Q. The applicant assures the State that any permits, licenses, or other requirements of particular State or Federal agencies necessary for the project's design, construction, or operation will be secured.
- R. The applicant assures the State that it will not subgrant any of the grant funds received to any of its officials or employees or the members of their families or to employees of the WVDO or members of the State Legislature in any contracts awarded for work to be performed.
- S. The applicant assures the State that it will maintain and have available for inspection on written request by the State all records kept on the project including bid documents, copies of all contracts, contractors' payrolls, time sheets, and invoices. The applicant further assures the State that it will schedule an audit of any grant funds to be included in its annual audit as performed by the State Tax Department.
- T. The applicant assures the State, by evidence of attaching a resolution, motion, or similar action passed by its governing body, that it has the legal authority to apply for this grant, commit any local matching shares, authorize the person signing the grant to act as an agent for the applicant to answer any questions by the State about the application, and to abide by the understandings and assurances described in this section.
- U. As the grantee, the county or municipality must act as the administrator of any grant funds provided to nonprofit organizations, and must maintain fiduciary responsibility for the expenditure of funds. Grantees are encouraged to execute intergovernmental agreements with sub-grantees so that property and/or assets acquired with grant funds will revert to the grantee if the nonprofit organization is dissolved.

**SECTION 8. SIGNATURE AND RESOLUTION**

**This application must contain the following:**

- Application with Original Signature
- Resolution by Unit of Local Government
- Documentation of Local Match (Minimum 10 Percent)
- Nonprofit Application Checklist with Original Signature – Required for Nonprofit Organizations
- IRS 501(c) Determination Letter - Required for Nonprofit Organizations

To the best of my knowledge, the information contained in this application is true and correct; the submission thereof has been duly authorized by the governing body; and the applicant will comply with the regulations, policies, guidelines and requirements outlined by the State of West Virginia. If the recipient is a nonprofit organization, the county or municipality certifies that this nonprofit organization is legally authorized to receive public funds.

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

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

**Mayor or County Commission President**

**ORIGINAL SIGNATURE REQUIRED—USE BLUE INK**

**West Virginia Development Office  
Community Development Division  
Community Participation Grant Program**  
1900 Kanawha Boulevard, East Building 6, Room 553  
Charleston, West Virginia 25305  
Phone: 304-558-4010 Fax: 304-558-2246  
[www.wvcommerce.org](http://www.wvcommerce.org)

**West Virginia**  
USA

## Checklist for Nonprofit Organizations

**Must Be Submitted With Application for Community Participation Grant Program Funding for Nonprofit Organizations**

1. Local Government Agency: \_\_\_\_\_ Chief Elected Official: \_\_\_\_\_  
 Project Title: \_\_\_\_\_ Amount of Grant: \$ \_\_\_\_\_  
 Form Completed By: \_\_\_\_\_ Phone: (304) \_\_\_\_\_ Fax: (304) \_\_\_\_\_
2. Nonprofit Organization: EASTERN AREA HEALTH EDUCATION Executive Director: Aaron Henry  
 Street Address, City, Zip: 2500 Foundation Way Phone: (304) 269 9202 Fax: (304) 269 9092  
MARTINSBURG WV 25401
- Federal nonprofit certification, 501c determination letter from Internal Revenue Service attached.  
 Mission statement, brochure, or web pages explaining mission of the organization and services it provides attached.

### CERTIFICATIONS AND ASSURANCES

**CHECK ALL ITEMS BELOW** to certify compliance with the following laws, regulations and requirements:

3.  Competitive bids are required for purchases exceeding \$2,500 in cost, as follows:
- |                          |  |
|--------------------------|--|
| ▪ \$2,500 or less        | ▪ No bids required; however, competition is encouraged |
| ▪ \$2,500.01 to \$5,000  | ▪ Three verbal bids documented on a verbal bid summary |
| ▪ \$5,000.01 to \$25,000 | ▪ Three written bids required                          |
| ▪ \$25,000 or more       | ▪ Class II Legal Ads required                          |
4.  Sealed bids are required for any portion of this project with an estimated value of more than \$25,000.  
 Any attempt to segregate the project into sections of less than \$25,000 shall be cause for termination. Bids shall be obtained by public notice as a Class II legal advertisement in compliance with West Virginia Code §59-3. The ad must be published in the newspaper with the largest circulation in the area once a week for two successive weeks prior to the final bid date.  
 N/A
5.  State prevailing wages will be paid for all construction associated with this project, regardless of the cost.  
 West Virginia prevailing wages must be paid for all construction projects using state grant funds. All contractors must have a West Virginia contractor's license. These regulations apply to every contract involving construction, reconstruction, demolition, improvement, enlargement, painting, decoration, alteration, and/or repair work. If federal funds are included, the highest rate (West Virginia or Davis-Bacon) will be paid. All construction must comply with the West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A.  
 N/A
6.  The following documents will be required for the release of grant funds.
- |  |
|--|
| ▪ Copies of bids, quotes or verbal bid summary                           |
| ▪ Copy of legal ad, which must require prevailing wages for construction |
| ▪ Copies of certified payroll records for construction                   |
| ▪ Copies of invoices.  |
7.  Counties and municipalities may sponsor the applications of federally certified nonprofit organizations.  
 The county or municipality must act as the administrator of grant funds for to nonprofit organizations, and must maintain fiduciary responsibility for the expenditure of funds. Grantees are encouraged to execute Intergovernmental agreements with subgrantees so that property acquired with grant funds will revert to the grantee if the nonprofit organization is dissolved.
8.  State requirements for bidding and prevailing wage apply to federally certified nonprofit organizations.  
 Funds provided to counties and municipalities for grants to nonprofit organizations are subject to all state and local requirements regarding audits, competitive bidding and prevailing wages. All construction must comply with the West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A.
9.  Professional services shall be obtained through a request for proposals.  
 Architectural or engineering services shall be obtained in accordance with West Virginia Code §5G.
10.  No costs should be incurred or commitments made relative to a grant prior to the approval of this grant and the execution of a contract with the State of West Virginia.
11.  The use of grant funds at/for private property or private gain is prohibited.  
 Project sites and buildings must be publicly owned or owned by a federally certified nonprofit organization.

Signature: \_\_\_\_\_

Executive Director, Nonprofit Organization

ORIGINAL SIGNATURE REQUIRED

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

6-14-11

**AHEC**  
Eastern  
Area Health  
Education Center

June 6, 2011

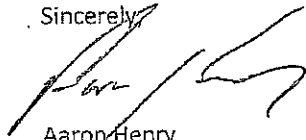
Jefferson County Commission  
P.O. Box 250  
Charles Town, WV 25414

Jefferson County Commission,

The University Health Associates in cooperation with the Eastern Area Health Education Center have agreed to support Freedom's Run 2011 in the amount of \$7,500.00

WVU Hospitals-East has already gifted \$7,500.00 to match our commitment. We strongly feel the event and the local movement toward better community health in our region deserves our support.

Sincerely,



Aaron Henry  
Executive Director

INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: MAY 14 2004

EASTERN AREA HEALTH EDUCATION  
CENTER INC  
2000 FOUNDATION WAY STE 2310  
MARTINSBURG, WV 25402

Employer Identification Number:  
35-2174239  
DLN:  
17053104050024  
Contact Person:  
JOHN J KOESTER ID# 31364  
Contact Telephone Number:  
(877) 829-5500  
Accounting Period Ending:  
August 31  
Form 990 Required:  
Yes  
Addendum Applies:  
No

Dear Applicant:

Based on information supplied, and assuming your operations will be as stated in your application for recognition of exemption, we have determined you are exempt from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3).

We have further determined that you are not a private foundation within the meaning of section 509(a) of the Code, because you are an organization described in sections 509(a)(1) and 170(b)(1)(A)(vi).

If your sources of support, or your purposes, character, or method of operation change, please let us know so we can consider the effect of the change on your exempt status and foundation status. In the case of an amendment to your organizational document or bylaws, please send us a copy of the amended document or bylaws. Also, you should inform us of all changes in your name or address.

As of January 1, 1984, you are liable for taxes under the Federal Insurance Contributions Act (social security taxes) on remuneration of \$100 or more you pay to each of your employees during a calendar year. You are not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Since you are not a private foundation, you are not subject to the excise taxes under Chapter 42 of the Code. However, if you are involved in an excess benefit transaction, that transaction might be subject to the excise taxes of section 4958. Additionally, you are not automatically exempt from other federal excise taxes. If you have any questions about excise, employment, or other federal taxes, please contact your key district office.

Grantors and contributors may rely on this determination unless the Internal Revenue Service publishes notice to the contrary. However, if you lose your section 509(a)(1) status, a grantor or contributor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act, or the substantial or material change on the

Letter 947 (DO/CG)

EASTERN AREA HEALTH EDUCATION

part of the organization that resulted in your loss of such status, or if he or she acquired knowledge that the Internal Revenue Service had given notice that you would no longer be classified as a section 509(a)(1) organization.

Donors may deduct contributions to you as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for federal estate and gift tax purposes if they meet the applicable provisions of Code sections 2055, 2106, and 2522.

Contribution deductions are allowable to donors only to the extent that their contributions are gifts, with no consideration received. Ticket purchases and similar payments in conjunction with fundraising events may not necessarily qualify as deductible contributions, depending on the circumstances. See Revenue Ruling 67-246, published in Cumulative Bulletin 1967-2, on page 104, which sets forth guidelines regarding the deductibility, as charitable contributions, of payments made by taxpayers for admission to or other participation in fundraising activities for charity.

In the heading of this letter we have indicated whether you must file Form 990, Return of Organization Exempt From Income Tax. If Yes is indicated, you are required to file Form 990 only if your gross receipts each year are normally more than \$25,000. However, if you receive a Form 990 package in the mail, please file the return even if you do not exceed the gross receipts test. If you are not required to file, simply attach the label provided, check the box in the heading to indicate that your annual gross receipts are normally \$25,000 or less, and sign the return.

If a return is required, it must be filed by the 15th day of the fifth month after the end of your annual accounting period. A penalty of \$20 a day is charged when a return is filed late, unless there is reasonable cause for the delay. However, the maximum penalty charged cannot exceed \$10,000 or 5 percent of your gross receipts for the year, whichever is less. For organizations with gross receipts exceeding \$1,000,000 in any year, the penalty is \$100 per day per return, unless there is reasonable cause for the delay. The maximum penalty for an organization with gross receipts exceeding \$1,000,000 shall not exceed \$50,000. This penalty may also be charged if a return is not complete, so be sure your return is complete before you file it.

You are required to make your annual information return, Form 990 or Form 990-EZ, available for public inspection for three years after the later of the due date of the return or the date the return is filed. You are also required to make available for public inspection your exemption application, any supporting documents, and your exemption letter. Copies of these documents are also required to be provided to any individual upon written or in person request without charge other than reasonable fees for copying and postage. You may fulfill this requirement by placing these documents on the Internet. Penalties may be imposed for failure to comply with these requirements. Additional information is available in Publication 557, Tax-Exempt Status for Your Organization, or you may call our toll free number shown above.

Letter 947 (DO/CG)

EASTERN AREA HEALTH EDUCATION

You are not required to file federal income tax returns unless you are subject to the tax on unrelated business income under section 511 of the Code. If you are subject to this tax, you must file an income tax return on Form 990-T, Exempt Organization Business Income Tax Return. In this letter we are not determining whether any of your present or proposed activities are unrelated trade or business as defined in section 513 of the Code.

You need an employer identification number even if you have no employees. If an employer identification number was not entered on your application, a number will be assigned to you and you will be advised of it. Please use that number on all returns you file and in all correspondence with the Internal Revenue Service.

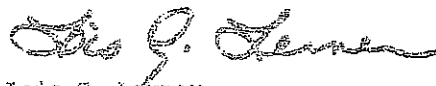
This determination is based on evidence that your funds are dedicated to the purposes listed in section 501(c)(3) of the Code. To assure your continued exemption, you should keep records to show that funds are expended only for those purposes. If you distribute funds to other organizations, your records should show whether they are exempt under section 501(c)(3). In cases where the recipient organization is not exempt under section 501(c)(3), there should be evidence that the funds will remain dedicated to the required purposes and that they will be used for those purposes by the recipient.

If we have indicated in the heading of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

Because this letter could help resolve any questions about your exempt status and foundation status, you should keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,



Lois G. Lerner  
Director, Exempt Organizations  
Rulings and Agreements

Enclosure(s) :

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

**AGENDA REQUEST FORM**

Name: Sandy McDonald

Department or Entity: Co. Commission

Estimation of amount of time needed for appointment: \_\_\_\_\_

Date Requested – 1<sup>st</sup> Choice: 6-23-11

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

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

Subject: **Grant Resolution, Contract and Agreement – FOCUS Coalition**

Please provide the County Commission with a description of your request or presentation, including any background information: **Community Partnership Grant Program – FOCUS Coalition in the amount of \$7,000.00**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): **Motion to approve the Grant Resolution, Contract and Agreement for the Governor’s Community Partnership Gran Program for FOCUS Coalition in the amount of \$7,000.00 and to authorize the President of the Commission to affix her signature to the appropriate documents**

Attachments:

# JEFFERSON COUNTY COMMISSION CHARLES TOWN, WV

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## **RESOLUTION**

The Jefferson County Commission met on the 23<sup>rd</sup> day of June, 2011 with a quorum present and passed the following Resolution:

Be It Resolved that the County Commission of Jefferson County, West Virginia, hereby authorizes Patricia A. Noland, President of the Jefferson County Commission, to act on its behalf to enter into a contractual agreement with the West Virginia Development Office to receive and to act as the administrator of grant funds pursuant to provisions of the Community Participation Grant Program in the amount of \$7,000. The funds from this project will be used to purchase computers and equipment.

Dated: \_\_\_\_\_

\_\_\_\_\_  
PATRICIA A. NOLAND  
PRESIDENT  
JEFFERSON COUNTY COMMISSION

ATTESTED: \_\_\_\_\_  
County Clerk

11LEDA0509

**Sandy McDonald**

---

**From:** <erizac@comcast.net>  
**To:** <sandy@jeffersoncountywv.org>  
**Sent:** Wednesday, June 15, 2011 10:47 AM  
**Subject:** FOCUS Application

The FOCUS Coalition received a \$1500 donation from Wal Mart and \$700 of this money will be used as a match requirement for the Community Participation grant. I have included the use of this money in the overall grant request.

Christa Shifflett  
Executive Director  
FOCUS Coalition

JEFFERSON COUNTY MEMORIAL PARK  
% DAVID A DIEHL  
P O BOX 165  
CHARLES TOWN WV 25414-0165651

Taxpayer Identification Number: 55-0364832  
Tax Period(s): Dec. 31, 2001

Form: 940  
17840-026-18387-2

Dear Taxpayer:

You are not required to file Form 940 because you have been determined to be an exempt organization under section 501(c)(3) of the Internal Revenue Code; therefore, you are exempt from paying Federal unemployment tax. Please destroy any Form 940 returns you may have received. Do not make tax deposits for Federal unemployment tax.

We will send you a refund for your payments for the current year. You may request refunds for payments made in previous years by filing a Form 843 claim. You must file a claim for refund within three years from the return due date, or within two years from the date you paid the tax, whichever is later.

If you have any questions, please call our Customer Service area at 1-800-829-8815 between the hours of 7:00 a.m. and 10:00 p.m.. If you prefer, you may write to us at the address shown at the top of the first page of this letter.

Whenever you write, please include this letter and, in the spaces below, give us your telephone number with the hours we can reach you. Keep a copy of this letter for your records.

Telephone Number ( ) \_\_\_\_\_ Hours \_\_\_\_\_

522.

Garnett P. Morison, et ux.

To: DEED of B. &amp; S.

Jefferson County Memorial Park Corporation, Inc.

THIS DEED, made this 24th day of February, 1950, between Garnett P. Morison and Malinda P. Morison, his wife, parties of the first part, and Jefferson County Memorial Park Corporation, Inc., incorporated under the laws of the State of West Virginia, party of the second part:

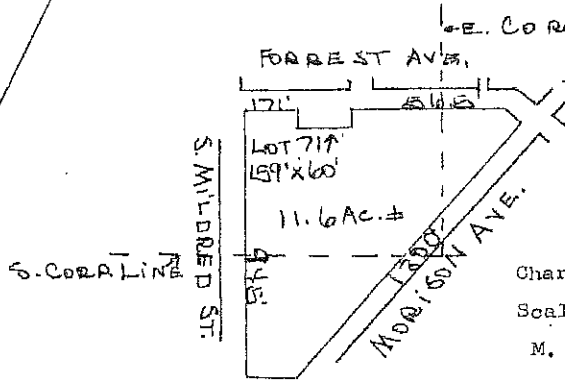
WITNESSETH that, for and in consideration of One Dollar, cash in hand paid, receipt of which is hereby acknowledged, and the covenants hereinafter contained, said parties of the first part do hereby grant unto the party of the second part, in fee simple, with covenants of general warranty, subject to the limitations hereinafter contained, all that certain tract or parcel of land, situate partly within and partly without the corporate limits of Charles Town, Jefferson County, West Virginia, bounded on the north by Forrest Avenue and Lot 71, on the southeast and south by Morison Street, and on the west by Mildred Street, including the land in all lots and proposed streets and alleys, within said boundaries, as shown on plat of said Garnett P. Morison's Addition to Charles Town, known as "Brownville", recorded in the Clerk's Office of the County Court of said County in Deed Book 163, Page 157, to which reference is made, none of said streets and alleys having been opened, used or accepted, and the dedication thereof being now withdrawn; the tract of land herein conveyed being shown on plat made by M. I. Lippitt, surveyor, hereto attached and made a part of this deed, and described as follows:

"Beginning at the intersection of the south line of Forrest Avenue with the east line of South Mildred Street, thence in an easterly direction along the south line of Forrest Avenue 171 feet, more or less, to the west corner of Lot 71; thence southerly along the west line of said Lot 71, 60 feet, more or less, to the southerly line of said Lot; thence easterly along the south line of said Lot a distance of 159 feet, more or less, to the easterly line of said Lot; thence northerly, along the east line of said Lot a distance of 60 feet, more or less, to the south line of Forrest Avenue; thence along the south line of Forrest Avenue 565 feet, more or less, to its intersection with the west line of Morison Avenue; thence southerly along the west line of Morison Avenue 1300 feet, more or less, to its intersection with the east line of South Mildred Street; thence northerly along the east line of South Mildred Street 945 feet, more or less, to the point of beginning, containing 11.6 acres, more or less."

AND being a portion of the same land as was conveyed unto the said Garnett P. Morison by two separate deeds, the first from Emma B. T. Brown, et al, dated the 12th day of August, 1944, and recorded in the Office of the Clerk of the County Court of Jefferson County, West Virginia, in Deed Book 161, Page 69, and the second from Frank J. T. Brooke, et ux, dated the 15th day of August, 1945 and recorded in the said Clerk's Office in Deed Book 163, Page 143, to which two deeds, and the references therein contained, reference is hereby made for further description.

In consideration of the conveyance hereby made, the party of the second part does promise that it will establish, upon the land hereby conveyed, a park and playground within the five years next ensuing after the date of this deed; that the same will at that time be used as such; and that the party of the second part will expend upon improvements and park facilities on said land \$10,000.00, at the least, within the said five-years.

AND THE PARTY OF THE SECOND PART DOES COVENANT, in the event that there has not been



Land Deeded for  
Memorial Park

Charles Town, West Virginia  
Scale 1"::400' Jan. 7, 1950  
M. I. Lippitt, Civ. Engr.  
Charles Town, W. Va.

STATE OF WEST VIRGINIA  
COUNTY OF JEFFERSON, TO-WIT:

I, Mark B. Wetzel, a Notary Public of the said County of Jefferson, do certify that G. P. Reininger, who signed the writing hereto annexed, bearing date the 24th day of February, 1950, for Jefferson County Memorial Park Corporation, Inc., has this day in my said county, before me, acknowledged the said writing to be the act and deed of said corporation.

Given under my hand this 3rd day of April, 1950.

Mark B. Wetzel

NOTARY PUBLIC

My Commission Expires: Nov. 4, 1952

State of West Va., County of Jefferson, ss.

IN THE CLERK'S OFFICE OF COUNTY COURT: APRIL 12th, 1950

This Deed of B. & S. dated Feb. 24th, 1950 from Garnett P. Morison, et ux. to Jefferson County Memorial Park Corporation, Inc. was produced in this office and duly admitted to record.

Test,

Emily A. H. Stanley, Clerk of said Court

~~~~~

# COMMUNITY PARTICIPATION GRANT PROGRAM

## FISCAL YEAR 2011

**Deadline for Return:**  
**JUNE 30, 2011**

**GRANTEE:** Jefferson County Commission  
**PROJECT TITLE:** Focus Coalition

**PROJECT NUMBER:** 11LEDA0509  
**AMOUNT:** \$7,000

### SECTION 1. GRANTEE

Local Governing Agency (Grantee): Jefferson Co. Commission Project Title: Focus Coalition  
 Street Address: 124 E. Washington St. PO Box 258 City: Charles Town Zip: 25414  
 Chief Elected Official: Patsy Nolan Email: \_\_\_\_\_  
 Phone: (304) 728-3282 Fax: (304) 725-7916 Form Completed By: Christa Shifflett  
 Brief Description of Project: - technology upgrade, survey material, video material, prevent drunk driving fatal vision goggles

### SECTION 2. NONPROFIT ORGANIZATION (SUBGRANTEE)

Are funds requested for a nonprofit organization?  Yes  No DBA Focus Coalition  
 Nonprofit Organization: Jefferson Co. Coalition on Substance Abuse Executive Director: Christa Shifflett  
 Street Address: 334 N. Lawrence St. PO Box 397 City: Charles Town State/Zip: 25414  
 Phone: (304) 725-3433 Fax: (304) 662-2358 (cell first) Email: erizae@comcast.net  
 Website: www.focusprev.com IRS Cert. (Ex: 501(c)3, etc.): 501(c)3 Yr. Cert: 1990  
 Federal Nonprofit Certification is attached. This application **WILL NOT** be processed without Federal nonprofit status.  
 State Regulation Checklist for Nonprofit Organization is attached. This application **WILL NOT** be processed without this Checklist.

### SECTION 3. PROJECT OWNER AND LOCATION

The use of grant funds at/for private property or private gain or use is prohibited. Project sites and buildings must be publicly owned or owned by a federally certified nonprofit organization.

Owner of project site, property or building: Jefferson Co. Coalition on Substance Abuse Vicinity/site plan attached?  Yes  No  
 Location and address where grant funds will be used (sufficient to drive to site): 334 N. Lawrence St. Charles Town, WV 25414

Upon completion, what government agency will own, operate, or be responsible for the project? Jefferson Co. Coalition on Substance Abuse  
 Yes  No Project site(s) or building(s) are owned by a government agency.  
 Yes  No Project site(s) or building(s) are owned by a nonprofit organization. (If yes, attach copy of property deed) ✓

### SECTION 4. FUNDING SUMMARY

A minimum of **10 percent** is required as a local match. Attach commitment letters for each funding source listed below.

|                                              | Amount         | Source<br>Grant Program, Bank Loan,<br>Fundraising, Fees, etc. | Status<br>Pending, Approved,<br>Ongoing, etc. | Documentation<br>Letter, Resolution,<br>etc.                            |
|----------------------------------------------|----------------|----------------------------------------------------------------|-----------------------------------------------|-------------------------------------------------------------------------|
| a. Grant Funds Requested                     | \$7,000        |                                                                |                                               |                                                                         |
| b. Local Funds<br>(10% local match required) | \$ 700         |                                                                |                                               | match \$1500<br>received from Wal-Mart<br>will use as match requirement |
| c. Other Funds                               | \$             |                                                                |                                               |                                                                         |
| d. Other Funds                               | \$             |                                                                |                                               |                                                                         |
| e. Other Funds                               | \$             |                                                                |                                               |                                                                         |
| <b>Total Project Cost</b>                    | <b>\$ 7700</b> |                                                                |                                               |                                                                         |

## **SECTION 5. CERTIFICATION OF STATE REGULATIONS**

**CHECK ITEMS 1-11 BELOW** to certify compliance with the following laws, regulations and requirements by the grantee (municipality, county commission, board of education, public service district, etc.):

1.  **Competitive bids are required for purchases exceeding \$2,500 in cost, as follows:**

|                                                 |                                                                                |
|-------------------------------------------------|--------------------------------------------------------------------------------|
| <input type="checkbox"/> \$2,500 or less        | <input type="checkbox"/> No bids required; however, competition is encouraged. |
| <input type="checkbox"/> \$2,500.01 to \$5,000  | <input type="checkbox"/> Three verbal bids documented on a verbal bid summary. |
| <input type="checkbox"/> \$5,000.01 to \$25,000 | <input type="checkbox"/> Three written bids required.                          |
| <input type="checkbox"/> \$25,000 or more       | <input type="checkbox"/> Class II Legal Ads required.                          |

2.  **Sealed bids are required for any portion of this project with an estimated value of more than \$25,000.** Any attempt to segregate the project into sections of less than \$25,000 shall be cause for termination. Bids shall be obtained by public notice as a Class II legal advertisement in compliance with West Virginia Code §59-3. The ad must be published in the newspaper with the largest circulation in the area once a week for two successive weeks prior to the final bid date.
3.  **State prevailing wages will be paid for all construction associated with this project. This regulation applies to any and all projects, regardless project cost.**

Wage rates may be obtained from the West Virginia Secretary of State at 304-558-6000, or [www.wvsos.com](http://www.wvsos.com). If federal funds are included, the highest rate (West Virginia or Davis-Bacon) must be paid. All contractors must have a West Virginia contractor's license. All construction must comply with **West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A**. These regulations apply to the employment of any contractor or subcontractor for this project, including the following trades and activities:

|                                         |                                     |
|-----------------------------------------|-------------------------------------|
| <input type="checkbox"/> Construction   | <input type="checkbox"/> Painting   |
| <input type="checkbox"/> Reconstruction | <input type="checkbox"/> Decoration |
| <input type="checkbox"/> Demolition     | <input type="checkbox"/> Alteration |
| <input type="checkbox"/> Enlargement    | <input type="checkbox"/> Repair     |
| <input type="checkbox"/> Remodeling     | <input type="checkbox"/> Expansion  |

4.  **The following documents will be required for the release of grant funds:**

|                                                                                                 |
|-------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Copies of bids, quotes or bid summary                                  |
| <input type="checkbox"/> Copy of legal ad, which must require prevailing wages for construction |
| <input type="checkbox"/> Copies of certified payroll records                                    |
| <input type="checkbox"/> Copies of invoices                                                     |

5.  **Counties and municipalities may sponsor the applications of federally certified nonprofit organizations.** The county or municipality must act as the administrator of any grant funds provided to nonprofit organizations, and maintain fiduciary responsibility for the expenditure of funds. Grantees are encouraged to execute intergovernmental agreements with subgrantees so that property acquired with grant funds will revert to the grantee if the nonprofit organization is dissolved.
6.  **State requirements for bidding and prevailing wage apply to federally certified nonprofit organizations.** Funds provided to counties and municipalities for grants to nonprofit organization are subject to all state and local requirements regarding audits, competitive bidding and prevailing wages. All construction must comply with **West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A**.
7.  **Professional services, such as consulting, shall be obtained through a request for proposals.**
8.  **Architectural or engineering services shall be pursued in accordance with West Virginia Code §5G.**
9.  **No costs should be incurred or commitments made relative to a grant prior to the approval of this grant and the execution of a contract with the State of West Virginia.**
10.  **The use of grant funds at/for private property or private gain is prohibited.**
11.  **Project sites and buildings must be publicly owned or owned by a federally certified nonprofit organization.**

**SECTION 6. PROJECT INFORMATION:**

**ELIGIBLE activities include, but are not limited to, permanent public improvements related to the following:**

- |                                       |                                   |
|---------------------------------------|-----------------------------------|
| ▪ Business and Industrial Parks       | ▪ Land and Property Acquisition   |
| ▪ City Hall and Courthouse Facilities | ▪ Libraries                       |
| ▪ Construction and Renovation         | ▪ Parks and Recreation            |
| ▪ Demolition                          | ▪ Parking Facilities              |
| ▪ Economic Development                | ▪ Preservation and Beautification |
| ▪ Emergency Services                  | ▪ Public Safety                   |
| ▪ Flood and Storm Drainage            | ▪ Street and Sidewalk Repair      |
| ▪ Infrastructure                      | ▪ Technology                      |
| ▪ Law Enforcement                     | ▪ Water, Wastewater Facilities    |

**INELIGIBLE activities include, but are not limited to, expendable items related to the following:**

- |                           |                               |
|---------------------------|-------------------------------|
| ▪ Administrative costs    | ▪ Private Property            |
| ▪ Food                    | ▪ Rent                        |
| ▪ Clothing                | ▪ Maintenance                 |
| ▪ Homeowners Associations | ▪ Salaries                    |
| ▪ Insurance Premiums      | ▪ Scholarships                |
| ▪ Maintenance             | ▪ Sports Uniforms             |
| ▪ Medical Programs        | ▪ Training and Speakers' Fees |
| ▪ National Dues           | ▪ Travel Expenses             |
| ▪ Postage                 | ▪ Utility Costs               |

**PROJECT DESCRIPTION**

Describe in **SPECIFIC TERMS** the scope of work to be completed and the proposed use(s) of grant funds.

3 distinct areas for request

1st Technology update:

3 Dell Latitude laptops w/ software \$ 880/each x 3 = \$ 2640

1 Color laser jet printer \$ 360

1 each replacement color cartridge \$ 300 (match #)

Pride survey forms \$ 1.60/each x 2000 students = \$ 3200

(07-00) 1 set Fatal vision goggles = \$ 300

(11-00) 1 set Fatal vision goggles = \$ 300 (match #)

1 Quickbooks upgrade 2011 \$ 150 (match #)

Aims Multimedia videos Truth About Drugs, Drugs & Addictions \$ 150 each = \$ 300

Shipping for computers, surveys, & videos \$ 100

\$ 7800

If funds are requested for a nonprofit organization, provide mission statement. Attach brochure / web pages if available.

Mission: To create a safe, healthy & drug-free Warren County.

www.focusprev.com

## **SECTION 7. ASSURANCES**

**The applicant hereby assures and certifies that it shall comply with the following regulations, policies, and requirements:**

- A. The applicant assures the State that it will perform the work for which the grant was made as determined by the State.
- B. The applicant assures the State that it has or will secure qualified personnel to administer a grant, and that the costs to administer the grant will be paid for by the applicant.
- C. The applicant assures the State that it will have started work on the project before the end of the fiscal year in which the grant award is made.
- D. The applicant assures the State that it understands that the amount of the grant award cannot be increased without the written consent of the Governor.
- E. The applicant assures the State that payment for work performed will be requested in writing with copies of invoices attached that document the costs of each work segment making up the total amount of funds requested.
- F. The applicant assures the State that it understands that ten percent of the grant award will be held by the State as retainage, pending receipt of a written certificate of substantial completion attached to any final invoices for work not already paid.
- G. The applicant assures the State that it understands that by letter the State can terminate for cause an applicant's grant agreement with the amount of funds recovered equal to the percentage of incomplete work. The applicant further assures the State that it understands that it can be terminated by letter any grant agreement with the State before costs are incurred on the project.
- H. The applicant assures the State that any changes in the scope of work specified in a grant agreement will first be submitted in writing to the State for approval by change order.
- I. The applicant assures the State that in its hiring practices for work to be performed it will comply with the equal employment provisions of Titles VI and VII of the 1964 Civil Rights Act, and Presidential Executive Orders 11246 and 11375, as amended.
- J. **The applicant assures the State that competitive bids will be solicited on any major work element exceeding \$2,500 in cost.** Competitive bidding shall be pursued in all instances.
- K. **Competitive bidding requirements, at a minimum, are as follows: Commodities and services expected to cost \$2,500 or less require no bids; however, competition is encouraged. Purchases between \$2,500.01 and \$5,000 require three verbal bids to be documented on a verbal bid quotation summary. Purchases \$5,000.01 to \$25,000 require three written bids.**
- L. **The Grantee shall solicit competitive, sealed bids for commodities and supplies related to this project which have an estimated value of more than \$25,000. Any attempts by the Grantee to segregate the project into sections having an estimated value of less than \$25,000 shall be cause for termination.** The receipt and utilization of funds procured through this program mandate that all construction contracts necessary for the undertaking and completion of this project, regardless of the source of funds utilized to pay such construction contracts, must comply with the provisions of the West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A.
- M. **Bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provisions West Virginia Code §59-3.** This notice shall be published by the Grantee in the newspaper with the largest circulation serving the general area once a week for two successive weeks prior to the final bid date.
- N. The applicant assures the State that State **prevailing wage rates will be paid on contract construction unless federal funds are included in the project, in which case, the higher of the State's or Davis-Bacon wage rates will be paid on all contract construction.**
- O. Every contract involving **construction, reconstruction, demolition, improvement, enlargement, painting, decoration, alteration, and/or repair work** which involves the employment of any contractor and/or subcontractor necessary for the undertaking and completion of this project, regardless of the source of funds utilized to pay such contract, must comply with the West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A. **This law applies to all construction contracts, regardless of cost. The receipt and utilization of funds procured under this agreement mandate that all construction contracts necessary for the undertaking and completion of this project, regardless of the source of funds utilized to pay such construction contracts, must comply with the provisions of West Virginia Code §21-5A.**
- P. The applicant assures the State that any part of the project to be occupied by the general public will be made accessible to the handicapped.
- Q. The applicant assures the State that any permits, licenses, or other requirements of particular State or Federal agencies necessary for the project's design, construction, or operation will be secured.
- R. The applicant assures the State that it will not subgrant any of the grant funds received to any of its officials or employees or the members of their families or to employees of the WVDO or members of the State Legislature in any contracts awarded for work to be performed.
- S. The applicant assures the State that it will maintain and have available for inspection on written request by the State all records kept on the project including bid documents, copies of all contracts, contractors' payrolls, time sheets, and invoices. The applicant further assures the State that it will schedule an audit of any grant funds to be included in its annual audit as performed by the State Tax Department.
- T. The applicant assures the State, by evidence of attaching a resolution, motion, or similar action passed by its governing body, that it has the legal authority to apply for this grant, commit any local matching shares, authorize the person signing the grant to act as an agent for the applicant to answer any questions by the State about the application, and to abide by the understandings and assurances described in this section.
- U. As the grantee, the county or municipality must act as the administrator of any grant funds provided to nonprofit organizations, and must maintain fiduciary responsibility for the expenditure of funds. Grantees are encouraged to execute intergovernmental agreements with sub-grantees so that property and/or assets acquired with grant funds will revert to the grantee if the nonprofit organization is dissolved.

**SECTION 8. SIGNATURE AND RESOLUTION**

**This application must contain the following:**

- Application with Original Signature**
- Resolution by Unit of Local Government**
- Documentation of Local Match (Minimum 10 Percent)**
- Nonprofit Application Checklist with Original Signature – Required for Nonprofit Organizations**
- IRS 501(c) Determination Letter - Required for Nonprofit Organizations**

To the best of my knowledge, the information contained in this application is true and correct; the submission thereof has been duly authorized by the governing body; and the applicant will comply with the regulations, policies, guidelines and requirements outlined by the State of West Virginia. If the recipient is a nonprofit organization, the county or municipality certifies that this nonprofit organization is legally authorized to receive public funds.

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

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

**Mayor or County Commission President**

**ORIGINAL SIGNATURE REQUIRED-USE BLUE INK**

**West Virginia Development Office  
Community Development Division  
Community Participation Grant Program**  
1900 Kanawha Boulevard, East Building 6, Room 553  
Charleston, West Virginia 25305  
Phone: 304-558-4010 Fax: 304-558-2246  
[www.wvcommerce.org](http://www.wvcommerce.org)



# Checklist for Nonprofit Organizations

**Must Be Submitted With Application for Community Participation Grant Program Funding for Nonprofit Organizations**

1. Local Government Agency: Jefferson Co. Commission Chief Elected Official: Patsy Noland  
 Project Title: Focus Coalition Amount of Grant: \$ 7600.00  
 Form Completed By: Christa Sheffelt Phone: (304) 725-3282 Fax: (304) 725-7916
2. Nonprofit Organization: Jefferson Co. Coalition on Substance Abuse Executive Director: Christa Sheffelt  
 Street Address, City, Zip: 334 N. Lawrence St. P.O. Box 397 Phone: (304) 725-3282 Fax: (304) 725-2358  
Charles Town, 25414 725-3433 546 (call first)
- Federal nonprofit certification, 501c determination letter from Internal Revenue Service attached.  
 Mission statement, brochure, or web pages explaining mission of the organization and services it provides attached.

## CERTIFICATIONS AND ASSURANCES

**CHECK ALL ITEMS BELOW** to certify compliance with the following laws, regulations and requirements:

3.  Competitive bids are required for purchases exceeding \$2,500 in cost, as follows:

|                          |                                                        |
|--------------------------|--------------------------------------------------------|
| ▪ \$2,500 or less        | ▪ No bids required; however, competition is encouraged |
| ▪ \$2,500.01 to \$5,000  | ▪ Three verbal bids documented on a verbal bid summary |
| ▪ \$5,000.01 to \$25,000 | ▪ Three written bids required                          |
| ▪ \$25,000 or more       | ▪ Class II Legal Ads required                          |

4.  Sealed bids are required for any portion of this project with an estimated value of more than \$25,000.  
 Any attempt to segregate the project into sections of less than \$25,000 shall be cause for termination. Bids shall be obtained by public notice as a Class II legal advertisement in compliance with West Virginia Code §59-3. The ad must be published in the newspaper with the largest circulation in the area once a week for two successive weeks prior to the final bid date.
5.  State prevailing wages will be paid for all construction associated with this project, regardless of the cost.  
 West Virginia prevailing wages must be paid for all construction projects using state grant funds. All contractors must have a West Virginia contractor's license. These regulations apply to every contract involving construction, reconstruction, demolition, improvement, enlargement, painting, decoration, alteration, and/or repair work. If federal funds are included, the highest rate (West Virginia or Davis-Bacon) will be paid. All construction must comply with the **West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A.**
6.  The following documents will be required for the release of grant funds.
- |                                                                          |
|--------------------------------------------------------------------------|
| ▪ Copies of bids, quotes or verbal bid summary                           |
| ▪ Copy of legal ad, which must require prevailing wages for construction |
| ▪ Copies of certified payroll records for construction                   |
| ▪ Copies of invoices.                                                    |
7.  Counties and municipalities may sponsor the applications of federally certified nonprofit organizations.  
 The county or municipality must act as the administrator of grant funds for to nonprofit organizations, and must maintain fiduciary responsibility for the expenditure of funds. Grantees are encouraged to execute intergovernmental agreements with subgrantees so that property acquired with grant funds will revert to the grantee if the nonprofit organization is dissolved.
8.  State requirements for bidding and prevailing wage apply to federally certified nonprofit organizations.  
 Funds provided to counties and municipalities for grants to nonprofit organizations are subject to all state and local requirements regarding audits, competitive bidding and prevailing wages. All construction must comply with the **West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A.**
9.  Professional services shall be obtained through a request for proposals.  
 Architectural or engineering services shall be obtained in accordance with West Virginia Code §5G.
10.  No costs should be incurred or commitments made relative to a grant prior to the approval of this grant and the execution of a contract with the State of West Virginia.
11.  The use of grant funds at/for private property or private gain is prohibited.  
 Project sites and buildings must be publicly owned or owned by a federally certified nonprofit organization.

Signature:  Date: 6/15/11

Executive Director, Nonprofit Organization

**ORIGINAL SIGNATURE REQUIRED**



# COMMUNITY PARTICIPATION GRANT PROGRAM

Fiscal Year 2011 Application and Guidelines

The Community Participation Grant Program provides state grant funds for community and economic development projects throughout West Virginia. With community involvement, the Participation Program enables communities to expand, build and improve a variety of public facilities and services.

Participation grants are approved by the Governor of the State of West Virginia and administered by the West Virginia Development Office. For additional information about the Community Participation Program, please call the West Virginia Development Office at 304-558-4010.

### **LOCAL MATCH**

A local match of 10 percent is required.

### **ELIGIBLE APPLICANTS**

- **Counties, Municipalities and Incorporated Towns**
- **Public Service Districts**
- **Independent Boards and Authorities within Counties or Municipalities, such as:**
  - County and city development authorities
  - Park and recreation boards
  - Public water and sanitary boards
  - County boards of education
- **Counties and Municipalities may also sponsor the applications of public organizations, such as:**
  - Library Commissions
  - Volunteer Fire Departments
  - Emergency Services
  - Nonprofit Organizations
  - Nonprofit organizations must be designated as 501(c) organizations by the Internal Revenue Service.
  - **Organizations that do not have IRS 501(c) status are not eligible for funding.**

### **ELIGIBLE PROJECTS**

The Participation Program encourages public improvements in communities throughout West Virginia. Eligible activities include, but are not limited to, permanent public improvements related to the following:

- |                                       |                                   |
|---------------------------------------|-----------------------------------|
| ▪ Business and Industrial Parks       | ▪ Land and Property Acquisition   |
| ▪ City Hall and Courthouse Facilities | ▪ Libraries                       |
| ▪ Construction, Renovation            | ▪ Parks and Recreation            |
| ▪ Demolition                          | ▪ Parking Facilities              |
| ▪ Economic Development                | ▪ Preservation and Beautification |
| ▪ Engineering, Architecture, Design   | ▪ Public Safety                   |
| ▪ Flood and Storm Drainage            | ▪ Street and Sidewalk Repair      |
| ▪ Infrastructure                      | ▪ Technology                      |
| ▪ Law Enforcement, Emergency Services | ▪ Water, Wastewater Facilities    |

### **INELIGIBLE PROJECTS**

Ineligible activities include, but are not limited to, expendable items related to the following:

- |                            |                               |
|----------------------------|-------------------------------|
| ▪ Administrative costs     | ▪ Private Property            |
| ▪ Food                     | ▪ Rent                        |
| ▪ Clothing                 | ▪ Maintenance                 |
| ▪ Homeowner's Associations | ▪ Salaries                    |
| ▪ Insurance Premiums       | ▪ Scholarships                |
| ▪ Maintenance              | ▪ Sports Uniforms             |
| ▪ Medical Programs         | ▪ Training and Speakers' Fees |
| ▪ National Dues            | ▪ Travel Expenses             |
| ▪ Postage                  | ▪ Utility Costs               |

### **COMPETITIVE BIDDING**

**All purchases involving grant funds are subject to State laws and regulations. Copies of bid notifications and all bids received will be required for the release of grant funds.**

Commodities and services expected to cost \$2,500 or less require no bids; however, competition is encouraged. Competitive bidding requirements, at a minimum, are as follows:

|                          |                                                        |
|--------------------------|--------------------------------------------------------|
| ▪ \$2,500 or less        | ▪ No bids required; however, competition is encouraged |
| ▪ \$2,500.01 to \$5,000  | ▪ Three verbal bids documented on a verbal bid summary |
| ▪ \$5,000.01 to \$25,000 | ▪ Three written bids required                          |
| ▪ \$25,000 or more       | ▪ Class II Legal Ads required                          |

Purchases exceeding \$25,000 require public notice as a Class II legal advertisement in compliance with the provisions of West Virginia Code §59-3. This notice shall be published by the grantee in the newspaper with the largest circulation serving the general area once a week for two successive weeks prior to the final bid date. Any attempt to segregate the project into sections of less than \$25,000 shall be cause for termination.

### **CONSTRUCTION**

**All construction involving grant funds are subject to State laws and regulations. Copies of wage records will be required for the release of grant funds.**

The receipt and utilization of funds through this program mandate that all construction associated with this project, regardless of the source of funds utilized to pay for the construction, must comply with the provisions of the West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A.

All construction work must be bid according to competitive bidding procedures. West Virginia prevailing wages must be paid for construction work performed on public improvement projects involving state grant funds, regardless of the project cost. All contractors must have a West Virginia contractor's license.

If federal funds are involved, the higher of either federal or state wage rates must be paid. Construction expenses may include professional services, materials, equipment, and contracted labor. Volunteer labor and/or force account labor, for existing employees only, is permitted.

### **PREVAILING WAGES**

West Virginia prevailing wages must be paid for construction work performed on public improvement projects involving state grant funds, regardless of the project cost. Wage rates may be obtained from the West Virginia Secretary of State at 304-558-6000, or [www.wvsos.com](http://www.wvsos.com). All contractors must have a West Virginia contractor's license. These regulations apply to the employment of any contractor or subcontractor for this project, including the following trades and activities:

|                  |              |
|------------------|--------------|
| ▪ Construction   | ▪ Painting   |
| ▪ Reconstruction | ▪ Decoration |
| ▪ Demolition     | ▪ Alteration |
| ▪ Enlargement    | ▪ Repair     |
| ▪ Remodeling     | ▪ Expansion  |

### **APPLICATION DEADLINE**

Applications may be submitted at any time. The Participation Program is administered according to the state fiscal year, July 1 to June 30. Applications are considered during the fiscal year in which they are received. Those not approved within the fiscal year are removed from consideration and must be resubmitted in a subsequent fiscal year. Upon approval, grant funds should be expended in a timely manner. Mutual written agreement between the West Virginia Development Office and the grantee is required to extend a grant period.

### **APPROVAL**

The Governor of the State of West Virginia will announce the approval of all Participation Program grants through a formal letter to the appropriate unit of local government. Letters are issued and/or presented throughout the fiscal year at the Governor's discretion.

### **AVERAGE GRANT**

Generally, Participation grants do not exceed \$50,000, although the amount of each grant will vary depending upon the nature of the project. Most grants range from \$5,000 to \$25,000.

### **PAYMENT OF GRANT FUNDS**

Grants are paid through reimbursement of approved invoices. Following the Governor's approval, the West Virginia Development Office will execute a contract with the unit of local government for each project. Funds are disbursed through reimbursement based upon approved invoices and receipts that correspond to the requirements of the project contract. All requests for reimbursement must be certified by the unit of local government and are subject to the review and approval of the West Virginia Development Office.

**No costs should be incurred or commitments made relative to a grant prior to approval of a grant and the full execution of a contract with the State of West Virginia.**

### **RECORD KEEPING AND AUDITS**

Project records will be audited by the State Auditor's Office, Chief Inspection Division, or designated audit firm as a part of the grantee's annual audit. All records must be maintained for a period of three years after completion of the final audit.

### **NONPROFIT ORGANIZATIONS**

**Nonprofit organizations must have IRS 501(c) status to be eligible for funding.** Counties and municipalities may sponsor the applications of nonprofit organizations serving their area, provided that these organizations are legally authorized to receive public funds. Nonprofit organizations must be designated as 501(c) organizations by the United States Internal Revenue Service and be registered with the West Virginia Secretary of State's Office as a charitable organization.

As the grantee, the county or municipality must act as the administrator of any grant funds provided to nonprofit organizations, and must maintain fiduciary responsibility for the expenditure of funds.

Grantees are encouraged to execute intergovernmental agreements with nonprofit organizations (sub-grantees) so that property and assets acquired with grant funds will revert to the grantee if the nonprofit organization is dissolved.

### **ADDITIONAL AUDIT REQUIREMENTS**

Any entity, including corporations, partnerships, associations, individuals, or legal entity, who receives one or more state grants in the amount of \$25,000 or more, in aggregate in a calendar year, must file a report of the disbursement of state grant funds. The report shall be filed within two years of the end of the calendar year in which the disbursement of state grant funds by the grantor occurs. The report shall be made by an independent certified public accountant at the cost of the entity receiving the state grant. The scope of the report is limited to showing that the state grant funds were spent for the purposes intended when the grant was made or as stated in approved changes to the scope. Any entity failing to file a required report within the two year period is barred from subsequently receiving state grants until the entity has filed the report and is in compliance with 12-4-14 of the Code of West Virginia.

### **VOLUNTEER OR PART-TIME VOLUNTEER FIRE DEPARTMENTS**

Volunteer or part-time volunteer fire departments that receive one or more state grants in the amount of \$25,000 or more, in aggregate of a calendar year, shall submit a sworn statement of annual expenditures to the Legislative Auditor on or before the fourteenth day of February each year. The sworn statement is to be signed by the chief or director of the volunteer fire department. If the sworn statement is not submitted on or before the fifteenth day of May, unless the time period is extended by the Legislative Auditor, the Legislative Auditor may conduct a report of the volunteer or part-time volunteer fire department. If the sworn statement of annual expenditures is not filed with the Legislative Auditor by the first day of July, unless the time period is extended by the Legislative Auditor, the Legislative Auditor shall notify the State Treasurer who shall withhold payment of any amount that would otherwise be distributed to the fire department. The Legislative Auditor may assign an employee or employees to perform an audit or review of the disbursement of state grant funds at cost to the volunteer fire department.



Commission Office Use Only  
Date on Agenda: 6/23/11  
Appt Time or New Business:

**AGENDA REQUEST FORM**

**Name:** Patsy Noland

**Department or Entity:** County Commission

**Estimation of amount of time needed for appointment:** 20 minutes (May require executive session)

**Date Requested – 1st Choice:** 6/23/2011

**Date Requested – 2nd Choice:** 6/30/2011

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

**Subject:** Discuss the possible acquisition of property to address the needs of the Prosecuting Attorney, the Courts and the county commission and whether the acquisition of an available office building will address the immediate and future needs of the county.

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

Request an open discussion with the Prosecuting Attorney and the Jefferson County Magistrates regarding space issues and whether the acquisition of an available office building will address the immediate space needs of the county.

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

I move that the county commission accept written public comments for a period of two weeks to give the public an opportunity to comment on the acquisition of the property.

**Attachments:** None



Commission Office Use Only  
 Date on Agenda: 6/23/11  
 Appt Time or New Business: 10:15

**AGENDA REQUEST FORM**

Name: Jennifer Brockman, Director

Department or Entity: Planning and Zoning Department

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

Date Requested – 1<sup>st</sup> Choice: 06-23-11

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

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

Subject: **Proposed 2011 Land Development Fee Schedule and Building Permit Fee Schedule**

Please provide the County Commission with a description of your request or presentation, including any background information: **That the Commission make a decision to approve the Proposed 2011 Land Development Fee Schedule and Building Permit Fee Schedule.**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): **Move to approve the Proposed 2011 Land Development Fee Schedule and Building Permit Fee Schedule as presented.**

Attachments: **Proposed 2011 Land Development Fee Schedule and Building Permit Fee Schedule**

18:15  
6/23/11

**NOTICE**

**COUNTY COMMISSION OF JEFFERSON COUNTY**

**PROPOSED 2011 LAND DEVELOPMENT FEE SCHEDULE AND BUILDING  
PERMIT FEE CHANGES**

The County Commission of Jefferson County held a Public Hearing on Thursday, May 19, 2011 regarding the proposed 2011 Land Development Fee Schedule and Building Permit Fee changes.

The County Commission will accept public comment on the Proposed Land Development Fee Schedule and Building Permit changes until May 31, 2011.

The proposed 2011 Land Development Fee Schedule and Building Permit Fee changes are available at the following website:

<http://www.jeffersoncountywv.org/news/191/122/Public-Hearing—5-19-11-1-00-p-m.html>

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

**NOTICE OF PUBLIC HEARING**

**COUNTY COMMISSION OF JEFFERSON COUNTY**

**PROPOSED 2011 LAND DEVELOPMENT FEE SCHEDULE AND BUILDING  
PERMIT FEE CHANGES**

The County Commission of Jefferson County will hold a Public Hearing on Thursday, May 19, 2011, at 1:00 p.m. in the County Commission meeting room located in the Old Charles Town Library on the ground floor of the Library, 200 East Washington Street, Charles Town, WV 25414.

The purpose of the hearing is for public input for the proposed 2011 Land Development Fee Schedule and Building Permit Fee changes.

The proposed 2011 Land Development Fee Schedule and Building Permit Fee changes are available at the following website:

<http://www.jeffersoncountywv.org/news/191/15/Public-Hearing-5-19-11-1-00-p-m.html>

Anyone wishing to provide comment may do so at this meeting or by email at [info@jeffersoncountywv.org](mailto:info@jeffersoncountywv.org).

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

**Planning, Zoning & Engineering Departments'**  
**Proposed Land Development Fee Schedule**  
 February 2011

|                                                  |            |                      |
|--------------------------------------------------|------------|----------------------|
| <b>Minor Residential Subdivision</b><br>≤ 5 Lots | Final Plat | Review for Recording |
| Base Fee Per Plat                                | \$220      | \$0                  |
| Plus Per Lot Fee                                 | \$220      | \$0                  |

|                         |            |                      |
|-------------------------|------------|----------------------|
| <b>Merger Deed Plat</b> | Final Plat | Review for Recording |
| Base Fee Per Plat       | \$110      | \$0                  |
| Plus Per Lot Fee        | \$110      | \$0                  |

|                                                                                                                                               |            |                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------|------------|----------------------|
| <b>Minor Non-Residential Subdivision</b><br>≤ 5 Lots; 4 + Residue Lot maximum;<br>and only in existing approved<br>Commercial/Industrial Park | Final Plat | Review for Recording |
| Base Fee Per Plat                                                                                                                             | \$330      | \$0                  |
| Plus Per Lot Fee                                                                                                                              | \$550      | \$0                  |

|                                                  |                  |                               |                         |                      |
|--------------------------------------------------|------------------|-------------------------------|-------------------------|----------------------|
| <b>Major Residential Subdivision</b><br>> 5 Lots | Concept Plan     | Preliminary Plat (each phase) | Final Plat (each phase) | Review for Recording |
| Base Fee Per Plat                                | 1-50 Lots \$275  | \$180                         | \$100                   | \$50                 |
| Plus Per Lot Fee                                 | 50+ Lots \$1,100 | \$275                         | \$135                   | \$30                 |

|                                                      |                  |                               |                         |                      |
|------------------------------------------------------|------------------|-------------------------------|-------------------------|----------------------|
| <b>Major Non-Residential Subdivision</b><br>> 5 Lots | Concept Plan     | Preliminary Plat (each phase) | Final Plat (each phase) | Review for Recording |
| Base Fee Per Plat                                    | 1-50 Lots \$275  | \$180                         | \$100                   | \$50                 |
| Plus Per Lot Fee                                     | 50+ Lots \$1,100 | \$275                         | \$185                   | \$90                 |

|                                     |              |                                                                       |
|-------------------------------------|--------------|-----------------------------------------------------------------------|
| <b>Mobile Home Park Subdivision</b> | Concept Plan | Site Plan, Bonding & Milestone Inspections (Re-inspection Fees Apply) |
| Base Fee Per Park                   | \$135        | \$135                                                                 |
| Plus Per Gross Project Acre         |              | \$110                                                                 |
| Per Mobile Home Pad                 |              | \$220                                                                 |
| Per Principal Building              |              | \$110                                                                 |

**Planning, Zoning & Engineering Departments'  
Proposed Land Development Fee Schedule  
February 2011**

|                             |              |                                                                                      |
|-----------------------------|--------------|--------------------------------------------------------------------------------------|
| <b>Campground Site Plan</b> | Concept Plan | Site Plan,<br>Bonding &<br>Milestone<br>Inspections<br>(Re-inspection<br>Fees Apply) |
| Base Fee Per Project        | <b>\$135</b> | \$135                                                                                |
| Plus Per Gross Project Acre |              | \$110                                                                                |
| Per Campsite                |              | \$55                                                                                 |
| Per Principal Building      |              | \$110                                                                                |

|                                                                         |              |                                                                                      |
|-------------------------------------------------------------------------|--------------|--------------------------------------------------------------------------------------|
| <b>Townhome, Condominium,<br/>Apartment &amp; Motel/Hotel Site Plan</b> | Concept Plan | Site Plan,<br>Bonding &<br>Milestone<br>Inspections<br>(Re-inspection<br>Fees Apply) |
| Base Fee Per Plat                                                       | <b>\$135</b> | \$135                                                                                |
| Plus Per Gross Project Acre                                             |              | \$110                                                                                |
| Per Principal Building                                                  |              | \$220                                                                                |
| Per Unit                                                                |              | \$110                                                                                |

|                             |                                                                                      |
|-----------------------------|--------------------------------------------------------------------------------------|
| <b>Cell Tower Site Plan</b> | Site Plan,<br>Bonding &<br>Milestone<br>Inspections<br>(Re-inspection<br>Fees Apply) |
| Base Fee Per Plan           | <b>\$1100</b>                                                                        |

|                                                                                                                                                                                                                      |                                                                                      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| <b>Minor/Limited Site Plan*</b>                                                                                                                                                                                      | Site Plan,<br>Bonding &<br>Milestone<br>Inspections<br>(Re-inspection<br>Fees Apply) |
| Base Fee Per Plan                                                                                                                                                                                                    | <b>\$1200</b>                                                                        |
| ♦Any non-profit organization proposing a structure<br>20,000 sq. ft. or less, shall be exempt from noted fee.<br>(Organizations shall provide proof of 501.C.3 status)<br>All county owned property shall be exempt. |                                                                                      |

**Planning, Zoning & Engineering Departments'**  
**Proposed Land Development Fee Schedule**  
 February 2011

|                                                                                                                                                                                                                |                                                                                      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| <b>Minor/Full Site Plan*</b><br>Sites < 5,000 sq. ft. on undeveloped site <b>or</b> < than 10% of existing buildings <b>or</b> 10,000 sq. ft. or less; whichever is less                                       | Site Plan,<br>Bonding &<br>Milestone<br>Inspections<br>(Re-inspection<br>Fees Apply) |
| Base Fee Per Plan                                                                                                                                                                                              | \$2400                                                                               |
| Plus fee for area > 5,000 sq. ft. of impervious area plus disturbed area.                                                                                                                                      | \$0.02 per sq. ft. of impervious + disturbed area over 5,000 sq. ft.                 |
| ♦Any non-profit organization proposing a structure 20,000 sq. ft. or less, shall be exempt from noted fee. (Organizations shall provide proof of 501.C.3 status)<br>All county owned property shall be exempt. |                                                                                      |

|                                                                                                                                                                                                              |              |                                                                                      |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|--------------------------------------------------------------------------------------|
| <b>Major/Full Site Plan*</b><br>Sites > 5,000 sq. ft. on undeveloped site <b>or</b> > than 10% of existing buildings <b>or</b> 10,000 sq. ft. or less; whichever is less                                     | Concept Plan | Site Plan,<br>Bonding &<br>Milestone<br>Inspections<br>(Re-inspection<br>Fees Apply) |
| Base Fee Per Plan                                                                                                                                                                                            |              | \$3600                                                                               |
| Plus fee for area > 5,000 sq. ft. of impervious area plus disturbed area.                                                                                                                                    | \$600        | \$0.04 per sq. ft. of impervious + disturbed area over 5,000 sq. ft.                 |
| ♦Any non-profit organization proposing a structure 20,000 sq. ft. or less, shall be exempt from noted fee. (Organizations shall provide proof of 501.C.3 status). All county owned property shall be exempt. |              |                                                                                      |

|                                                                                  |                  |           |
|----------------------------------------------------------------------------------|------------------|-----------|
| <b>Redline Revision</b>                                                          | Preliminary Plat | Site Plan |
| Minor Revision Base Fee Per Plan (up to 3 different revisions on one submission) | \$165            | \$165     |
| Major Revision Base Fee Per Plan (up to 3 different revisions on one submission) | \$250            | \$250     |

**Planning, Zoning & Engineering Departments'  
Proposed Land Development Fee Schedule  
February 2011**

| <u>Zoning Items</u>                                                                   | <u>Fee</u>                                                                                                                        |
|---------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| Zoning Ordinance Text Amendment Application                                           | \$1100                                                                                                                            |
| Zoning Ordinance Map Amendment Application (Rezoning)                                 | \$1100 + \$55 per acre                                                                                                            |
| Conditional Use Permit (CUP) Application without LESA                                 | \$275 + \$55 per acre                                                                                                             |
| Conditional Use Permit (CUP) Application with LESA                                    | \$275 + \$55 per acre<br>50% returned if the project fails LESA<br>0% returned if the project fails LESA & loses an appeal to BZA |
| Modification of existing CUP requiring Board/Commission Approval                      | \$275 + \$25 per acre                                                                                                             |
| Appeal of CUP once issued by Board/Commission                                         | \$275 per appeal filed                                                                                                            |
| Zoning Variance Application                                                           | \$110 per section varied                                                                                                          |
| Multiple Use Variances                                                                | \$220                                                                                                                             |
| Zoning Variance Application (construction/use has commenced prior to BZA approval)    | \$165                                                                                                                             |
| Administrative Appeal Application (each issue appealed constitutes a separate appeal) | \$110/per item                                                                                                                    |
| Zoning Map Interpretation                                                             | No Charge                                                                                                                         |
| Zoning Text Interpretation                                                            | No Charge                                                                                                                         |
| Zoning Certificate                                                                    | \$75                                                                                                                              |
| <u>Subdivision Items</u>                                                              | <u>Fee</u>                                                                                                                        |
| Pre-Proposal Conferences                                                              | No Charge                                                                                                                         |
| Lot Line Adjustment/Merger                                                            | \$110                                                                                                                             |
| Subdivision Ordinance Waiver Request                                                  | \$110                                                                                                                             |
| Minor Final Plat or Site Plan Amendment                                               | \$165                                                                                                                             |
| Clerical/Scrivener Error                                                              | \$50                                                                                                                              |

**Planning, Zoning & Engineering Departments'**  
**Proposed Land Development Fee Schedule**  
 February 2011

| <u>Engineering Items</u>                                                                                                                | <u>Fee</u>    |
|-----------------------------------------------------------------------------------------------------------------------------------------|---------------|
| Inspection Fee – Land Development Site Inspection                                                                                       | \$55          |
| Re-inspection – Land Development failed inspections                                                                                     | \$55          |
| Construction Bond – Time Extension Request (by staff)                                                                                   | \$330         |
| Construction Bond – Surety Renewal                                                                                                      | <i>\$300</i>  |
| Construction Bond – Tolling of Time                                                                                                     | <i>\$300</i>  |
| Floodplain Ordinance – Floodplain Delineations                                                                                          | \$11          |
| Floodplain Ordinance – 100 Yr. Flood Elevation Determination                                                                            | \$11          |
| Floodplain Ordinance – Review of LOMA, LOMR or LOMR-F requests                                                                          | \$0           |
| <u>Miscellaneous Items</u>                                                                                                              | <u>Fee</u>    |
| Aerial Photograph                                                                                                                       | \$16          |
| Comprehensive Plan                                                                                                                      | \$13          |
| Zoning Map (small – 11 x 17)                                                                                                            | \$5           |
| Zoning Map (medium – 24 x 36)                                                                                                           | <i>\$10</i>   |
| Zoning Map (large – 36 x 54)                                                                                                            | \$22          |
| CD (copy of meetings, electronic copy of files, etc.)                                                                                   | \$10          |
| Zoning Ordinance                                                                                                                        | \$28          |
| Subdivision Regulations                                                                                                                 | \$28          |
| Copies (letter, legal & 11"x17")                                                                                                        | \$1/page*     |
| Copies (plan sheets, maps, etc.)                                                                                                        | \$7.50/sheet* |
| *Note: The charge for copies is subject to change and shall be the prevailing rate as set by the County Commission of Jefferson County. |               |

*Note: The fee amounts shown in bold, italicized blue font are services for which there is no current established fee.*

**Note: These fees do not include any Building Permit fees.**

**Note: All projects vested in process prior to the adoption of this fee schedule will utilize the fee schedule last amended in January 2001.**

Jefferson County, West Virginia  
 Engineering Department  
 Office of Building Permits & Inspections

**PROPOSED IRC BUILDING PERMIT FEE SCHEDULE  
 FINAL DRAFT  
 (As of Feb. 22, 2010)**

**IRC - Residential Building Permit Fee Schedule**

Date: 5/21/2009

| Residential Permit Type                                           | Current Fee                                                       |                                                 |                                     | Proposed Fee                                                      |                                                 |                                     |
|-------------------------------------------------------------------|-------------------------------------------------------------------|-------------------------------------------------|-------------------------------------|-------------------------------------------------------------------|-------------------------------------------------|-------------------------------------|
|                                                                   | Base Fee                                                          | Fee per Sq.-Ft. of Finished Area                | Fee per Sq.-Ft. of Un-finished Area | Base Fee                                                          | Fee per Sq.-Ft. of Finished Area                | Fee per Sq.-Ft. of Un-finished Area |
| Single-Family Dwelling                                            | \$25.00                                                           | \$0.18                                          | \$0.10                              | \$50.00                                                           | \$0.18                                          | \$0.10                              |
| Mobile/Manufactured Home                                          | \$25.00                                                           | \$0.18                                          | \$0.10                              | \$50.00                                                           | \$0.18                                          | \$0.10                              |
| Townhouse & Duplex (less than 4 story)                            | \$75 per unit                                                     | \$0.20                                          | \$0.10                              | \$50 per unit                                                     | \$0.20                                          | \$0.10                              |
| Residential Dwelling Addition                                     | \$50.00                                                           | \$0.18                                          | \$0.00                              | \$50.00                                                           | \$0.18                                          | \$0.00                              |
| Residential Interior Room/Basement Renovation                     | \$100.00                                                          | \$50 + \$50/inspection                          |                                     | \$150.00                                                          | \$50 + \$50/inspection                          |                                     |
| Chimney/Fireplace (added to existing dwelling)                    | \$50.00                                                           | plus \$0.08/sq.-ft.                             |                                     | \$150.00                                                          | plus \$0.08/sq.-ft.                             |                                     |
| Sheds/Garage/Structure ancillary to Residence                     | \$50.00                                                           | plus \$0.08/sq.-ft.                             |                                     | \$150.00                                                          | plus \$0.08/sq.-ft. of deck area                |                                     |
| Decks                                                             | \$50.00                                                           | plus \$0.08/sq.-ft. of pool area and patio area |                                     | \$150.00                                                          | plus \$0.08/sq.-ft. of pool area and patio area |                                     |
| Swimming Pool                                                     | \$50.00                                                           | plus \$0.08/sq.-ft.                             |                                     | \$150.00                                                          | \$0.00                                          |                                     |
| Demolition - Residential Dwelling                                 | \$50.00                                                           | plus \$0.08/linear foot of wall                 |                                     | \$150.00                                                          | \$1.50 plus \$0.08/linear foot of wall          |                                     |
| Retaining Wall (4' or more from footer to top wall)               | \$50.00                                                           | plus \$0.08/linear foot of fence                |                                     | \$150.00                                                          | \$1.50 plus \$0.08/linear foot of fence         |                                     |
| Fence (6' or more in height above ground surface)                 | \$50.00                                                           | plus \$0.08/linear foot of fence                |                                     | \$150.00                                                          | \$1.50 plus \$0.08/linear foot of fence         |                                     |
| Re-inspection Fee                                                 | \$50/each, re-inspection, paid prior to re-inspection             |                                                 |                                     | \$50/each, re-inspection, paid prior to re-inspection             |                                                 |                                     |
| Plan change after permit issued                                   | \$50 plus \$50 for each additional inspection due to plan change. |                                                 |                                     | \$50 plus \$50 for each additional inspection due to plan change. |                                                 |                                     |
| Permit Application Denied & Resubmitted within 90 days for review | \$75 re-application fee                                           |                                                 |                                     | \$75 re-application fee                                           |                                                 |                                     |
| Permit Application Denied & Resubmitted without a Permit          | 1st time = \$50                                                   |                                                 |                                     | 1st time = \$50                                                   |                                                 |                                     |
|                                                                   | 2nd time = \$150                                                  |                                                 |                                     | 2nd time = \$150                                                  |                                                 |                                     |
|                                                                   | 3rd time = \$300                                                  |                                                 |                                     | 3rd time = \$300                                                  |                                                 |                                     |
|                                                                   | 4th time = \$500                                                  |                                                 |                                     | 4th time = \$500                                                  |                                                 |                                     |

Jefferson County, West Virginia  
Engineering Department  
Office of Building Permits & Inspections

**PROPOSED IBC BUILDING PERMIT FEE SCHEDULE  
FINAL DRAFT  
(As of Feb. 22, 2010)**

**IBC - Commercial/Industrial Building Permit Fee Schedule**

Date: 5/21/2009

| Commercial Permit Type                                                          | Current Fee                                                          |                                  |                                     | Proposed Fee                                                         |                                        |                                           |
|---------------------------------------------------------------------------------|----------------------------------------------------------------------|----------------------------------|-------------------------------------|----------------------------------------------------------------------|----------------------------------------|-------------------------------------------|
|                                                                                 | Base Fee                                                             | Fee per Sq.-Ft. of Finished Area | Fee per Sq.-Ft. of Un-finished Area | Base Fee                                                             | Fee per Sq.-Ft. of Finished Floor Area | Fee per Sq.-Ft. of Un-finished Floor Area |
| Commercial/Industrial/Multi-Family Buildings (Value less than \$50,000)         | \$250.00                                                             | \$0.18                           | \$0.18                              | \$250.00                                                             | \$0.18                                 | \$0.18                                    |
| Commercial/Industrial/Multi-Family Buildings (Value greater than \$50,000)      | \$500.00                                                             | \$0.18                           | \$0.18                              | \$500.00                                                             | \$0.18                                 | \$0.18                                    |
| Commercial Interior Room Renovation                                             | \$1,000 plus \$50 per required inspection                            |                                  |                                     | \$1,000 plus \$50 per required inspection                            |                                        |                                           |
| Church Building                                                                 | \$500.00                                                             | \$0.18                           | \$0.18                              | \$500.00                                                             | \$0.18                                 | \$0.18                                    |
| Church Addition, Pavilions & Ancillary Structures (Value less than \$25,000)    | \$50 plus \$50 per required inspection                               |                                  |                                     | \$200 + \$50/inspection per required inspection                      |                                        |                                           |
| Church Addition, Pavilions & Ancillary Structures (Value greater than \$25,000) | \$250.00                                                             | \$0.18                           | \$0.18                              | \$350                                                                | \$0.18                                 | \$0.18                                    |
| Institutional (hospital, school, fire hall, etc.)                               | none                                                                 | none                             | none                                | \$500                                                                | \$0.18                                 | \$0.18                                    |
| Commercial Swimming Pool                                                        | none                                                                 | none                             | none                                | \$1,000 per pool & \$200 per Whirlpool/Hot Tub                       |                                        |                                           |
| Demolition Permit                                                               | \$200.00                                                             | \$0.00                           | \$0.00                              | \$200.00                                                             | \$0.00                                 | \$0.00                                    |
| Cell Tower or Electric Substation & Equipment                                   | \$750.00                                                             | \$0.00                           | \$0.00                              | \$750.00                                                             | \$0.00                                 | \$0.00                                    |
| Temporary Construction Trailers                                                 | \$50.00                                                              | \$0.00                           | \$0.00                              | \$350.00                                                             | \$0.00                                 | \$0.00                                    |
| Sign Permit: Value less than \$25,000                                           | \$50.00                                                              | N/A                              | N/A                                 | \$250.00                                                             | N/A                                    | N/A                                       |
| Sign Permit: Value \$25,000 or more                                             | \$250.00                                                             | N/A                              | N/A                                 | \$400.00                                                             | N/A                                    | N/A                                       |
| Retaining Wall (4' or more from footer to top wall)                             | \$50 plus \$0.08/lineal foot of wall                                 |                                  |                                     | \$150 plus \$0.08/lineal foot of wall                                |                                        |                                           |
| Fence (6' or more in height above ground surface)                               | \$50 plus \$0.08/lineal foot of fence                                |                                  |                                     | \$150 plus \$0.08/lineal foot of fence                               |                                        |                                           |
| Re-inspection Fee                                                               | \$50/each re-inspection, paid prior to re-inspection                 |                                  |                                     | \$50/each re-inspection, paid prior to re-inspection                 |                                        |                                           |
| Plan Change after permit application reviewed                                   | \$50 plus \$50 for each additional re-inspection due to plan change. |                                  |                                     | \$50 plus \$50 for each additional re-inspection due to plan change. |                                        |                                           |
| Permit Application Denied & Resubmitted within 90 days for review               | \$75 re-application fee.                                             |                                  |                                     | \$100 re-application fee.                                            |                                        |                                           |
| Beginning Construction Without a Permit                                         | 1st time = \$50<br>2nd time = \$150<br>3rd time = \$300              |                                  |                                     | 1st time = \$50<br>2nd time = \$250<br>3rd time = \$500              |                                        |                                           |

Commission Office Use Only

Date on Agenda:

Appt Time or New Business:

SCHED  
PUB HEAR  
FOR MAY 19<sup>TH</sup>  
1:00 P.M.  
②

AGENDA REQUEST FORM

Name: Jennifer Brockman

Department or Entity: Planning and Zoning

Estimation of amount of time needed for appointment: 10 minutes

Date Requested – 1<sup>st</sup> Choice: April 14, 2011

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

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

Subject: **Overview of Planning Commission's Recommended Land Development Fees and Request to Schedule a Public Hearing**

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

After a two-year process during which the Planning Commission and Planning, Zoning, and Engineering staffs have drafted a number of variations of proposed new land development fees, the Planning Commission is forwarding the final recommended 2011 Land Development Fee Schedule reflecting a 10% increase in fees to the County Commission for their approval. This fee schedule was recommended for approval by a unanimous vote of the Planning Commission at their February 8, 2011 meeting. Please note that the Planning Commission does not have authority over the County Building Permit Fees and that these fees, which are also attached, were drafted by the Engineering staff and are being forwarded with the Land Development Fees as requested by the County Commission in 2009.

The land development fees have not been revised since January 1, 2001. Original efforts to develop fees that were cost-recovery fees were determined to be too costly to the development community by the County Commission in October 2010. Since that time, the Planning Commission considered fee schedules that included a 20% and a 10% across the board increase with some new fees for site plans and other items that require staff time but have no current fee. After a public hearing, the Planning Commission is recommending the 10% fee increase.

At this point, a policy decision needs to be made as to whether this is the correct time to be increasing fees. Staff and the Planning Commission respectfully requests that, at a minimum, fees be added for the major and minor site plan process for which no fees are currently charged. For all other fees, if the County Commission determines that these fees should not be increased at this time, staff recommends that it be revisited no sooner than FY 13.

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 regarding the proposed 2011 Land Development Fee Schedule and Building Permit Fees on Thursday, \_\_\_\_\_, 2011.

Attachments:

- Combined Draft Land Development Fees
- Building Permit Fees



**William H. Gordon Associates, Inc.**  
301 North Mildred Street, Suite 1  
Charles Town, WV 25414  
304-725-8456 Phone  
304-728-0117 Fax

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April 14, 2011

Jefferson County Commission  
PO Box 250  
Charles Town, WV 25414

Dear County Commissioners:

I am writing in regards to the proposed fee changes before you today. I fully support the professional planning and engineering staff in our County. They provide a vital service, not only to those who want to participate in economic development in Jefferson County, but to all citizens. Planning and engineering must be viewed as an investment in our joint future not something to be paid for through fees. If the goal is to fully support planning and engineering through fees then we will have to cut staff and services every time we hit an economic downturn.

Please consider the following points:

**Commercial Site Plan Review Fees**

1. The fee for a minor/full site plan is a new fee<sup>e</sup>. This fee applies only to non-residential projects and as a new fee it has an impact on economic development.
2. In the past Jefferson County has not charged for site plans associated with commercial development and jobs. The proposed fee comes at a time when small businesses are starting to look at growth and expansion once again.
3. The fee uses disturbed and impervious area as the basis for calculation. There is not a linear relation between the effort required by staff and the site disturbance.
4. The fee penalizes employment based uses that need outdoor storage such as those seeking to locate at the Burr Industrial Park.

A review fee for a site plan is not inappropriate, however the fee needs to be set at a level where it does not impact economic development. I would suggest the following as a fee structure policy.

1. For all projects that have had their initial meeting with Planning Commission Staff the new fee would be waived. These projects have been initiated with the expectation that the current ordinances would be maintained and the new fees will impose financial hardship on the projects.
2. Commercial Sites -
  - <5 acres – no charge
  - 5-10 acres - \$4,000.00
  - 10-25 acres - \$6,000.00
  - >25 acres - \$8,000.00

Acreage will be based on area of disturbance, not lot size. The purpose of no fee for sites under 5 acres is to protect the Burr Industrial Park project and to encourage small business in Jefferson County.

**Subdivision Plan Review Fees**

Major subdivision review fees have historically been high in Jefferson County and in many other jurisdictions. When the review fees are compared to the design fees charged by civil engineering companies they range between 40-60%. Given the difference in rates between Jefferson County and private firms the fees are even harder to understand.

For example review the following case:

100 lot residential subdivision

Engineering Design Fees - \$90,000.00  
Average Hourly Rate - \$115.00  
Total Hours - 783 hours of design time (19.6 weeks)

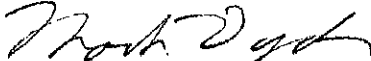
JC Review Fees - \$45,430  
Hourly Review Rate - \$70.00  
Total Hours - 649 hours of review time (16.2 weeks)

**The hourly review rate was not obtained from staff, it is only an estimate.**

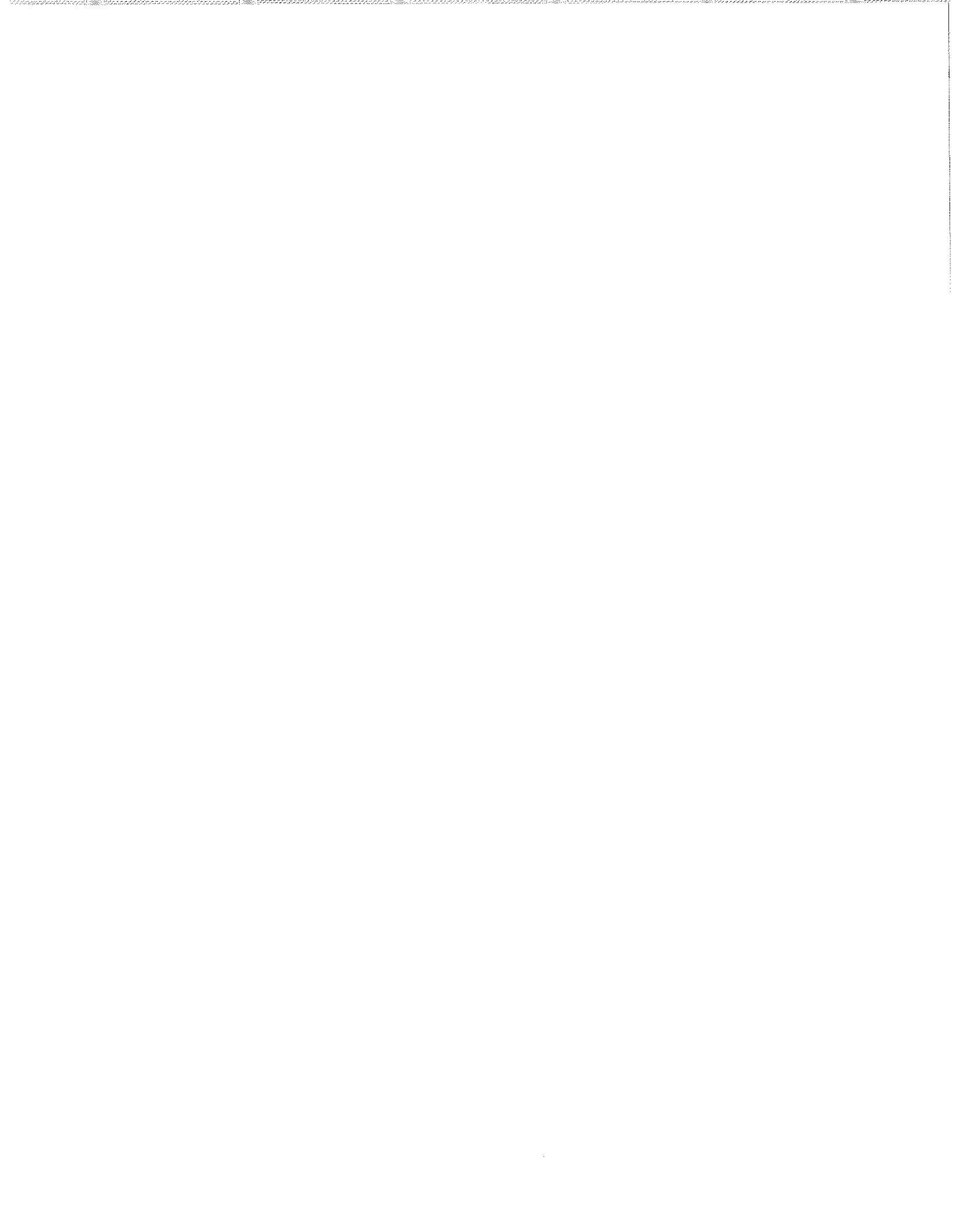
The fact is that we are still struggling to find business and development that are willing to invest in Jefferson County. Until such time as economic growth returns to Jefferson County the fees will have no substantial impact on the County's budget and the additional impediments through the imposition of higher fees will only hurt our local economy.

Sincerely,

WILLIAM H. GORDON ASSOCIATES, INC.



Mark Dyck, CLA, LEED AP  
Principal / Director, Charles Town Office



|                            |         |
|----------------------------|---------|
| Commission Office Use Only |         |
| Date on Agenda:            | 6/23/11 |
| Appt Time of New Business: | 10:15   |

**AGENDA REQUEST FORM**

Name: Jennifer Brockman

Department or Entity: Planning and Zoning

Estimation of amount of time needed for appointment: no appointment required – new business item

Date Requested – 1<sup>st</sup> Choice: June 23, 2011

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

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

**Planned start date is June 27, 2011.**

Subject: **Approval of Job Offer for vacant Office Manager Position**

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

**See attached personnel request form and resume for Dawn Childs.**

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

**I move approval of the recommendation of the Director of Planning and Zoning to hire Dawn Childs to fill the vacant position of Office Manager for the Departments of Planning and Zoning in accordance with the Department of Planning’s budgeted position.**

Attachments:

- Personnel Requisition form from Jennifer Brockman dated June 13, 2011
- Resume for Dawn Childs

**JEFFERSON COUNTY**

**Personnel Requisition**

Department Name Planning and Zoning Date 6/13/11 Date Needed 6/23/11

Job Title Office Manager Salary Grade IV Criminal History Check Yes  No

Suggested Recruitment Source(s) Advertised in Journal and County website

Applicants Interviewed By: Julie Quodala and Jennie Brockman Position Reports To: Jennie Brockman

Minimum Education Required: Bachelor's degree with 1 – 3 years of prior office/personnel management experience or a combination of higher education, training and experience which provides the required knowledge, skills and abilities.

Minimum Experience Required: Essential skills include prior experience managing staff and providing leadership in a complex environment; strong writing and editing skills; a fluent working knowledge of all Microsoft Office Professional Suite programs, including Access and Publisher; a working knowledge of the Internet and prior experience making web page updates; knowledge of and ability to apply basic finance, accounting and budgetary principles, as they pertain to project and office management.

Job Duties: Serves as the primary administrative resource for the Director, including supervision of clerical staff; monitor and direct workflow ensuring all deadlines are met; administratively manage special projects; provide input to the Director concerning budgetary needs/goals as it relates to individual special projects and the office; design and implement office policies and procedures; compose, transcribe and serve as Department editor for all Department documents; process timesheets, leave requests and payroll for the Departments; deposit, balance and remit payment to Sheriff for all collected Department fees.

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**Budget Information**

Addition  Replacement  Explain or For Whom Julie Quodala resigned effective 6/14/11

Position Budgeted  Yes  No Proposed Salary \$39,088 (Grade IV, Step D) Date of Hire 6/27/11

Is Position: Full-Time  Regular Part-Time  On-Call Occasional  Temporary

Safety/Security  Hours Per Week Exempt/Salaried Position generally 40 hours/week

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**Approvals**

Elected Official Approval \_\_\_\_\_ Date \_\_\_\_\_

Department Head Approval  Date 6-13-11

County Commission Approval \_\_\_\_\_ Date \_\_\_\_\_

Comments \_\_\_\_\_

# Dawn Elizabeth Childs

## Contact

Ph : 703-861-1722  
dalthoff2272@msn.com

## Address

1349 Steed Street Ranson, WV 25438

## Profile

**Objective** I am seeking an opportunity to expand upon my social collaboration, environmental sustainability, desktop publishing, and local economic interests.

## Technological Skills

Adobe Photoshop  
Microsoft Office Suite

Adobe PageMaker  
ArcGIS 9.2

Adobe Illustrator  
Adobe  
Dreamweaver

Microsoft Front Page  
Content Management  
Systems

## Education

**2005 to 2008** **Master of Natural Resources (6/2008)**  
VIRGINIA POLYTECHNIC INSTITUTE & STATE UNIVERSITY, Falls Church, VA

**2000-2001** **Certificate in Geographic Information Systems (12/2001)**  
FLORIDA ATLANTIC UNIVERSITY, Boca Raton, FL

**1990-1994;  
1997** **Bachelor of Urban Planning (6/1997)**  
VIRGINIA POLYTECHNIC INSTITUTE & STATE UNIVERSITY, Blacksburg, VA

## Work Experience

### Potomac Headwaters RC&D (USDA-NRCS)

**Sustainable Agriculture Advocate**  
**AmeriCorps VISTA Volunteer**  
**September 2009-present**

Co-managing new marketplace, Morgan's Grove Market. Assist local producers with multiple marketing strategies, including oversight of farmers market Facebook page. Strengthen organizational foundation and economic capacity through coordinated development of a sustainable agricultural model designed to increase local agricultural opportunities for small and low-income farmers.

### National Wildlife Federation

**Affiliate Communications & Outreach Intern**  
**September 2008-September 2009**

Assisted with communications and outreach associated with NWF's 2009 Annual Meeting. Quality assurance of web content (includes formatting, proofreading, editing, copyright and privacy permissions, etc.). Participate in working groups to identify, assess, and improve affiliate communication and outreach needs.

### Paciulli, Simmons & Associates

**Land Surveyor and Human Resources Generalist**  
**March 2006-July 2008**

Participated with field crew to collect land survey data. Manage and execute Human Resources activities to support president of firm.

### Capital One Financial Services, Inc.

**Communications Administrative & Support**  
**October 2002-March 2004**

Support managers and teams by assisting in day-to-day logistics. Answer questions and resolve problems for the internal team and cross-functionally as it relates to department specialty.

### Palm Beach County, FL Environmental Resources Management

**Environmental Coordinator**  
**May 2000-October 2002**

Worked directly with community leaders and volunteer groups to research, develop, and create educational opportunities in county-managed natural areas.

### City of Virginia Beach, VA Planning Department

**Volunteer, then Planning Technician I**  
**January 1998-May 2000**

Researched, led, recruited, and trained volunteers for urban forestry and wetland habitat enhancement projects on city-owned and private lands.

**References**

**Rebecca MacLeod**  
304-267-8953

Coordinator, Potomac Headwaters Resource Conservation & Development  
Areas (RC&D) – USDA/NRCS

**David Trauger, Ph. D.**  
703-538-8310

Interim Associate Dean for Graduate Studies, Natural Resources Program,  
Virginia Polytechnic Institute & State University

**Clay Bernick**  
757-427-4621

Director, City of Virginia Beach Environmental Planning Department

**Bob Wright**  
540-231-8838

Instructor & Research Associate, Wood Science & Forest Products  
Virginia Polytechnic Institute & State University

## FY2013 NON-PROFIT BUDGET REQUEST

| DMS ID        | Date Received    | Entity Name                                       | Requested Amount   | Amount            |
|---------------|------------------|---------------------------------------------------|--------------------|-------------------|
| 5916          | 22-Dec-10        | Potomac Headwaters RC&D, Inc.                     | \$1,200.00         | \$1,200.00        |
| 5922          | 24-Jan-11        | Meals on Wheels                                   | \$10,000.00        | \$5,000.00        |
| 5947          | 3-Feb-11         | Kiwanas                                           | \$1,500.00         | \$1,500.00        |
| 5965          | 14-Feb-11        | NAACP                                             | \$2,500.00         | \$2,500.00        |
| 5970          | 15-Feb-11        | RTCA                                              | \$5,000.00         | \$2,500.00        |
| 5973          | 14-Feb-11        | PANHANDLE CONSERVATION DISTRICT                   | \$10,000.00        | \$4,000.00        |
| 5978          | 16-Feb-11        | BOYS AND GIRLS CLUB                               | \$10,000.00        | \$5,000.00        |
| 6003          | 14-Feb-11        | COMMUNITY ALTERNATIVES TO VIOLENCE                | \$5,000.00         | \$5,000.00        |
| 6004          | 15-Feb-11        | BIRHTRIGHT                                        | \$4,000.00         |                   |
| 6005          | 15-Feb-11        | SHEPHERDSTOWN DAY CARE                            | \$30,000.00        | \$10,000.00       |
| 6006          | 15-Feb-11        | UNITED WAY OF THE EASTERN PANHANDLE               | \$35,000.00        |                   |
| 6007          | 15-Feb-11        | COMMUNITY MINISTRIES                              | \$3,000.00         | \$3,000.00        |
| 6008          | 23-Feb-11        | BOY SCOUTS OF AMERICA                             | \$5,000.00         |                   |
| 6009          | 7-Feb-11         | FRIENDS IN ACTION                                 | \$5,000.00         |                   |
| 6010          | 14-Feb-11        | CRAFT WORKERS AT COOL SPRINGS                     | \$5,000.00         |                   |
| 6020          | 25-Feb-11        | DUFFIELDS STATION, INC                            | \$4,500.00         |                   |
| 6021          | 14-Feb-11        | HOSPICE OF THE PANHANDLE                          | \$40,000.00        | \$10,000.00       |
| 6022          | 7-Feb-11         | ANIMAL WELFARE SOCIETY                            | \$15,000.00        | \$15,000.00       |
| 6023          | 8-Feb-11         | FREE CLINIC                                       | \$18,000.00        | \$15,000.00       |
| 6025          | 15-Feb-11        | SHEPHERDSTOWN CARE GIVERS                         | \$15,000.00        | \$15,000.00       |
| 6027          | 15-Feb-11        | CONTEMPORARY AMERICAN THEATER FESTIVAL, INC       | \$15,000.00        |                   |
| 6029          | 15-Feb-11        | SAFE HAVEN CHILD ADVOCACY CENTER                  | \$5,000.00         | \$5,000.00        |
| 6030          | 228/11           | FOR THE LOVE OF CHILDREN OUTDOOR EDUCATION CENTER | \$5,000.00         | \$3,000.00        |
| 6031          | 15-Feb-11        | SAINT ANDREWS MOUNTAIN COMMUNITY CENTER           | \$2,500.00         | \$2,500.00        |
| 6032          | 15-Feb-11        | CASA OF THE EASTERN PANHANDLE, INC.               | \$4,000.00         | \$1,000.00        |
| 6069          | 24-Feb-11        | SHEPHERDSTOWN MEN'S CLUB                          | \$4,000.00         | \$1,000.00        |
| <b>6090</b>   | <b>31-Mar-11</b> | <b>SHEPHERDSTOWN 250</b>                          | <b>\$15,000.00</b> | <b>\$3,500.00</b> |
| TOTAL AMOUNTS |                  |                                                   | \$275,200.00       | \$110,700.00      |

## LOT 18, JEDECO

**Proposed Use:** The purchase of this building was driven by several major space related factors identified from the onset. A sample listing of the advantages of the purchase include but are not limited to:

- The Sheriff's Department is in need of additional space to house evidence, impounded vehicles, house the mobile command center, training facilities for canine dogs, secure the undercover vehicles, and other law enforcement related needs.
- At the present time, the maintenance department is storing old furniture from the court house, maintenance materials and supplies (cleaning, paper, etc.), materials secured from Biz tech, auto supplies (tires), and maintenance equipment (mowers) in the Sheriff's Building. This material will be relocated to the new maintenance area.
- The county has a demonstrated need to move some of our current maintenance equipment to a secure, covered setting.
- The move frees up needed parking space within the county campus parking area.
- The secure building permits the county to move all county-related vehicles to a secure setting with 24 hour surveillance.
- Acquisition of this space permits the relocation of the county-owned voting machines currently in a storage facility costing the county approximately \$40K per year.
- This will also create a training room for all poll workers and establish an additional meeting room to accommodate other training needs.
- Storage space for maintenance supplies in the Mason Building now becomes available for other uses. The server room will be moved from the Hunter House to the Mason Building. Remaining space is now available to create a training room for desktop users that is currently non-existent.
- The current mailroom operation will be moved to the previous maintenance building freeing up needed space for the County Clerk.

**Renovation Costs:** The purchase will require some minor modifications to the structure to achieve maximum efficiency. The projected cost for these improvements is estimated to be approximately \$40-45K (or about one year's rent for the election equipment). These improvements include:

- Fire Alarm System
- Partial pavement of the parking area
- Erection of the fence to secure the area
- Materials for the build-out of the Elections Office

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

| Week Ending Date                                  | Week Ending<br>May 28, 2011 |
|---------------------------------------------------|-----------------------------|
| <b>To be Deposited on:</b>                        | June 6, 2011                |
| Amount Played                                     | 10,351,665.00               |
| Amount Won                                        | 9,409,414.17                |
| Amount Promo                                      | 55,136.00                   |
| MWAP Contribution                                 | <u>0.00</u>                 |
| <b>Adjusted Gross Terminal Revenue</b>            | <b><u>887,114.83</u></b>    |
| Administrative Costs @ 4%                         | 32,607.92                   |
| Excess Lottery Fund @ 4%                          | <u>2,876.67</u>             |
| <b>Net Terminal Revenue</b>                       | <b><u>851,630.24</u></b>    |
| Surcharge @ 10%                                   | 0.00                        |
| State Share Excess @ 58%                          | 0.00                        |
| Track Share of Capital Reinvestment @ 42%         | 0.00                        |
| Track Share of Capital Reinvestment @ 42% - 96%   | \$ -                        |
| Track Share of Capital Reinvestment @ 42% - 4%    | \$ -                        |
| <b>Adjusted Net Terminal Revenue</b>              | <b><u>851,630.24</u></b>    |
| Racetrack @ 46.50% / 42%                          | 396,008.06                  |
| Lottery Fund @ 30% / 0%                           | 255,489.08                  |
| Excess Lottery Fund @ 0% / 41%                    | 0.00                        |
| Race Track Purses @ 7% / 14% / 8%                 | 119,228.23                  |
| Workers' Compensation Debt Reduction @ 7%         | 0.00                        |
| Employee Pension Fund @ 1% / .5%                  | 8,516.30                    |
| Greyhound Development @ .75%                      | 6,387.23                    |
| Thoroughbred Development @ .75%                   | 6,387.23                    |
| Racing Commission @ 1%                            | 8,516.30                    |
| County/Municipality @ 2%                          | 17,032.60                   |
| <b>3% Funds:</b>                                  |                             |
| Tourism Promotion Fund @ 1.375%                   | 11,709.92                   |
| Development Office Promotion Fund @ .375%         | 3,193.61                    |
| Research Challenge Fund @ .5%                     | 4,258.15                    |
| Capitol Renovation and Improvement Fund @ .6875%  | 5,854.96                    |
| 2004 Capitol Complex Parking Garage Fund @ .0625% | 532.27                      |
| <b>1% Funds:</b>                                  |                             |
| State Capitol Complex Parking Garage @ 1%         | 0.00                        |
| Cultural Facilities and Capitol Resources @ .5%   | 0.00                        |
| Capitol Dome and Capitol Improvements @ .5% / 1%  | <u>8,516.30</u>             |
|                                                   | <b><u>851,630.24</u></b>    |

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<br>ADJ. NET<br>REVENUE | TO<br>JEFFERSON<br>COUNTY | TO<br>FIVE<br>CITIES | BOLIVAR<br>12.42% | CHARLES<br>TOWN<br>34.56% | HARPERS<br>FERRY<br>3.65% | RANSON<br>35.08% | SHEPHERDS<br>TOWN<br>14.29% |
|----------------------------------|------------------------------|---------------------------|----------------------|-------------------|---------------------------|---------------------------|------------------|-----------------------------|
| 3 days ending:<br>7/1/10- 7/3/10 | \$ 115,402.58                | \$ 115,402.58             | \$ -                 | \$ -              | \$ -                      | \$ -                      | \$ -             | \$ -                        |
| Week ending:                     |                              |                           |                      |                   |                           |                           |                  |                             |
| 07/10/10                         | \$ 205,731.64                | \$ 205,731.64             | \$ -                 | \$ -              | \$ -                      | \$ -                      | \$ -             | \$ -                        |
| 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              | \$ 2,565.61               | \$ 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                |
| 03/12/11                         | \$ 133,958.96                | \$ 66,979.48              | \$ 66,979.48         | \$ 8,318.85       | \$ 23,148.11              | \$ 2,444.75               | \$ 23,496.40     | \$ 9,571.37                 |
| 03/19/11                         | \$ 146,226.52                | \$ 73,113.26              | \$ 73,113.26         | \$ 9,080.67       | \$ 25,267.94              | \$ 2,668.64               | \$ 25,648.13     | \$ 10,447.88                |
| 03/26/11                         | \$ 136,981.60                | \$ 68,490.80              | \$ 68,490.80         | \$ 8,506.56       | \$ 23,670.42              | \$ 2,499.91               | \$ 24,026.57     | \$ 9,787.34                 |
| 04/02/11                         | \$ 141,693.16                | \$ 70,846.58              | \$ 70,846.58         | \$ 8,799.15       | \$ 24,484.58              | \$ 2,585.90               | \$ 24,852.97     | \$ 10,123.98                |
| 04/09/11                         | \$ 134,153.56                | \$ 67,076.78              | \$ 67,076.78         | \$ 8,330.94       | \$ 23,181.74              | \$ 2,448.30               | \$ 23,530.53     | \$ 9,585.27                 |
| 04/16/11                         | \$ 129,397.12                | \$ 64,698.56              | \$ 64,698.56         | \$ 8,035.56       | \$ 22,359.82              | \$ 2,361.51               | \$ 22,696.25     | \$ 9,245.42                 |
| 04/23/11                         | \$ 135,348.28                | \$ 67,674.14              | \$ 67,674.14         | \$ 8,405.13       | \$ 23,388.18              | \$ 2,470.11               | \$ 23,740.09     | \$ 9,670.63                 |
| 04/30/11                         | \$ 133,815.00                | \$ 66,807.50              | \$ 66,807.50         | \$ 8,297.49       | \$ 23,088.67              | \$ 2,438.48               | \$ 23,436.07     | \$ 9,546.79                 |
| 05/07/11                         | \$ 132,759.48                | \$ 66,379.74              | \$ 66,379.74         | \$ 8,244.36       | \$ 22,940.84              | \$ 2,422.87               | \$ 23,286.01     | \$ 9,485.68                 |
| 05/14/11                         | \$ 133,399.52                | \$ 66,699.76              | \$ 66,699.76         | \$ 8,284.11       | \$ 23,051.44              | \$ 2,434.54               | \$ 23,398.27     | \$ 9,531.40                 |
| 05/21/11                         | \$ 126,420.88                | \$ 63,210.44              | \$ 63,210.44         | \$ 7,850.74       | \$ 21,845.53              | \$ 2,307.18               | \$ 22,174.22     | \$ 9,032.77                 |
| 05/28/11                         | \$ 129,448.12                | \$ 64,724.06              | \$ 64,724.06         | \$ 8,038.73       | \$ 22,368.64              | \$ 2,362.43               | \$ 22,705.19     | \$ 9,249.07                 |
| Subtotal                         | \$ 6,524,662.90              | \$ 3,718,363.19           | \$ 2,806,299.71      | \$ 348,542.42     | \$ 969,857.19             | \$ 102,430.00             | \$ 984,449.85    | \$ 401,020.25               |

Benchmark Goal @ 2% \$ 912,063.48

Remainder until 1% / 1% Split \$ -

VIDEO LOTTERY REPORT  
FY 2009

FY 2010

FY 2011

Table Game Revenues  
FY 2011

| FY 2009    |            | FY 2010    |            | FY 2011    |            | Table Game Revenues<br>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/August, 2010              | 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  | September, 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  | October, 2010                  | 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  | November, 2010                 | 108,717.67 |
| 12/6/2008  | 55,696.68  | 12/5/2009  | 51,006.51  | 12/4/2010  | 53,215.08  | December, 2010                 | 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         | January, 2011 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         | February, 2011 105,776.45 |
| 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         | 3/12/2011         | 66,979.48         |                           |
| 3/21/2009                | 79,002.82 | 3/20/2010 | 74,335.38         | 3/19/2011         | 73,113.26         |                           |
| 3/28/2009                | 79,250.83 | 3/27/2010 | 69,941.88         | 3/26/2011         | 68,490.80         | March, 2011 120,927.10    |
| 4/4/2009                 | 75,968.30 | 4/3/2010  | 70,636.28         | 4/2/2011          | 70,846.58         |                           |
| 4/11/2009                | 75,964.94 | 4/10/2010 | 69,692.79         | 4/9/2011          | 67,076.78         |                           |
| 4/18/2009                | 80,598.22 | 4/17/2010 | 69,335.92         | 4/16/2011         | 64,698.56         |                           |
| 4/25/2009                | 75,571.46 | 4/24/2010 | 68,714.11         | 4/23/2011         | 67,674.14         |                           |
| 5/2/2009                 | 73,957.05 | 5/1/2010  | 68,799.06         | 4/30/2011         | 66,807.50         | April, 2011 130,654.61    |
| 5/9/2009                 | 76,697.22 | 5/8/2010  | 67,403.54         | 5/7/2011          | 66,379.74         |                           |
| 5/16/2009                | 71,925.70 | 5/15/2010 | 70,186.32         | 5/14/2011         | 66,699.76         |                           |
| 5/23/2009                | 81,395.43 | 5/22/2010 | 64,695.71         | 5/21/2011         | 63,210.44         |                           |
| 5/30/2009                | 82,161.55 | 5/29/2010 | 67,157.40         | 5/28/2011         | 64,724.06         |                           |
| 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         |                   |                   |                           |
| <b>TOTALS 4403564.04</b> |           |           | <b>4041141.56</b> | <b>3718363.19</b> | <b>1045323.27</b> |                           |

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

| Week Ending Date                                  | Week Ending<br>June 4, 2011 |
|---------------------------------------------------|-----------------------------|
| <b>To be Deposited on:</b>                        | June 10, 2011               |
| Amount Played                                     | 87,434,264.31               |
| Amount Won                                        | 78,505,857.19               |
| Amount Promo                                      | 253,367.00                  |
| MWAP Contribution                                 | <u>0.00</u>                 |
| <b>Adjusted Gross Terminal Revenue</b>            | <b><u>8,675,040.12</u></b>  |
| Administrative Costs @ 4%                         | 0.00                        |
| Excess Lottery Fund @ 4%                          | <u>347,001.61</u>           |
| <b>Net Terminal Revenue</b>                       | <b><u>8,328,038.51</u></b>  |
| Surcharge @ 10%                                   | 832,803.84                  |
| State Share Excess @ 58%                          | 483,026.23                  |
| Track Share of Capital Reinvestment @ 42%         | 349,777.61                  |
| Track Share of Capital Reinvestment @ 42% - 96%   | \$ 335,786.51               |
| Track Share of Capital Reinvestment @ 42% - 4%    | \$ 13,991.10                |
| <b>Adjusted Net Terminal Revenue</b>              | <b><u>7,495,234.67</u></b>  |
| Racetrack @ 46.50% / 42%                          | 3,147,998.56                |
| Lottery Fund @ 30% / 0%                           | 0.00                        |
| Excess Lottery Fund @ 0% / 41%                    | 3,073,046.25                |
| Race Track Purses @ 7% / 14% / 8%                 | 599,618.77                  |
| Workers' Compensation Debt Reduction @ 7%         | 0.00                        |
| Employee Pension Fund @ 1% / .5%                  | 37,476.17                   |
| Greyhound Development @ .75%                      | 56,214.26                   |
| Thoroughbred Development @ .75%                   | 56,214.26                   |
| Racing Commission @ 1%                            | 74,952.34                   |
| County/Municipality @ 2%                          | 149,904.68                  |
| <b>3% Funds:</b>                                  |                             |
| Tourism Promotion Fund @ 1.375%                   | 103,059.48                  |
| Development Office Promotion Fund @ .375%         | 28,107.13                   |
| Research Challenge Fund @ .5%                     | 37,476.17                   |
| Capitol Renovation and Improvement Fund @ .6875%  | 51,529.74                   |
| 2004 Capitol Complex Parking Garage Fund @ .0625% | 4,684.52                    |
| <b>1% Funds:</b>                                  |                             |
| State Capitol Complex Parking Garage @ 1%         | 0.00                        |
| Cultural Facilities and Capitol Resources @ .5%   | 0.00                        |
| Capitol Dome and Capitol Improvements @ .5% / 1%  | <u>74,952.34</u>            |
|                                                   | <b><u>7,495,234.67</u></b>  |

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<br>ADJ. NET<br>REVENUE | TO<br>JEFFERSON<br>COUNTY | TO<br>FIVE<br>CITIES | BOLIVAR<br>12.42% | CHARLES<br>TOWN<br>34.56% | HARPERS<br>FERRY<br>3.65% | RANSON<br>35.08% | SHEPHERDS<br>TOWN<br>14.29% |
|------------------------------------|------------------------------|---------------------------|----------------------|-------------------|---------------------------|---------------------------|------------------|-----------------------------|
| 3 days ending:<br>7/11/10- 7/13/10 | \$ 115,402.58                | \$ 115,402.58             | \$ -                 | \$ -              | \$ -                      | \$ -                      | \$ -             | \$ -                        |
| Week ending:                       |                              |                           |                      |                   |                           |                           |                  |                             |
| 07/10/10                           | \$ 205,731.64                | \$ 205,731.64             | \$ -                 | \$ -              | \$ -                      | \$ -                      | \$ -             | \$ -                        |
| 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                           | \$ 140,581.80                | \$ 70,290.80              | \$ 70,290.80         | \$ 8,730.12       | \$ 24,292.50              | \$ 2,565.61               | \$ 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               | \$ 24,968.75     | \$ 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               | \$ 16,467.93     | \$ 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                           | \$ 108,602.80                | \$ 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                           | \$ 134,943.66                | \$ 67,471.84              | \$ 67,471.84         | \$ 8,360.00       | \$ 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                |
| 03/12/11                           | \$ 133,958.96                | \$ 66,979.48              | \$ 66,979.48         | \$ 8,318.85       | \$ 23,148.11              | \$ 2,444.75               | \$ 23,496.40     | \$ 9,571.37                 |
| 03/19/11                           | \$ 146,226.52                | \$ 73,113.26              | \$ 73,113.26         | \$ 9,080.67       | \$ 25,267.94              | \$ 2,668.64               | \$ 25,648.13     | \$ 10,447.88                |
| 03/26/11                           | \$ 136,981.60                | \$ 68,490.80              | \$ 68,490.80         | \$ 8,506.56       | \$ 23,670.42              | \$ 2,499.91               | \$ 24,026.57     | \$ 9,787.34                 |
| 04/02/11                           | \$ 141,693.16                | \$ 70,846.58              | \$ 70,846.58         | \$ 8,799.15       | \$ 24,484.58              | \$ 2,585.90               | \$ 24,852.97     | \$ 10,123.98                |
| 04/09/11                           | \$ 134,153.56                | \$ 67,076.78              | \$ 67,076.78         | \$ 8,330.94       | \$ 23,181.74              | \$ 2,448.30               | \$ 23,530.53     | \$ 9,585.27                 |
| 04/16/11                           | \$ 129,397.12                | \$ 64,698.56              | \$ 64,698.56         | \$ 8,035.56       | \$ 22,359.82              | \$ 2,361.51               | \$ 22,696.25     | \$ 9,245.42                 |
| 04/23/11                           | \$ 135,348.28                | \$ 67,674.14              | \$ 67,674.14         | \$ 8,405.13       | \$ 23,388.18              | \$ 2,470.11               | \$ 23,740.09     | \$ 9,670.63                 |
| 04/30/11                           | \$ 133,615.00                | \$ 66,807.50              | \$ 66,807.50         | \$ 8,297.49       | \$ 23,088.67              | \$ 2,438.48               | \$ 23,436.07     | \$ 9,546.79                 |
| 05/07/11                           | \$ 132,759.48                | \$ 66,379.74              | \$ 66,379.74         | \$ 8,244.36       | \$ 22,940.84              | \$ 2,422.87               | \$ 23,286.01     | \$ 9,485.66                 |
| 05/14/11                           | \$ 133,399.52                | \$ 66,699.76              | \$ 66,699.76         | \$ 8,284.11       | \$ 23,051.44              | \$ 2,434.54               | \$ 23,398.27     | \$ 9,531.40                 |
| 05/21/11                           | \$ 126,420.88                | \$ 63,210.44              | \$ 63,210.44         | \$ 7,850.74       | \$ 21,845.53              | \$ 2,307.18               | \$ 22,174.22     | \$ 9,032.77                 |
| 05/28/11                           | \$ 129,448.12                | \$ 64,724.06              | \$ 64,724.06         | \$ 8,038.73       | \$ 22,368.64              | \$ 2,362.43               | \$ 22,705.19     | \$ 9,249.07                 |
| 06/04/11                           | \$ 149,904.68                | \$ 74,952.34              | \$ 74,952.34         | \$ 9,309.08       | \$ 25,903.53              | \$ 2,735.76               | \$ 26,293.28     | \$ 10,710.69                |
| Subtotal                           | \$ 6,674,567.58              | \$ 3,793,315.53           | \$ 2,881,252.05      | \$ 357,851.50     | \$ 995,760.72             | \$ 105,165.76             | \$ 1,010,743.13  | \$ 411,730.94               |

Benchmark Goal @ 2% \$ 912,063.48

Remainder until 1% / 1% Split \$ -

VIDEO LOTTERY REPORT  
FY 2009

FY 2010

FY 2011

Table Game Revenues  
FY 2011

| FY 2009    |            | FY 2010    |            | FY 2011    |            | Table Game Revenues<br>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/August, 2010              | 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  | September, 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  | October, 2010                  | 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  | November, 2010                 | 108,717.67 |
| 12/6/2008  | 55,696.68  | 12/5/2009  | 51,006.51  | 12/4/2010  | 53,215.08  | December, 2010                 | 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         | January, 2011  |
| 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         | February, 2011 |
| 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         | 3/12/2011         | 66,979.48         |                |
| 3/21/2009                | 79,002.82 | 3/20/2010 | 74,335.38         | 3/19/2011         | 73,113.26         |                |
| 3/28/2009                | 79,250.83 | 3/27/2010 | 69,941.88         | 3/26/2011         | 68,490.80         | March, 2011    |
| 4/4/2009                 | 75,968.30 | 4/3/2010  | 70,636.28         | 4/2/2011          | 70,846.58         |                |
| 4/11/2009                | 75,964.94 | 4/10/2010 | 69,692.79         | 4/9/2011          | 67,076.78         |                |
| 4/18/2009                | 80,598.22 | 4/17/2010 | 69,335.92         | 4/16/2011         | 64,698.56         |                |
| 4/25/2009                | 75,571.46 | 4/24/2010 | 68,714.11         | 4/23/2011         | 67,674.14         |                |
| 5/2/2009                 | 73,957.05 | 5/1/2010  | 68,799.06         | 4/30/2011         | 66,807.50         | April, 2011    |
| 5/9/2009                 | 76,697.22 | 5/8/2010  | 67,403.54         | 5/7/2011          | 66,379.74         |                |
| 5/16/2009                | 71,925.70 | 5/15/2010 | 70,186.32         | 5/14/2011         | 66,699.76         |                |
| 5/23/2009                | 81,395.43 | 5/22/2010 | 64,695.71         | 5/21/2011         | 63,210.44         |                |
| 5/30/2009                | 82,161.55 | 5/29/2010 | 67,157.40         | 5/28/2011         | 64,724.06         |                |
| 6/6/2009                 | 74,895.74 | 6/5/2010  | 77,371.80         | 6/4/2011          | 74,952.34         |                |
| 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         |                   |                   |                |
| <b>TOTALS 4403564.04</b> |           |           | <b>4041141.56</b> | <b>3793315.53</b> | <b>1045323.27</b> |                |

**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<br>ADJ. NET<br>REVENUE | TO<br>JEFFERSON<br>COUNTY | TO<br>FIVE<br>CITIES   | BOLIVAR<br>12.42%    | CHARLES<br>TOWN<br>34.56% | HARPERS<br>FERRY<br>3.65% | RANSON<br>35.08%       | SHEPHERDS<br>TOWN<br>14.29% |
|----------------------------------|------------------------------|---------------------------|------------------------|----------------------|---------------------------|---------------------------|------------------------|-----------------------------|
| 3 days ending:<br>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              | \$ 2,565.61               | \$ 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           | \$ 6,966.45          | \$ 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               | \$ 21,320.12           | \$ 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                |
| 03/12/11                         | \$ 133,958.96                | \$ 66,979.48              | \$ 66,979.48           | \$ 8,318.85          | \$ 23,148.11              | \$ 2,444.75               | \$ 23,496.40           | \$ 9,571.37                 |
| 03/19/11                         | \$ 146,226.52                | \$ 73,113.26              | \$ 73,113.26           | \$ 9,080.67          | \$ 25,267.94              | \$ 2,668.64               | \$ 25,848.13           | \$ 10,447.88                |
| 03/26/11                         | \$ 136,981.60                | \$ 68,490.80              | \$ 68,490.80           | \$ 8,506.56          | \$ 23,670.42              | \$ 2,499.91               | \$ 24,026.57           | \$ 9,787.34                 |
| 04/02/11                         | \$ 141,693.16                | \$ 70,846.58              | \$ 70,846.58           | \$ 8,799.15          | \$ 24,484.58              | \$ 2,585.90               | \$ 24,852.97           | \$ 10,123.98                |
| 04/09/11                         | \$ 134,153.56                | \$ 67,076.78              | \$ 67,076.78           | \$ 8,330.94          | \$ 23,181.74              | \$ 2,448.30               | \$ 23,530.53           | \$ 9,585.27                 |
| 04/16/11                         | \$ 129,397.12                | \$ 64,698.56              | \$ 64,698.56           | \$ 8,035.56          | \$ 22,359.82              | \$ 2,361.51               | \$ 22,696.25           | \$ 9,245.42                 |
| 04/23/11                         | \$ 135,348.28                | \$ 67,674.14              | \$ 67,674.14           | \$ 8,405.13          | \$ 23,388.18              | \$ 2,470.11               | \$ 23,740.09           | \$ 9,670.63                 |
| 04/30/11                         | \$ 133,615.00                | \$ 66,807.50              | \$ 66,807.50           | \$ 8,297.49          | \$ 23,088.67              | \$ 2,438.48               | \$ 23,436.07           | \$ 9,546.79                 |
| 05/07/11                         | \$ 132,759.48                | \$ 66,379.74              | \$ 66,379.74           | \$ 8,244.36          | \$ 22,940.84              | \$ 2,422.87               | \$ 23,286.01           | \$ 9,485.66                 |
| 05/14/11                         | \$ 133,399.52                | \$ 66,699.76              | \$ 66,699.76           | \$ 8,284.11          | \$ 23,051.44              | \$ 2,434.54               | \$ 23,398.27           | \$ 9,531.40                 |
| 05/21/11                         | \$ 126,420.88                | \$ 63,210.44              | \$ 63,210.44           | \$ 7,850.74          | \$ 21,845.53              | \$ 2,307.18               | \$ 22,174.22           | \$ 9,032.77                 |
| 05/28/11                         | \$ 129,448.12                | \$ 64,724.06              | \$ 64,724.06           | \$ 8,038.73          | \$ 22,368.64              | \$ 2,362.43               | \$ 22,705.19           | \$ 9,249.07                 |
| 06/04/11                         | \$ 149,904.68                | \$ 74,952.34              | \$ 74,952.34           | \$ 9,309.08          | \$ 25,903.53              | \$ 2,735.76               | \$ 26,293.28           | \$ 10,710.69                |
| 06/11/11                         | \$ 124,406.24                | \$ 62,203.12              | \$ 62,203.12           | \$ 7,725.63          | \$ 21,497.40              | \$ 2,270.41               | \$ 21,820.85           | \$ 8,888.83                 |
| <b>Subtotal</b>                  | <b>\$ 6,798,973.82</b>       | <b>\$ 3,855,518.65</b>    | <b>\$ 2,943,455.17</b> | <b>\$ 365,577.13</b> | <b>\$ 1,017,258.12</b>    | <b>\$ 107,436.17</b>      | <b>\$ 1,032,563.98</b> | <b>\$ 420,619.77</b>        |

Benchmark Goal @ 2%     \$   912,063.48

Remainder until 1% / 1% Split     \$   -

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

| Week Ending Date                                         | Week Ending                |
|----------------------------------------------------------|----------------------------|
|                                                          | June 11, 2011              |
| <b>To be Deposited on:</b>                               | June 17, 2011              |
| <b>Amount Played</b>                                     | <b>72,536,252.90</b>       |
| <b>Amount Won</b>                                        | <b>65,115,880.34</b>       |
| <b>Amount Promo</b>                                      | <b>220,938.00</b>          |
| <b>MWAP Contribution</b>                                 | <b><u>0.00</u></b>         |
| <b>Adjusted Gross Terminal Revenue</b>                   | <b><u>7,199,434.56</u></b> |
| <b>Administrative Costs @ 4%</b>                         | <b>0.00</b>                |
| <b>Excess Lottery Fund @ 4%</b>                          | <b><u>287,977.38</u></b>   |
| <b>Net Terminal Revenue</b>                              | <b><u>6,911,457.18</u></b> |
| <b>Surcharge @ 10%</b>                                   | <b>691,145.72</b>          |
| <b>State Share Excess @ 58%</b>                          | <b>400,864.52</b>          |
| <b>Track Share of Capital Reinvestment @ 42%</b>         | <b>290,281.20</b>          |
| <i>Track Share of Capital Reinvestment @ 42% - 96%</i>   | \$ 278,669.95              |
| <i>Track Share of Capital Reinvestment @ 42% - 4%</i>    | \$ 11,611.25               |
| <b>Adjusted Net Terminal Revenue</b>                     | <b><u>6,220,311.46</u></b> |
| <b>Racetrack @ 46.50% / 42%</b>                          | <b>2,612,530.81</b>        |
| <b>Lottery Fund @ 30% / 0%</b>                           | <b>0.00</b>                |
| <b>Excess Lottery Fund @ 0% / 41%</b>                    | <b>2,550,327.67</b>        |
| <b>Race Track Purses @ 7% / 14% / 8%</b>                 | <b>497,624.92</b>          |
| <b>Workers' Compensation Debt Reduction @ 7%</b>         | <b>0.00</b>                |
| <b>Employee Pension Fund @ 1% / .5%</b>                  | <b>31,101.56</b>           |
| <b>Greyhound Development @ .75%</b>                      | <b>46,652.34</b>           |
| <b>Thoroughbred Development @ .75%</b>                   | <b>46,652.34</b>           |
| <b>Racing Commission @ 1%</b>                            | <b>62,203.12</b>           |
| <b>County/Municipality @ 2%</b>                          | <b>124,406.24</b>          |
| <b>3% Funds:</b>                                         |                            |
| <b>Tourism Promotion Fund @ 1.375%</b>                   | <b>85,529.28</b>           |
| <b>Development Office Promotion Fund @ .375%</b>         | <b>23,326.17</b>           |
| <b>Research Challenge Fund @ .5%</b>                     | <b>31,101.56</b>           |
| <b>Capitol Renovation and Improvement Fund @ .6875%</b>  | <b>42,764.64</b>           |
| <b>2004 Capitol Complex Parking Garage Fund @ .0625%</b> | <b>3,887.69</b>            |
| <b>1% Funds:</b>                                         |                            |
| <b>State Capitol Complex Parking Garage @ 1%</b>         | <b>0.00</b>                |
| <b>Cultural Facilities and Capitol Resources @ .5%</b>   | <b>0.00</b>                |
| <b>Capitol Dome and Capitol Improvements @ .5% / 1%</b>  | <b><u>62,203.12</u></b>    |
|                                                          | <b><u>6,220,311.46</u></b> |

VIDEO LOTTERY REPORT  
FY 2009

FY 2010

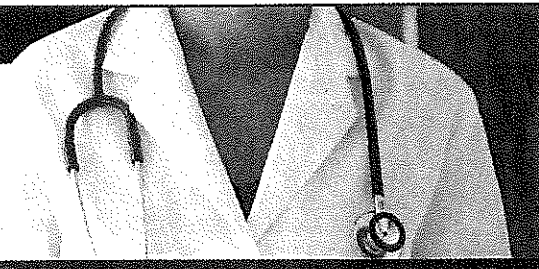
FY 2011

Table Game Revenues  
FY 2011

| FY 2009    |            | FY 2010    |            | FY 2011    |            | Table Game Revenues<br>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/August, 2010              | 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  | September, 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  | October, 2010                  | 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  | November, 2010                 | 108,717.67 |
| 12/6/2008  | 55,696.68  | 12/5/2009  | 51,006.51  | 12/4/2010  | 53,215.08  | December, 2010                 | 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         | January, 2011     |
| 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         | February, 2011    |
| 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         | 3/12/2011 | 66,979.48         |                   |
| 3/21/2009     | 79,002.82         | 3/20/2010 | 74,335.38         | 3/19/2011 | 73,113.26         |                   |
| 3/28/2009     | 79,250.83         | 3/27/2010 | 69,941.88         | 3/26/2011 | 68,490.80         | March, 2011       |
| 4/4/2009      | 75,968.30         | 4/3/2010  | 70,636.28         | 4/2/2011  | 70,846.58         |                   |
| 4/11/2009     | 75,964.94         | 4/10/2010 | 69,692.79         | 4/9/2011  | 67,076.78         |                   |
| 4/18/2009     | 80,598.22         | 4/17/2010 | 69,335.92         | 4/16/2011 | 64,698.56         |                   |
| 4/25/2009     | 75,571.46         | 4/24/2010 | 68,714.11         | 4/23/2011 | 67,674.14         |                   |
| 5/2/2009      | 73,957.05         | 5/1/2010  | 68,799.06         | 4/30/2011 | 66,807.50         | April, 2011       |
| 5/9/2009      | 76,697.22         | 5/8/2010  | 67,403.54         | 5/7/2011  | 66,379.74         |                   |
| 5/16/2009     | 71,925.70         | 5/15/2010 | 70,186.32         | 5/14/2011 | 66,699.76         |                   |
| 5/23/2009     | 81,395.43         | 5/22/2010 | 64,695.71         | 5/21/2011 | 63,210.44         |                   |
| 5/30/2009     | 82,161.55         | 5/29/2010 | 67,157.40         | 5/28/2011 | 64,724.06         |                   |
| 6/6/2009      | 74,895.74         | 6/5/2010  | 77,371.80         | 6/4/2011  | 74,952.34         |                   |
| 6/13/2009     | 67,327.23         | 6/12/2010 | 66,106.29         | 6/11/2011 | 62,203.12         |                   |
| 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         |           |                   |                   |
| <b>TOTALS</b> | <b>4403564.04</b> |           | <b>4041141.56</b> |           | <b>3855518.65</b> | <b>1045323.27</b> |

# Eastern Panhandle Free Clinic



SERVING THE EASTERN PANHANDLE OF WEST VIRGINIA

SPRING/SUMMER 2011

## PLANNING FOR THE FUTURE - PATIENT-CENTERED MEDICAL HOME

## BIG BAD BURGER CONTEST - JUNE 11TH - MARTINSBURG MALL



**Michele Goldman,  
Clinic Director**

This is an exciting time for the clinic. We look back over the last ten years and see how we have developed from an all volunteer organization seeing patients one day a week to now having 13 paid staff, about 100 volunteers and open over 40 hours a week. There have been many challenges along the way as we have tried to meet the healthcare needs of some of the sickest residents of our community. Always we have worked to provide quality care and we work to continue to do this.

The Eastern Panhandle Free Clinic (EPFC) is working to achieve national recognition as a "Patient Centered Medical Home" through the National Commission on Quality Assurance. We are one of the ten free clinics across the state working on this certification. The standards require changes in the way services are delivered by the development of patient care teams who will work with patients who have chronic diseases. Part of this care team is a care coordinator/manager who will work with patients in helping them meet needs that often keep them from being compliant with care such as lack of food, housing or transportation. We also will be incorporating the "Self-Management" model of care which involves the patient in choosing their goals and how they will achieve them. This helps the patient see that they are a part of their healthcare team. It allows them an opportunity to choose what steps they feel they can achieve towards improving their health and has been proven to be very successful in the management of chronic diseases.

As the numbers of our patients have grown so has the need to increase medical providers seeing patients. Our plan for this coming year is to hire a full time and part time nurse practitioner and a part time physician.

The newly enacted health care reform legislation presents both opportunities and challenges as the EPFC positions itself to continue to provide comprehensive primary care to the uninsured and underinsured members of our community. Remaining their Medical Home will provide continuity of care for those we serve. During the past year the board has been exploring the critical components of the new reform legislation and its potential impact on those individuals who are served or could be served by the EPFC. As the realities of the legislation continue to unfold, the EPFC will strive to continue to be the safety-net for the uninsured or underinsured.

Enjoy great burgers and support the Eastern Panhandle Free Clinic at the same time. On Saturday, June 11th, the clinic will be the recipient of the proceeds from the Big Bad Burger Contest. If you fancy yourself a superstar backyard chef then come on out and compete. Competitors pay a \$50 registration fee for a chance to win a \$1,000 cash prize. Also, new this year is a kid's competition. The registration fee for children is \$25 with a \$500 cash prize. The registration form can be found at [www.bigbadburger.blogspot.com](http://www.bigbadburger.blogspot.com) or follow the link on the [www.wvepfc.com](http://www.wvepfc.com) page to learn more about the event. All competitors must be registered by June 6th.

Advance tickets can be purchased at the Eastern Panhandle Free Clinic or Dub V Pub in Martinsburg. Tickets are also available at the gate on June 11th. A \$10 donation for adults or \$5 donation for children affords you the opportunity to taste some of the best burgers in the area and vote for your favorites! In addition to tasting great burgers, spectators will enjoy the sounds of the amateur band showcase hosted by Crazy Bob from 101.5 BobRocks.

We would like to thank our lead sponsors for the event, MasterDry, Craigo Services Co., Whittington Construction Co., and Hagerstown Honda. For more information about the event, please contact Stacie Rohn at (304) 724-6091 x. 228.

**CRAIGO SERVICE COMPANY**

**101.5 ROCKS!**

**MasterDry LLC**  
24 HOUR EMERGENCY SERVICE

**The Whittington Construction Group LLC**

**MVB**

**MSM**

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**THE EASTERN PANHANDLE FREE CLINIC**  
**EPFC**  
Clinic & Medical Center



## **UNITED WAY – MAKING A DIFFERENCE EVERYDAY**

The United Way has supported the Eastern Panhandle Free Clinic’s Chronic Disease Management Program for the past 3 years. Through their generosity, clinic patients have received one-on-one guidance from a nurse who provides monthly education visits.

Chronic disease affects 59% of our patients. Many of them have delayed treatment for so long that their diabetes or heart disease has escalated to a dangerous level. Obesity and tobacco use make the plight of a patient with chronic disease even more difficult. Some patients choose to change their health outcome by participating in the Chronic Disease Management Program. Kristi Custer, our Patient Educator offers support through meal planning, diabetes education, exercise and fitness guidance and tobacco cessation programs.

“I enjoy helping our patients set goals to improve their health,” says Kristi. “It is especially gratifying when a patient reaches or exceeds those goals,” she added. The United Way supports results driven programs that directly impact the community’s most needy citizens. The clinic is grateful for their support.



## **MAKING A DIFFERENCE ONE PATIENT AT A TIME**



Robin found the Eastern Panhandle Free Clinic when her husband became ill and she was seeking care for him. She had seen the sign for our old clinic on Route 51 and decided to give us a call. When they came in for a screening appointment, she found that not only could the

clinic help her husband, but we could also provide her

with healthcare that she had gone without for far too long.

“This place has been a God send,” says Robin. Her cholesterol was high and weight gain was becoming a problem. Since becoming a patient, Robin has enrolled in the Wise Woman Program and is working to get her diet and health under control. In April, she enrolled in the clinic’s Weight Watcher’s program and so far, she has lost ten pounds over the past month. “I have only eaten 3 potato chips since I started the program and I used to eat two bags per week,” Robin shared. “I’m not on a diet, I’m just eating better,” she added.

Robin found that she could talk easily with the staff at the clinic and everyone is friendly. Many of the patients in the Weight Watchers group have become a support system. “We discuss recipes and talk about ways to resist family peer pressure when it comes to eating,” says Robin.

One of her previous jobs was working with various patient assistance programs to help uninsured people receive medication at a free or reduced rate. Robin feels that this is a huge blessing for a free clinic patient in addition to all of the care that she and her husband receive.

Robin values the care that she receives from the Eastern Panhandle Free Clinic so much that she is lending her talents in graphic design and desktop publishing. In the past month, Robin has designed promotional materials for the upcoming Big Bad Burger Contest and she also assisted with the design of this newsletter publication. Many of the free clinic patients give back to the clinic in a variety of ways. We are grateful for the gifts that Robin and all of our patients share.



## **Donate Now**

Making a tax deductible contribution to the Eastern Panhandle Free Clinic is easier than ever. Donations are accepted online using the Donate Now feature on the clinic website. Just go to [www.wvepfc.com](http://www.wvepfc.com) and you will find the Donate Now button in the top right hand corner of the website



## SHEPHERD UNIVERSITY HONORS CLINIC FOUNDERS WITH OUTSTANDING ALUMNI AWARD

Clinic founders, Leona Cook and Michele Goldman received an Outstanding Alumni Award on Friday, May 13th at the Annual Nursing Convocation for their work in the field of health care. Leona and Michele were instrumental in the opening the Eastern Panhandle Free Clinic and have nurtured its growth over the past ten years.

In addition to receiving the Outstanding Alumni Award, Goldman also delivered the keynote address to the graduating nurses. She told a poignant story of helping an AIDS patient during his final hours and challenged the class to be determined to make a difference in their respective communities, even if the task is difficult. "I challenge you to get involved and maybe even open a free clinic where you live," Goldman said.

Cook and Goldman worked in community health in the late 1990's and found that many low income families were uninsured and had no form of health care. They discovered that their clients were using the most expensive form of health care when they had a medical emergency... the emergency room. These two ladies became the voice of the uninsured in the local community and with the help of Jefferson Memorial Hospital, local businesses and many friends, the Eastern Panhandle Free Clinic was born.

In addition to this award, Shepherd University Division of Nursing Faculty has made a \$500 donation to the clinic in recognition of this accomplishment. Thanks to Lisa Welch for nominating Leona and Michele for this wonderful recognition and on behalf of the clinic staff and board of directors, we offer our heartfelt congratulations.

## REMEMBERING ELIZABETH

Elizabeth Neimeier supported the Eastern Panhandle Free Clinic in many ways – financially and spiritually. Her greatest gift was instilling the value of giving to something greater than herself in her daughter Michele. For those of you who didn't know Elizabeth (she didn't live in our community, so you probably would not) she was the mother of our Executive Director, Michele Goldman. After a valiant fight against cancer, Elizabeth passed away on December 28, 2010. Elizabeth's memory is evident as she had sponsored several rooms in our clinic and her family has honored her as well. On behalf of Michele, our clinic Board of Directors and Staff, we would like to thank Elizabeth's family and friends who have honored her memory.



## ELIZABETH NEIMEIER MEMORIAL DONORS

|                        |                          |
|------------------------|--------------------------|
| Leona Cook             | Dr. Vettivelu Maheswaran |
| Anne & Bob Koop        | Dr. Sharon Mailey        |
| Curtis & Judy Crawshaw | Marilyn Pitcher          |
| Susanna Power          | Ruth Drewes              |
| Phyllis & Ralph Owens  | Anonymous                |
| Patrick & Susan Geary  | Dorothy Strange          |
| Mary Morrison          | Geri Sawyer              |
| Glen & Linda Niemeier  | Ruth Holmas              |
| Phyllis Lienesch       | Kristi Custer            |
| Teresita Eckel         | Carol Swiger             |
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| Pidge Ward             | Stacie Rohn              |
| Dorothy Place          | Carl & Joyce Greber      |
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| Margaret Bischoff      | Anne Gander              |
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| Susan McCollum         | Elaine J. Rendler        |
| Joan Flaute-Hill       | Sheila Buehrle           |
| Elizabeth Huffman      | Mary Alice Fritts        |
| John Dempsey           | Donald & Kathleen Kammer |



## \*CALLING ALL VOLUNTEERS\*

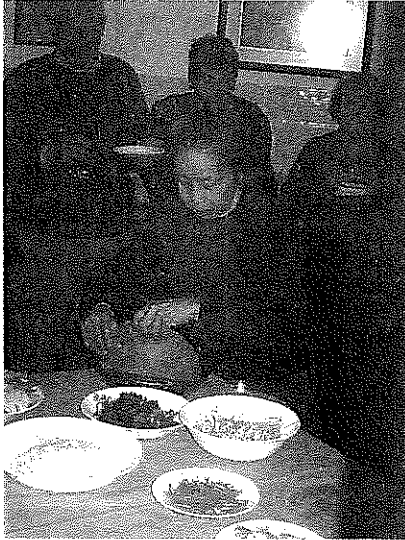
We need your help. On Saturday, June 11th, the clinic will be the beneficiary of the proceeds from the Big Bad Burger Contest. We need volunteers to help that day and in the days leading up to the event. Please call Stacie Rohn at (304) 724-6091 x. 228 by June 6th if you are available to help.

## EPFC DONORS CELEBRATE THE YEAR OF THE RABBIT IN STYLE

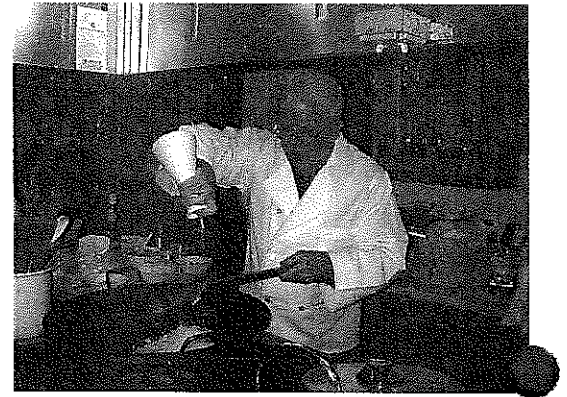
Thirty one EPFC donors were treated to a very special evening at the Lunar New Year Celebration Dinner benefit hosted by former Free Clinic Medical Director Dr. John Aldis and his wife Pheny at their home in Shepherdstown, WV. By opening their home for this event, the Aldises shared not only a wonderful selection of oriental cuisine and beautiful works of oriental art collected during their travels while in the Foreign Service; but also provided to donors the opportunity to learn more about the Free Clinic and its important work.

In addition to the generous gift from the Aldises, the following Presenting Sponsors provided financial support for the event: Stan and Judy Jones, Paul and Lisa Welch, Bob Smith and Mary Stanley, and Meg Spurlin.

This first of its kind fund raising event for the Free Clinic resulted in over \$7,000 in donations to support its mission to provide free comprehensive primary health care for low income uninsured residents of the Eastern Panhandle.



Pheny Aldis demonstrates how to make spring rolls while Marty Kable, Bonnie Austin and Amy George learn the best technique for preparing the Asian dish.



Dr. John Aldis prepares one of the many specialty items on the menu. He and Pheny prepared and served over 15 different food with an Asian flair.

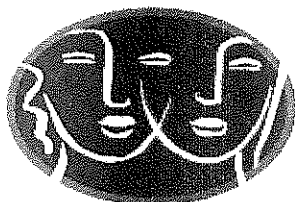


## EASTERN PANHANDLE FREE CLINIC EARNS STATE HONOR

The Eastern Panhandle Free Clinic took top honors from the West Virginia Office of Maternal, Child and Family Health for our WISEWOMAN Program. The WISEWOMAN Program is administered through CDC's Division for Heart Disease and Stroke Prevention (DHDSP). The WISEWOMAN program provides low-income, under-insured or uninsured women with chronic disease risk factor screening, lifestyle intervention, and referral services in an effort to prevent cardiovascular disease. The priority age group is women aged 40-64 years.

The clinic won an award for the highest proportion of eligible population screened during fiscal year 2009-10. There were 478 women who participated in the program during the year. "We strongly encourage all eligible patients to participate in this life-saving program," says Leona Cook, Family Nurse Practitioner and clinic founder.

Cook attended the weeklong conference on Women's Health in early May and was delighted to receive this distinction. "This program is just one way that we let our patients know their health is our priority to us," she added.



**WISEWOMAN™**

Well-integrated Screening and Evaluation  
for Women Across the Nation

### WISH LIST

CPAP Machines

Copy Paper

Monetary Donations to Purchase Diabetic Supplies

## MEET GALE BARD

by Stacie Rohn

Blessings occur when we least expect them and we find them in the most unusual way. Gale Bard is a prime example. The Eastern Panhandle Free Clinic is blessed to have this talented and knowledgeable case manager to join our staff of volunteers. Gale is a retired RN with the Frederick County, MD health department and has helped clients navigate the health and social services system in Maryland for the past 26 years. She retired in July of 2010 and was eager to make a difference in the community in which she lives. When I spoke with Gale about what motivates her to help free clinic patients, here is what she had to say:

SR – Why did you choose the Eastern Panhandle Free Clinic?

GB – “I always wanted to volunteer when I retired. The clinic is close to my heart and I enjoy helping others who need my help. I believe I have skills that could benefit the clinic and its patients.”

SR – What is the most rewarding part of your volunteer work at the clinic?

GB – “I enjoy helping people navigate the medical system – to understand it and solve problems. Clients get caught in the middle when they do not understand how the social service system works. Empowering others by giving them knowledge to navigate the system gives me a feeling of accomplishment.”

SR – What is your most successful case thus far?

GB – “I had a patient who had a heart attack last October and was taken to Frederick Hospital and then transferred to John’s Hopkins for heart surgery. The patient was struggling financially in addition to his health concerns. As the medical bills continued to arrive, the patient had no idea how he would ever pay them with his minimum waged job. He was one of the first patients I helped when I arrived at the clinic and his case was challenging. I met with the patient at DHHR and reviewed his case. Then we called all of the medical providers who helped him during his illness. Fortunately, the patient qualified for Medicaid and many of the bills were paid. He is making payments for the outstanding bills that Medicaid did not cover. He now owes \$1,000 rather than the over \$80,000 in medical bills.”

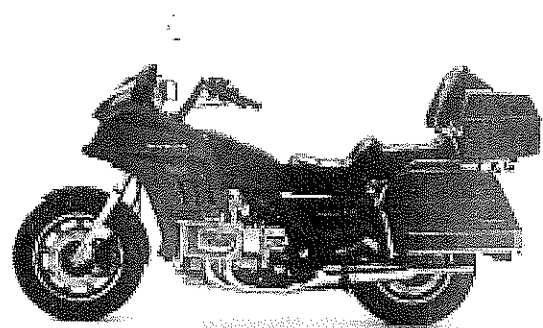
Gale’s plan was to volunteer with the clinic a few hours each week and enjoy her retirement touring the country on the back of a Honda Goldwing motorcycle along with

her husband Dan. Unfortunately, Dan passed away as the result of a bus accident. One of Dan and Gale’s last outings was to our Annual Volunteer Recognition Dinner. Dan learned about our mission that night. He continues to help us fulfill our mission and thanks to all of his friends and family that have sent memorial donations, a room in the clinic is being named in his memory. While Dan is a blessing from above, Gale continues to be an angel here in the clinic.



### DAN BARD MEMORIAL DONORS

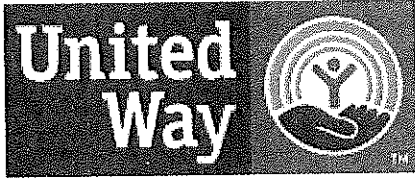
|                           |                           |
|---------------------------|---------------------------|
| James Sparkman            | Joseph & Judy Horman      |
| Glyde Hannah              | Franklin & Phyllis Ecker  |
| Brad & Vicky Kirr         | Joan Pearrow              |
| Anonymous                 | Charles Conklin           |
| Paul & Kathi Ingley       | Jennings Glenn            |
| Frank & Mary Ann Tully    | Allegany SCD              |
| Katharine Offutt          | Gettysburg Travel Council |
| Royden & Jo Ann Powell    | Donna Devilbiss           |
| Patricia Stanis           | Sherry Matzko             |
| Ida Wolk                  | Patricia Cahaney          |
| Ellen Burrows Ristorcelli | Joan Adams                |
| Charles & Patricia Brown  | Roseann Russo             |
| Stephen & Janet Crutchley | Frank & Ann Liska         |
| Philip & Martha Smith     | Garrett SCD               |
| Ronald & Partice Majeran  | Louise Lawrence           |
| Stock & Leader            | Keystone Motorcycle Press |
| Lee & Gretchen Greiner    | NACD Auxillary            |
| Rosemary Roswell          |                           |



**The Eastern Panhandle Free Clinic  
1212 N. Mildred Street  
Ranson, WV 25438**

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Permit 123



**United Way  
of the Eastern Panhandle, Inc.  
CFC #87159**

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**INSIDE**

- **Big Bad Burger Contest**
- **Meet Gale Bard**

**BOARD MEMBERS**

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Susan Sullivan-Rakoff

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Sharon Mailey, Ph.D.

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Terry Walker

Daniel VanBelleghem

Layne Diehl

Sarah Hinkle

| <b>SERVICES PROVIDED BY EPFC TO JEFFERSON, BERKELEY, AND SURROUNDING COUNTIES.</b> |                            |                            |                            |
|------------------------------------------------------------------------------------|----------------------------|----------------------------|----------------------------|
|                                                                                    | <b>YEAR 2009</b>           | <b>YEAR 2010</b>           | <b>JAN - APR 2011</b>      |
| Number of Patient Visits                                                           | 9,854                      | 10,242                     | 3,471                      |
| Medications Provided                                                               | 45,745 (worth \$4,102,853) | 46,264 (worth \$4,907,649) | 14,594 (worth \$1,673,841) |
| Referrals to Specialists                                                           | 1,270                      | 1,453                      | 519                        |

**MISSION STATEMENT**

*To provide quality healthcare to low-income, uninsured persons.*

**SERVICE GOALS**

*The clinic has four service goals.*

To provide **free** medical care. To provide **free** prescription assistance. To provide **free** referrals to medical specialties. To provide referrals to community organizations.

*Requests for information can be directed to:*

Eastern Panhandle Free Clinic

1212 N. Mildred Street • Ranson, WV 25413

Phone: 304-724-6091 • Fax: 304-725-7204

Email: [mgoldman@wvpefc.com](mailto:mgoldman@wvpefc.com) • Website: [www.wvpefc.com](http://www.wvpefc.com)



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

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

May 31, 2011

**To Whom It May Concern:**

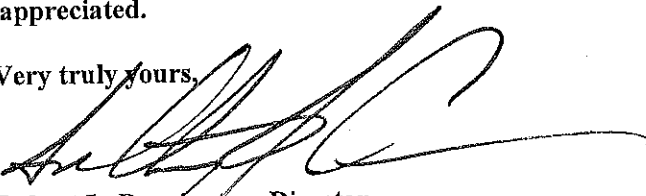
The Statewide Transportation Improvement Program (STIP) is a financially constrained document required to show planned Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) expenditures for federal fiscal years 2011-2016. One of the requirements to funding any projects with FHWA or FTA funds is that each proposed project undergo a public "review and comment period". Therefore, additions or deletions to the STIP and certain changes to projects currently in the STIP must meet this requirement before federal funds can be obtained. Accordingly, I am again requesting your assistance in making available (to anyone who wishes to review them) the attached listing of proposed amendment to the approved 2011-2016 STIP.

All written comments are to be received no later than June 13, 2011, and should be addressed to:

Mr. Robert L. Pennington, Director  
Program Planning and Administration Division  
West Virginia Division of Highways  
Building 5, Room A-816  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0430

Should you need additional information, please call (304) 558-3113. Thank you for your assistance in this matter; your efforts are indeed appreciated.

Very truly yours,



for Robert L. Pennington, Director  
Program Planning and Administration Division

RLP:Cb

Attachment

cc: Mr. Tony Tarone, Federal Transit Administration – w/ attachment  
Mr. Ed Compton, Federal Highway Administration – w/ attachment  
Mr. Kevin Burgess, Federal Highway Administration – w/ attachment  
Ms. Susan O'Connell, Division of Public Transit – w/ attachment

STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM (STIP) FFY 2011-2016  
PROGRAM AMENDMENT FOR 2011

| COUNTY                                                           | FFY  | OBIGATION DATE | FUND TYPE | PHASE | ROUTE   | PROJECT NAME                        | TYPE OF WORK                         | STATE PROJ. NUMBER | FEDERAL PROJECT NUMBER | TOTAL PHASE COST | FEDERAL DOLLAR COST | FEDERAL COST CHANGE |
|------------------------------------------------------------------|------|----------------|-----------|-------|---------|-------------------------------------|--------------------------------------|--------------------|------------------------|------------------|---------------------|---------------------|
| PROJECT COMMENTS                                                 |      |                |           |       |         |                                     |                                      |                    |                        |                  |                     |                     |
| BROOKE                                                           | 2011 | 6/28/2011      | ENH       | CON   | NA      | WELLSBURG STREETSCAPE               | CONST VAR STREETSCAPE ELEMENTS       | U305 WELLS 7.00    | TEAL22001D             | \$205,000        | \$164,000           | \$0                 |
| ADD NEW PROJECT                                                  |      |                |           |       |         |                                     |                                      |                    |                        |                  |                     |                     |
| BROOKE                                                           | 2011 | 6/28/2011      | HSIP      | CON   | WM002   | WELLSBURG TN LN                     | REMOVE CENTER MEDIAN, INSTALL CTL    | S305 2 007 59 00   | HSIP0002505D           | \$950,000        | \$855,000           | \$0                 |
| ADD NEW PROJECT                                                  |      |                |           |       |         |                                     |                                      |                    |                        |                  |                     |                     |
| CALHOUN                                                          | 2011 | 6/28/2011      | STP       | CON   | WM016   | BARNES RUN/RIFLE RUN RESURFACING    | RESURF (1.5"), DR, GDRL, STRIPING    | S307 16 77777      | STP0016777             | \$700,000        | \$560,000           | \$0                 |
| ADD NEW PROJECT (PROJECT ON 05/09/11 STAFF MTG)                  |      |                |           |       |         |                                     |                                      |                    |                        |                  |                     |                     |
| CALHOUN                                                          | 2011 | 6/28/2011      | STP       | CON   | WM016   | DANIEL RUN-BARNES RUN RESURFACING   | RESURF (1.5"), DR, GDRL, STRIPING    | S307 16 77777      | STP0016777             | \$535,000        | \$428,000           | \$0                 |
| ADD NEW PROJECT (PROJECT ON 05/09/11 STAFF MTG)                  |      |                |           |       |         |                                     |                                      |                    |                        |                  |                     |                     |
| CALHOUN                                                          | 2012 | 1/28/2012      | STP       | CON   | US033   | LEATHERBARK RESURF                  | RESURF                               | S307 33 00009 00   | STP0033345D            | \$1,000,000      | \$800,000           | \$0                 |
| ADD NEW PROJECT                                                  |      |                |           |       |         |                                     |                                      |                    |                        |                  |                     |                     |
| CLAY                                                             | 2011 | 7/28/2011      | STP       | CON   | WM016   | BLUE CREEK RD                       | INST GDRL                            | U306 16 00000 00   | STP0016202D            | \$250,000        | \$200,000           | \$0                 |
| ADD NEW PROJECT                                                  |      |                |           |       |         |                                     |                                      |                    |                        |                  |                     |                     |
| FAYETTE                                                          | 2011 | 5/28/2011      | STP       | ROW   | NA999   | BOY SCOUT RD                        | CONST RD                             | U310 16 00000 00   | STP0016220D            | \$625,000        | \$500,000           | \$0                 |
| DD REQUESTED TO ELIMINATE PHASE (SPLIT U310-16-0.00 INTO PHASES) |      |                |           |       |         |                                     |                                      |                    |                        |                  |                     |                     |
| FAYETTE                                                          | 2011 | 8/28/2011      | EARMARK   | CON   | NA999   | PAINT CREEK SCENIC PARK             | CONSTRUCT ROADSIDE INTERPRETIVE PARK | U310 PAINT 3 00    | SB10WV002D             | \$32,000         | \$25,600            | \$0                 |
| ADD NEW PROJECT                                                  |      |                |           |       |         |                                     |                                      |                    |                        |                  |                     |                     |
| FAYETTE                                                          | 2011 | 8/28/2011      | EARMARK   | CON   | NA      | COAL HERITAGE DISCOVERY CTR 2010    | CONST DISCOVERY CENTER               | U310 COALH 1 00    | SB10WV003D             | \$337,500        | \$270,000           | \$0                 |
| ADD NEW PROJECT                                                  |      |                |           |       |         |                                     |                                      |                    |                        |                  |                     |                     |
| FAYETTE                                                          | 2012 | 10/28/2011     | STP       | CON   | NA999   | BOY SCOUT RD (AUTHORIZE AC PROJECT) | CONST RD                             | U310 16 00000 00   | STP0016221D            | \$2,500,000      | \$2,000,000         | (\$3,000,000)       |
| DD REQUESTED TO ELIMINATE PHASE (SPLIT U310-16-0.00 INTO PHASES) |      |                |           |       |         |                                     |                                      |                    |                        |                  |                     |                     |
| FAYETTE                                                          | 2013 | 10/28/2012     | STP       | CON   | NA999   | BOY SCOUT RD (AC PROJECT)           | CONST RD                             | U310 16 00000 00   | STP0016221D            | \$10,000,000     | \$8,000,000         | \$3,000,000         |
| DD REQUESTED TO ELIMINATE PHASE (SPLIT U310-16-0.00 INTO PHASES) |      |                |           |       |         |                                     |                                      |                    |                        |                  |                     |                     |
| GILMER                                                           | 2011 | 6/28/2011      | CMAQ      | CON   | CO017   | UPPER CEDAR CREEK RD                | RESURF (1.5")                        | S311 17 01630 00   | CMAQ0017095D           | \$228,000        | \$182,400           | \$0                 |
| ADD NEW PROJECT (STATE FUNDED - PULLED OUT OF RESERVE)           |      |                |           |       |         |                                     |                                      |                    |                        |                  |                     |                     |
| GRANT                                                            | 2011 | 6/28/2011      | CMAQ      | CON   | CO05003 | BISMARCK RD                         | RESURF (1.5")                        | S312 50/3 00000 00 | CMAQ0503100D           | \$550,000        | \$440,000           | \$0                 |
| ADD NEW PROJECT (STATE FUNDED - PULLED OUT OF RESERVE)           |      |                |           |       |         |                                     |                                      |                    |                        |                  |                     |                     |

AMENDMENT #

Print Date 5/31/2011

STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM (STIP) FFY 2011-2016  
PROGRAM AMENDMENT FOR 2011

| COUNTY                                                        | FFY  | DISTRICT | GROUP | FUNDING OBLIGATION DATE | FUND TYPE | PHASE | ROUTE   | PROJECT NAME                          | TYPE OF WORK   | STATE PROJ. NUMBER  | FEDERAL PROJECT NUMBER | TOTAL PHASE COST | FEDERAL DOLLAR COST | FEDERAL COST CHANGE |
|---------------------------------------------------------------|------|----------|-------|-------------------------|-----------|-------|---------|---------------------------------------|----------------|---------------------|------------------------|------------------|---------------------|---------------------|
| <b>PROJECT COMMENTS</b>                                       |      |          |       |                         |           |       |         |                                       |                |                     |                        |                  |                     |                     |
| HAMPSHIRE                                                     | 2011 | 5        |       | 6/28/2011               | CMAQ      | CON   | 00008   | SOUTH BRANCH RIVER RD                 | RESURF (1.5")  | \$314 8 00238 00    | CMAQ0008047D           | \$375,000        | \$300,000           | \$0                 |
| <b>ADD NEW PROJECT (STATE FUNDED - PULLED OUT OF RESERVE)</b> |      |          |       |                         |           |       |         |                                       |                |                     |                        |                  |                     |                     |
| HARDY                                                         | 2011 | 5        |       | 6/28/2011               | EARMARK   | CON   | 0005/26 | HARDY CO COMPLEX ACC RD               | INST ACC RD    | X316 58/26 00000 00 | STIP05526001D          | \$1,460,750      | \$1,460,750         | \$0                 |
| <b>ADD NEW PROJECT</b>                                        |      |          |       |                         |           |       |         |                                       |                |                     |                        |                  |                     |                     |
| HARRISON                                                      | 2011 | 4        |       | 6/28/2011               | NHS       | CON   | 1079    | JENNINGS RANDOLPH HWY                 | INST GUARDRAIL | \$317 79 77777      | NH0793777              | \$55,000         | \$44,000            | \$0                 |
| <b>ADD NEW PROJECT</b>                                        |      |          |       |                         |           |       |         |                                       |                |                     |                        |                  |                     |                     |
| JACKSON                                                       | 2012 | 3        |       | 1/28/2012               | NHS       | CON   | WW002   | PLEASANT VIEW-RAVENSWOOD              | RESURF         | \$318 2 00846 00    | NH0002507D             | \$725,000        | \$580,000           | \$0                 |
| <b>ADD NEW PROJECT</b>                                        |      |          |       |                         |           |       |         |                                       |                |                     |                        |                  |                     |                     |
| LEWIS                                                         | 2012 | 7        |       | 10/28/2011              | HSIP      | CON   | 1079    | 1-79 LIGHTING                         | INST LIGHTING  | U321 79 09038 00    | HSIP0792176D           | \$815,000        | \$733,500           | \$0                 |
| <b>ADD NEW PROJECT</b>                                        |      |          |       |                         |           |       |         |                                       |                |                     |                        |                  |                     |                     |
| LINCOLN                                                       | 2011 | 2        |       | 6/28/2011               | STP       | ROW   | WW214   | SOD PIPE COLLAPSE                     | REP DRAINAGE   | \$322 214 77777     | STIP0214777            | \$5,000          | \$4,000             | \$0                 |
| <b>ADD NEW PROJECT</b>                                        |      |          |       |                         |           |       |         |                                       |                |                     |                        |                  |                     |                     |
| LINCOLN                                                       | 2012 | 2        |       | 10/28/2011              | STP       | CON   | WW214   | SOD PIPE COLLAPSE                     | REP DRAINAGE   | \$322 214 77777     | STIP0214777            | \$325,000        | \$280,000           | \$0                 |
| <b>ADD NEW PROJECT</b>                                        |      |          |       |                         |           |       |         |                                       |                |                     |                        |                  |                     |                     |
| LOGAN                                                         | 2011 | 2        |       | 6/28/2011               | CMAQ      | CON   | 00003   | CRAWLEY CREEK RD                      | RESURF (1.5")  | \$323 3 00430 00    | CMAQ0003231D           | \$159,000        | \$127,200           | \$0                 |
| <b>ADD NEW PROJECT (STATE FUNDED - PULLED OUT OF RESERVE)</b> |      |          |       |                         |           |       |         |                                       |                |                     |                        |                  |                     |                     |
| LOGAN                                                         | 2011 | 2        |       | 6/28/2011               | CMAQ      | CON   | 0009/2  | COOPERAS FORK RD                      | RESURF (1.5")  | \$323 9/2 00000 00  | CMAQ00092101D          | \$68,000         | \$54,400            | \$0                 |
| <b>ADD NEW PROJECT (STATE FUNDED - PULLED OUT OF RESERVE)</b> |      |          |       |                         |           |       |         |                                       |                |                     |                        |                  |                     |                     |
| LOGAN                                                         | 2011 | 2        |       | 6/28/2011               | CMAQ      | CON   | 00005   | MUD FORK RD                           | RESURF (1.5")  | \$323 5 00179 00    | CMAQ0005127D           | \$169,100        | \$135,280           | \$0                 |
| <b>ADD NEW PROJECT (STATE FUNDED - PULLED OUT OF RESERVE)</b> |      |          |       |                         |           |       |         |                                       |                |                     |                        |                  |                     |                     |
| LOGAN                                                         | 2011 | 2        |       | 6/28/2011               | CMAQ      | CON   | 0005/4  | DINGESS MTN RD                        | RESURF (1.5")  | \$323 5/4 00000 00  | CMAQ00054028D          | \$274,100        | \$219,280           | \$0                 |
| <b>ADD NEW PROJECT (STATE FUNDED - PULLED OUT OF RESERVE)</b> |      |          |       |                         |           |       |         |                                       |                |                     |                        |                  |                     |                     |
| LOGAN                                                         | 2012 | 2        |       | 12/28/2012              | EB        | CON   | WW010   | SOUTH OF MADISON - NORTH OF DAVY BRCH | GR DR, PAVE    | \$323 10 01256 03   | EB0010222              | \$32,700,000     | \$26,160,000        | \$3,543,200         |
| <b>16% COST INCREASE, REVISED PROJ NAME</b>                   |      |          |       |                         |           |       |         |                                       |                |                     |                        |                  |                     |                     |
| MARION                                                        | 2011 | 4        |       | 6/28/2011               | IM        | CON   | 1079    | 1-79 EXIT 132 SIGN REN                | REN SIGNING    | U325 79 77777       | IMG0793777             | \$175,000        | \$175,000           | \$0                 |
| <b>ADD NEW PROJECT</b>                                        |      |          |       |                         |           |       |         |                                       |                |                     |                        |                  |                     |                     |

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| COUNTY                                                 | FFY  | IS PROJECT | GROUP | FUNDING OBLIGATION DATE | FUND TYPE | PHASE | ROUTE   | PROJECT NAME                  | TYPE OF WORK                       | STATE PROJ. NUMBER  | FEDERAL PROJECT NUMBER | TOTAL PHASE COST | FEDERAL DOLLAR COST | FEDERAL COST CHANGE |
|--------------------------------------------------------|------|------------|-------|-------------------------|-----------|-------|---------|-------------------------------|------------------------------------|---------------------|------------------------|------------------|---------------------|---------------------|
| PROJECT COMMENTS                                       |      |            |       |                         |           |       |         |                               |                                    |                     |                        |                  |                     |                     |
| MARION                                                 | 2011 | 4          | 0     | 6/28/2011               | CMAQ      | CON   | CO062   | COAL BANK HILL RD             | RESURF                             | \$325 62 00000 00   | CMAA00062835D          | \$116,600        | \$93,280            | \$0                 |
| ADD NEW PROJECT (STATE FUNDED - PULLED OUT OF RESERVE) |      |            |       |                         |           |       |         |                               |                                    |                     |                        |                  |                     |                     |
| MARION                                                 | 2011 | 4          | 0     | 6/28/2011               | CMAQ      | CON   | CO072   | PRICKETT'S CREEK - MONTANA RD | RESURF                             | \$325 72 00000 00   | CMAA00072078D          | \$299,900        | \$239,920           | \$0                 |
| ADD NEW PROJECT (STATE FUNDED - PULLED OUT OF RESERVE) |      |            |       |                         |           |       |         |                               |                                    |                     |                        |                  |                     |                     |
| MASON                                                  | 2011 | 1          | 0     | 6/28/2011               | CMAQ      | CON   | CO015   | SANDHILL RD                   | RESURF (1.5")                      | \$327 15 00717 00   | CMAA00015089D          | \$233,000        | \$186,400           | \$0                 |
| ADD NEW PROJECT (STATE FUNDED - PULLED OUT OF RESERVE) |      |            |       |                         |           |       |         |                               |                                    |                     |                        |                  |                     |                     |
| MASON                                                  | 2011 | 1          | 0     | 6/28/2011               | CMAQ      | CON   | CO037   | JERRY'S RUN RD                | RESURF (1.5")                      | \$327 37 00594 00   | CMAA00037029D          | \$205,000        | \$164,000           | \$0                 |
| ADD NEW PROJECT (STATE FUNDED - PULLED OUT OF RESERVE) |      |            |       |                         |           |       |         |                               |                                    |                     |                        |                  |                     |                     |
| MASON                                                  | 2011 | 1          | 0     | 6/28/2011               | CMAQ      | CON   | CO01201 | TNT RD                        | RESURF                             | \$327 1201 00000 00 | CMAA00121014D          | \$76,000         | \$60,800            | \$0                 |
| ADD NEW PROJECT (STATE FUNDED - PULLED OUT OF RESERVE) |      |            |       |                         |           |       |         |                               |                                    |                     |                        |                  |                     |                     |
| MASON                                                  | 2011 | 1          | 0     | 6/28/2011               | CMAQ      | CON   | CO009   | BROAD RUN RD                  | RESURF                             | \$327 9 00805 00    | CMAA00009213D          | \$115,000        | \$92,000            | \$0                 |
| ADD NEW PROJECT (STATE FUNDED - PULLED OUT OF RESERVE) |      |            |       |                         |           |       |         |                               |                                    |                     |                        |                  |                     |                     |
| MINERAL                                                | 2011 | 5          | 0     | 6/28/2011               | CMAQ      | CON   | CO009   | KNOBLEY RD                    | RESURF (1.5")                      | \$329 9 00956 00    | CMAA00009210D          | \$475,000        | \$380,000           | \$0                 |
| ADD NEW PROJECT (STATE FUNDED - PULLED OUT OF RESERVE) |      |            |       |                         |           |       |         |                               |                                    |                     |                        |                  |                     |                     |
| MININGO                                                | 2011 | 2          | 0     | 6/28/2011               | CMAQ      | CON   | CO010   | RT FK BENS CREEK RD           | RESURF (1.5")                      | \$330 10 00100 00   | CMAA00010221D          | \$453,000        | \$362,400           | \$0                 |
| ADD NEW PROJECT (STATE FUNDED - PULLED OUT OF RESERVE) |      |            |       |                         |           |       |         |                               |                                    |                     |                        |                  |                     |                     |
| MININGO                                                | 2011 | 2          | 0     | 6/28/2011               | CMAQ      | CON   | CO092   | MOSES FORK RD                 | RESURF (1.5")                      | \$330 32 00300 00   | CMAA00032032D          | \$216,400        | \$173,120           | \$0                 |
| ADD NEW PROJECT (STATE FUNDED - PULLED OUT OF RESERVE) |      |            |       |                         |           |       |         |                               |                                    |                     |                        |                  |                     |                     |
| MININGO                                                | 2011 | 2          | 0     | 6/28/2011               | CMAQ      | CON   | CO006   | MATE CREEK RD                 | RESURF (1.5")                      | \$330 6 00418 00    | CMAA00006043D          | \$194,900        | \$155,920           | \$0                 |
| ADD NEW PROJECT (STATE FUNDED - PULLED OUT OF RESERVE) |      |            |       |                         |           |       |         |                               |                                    |                     |                        |                  |                     |                     |
| PLEASANTS                                              | 2011 | 3          | 0     | 6/28/2011               | NHS       | ROW   | WW002   | WILLOW ISLAND- BELMONT RD     | RESURF (1.5"), SHL, GPRL, STRIPING | \$337 2 00256 00    | NH0002777              | \$50,000         | \$40,000            | \$0                 |
| ADD NEW PROJECT                                        |      |            |       |                         |           |       |         |                               |                                    |                     |                        |                  |                     |                     |
| POCAHONT                                               | 2015 | 8          | 0     | 11/28/2014              | BR        | CON   | WW039   | DOUTHAT CREEK BRIDGE LMC      | LMC OVERLAY                        | \$338 39 03174 00   | BR0039777              | \$440,000        | \$352,000           | \$0                 |
| PROJECT TO BE STATE FUNDED                             |      |            |       |                         |           |       |         |                               |                                    |                     |                        |                  |                     |                     |
| POCAHONT                                               | 2015 | 8          | 0     | 11/28/2014              | BR        | CON   | WW039   | MINNEHAHA SPRINGS BRIDGE LMC  | LMC OVERLAY                        | \$338 39 03071 00   | BR0039777              | \$530,000        | \$424,000           | \$0                 |
| PROJECT TO BE STATE FUNDED                             |      |            |       |                         |           |       |         |                               |                                    |                     |                        |                  |                     |                     |

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| COUNTY                                                 | FFY  | DISBURSEMENT GROUP | FUNDING OBLIGATION DATE | FUND TYPE | PHASE | ROUTE | PROJECT NAME                        | TYPE OF WORK               | STATE PROJ. NUMBER | FEDERAL PROJECT NUMBER | TOTAL PHASE COST | FEDERAL DOLLAR COST | FEDERAL COST CHANGE |
|--------------------------------------------------------|------|--------------------|-------------------------|-----------|-------|-------|-------------------------------------|----------------------------|--------------------|------------------------|------------------|---------------------|---------------------|
| PROJECT COMMENTS                                       |      |                    |                         |           |       |       |                                     |                            |                    |                        |                  |                     |                     |
| PRESTON                                                | 2011 | 4                  | 6/28/2011               | CMAQ      | CON   | CO053 | TERRA ALTA - AURORA PIKE RD         | RESURF                     | \$339 53 00700 00  | CMAAQ0033009D          | \$485,200        | \$385,760           | \$0                 |
| ADD NEW PROJECT (STATE FUNDED - PULLED OUT OF RESERVE) |      |                    |                         |           |       |       |                                     |                            |                    |                        |                  |                     |                     |
| RALEIGH                                                | 2011 | 10                 | 6/28/2011               | CMAQ      | CON   | CO001 | MAPLE FORK RD                       | RESURF (1.5")              | \$341 1 02633 00   | CMAAQ0001245D          | \$400,000        | \$320,000           | \$0                 |
| ADD NEW PROJECT (STATE FUNDED - PULLED OUT OF RESERVE) |      |                    |                         |           |       |       |                                     |                            |                    |                        |                  |                     |                     |
| RALEIGH                                                | 2012 | 10                 | 8/28/2012               | CMAQ      | CON   | US019 | US 19 NB RAMP SIG                   | INST TRAF SIG              | US41 19 02106 00   | CMAAQ0019365D          | \$500,000        | \$400,000           | \$0                 |
| ADD NEW PROJECT                                        |      |                    |                         |           |       |       |                                     |                            |                    |                        |                  |                     |                     |
| RANDOLPH                                               | 2011 | 8                  | 6/28/2011               | NHS       | ENG   | US219 | CRAVENS RUN BOX CULVERT             | REPLACE DR                 | \$342 219 77777    | NH0219777              | \$10,000         | \$8,000             | \$0                 |
| ADD NEW PROJECT                                        |      |                    |                         |           |       |       |                                     |                            |                    |                        |                  |                     |                     |
| RANDOLPH                                               | 2011 | 8                  | 7/28/2011               | HSIP      | CON   | US219 | US 219 GDRL                         | INSTALL GR AND DELINEATORS | \$342 219 02350 00 | HSIP0219315D           | \$38,500         | \$34,650            | \$0                 |
| ADD NEW PROJECT                                        |      |                    |                         |           |       |       |                                     |                            |                    |                        |                  |                     |                     |
| RANDOLPH                                               | 2012 | 8                  | 10/28/2011              | NHS       | ROW   | US219 | CRAVENS RUN BOX CULVERT             | REPLACE DR                 | \$342 219 77777    | NH0219777              | \$20,000         | \$16,000            | \$0                 |
| ADD NEW PROJECT                                        |      |                    |                         |           |       |       |                                     |                            |                    |                        |                  |                     |                     |
| RANDOLPH                                               | 2012 | 8                  | 4/28/2012               | NHS       | CON   | US219 | CRAVENS RUN BOX CULVERT             | REPLACE DR                 | \$342 219 77777    | NH0219777              | \$500,000        | \$400,000           | \$0                 |
| ADD NEW PROJECT                                        |      |                    |                         |           |       |       |                                     |                            |                    |                        |                  |                     |                     |
| RITCHIE                                                | 2011 | 3                  | 7/28/2011               | NHS       | CON   | US050 | SAND HILL - NUTTER FARM (WESTBOUND) | RESURF(1.5"), RUMBLE STRIP | \$343 50 77777     | NH0507777              | \$500,000        | \$400,000           | \$0                 |
| ADD NEW PROJECT                                        |      |                    |                         |           |       |       |                                     |                            |                    |                        |                  |                     |                     |
| ROANE                                                  | 2012 | 3                  | 1/28/2012               | STP       | CON   | US033 | SPENCER-TRISTAN RD                  | RESURF (1.5")              | \$343 33 01369 00  | STP0033344D            | \$1,350,000      | \$1,080,000         | \$0                 |
| ADD NEW PROJECT (MOVED PROJECT FROM RESERVE)           |      |                    |                         |           |       |       |                                     |                            |                    |                        |                  |                     |                     |
| TUCKER                                                 | 2011 | 8                  | 7/28/2011               | NHS       | CON   | US219 | BACKBONE MT RD (SPLIT FUNDED)       | RESURF, SHL, GDRL          | \$347 219 77777    | NH0219777              | \$505,000        | \$404,000           | \$0                 |
| ADD NEW PROJECT                                        |      |                    |                         |           |       |       |                                     |                            |                    |                        |                  |                     |                     |
| TUCKER                                                 | 2011 | 8                  | 7/28/2011               | HSIP      | CON   | US219 | BACKBONE MT RD (SPLIT FUNDED)       | RESURF, SHL, GDRL          | \$347 219 77777    | NH0219777              | \$495,000        | \$396,000           | \$0                 |
| ADD NEW PROJECT                                        |      |                    |                         |           |       |       |                                     |                            |                    |                        |                  |                     |                     |
| TYLER                                                  | 2011 | 6                  | 6/28/2011               | CMAQ      | CON   | CO011 | ELK FORK RD                         | RESURF (1.5")              | \$348 11 00398 00  | CMAAQ0011131D          | \$218,100        | \$174,480           | \$0                 |
| ADD NEW PROJECT (STATE FUNDED - PULLED OUT OF RESERVE) |      |                    |                         |           |       |       |                                     |                            |                    |                        |                  |                     |                     |
| UPSHUR                                                 | 2011 | 7                  | 6/28/2011               | CMAQ      | CON   | CO011 | ALEXANDER RD                        | RESURF (1.5")              | \$349 11 01523 00  | CMAAQ0011132D          | \$356,500        | \$286,200           | \$105,200           |
| ADD NEW PROJECT (STATE FUNDED - PULLED OUT OF RESERVE) |      |                    |                         |           |       |       |                                     |                            |                    |                        |                  |                     |                     |

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| COUNTY                                                                               | FFY  | IS PROJECT | GROUP | FUNDING OBLIGATION DATE | FUND TYPE | PHASE | ROUTE   | PROJECT NAME                       | TYPE OF WORK                            | STATE PROJ. NUMBER  | FEDERAL PROJECT NUMBER | TOTAL PHASE COST | FEDERAL DOLLAR COST | FEDERAL COST CHANGE |
|--------------------------------------------------------------------------------------|------|------------|-------|-------------------------|-----------|-------|---------|------------------------------------|-----------------------------------------|---------------------|------------------------|------------------|---------------------|---------------------|
| <b>PROJECT COMMENTS</b>                                                              |      |            |       |                         |           |       |         |                                    |                                         |                     |                        |                  |                     |                     |
| WAYNE                                                                                | 2015 | 2          | 0     | 1/28/2015               | BR        | CON   | US052   | NURSERY GAP BRIDGE LMC             | LMC OVERLAY                             | \$350 52 03062 00   | BR0062777              | \$620,000        | \$496,000           | \$0                 |
| <b>PROJECT TO BE STATE FUNDED</b>                                                    |      |            |       |                         |           |       |         |                                    |                                         |                     |                        |                  |                     |                     |
| WAYNE                                                                                | 2015 | 2          | 0     | 1/28/2015               | BR        | CON   | US052   | SS CHESTER ARTHUR WINCHELL MEM BR  | LMC OVERLAY                             | \$350 52 02789 00   | BR0062777              | \$240,000        | \$192,000           | \$0                 |
| <b>PROJECT TO BE STATE FUNDED, NAME CHANGE (FORMERLY TOLISA FORT GAY BRIDGE LMC)</b> |      |            |       |                         |           |       |         |                                    |                                         |                     |                        |                  |                     |                     |
| WOOD                                                                                 | 2011 | 3          | 0     | 6/28/2011               | ENH       | CON   | NA      | WILLIAMSTOWN SW 2010               | CONST SW, ADA RAMPS                     | U354 WILLI 5 00     | TEA0122001D            | \$245,477        | \$196,382           | \$0                 |
| <b>ADD NEW PROJECT</b>                                                               |      |            |       |                         |           |       |         |                                    |                                         |                     |                        |                  |                     |                     |
| WYOMING                                                                              | 2012 | 10         | 0     | 11/28/2011              | BR        | CON   | CO09102 | RODNEY STATION MEMORIAL BRIDGE LMC | DECK REPR (FORMERLY LMC OVERLAY)        | \$365 0602 00042 00 | BR00602777             | \$2,150,000      | \$1,720,000         | \$1,120,000         |
| <b>REVISE PROJECT SCOPE TO DECK REPLACEMENT (FORMERLY LMC), COST REVISED</b>         |      |            |       |                         |           |       |         |                                    |                                         |                     |                        |                  |                     |                     |
| STATEWIDE                                                                            | 2011 | 99         | 0     | 6/28/2011               | CMAQ      | ENG   | NA000   | CHARLESTON/HUNTINGTO N CBD SUPPORT | SIGNAL SYSTEM SOFTWARE SUPPORT          | T699 VPNDT 11 00    | CMAQ2011777            | \$175,000        | \$140,000           | \$0                 |
| <b>ADD NEW PROJECT</b>                                                               |      |            |       |                         |           |       |         |                                    |                                         |                     |                        |                  |                     |                     |
| STATEWIDE                                                                            | 2011 | 8          | 0     | 6/28/2011               | APD       | ENG   | US048   | CORR H NORTHERN FLYING SQUIRREL    | NORTHERN FLYING SQUIRREL MITIGATION     | T699 FLYSQ 1 00     | APD0484312             | \$792,000        | \$633,600           | \$0                 |
| <b>ADD NEW PROJECT</b>                                                               |      |            |       |                         |           |       |         |                                    |                                         |                     |                        |                  |                     |                     |
| STATEWIDE                                                                            | 2011 | 8          | 0     | 6/28/2011               | APD       | ENG   | US048   | CORR H ENVIRONMENTAL               | ENVIRONMENTAL STUDY                     | X142 H 03899 07     | APD0484313             | \$2,000,000      | \$1,600,000         | \$0                 |
| <b>ADD NEW PROJECT</b>                                                               |      |            |       |                         |           |       |         |                                    |                                         |                     |                        |                  |                     |                     |
| STATEWIDE                                                                            | 2012 | 99         | 0     | 5/21/2012               | STP       | ENG   | NA999   | SUMMER 2012 TRANS INSTTU           | SALARY, SUPPLIES, TRAVEL, INDIRECT COST | T699 SUMME 777      | SSSS777                | \$59,404         | \$59,404            | \$0                 |
| <b>ADD NEW PROJECT</b>                                                               |      |            |       |                         |           |       |         |                                    |                                         |                     |                        |                  |                     |                     |
| STATEWIDE                                                                            | 2012 | 99         | 0     | 6/28/2012               | CMAQ      | ENG   | NA000   | CHARLESTON/HUNTINGTO N CBD SUPPORT | SIGNAL SYSTEM SOFTWARE SUPPORT          | T699 VPNDT 12 00    | CMAQ2012777            | \$175,000        | \$140,000           | \$0                 |
| <b>ADD NEW PROJECT</b>                                                               |      |            |       |                         |           |       |         |                                    |                                         |                     |                        |                  |                     |                     |
| STATEWIDE                                                                            | 2013 | 99         | 0     | 5/21/2013               | STP       | ENG   | NA999   | SUMMER 2013 TRANS INSTTU           | SALARY, SUPPLIES, TRAVEL, INDIRECT COST | T699 SUMME 777      | SSSS777                | \$62,968         | \$62,968            | \$0                 |
| <b>ADD NEW PROJECT</b>                                                               |      |            |       |                         |           |       |         |                                    |                                         |                     |                        |                  |                     |                     |
| STATEWIDE                                                                            | 2013 | 99         | 0     | 6/28/2013               | CMAQ      | ENG   | NA000   | CHARLESTON/HUNTINGTO N CBD SUPPORT | SIGNAL SYSTEM SOFTWARE SUPPORT          | T699 VPNDT 13 00    | CMAQ2013777            | \$175,000        | \$140,000           | \$0                 |
| <b>ADD NEW PROJECT</b>                                                               |      |            |       |                         |           |       |         |                                    |                                         |                     |                        |                  |                     |                     |
| STATEWIDE                                                                            | 2014 | 99         | 0     | 5/21/2014               | STP       | ENG   | NA999   | SUMMER 2014 TRANS INSTTU           | SALARY, SUPPLIES, TRAVEL, INDIRECT COST | T699 SUMME 777      | SSSS777                | \$66,746         | \$66,746            | \$0                 |
| <b>ADD NEW PROJECT</b>                                                               |      |            |       |                         |           |       |         |                                    |                                         |                     |                        |                  |                     |                     |
| STATEWIDE                                                                            | 2014 | 99         | 0     | 6/28/2014               | CMAQ      | ENG   | NA000   | CHARLESTON/HUNTINGTO N CBD SUPPORT | SIGNAL SYSTEM SOFTWARE SUPPORT          | T699 VPNDT 14 00    | CMAQ2014777            | \$175,000        | \$140,000           | \$0                 |

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| COUNTY           | FFY  | FUNDING OBLIGATION DATE | FUND TYPE | PHASE     | ROUTE | PROJECT NAME | TYPE OF WORK | STATE PROJ. NUMBER                  | FEDERAL PROJECT NUMBER                 | TOTAL PHASE COST | FEDERAL DOLLAR COST | FEDERAL COST CHANGE |           |     |
|------------------|------|-------------------------|-----------|-----------|-------|--------------|--------------|-------------------------------------|----------------------------------------|------------------|---------------------|---------------------|-----------|-----|
| PROJECT COMMENTS |      |                         |           |           |       |              |              |                                     |                                        |                  |                     |                     |           |     |
| STATEWIDE        | 2015 | 99                      | 0         | 5/21/2015 | STP   | ENG          | NA999        | SUMMER 2015 TRANS INSTITU           | SALARY SUPPLIES, TRAVEL, INDIRECT COST | 7699 SUMME 7??   | SSSS7??             | \$70,750            | \$70,750  | \$0 |
| ADD NEW PROJECT  |      |                         |           |           |       |              |              |                                     |                                        |                  |                     |                     |           |     |
| STATEWIDE        | 2015 | 99                      | 0         | 6/28/2015 | CMAQ  | ENG          | NA000        | CHARLESTON/HUNTINGTO, N CBD SUPPORT | SIGNAL SYSTEM SOFTWARE SUPPORT         | 7699 VPNDT 15 00 | CMAQ20157??         | \$175,000           | \$140,000 | \$0 |
| ADD NEW PROJECT  |      |                         |           |           |       |              |              |                                     |                                        |                  |                     |                     |           |     |
| STATEWIDE        | 2016 | 99                      | 0         | 5/21/2016 | STP   | ENG          | NA999        | SUMMER 2016 TRANS INSTITU           | SALARY SUPPLIES, TRAVEL, INDIRECT COST | 7699 SUMME 7??   | SSSS7??             | \$74,995            | \$74,995  | \$0 |
| ADD NEW PROJECT  |      |                         |           |           |       |              |              |                                     |                                        |                  |                     |                     |           |     |
| STATEWIDE        | 2016 | 99                      | 0         | 6/28/2016 | CMAQ  | ENG          | NA000        | CHARLESTON/HUNTINGTO, N CBD SUPPORT | SIGNAL SYSTEM SOFTWARE SUPPORT         | 7699 VPNDT 16 00 | CMAQ20167??         | \$175,000           | \$140,000 | \$0 |
| ADD NEW PROJECT  |      |                         |           |           |       |              |              |                                     |                                        |                  |                     |                     |           |     |

AMENDMENT #

Print Date 5/31/2011



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

**Division of Highways**

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

May 26, 2011

RECEIVED

Mr. Christopher Tiesler, P. E.  
Senior Engineer  
Kittelson & Associates, Inc.  
1818 Library Street, Suite 500  
Reston, Virginia 20190

JUN 03 2011

Jefferson County Commission

Dear Mr. Tiesler:

The West Virginia Division of Highways (WVDOH) has completed its review of the revised Traffic Impact Study (TIS) and subsequent correspondence regarding the expansion of the US Customs and Border Protection (CBP) facility adjacent to US 340 near Harpers Ferry, Jefferson County.

The results of our review indicate that you have adequately addressed the previous WVDOH comments and the TIS is approved, with the stipulation that you provide the WVDOH, as a supplement to the TIS, the additional analyses regarding the possible modifications along Shipley School Road that were presented as conceptual alternatives to the Jefferson County Commission on May 5, 2011. The Hagerstown/Eastern Panhandle Metropolitan Planning Organization intends to study, in greater detail, certain of those conceptual alternatives. The CBP also is to provide the WVDOH with comments regarding the CBP discussion with the Jefferson County Board of Education concerning those conceptual alternatives. Please note that the WVDOH has no project scheduled, has no funding obligated, and has no intention at this time of acquiring right-of-way associated with those conceptual alternatives presented to the County Commission. When appropriate, the CBP should submit to this office six (6) sets of Plans concerning the Development, which Plans should include any recommendations or modifications identified in the approved TIS.

Also, I have enclosed three (3) originals of an agreement regarding the traffic signal work associated with the development. These documents should be signed by CBP and returned to the WVDOH for approval and full execution. The date of the agreement will be the date it is executed by the WVDOH; therefore, *the date space at the top of the first page of the agreement is to be left blank.* After the appropriate officials of the WVDOH have affixed the necessary signatures, we will return one copy of the fully executed agreement for your files.

**Mr. Christopher Tiesler, P. E.**

**May 26, 2011**

**Page Two**

The WVDOH will then design the signal project and advertise and let the construction contract for that work. After letting, the WVDOH will request from CBP funds equal to the successful bid and upon receipt by WVDOH of those funds, the WVDOH then will award the construction contract. As we discussed previously, the WVDOH schedule regarding signal installation is dependent upon receipt from CBP of certain documents and funding.

Thank you for your assistance with this matter. Should you require additional information, please contact Mr. David E. Cramer, P. E., of our Commissioner's Office of Economic Development, at (304) 558-9211.

Very truly yours,

**Marvin G. Murphy, P. E., P. S.**  
**State Highway Engineer**

**MGM:Cw**

**Enclosure**

**cc: Jefferson County Commission**  
**Robert Gordon, Director, Hagerstown/Eastern Panhandle MPO**

**AGREEMENT**

**THIS AGREEMENT**, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the **WEST VIRGINIA DIVISION OF TRANSPORTATION, DIVISION OF HIGHWAYS**, a State Agency, hereinafter referred to as "Division;" and **UNITED STATES DIVISION OF HOMELAND SECURITY, THROUGH US CUSTOMS AND BORDER PROTECTION**, hereinafter referred to as "Customs."

**WITNESSETH**

**THAT WHEREAS**, Customs is expanding an existing training facility along US 340 near Harper's Ferry, Jefferson County, West Virginia; and

**WHEREAS**, Division and Customs are mutually agreed with respect to the installation of a new traffic signal system at the intersection of US 340 with the new approach to the training facility and modification of the existing traffic signal system at the intersection of US 340 with WV 230 near Harper's Ferry, Jefferson County; and

**WHEREAS**, due to the fact that the necessity for installing the traffic signal system and modifying the existing traffic signal at the aforementioned locations arises from traffic entering and exiting the development, and regulation of said traffic will benefit the patrons of said development, Customs has indicated a desire to pay for the construction costs of installing and modifying said traffic signal systems; said payment to be in the form of a donation to the State Road Fund and to be conditioned upon use of the entire amount thus donated for purposes hereinafter set forth; and,

**WHEREAS**, Division and Customs are desirous of cooperating in adoption of said rules, regulations, stipulations, and conditions in order to establish their mutual responsibilities and obligations with regard to the future maintenance and operation of said traffic signal system.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH, that for and in consideration of the mutual covenants herein entered into and mutual benefits to be derived by parties hereto, said Division and Customs do hereby agree that the following will be the duties and responsibilities of each party, respectively.

**DUTIES AND RESPONSIBILITIES OF THE DIVISION**

The Division agrees:

1. To prepare plans and specifications necessary for a project for the installation and modification of the traffic signal systems, to let a contract for the erection thereof, and to supervise the installation of the same.
2. To program the intersection controller.
3. To operate and perform properly all maintenance of the traffic signal systems.
4. To pay for continuing power costs of the traffic signal systems.

**DUTIES AND RESPONSIBILITIES OF CUSTOMS**

Customs agrees:

1. To contribute upon being advised by the Division and prior to the Division's approval to the contractor to proceed, a donation to the State Road Fund a sum of money equal to one hundred percent (100%) of the actual construction costs of the installation and modification of the traffic signal systems, currently estimated to be three hundred thousand dollars (\$300,000.00).
2. That the terms of the agreement shall be binding upon successors and assigns.

**IT IS FURTHER UNDERSTOOD AND AGREED BETWEEN DIVISION AND CUSTOMS:**

1. That the work agreed to be done by the Division in connection with the overall construction of the aforesaid traffic signal system shall be done in three phases, to wit:
  - a. The preparation of plans and specifications for a contract letting;
  - b. The advertising and acceptance of competitive bids on the contract;
  - c. The awarding of a contract for said traffic signal system and the supervision of the construction thereof.
2. That the construction cost shall include contract bid amount, estimated contract administration and inspection cost of Division personnel assigned to the project, and the cost of materials supplied from the Division's inventory to expedite the completion of the contract.
3. That upon completion of the installation of the traffic signal system, all equipment, poles, and other appurtenances necessary for the installation thereof, shall become the property of Division.
4. That Customs has not had, does not have now, and shall not have in the future, any responsibility in respect to the planning, design, construction, installation, or maintenance of said traffic signal system.
5. That Customs grants the Division the right and privilege to enter upon such portions of the Developer's property located near the intersection for the purpose of constructing and maintaining the traffic signal system and its appurtenances.

IN WITNESS WHEREOF, the parties hereto have caused their respective names to be signed by their duly authorized officers:

ATTEST:

**WEST VIRGINIA DIVISION OF  
TRANSPORTATION**  
Division of Highways  
A Corporation

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

\_\_\_\_\_  
Deputy State Highway Engineer-Development

ATTEST:

**UNITED STATES DIVISION OF  
HOMELAND SECURITY, THROUGH  
US CUSTOMS AND BORDER  
PROTECTION**

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

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



June 2, 2011

Dear Jefferson County Commission,

I want to share several important updates with you regarding the American Red Cross training programs you provide. In July, we will begin to implement a number of changes designed to enhance the quality and value of our programs and services as we continually strive to offer state-of-the-art training courses and materials. Specifically, we are:

- **Expanding and standardizing the portfolio of courses available across the country**, which may increase the number of courses available to you.
- **Establishing consistent, market-based pricing** that enables the Red Cross to recover our costs and support our mission.
- Enhancing customer service by **establishing a toll free customer call center** and moving to **centralized contract management**.
- Offering **enhanced, newly revised programs** in First Aid/CPR/AED, CPR/AED for Professional Rescuers and Healthcare Providers, Emergency Medical Response, and Lifeguarding – updated with the latest science and educational innovation methods.
- Continuing to implement **the next generation of Red Cross training** – with *2 year certification, free* digital materials and *free* digital refreshers for many of our courses.
- Updating our Learning Management Center to provide **better and easier self-service access for instructors to manage course records and print certificates**.

Please note that as part of these changes, **effective July 1, 2011, your authorized provider fees will be as outlined in the table below**. If you have been recently notified of price increases, we apologize for the multiple messages. A revised Authorized Provider Agreement will be sent to you by the end of the year.

*Pricing Schedule for American Red Cross Health & Safety Training*

| <b>Course name</b>                                                  | <b>AP fee per participant</b> |
|---------------------------------------------------------------------|-------------------------------|
| First Aid                                                           | \$19                          |
| CPR + AED (Adult)                                                   | \$19                          |
| CPR + AED (Pediatrics)                                              | \$19                          |
| First Aid + CPR + AED (Adult)                                       | \$27                          |
| First Aid + CPR + AED (Pediatrics)                                  | \$27                          |
| First Aid + CPR + AED (Adult + Pediatrics)                          | \$27                          |
| CPR + AED for the Professional Rescuer                              | \$27                          |
| Administering Emergency Oxygen                                      | \$10                          |
| Bloodborne Pathogens                                                | \$10                          |
| Responding to Emergencies (Adult + Pediatric)                       | \$35                          |
| Emergency Medical Response                                          | \$19                          |
| Review/Challenge Class – First Aid                                  | \$19                          |
| Review/Challenge Class – CPR + AED (Adult)                          | \$19                          |
| Review/Challenge Class – CPR + AED (Pediatrics)                     | \$19                          |
| Review/Challenge Class – First Aid + CPR + AED (Adult)              | \$19                          |
| Review/Challenge Class – First Aid + CPR + AED (Adult + Pediatrics) | \$19                          |
| Review/Challenge Class – CPR + AED for the Professional Rescuer     | \$19                          |



**American  
Red Cross**

| <i>Course name, continued</i>                           | <b>AP fee per participant</b> |
|---------------------------------------------------------|-------------------------------|
| Review/Challenge Class – Administering Emergency Oxygen | \$8                           |
| Review/Challenge Class – Emergency Medical Response     | \$19                          |
| Sports Injury Prevention & First Aid with CPR           | \$27                          |
| Asthma Inhaler Training                                 | \$8                           |
| Basic Aid Training                                      | \$10                          |
| Cat and Dog First Aid                                   | \$19                          |
| Epinephrine Auto-Injector Training                      | \$8                           |
| Wilderness First Aid                                    | \$19                          |
| Babysitter’s Training                                   | \$10                          |
| Nurse Assistant Training                                | \$50                          |
| Learn to Swim – Levels 1-6                              | \$5                           |
| Parent & Child Aquatics                                 | \$5                           |
| Basic Water Rescue Review                               | \$5                           |
| Lifeguard                                               | \$35                          |
| Review Class – Lifeguarding                             | \$35                          |
| Waterfront Lifeguarding                                 | \$35                          |
| Water Park                                              | \$35                          |

\*\$35 will be the maximum fee per participant for participants taking training for multiple certifications.

We are very excited to introduce this suite of changes to you, because we believe you will enjoy the enhanced product and service quality. Our new programs are shorter, more interactive, and focused on hands-on skills practice. Combined with the choice to purchase or library participant materials, and some of the best prices in the industry for the high quality printed materials, our customers and training partners have the opportunity to save on their total training costs. The two-year certification period, free digital materials and free digital refreshers are specifically designed to save you money while still delivering the high quality, effective training you have come to rely on us for. We are confident that you will be delighted by our updated programs, and that the changes will give you more choices and more flexibility.

The Red Cross is proud to serve this community in more than one ways. Fees paid to the Red Cross help recover the costs of developing our training programs, as well as help fulfill our mission in this community and across the country. The Red Cross responds to over 70,000 local and national disasters, provides nearly half of the nation’s blood supply, and delivers hundreds of thousands of emergency communications and support for military members and their families.

Thank you for the opportunity to partner with you. If you have any questions, please do not hesitate to contact us.

Sincerely,

Katy Hammond  
Regional Health & Safety Director  
West Virginia Region  
American Red Cross

# Jefferson County Public Service District

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## Jefferson County Public Service District Regular Board Meeting May 2, 2011

The monthly meeting of the Jefferson County Public Service District was held at 7:00PM on Monday, May 2, 2011 in the meeting room at the Districts office in Kearneysville. Those in attendance included: Chairman, Joe Hankins; Treasurer, Peter Appignani; General Manager, Susanne Lawton; Administrative Assistant, Ashley Stottlemeyer; District Legal Counsel, Jim Kelsh; and Commissioner Lyn Widmyer, liaison for the County Commission.

Secretary Jim Cummins was absent from the meeting.

Chairman Hankins called the meeting to order at 7:00PM.

Public Comments  
None.

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JUN 07 2011

### OLD BUSINESS

#### Review Minutes of April 4 Regular Board Meeting

The minutes of the April 4, 2011 regular Board meeting were approved as presented.

**Action:** Motion made by Mr. Appignani and seconded by Mr. Hankins to accept the April 4, 2011 minutes as presented. Approved 2-0.

#### Update on Flowing Springs Wastewater Treatment Plant Project

The hearing will be held on May 3<sup>rd</sup> and possibly May 4<sup>th</sup> at the Charles Town Council Chambers.

**Action:** No action taken by the Board.

#### Update on the Under-billing of Job Corps

The District received a large check last month from Job Corp and is now waiting on getting the remaining balance of \$21,430.73 for the under-billing error.

**Action:** No action taken by the Board.

### NEW BUSINESS

#### Consider an Inflow & Infiltration Plan for NPDES Permit

The Districts' recently approved NPDES permit has a requirement that the District continue its efforts to identify and eliminate sources of inflow and infiltration and submit a plan of action for the implementation of that plan. Mr. Summerfield has drafted a plan and included in the Board books. Mr. Hankins suggested setting a performance benchmark for the inflow and infiltration plan and draft a specific metric to measure the progress against. Ms. Lawton would like to start ordering needed equipment to carry out the inflow and infiltration plan. Mr. Summerfield will incorporate the Board's suggestions into the draft.

**Action:** Motion made by Mr. Appignani and seconded by Mr. Hankins to approve the draft plan and begin purchasing the flow monitoring equipment with more details committed by staff. Approved 2-0.

#### File Petition with Public Service Commission to Amend Sewer Tariff to Include Charge for Availability of Sewer Service

Mr. Kelsh informed the Board that the Public Service Commission recently amended the sewer rules which go in effect May 8<sup>th</sup> that include a provision for sewer utilities to charge a fee for availability of sewer service in the utilities tariff. Mr. Kelsh would like to file an amended sewer tariff on behalf of the

District adding the charge for the availability of sewer service. The Board was concerned if the change in the tariff will follow the language in the Districts Sewer Use Ordinance. Mr. Kelsh will review the Sewer Use Ordinance and try to match the amended language of the tariff. He will bring it back to the Board next month if that isn't possible.

**Action:** **Motion made by Mr. Hankins and seconded by Mr. Appignani to direct Counsel to file a petition with the Public Service Commission to amend the sewer tariff to include the charge for availability of sewer service with language consistent with the Districts existing Sewer Use Ordinance. Approved 2-0.**

Consider Full-Time Engineering Technician Position

Ms. Lawton prepared a job description, advertisement, and cost estimate for possible equipment for an Engineering Technician position pending the Board's approval. She has been working with a few engineers, other localities, and the County's GIS Director to prepare these documents. This new position would be tasked with working on the next step of the GIS program, work on the Districts asset management plan, manage the inflow & infiltration plan, and take over some of the job duties of the former research assistant who is no longer with the District. Ms. Lawton stated the salary and benefits of this position was worked in the FY2012 budget and the equipment would be paid for out of the future needs account.

**Action:** **Motion made by Mr. Appignani and seconded by Mr. Hankins to approve the new full-time Engineering Technician position and begin purchasing the necessary equipment needed for the position. Approved 2-0.**

Consider Approval for FY2012 Budget

Ms. Lawton and April Williams, Finance Manager discussed the FY2012 annual budget. This budget shows 120% coverage.

**Action:** **Motion made by Mr. Appignani and seconded by Mr. Hankins to adopt the FY2012 PSD budget as presented. Approved 2-0.**

At this time, Commissioner Lyn Widmyer informed the Board of a couple of updates from the County Commission. She invited the Board and staff to a presentation by Peter Vila of the Water Advisory Committee regarding the water monitoring project. Ms. Widmyer also informed the Board that the Solid Waste Authority was willing to take over the Hazardous Waste event for this year, but the County Commission did not approve the funds for the event. She also stated the kick-off meeting for the Rt. 340 study took place last month at C.W. Shipley with 130 people in attendance.

Discussion of any expenses over budget

There were no expenses over budget.

**Action:** **No action taken by the Board.**

Disbursements

**Action:** **Motion made by Mr. Appignani and seconded by Mr. Hankins to approve disbursements for Cavaland water expenses in the amount of \$935.73, Glen Haven water expenses in the amount of \$1,354.71. Approved 2-0.**

**Action:** **Motion made by Mr. Appignani and seconded by Mr. Hankins to approve disbursements for the Public Service District expenses in the amount of \$200,211.97. Approved 2-0.**

Approve Transfer of \$127.90 from Cavaland Security Deposit Account to Cavaland Operating for Security Deposit Refunds

**Action:** **Motion made by Mr. Appignani and seconded by Mr. Hankins to approve the transfer of \$127.90 from Cavaland Security Deposit Account into Cavaland Operating Account for Security Deposit Refunds. Approved 2-0.**

Approve Transfer of \$2,797.88 from Sewer Security Deposit Account to Sewer Operating for Security Deposit Refunds

**Action:** Motion made by Mr. Appignani and seconded by Mr. Hankins to approve the transfer of \$2,797.88 from Sewer Security Deposit Account into Sewer Operating Account for Security Deposit Refunds. Approved 2-0.

General Manager's Report

Ms. Lawton updated the Board on activities since last month's meeting.

Cavaland and Glen Haven Water System – Staff has received estimates for both water systems from two electricians for electric upgrades for the control panels.

NPDES Applications – Ms. Lawton has seen three applications this month; Ox Paperboard LLC, Willow Springs wastewater treatment plant, and the City of Charles Town Tuscowilla Plant.

Driscoll Elementary – Ms. Lawton spoke with Paul Raco, a consultant for the School Board, about the work that still needed to be completed with the schools pump station before the District can take over the operations and maintenance. The District is giving a deadline of 60 days to finish up the work or District staff will no longer maintain the pump station.

**Action:** No action taken by the Board.

Public Comment

None.

Correspondence

None.

Discuss Martinsburg, et al NPDES Permit Appeal

Mr. Kelsh informed the Board that the Kanawha County Circuit Court entered an order denying the Appellants' motion to stay, and requiring them to file their brief by May 16<sup>th</sup>. Proposed orders are due to the court by June 30<sup>th</sup>.

**Action:** No action taken by the Board.

Discuss American Farm Bureau Federation v. EPA

Mr. Kelsh informed the Board that the Chesapeake Bay Foundation will soon file a petition to intervene on the behalf of itself and the District.

**Action:** No action taken by the Board.

Discuss Brandon French Public Service Commission Complaint Case, PSC Case 10-1434-PSD-C

Mr. Kelsh informed the Board that he had filed exceptions to the Recommended Decision issued by the Administrative Law Judge. The other parties have until May 2<sup>nd</sup> to file a reply to the exceptions.

**Action:** No action taken by the Board.

**Action:** Motion made by Mr. Hankins and seconded by Mr. Appignani to convene in executive session for the purpose of discussing litigation and contract negotiations. Approved 2-0.

**Action:** Motion made by Mr. Appignani and seconded by Mr. Hankins to return to public session. Approved 2-0.

**Action:** Motion made by Mr. Hankins and seconded by Mr. Appignani to acknowledge a pay rate increase for the General Manager for the FY2012 and the Chairman will forward the discussed amount to the Finance Manager. Approved 2-0.

**Action:** Motion made by Mr. Appignani and seconded by Mr. Hankins to adjourn. Unanimously approved.

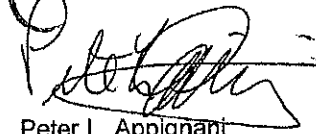
There being no further business at this time, the meeting was adjourned at 8:35PM

The next regular meeting is scheduled for June 6, 2011 at 7:00pm at 340 Edmond Road, Suite A at the Districts office in Kearneysville.

Respectfully Submitted,



Joseph A. Hankins  
Chairman



Peter L. Appignani  
Treasurer

# Jefferson County Public Service District

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## Jefferson County Public Service District Emergency Board Meeting May 12, 2011

The emergency board meeting of the Jefferson County Public Service District was held at 2:00PM on Thursday, May 12, 2011 at the District's office in Kearneysville. Those in attendance included: Chairman, Joseph Hankins; Secretary, Jim Cummins (speakerphone); Treasurer, Peter Appignani (speakerphone); PSD General Manager, Susanne Lawton; District Legal Counsel, Jim Kelsh (speakerphone); and Billing Clerk II, Angel-Lynn Markley filling in for the Administrative Assistant.

Chairman Hankins called the meeting to order at 2:00PM.

### Public Comments

None.

### Discuss the Flowing Springs Certificate Case, PSC Case 09-0347-PSD-PS-CN

The primary purpose for the meeting was to discuss the current Public Service Commission hearings relating to the Flowing Springs certificate case.

- Action:** Motion made by Mr. Cummins and seconded by Mr. Appignani to convene in executive session for the purpose of discussing litigation and contract negotiations. Unanimously approved.
- Action:** Motion made by Mr. Appignani and seconded by Mr. Cummins to return to public session. Unanimously approved.
- Action:** Motion made by Mr. Appignani and seconded by Mr. Cummins to adjourn. Unanimously approved.

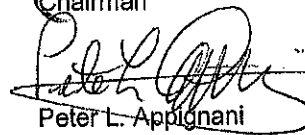
There being no further business at this time, the meeting was adjourned at 3:03PM

The next regular meeting is scheduled for June 6, 2011 at 7:00pm at 340 Edmond Road, Suite A at the Districts office in Kearneysville.

Respectfully Submitted,



Joseph A. Hankins  
Chairman



Peter L. Appignani  
Treasurer

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JUN 07 2011

JEFFERSON COUNTY COMMISSION

## RETIREMENT PARTY

IN HONOR OF

# Paul & Eliza Bayles

Paul "Bobby" and Eliza decided it was time to hang up their hats and start enjoying the fruits of their labor.

Old friends, new friends, and family will gather together for a relaxing afternoon to kick off Paul & Eliza's new life of leisure. Come share your fond memories, enjoy some good music, and show the newly retired couple what retirement is all about!

*\*Light refreshments will be served\**

**WHEN:** Sunday, June 26, 2011 3pm til 6pm

**WHERE:** Ranson Civic Center  
431 West 2nd Ave.  
Ranson, WV

### Gift Ideas

Cash, Lottery Tickets,  
Gift cards for Home  
Decor, Wal-Mart, Sikes  
Restaurant, Sheri's  
Knox Lodge.

Please RSVP by Sunday, June 19th to Mary Harder (Paul & Eliza 's daughter )

Via phone or text: (304 ) 270-8621

Via email: harder\_mary@yahoo.com

Please include your name and number of people attending in your RSVP



State of West Virginia  
**DEPARTMENT OF AGRICULTURE**  
Gus R. Douglass, Commissioner

Janet L. Fisher  
Deputy Commissioner

Bob Tabb  
Deputy Commissioner

Steve Miller  
Assistant Commissioner

June 9, 2011

Jefferson County Public Service District  
Board of Directors  
340 Edmond Road #A  
Kearneysville, WV 25430-2726

Dear Board Members:

I am very disappointed to learn that the Jefferson County Public Service District (JCPSD) has joined with the U.S. Environmental Protection Agency in its legal battle with the American Farm Bureau Federation. I am even more disappointed to see JCPSD President Joseph Hankin's comments in the Martinsburg *The Journal* implying that West Virginia's family farmers have not done their fair share to protect water quality in the Chesapeake Bay watershed.

He is either badly misinformed about their conservation efforts, or chooses to set rural and urban West Virginians against each other. I would have hoped that the citizens and organizations of our state would work together to find reasonable, practicable ways to protect the quality of the water that flows out of our state toward the Chesapeake Bay.

Throughout the Chesapeake Bay region, according to the USDA's Natural Resources Conservation Service, nearly half of cropland acres are protected by one or more structural practices such as buffers or terraces, and reduced tillage is used on 88 percent of the cropland. Adoption of conservation practices has reduced edge-of-field sediment loss by 55 percent, losses of nitrogen with surface runoff by 42 percent, losses of nitrogen in subsurface flows by 31 percent, and losses of phosphorus by 41 percent.

Generally, agricultural sources of nutrients have achieved about 50 percent of the reduction goals set in 1985, according to the Chesapeake Bay Program. Meanwhile, runoff from urban and suburban lands is the only source of pollution that is increasing. The percentage of urban goals achieved since 1985 range from about minus 50 to minus 80, depending on which nutrient you are considering. The technology used by the 483 major municipal and industrial wastewater treatment plants in the watershed is overall insufficient to meet water quality goals.

The Chesapeake Bay Program graciously notes that upgrading water treatment facilities is extremely expensive and takes time. That is why the West Virginia

Jefferson County Public Service District  
Board of Directors  
Page 2  
June 9, 2011

Department of Agriculture lent considerable support for Senate Bill 245 – passed this year by the West Virginia Legislature – to reduce ratepayer increases for wastewater projects in the Chesapeake Bay watershed.

Who, then, is doing the most to protect water quality, and who is trying to “pass the buck?”

At the same time, the Chesapeake Bay Program notes that, “In part because they are so cost-effective, the states in the Bay watershed are relying on expanded use of agricultural conservation practices for more than half of the remaining nutrient reductions needed to meet overall Bay restoration goals.”

Farmers will directly bear a large portion of those expenses, so the question becomes, “cost-effective for whom?” Is it any wonder that agriculture feels it must defend itself in court?

It is this injustice that is at the heart of the Farm Bureau’s lawsuit, not a desire to pollute without consequence. Farmers know there are consequences to not preserving our natural resources. Many of them drink the water that is beneath their farms. Their financial well-being is directly tied to the health of their air, land and water resources.

A sewer customer has only one provider and the costs for facilities and new technology is shared equitably by every customer. Farmers have virtually no ability to influence the prices they receive. But they do have competitors: China, Brazil and Mexico to name a few. And in many instances, these countries do not adhere to the same safety and conservation practices that have been the standard in this country for decades.

I respectfully request that the JCPSD reconsider its position as the only public service district in the state to join in this lawsuit, and to publicly affirm its support to of agriculture, both as an economic driver and as a protector of the natural resources on which we all rely.

Sincerely,



Gus R. Douglass  
Commissioner

**RECEIVED**

JUN 13 2011

c: Jefferson County Commission  
John McVey, *State Journal*

Jefferson County Commission