

AGENDA
JEFFERSON COUNTY COMMISSION
THURSDAY, JANUARY 5, 2012
9:30 A.M.

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

CALL TO ORDER

PLEDGE OF ALLEGIANCE

COUNTY COMMISSION ORGANIZATION

- A. Selection of President
- B. Selection of Vice President
- C. Committee Assignments

APPROVAL OF MINUTES

APPROVAL OF PURCHASE ORDERS

APPROVAL OF ACCOUNTS PAYABLE

PUBLIC COMMENT

PRESENTATIONS:

- 1. 10:00 a.m. Angela Banks, County Assessor
- Implementation of SB 401 -changes to the WV Code for Board of Review and the Office of the Assessor - Discussion
- 2. 10:15 a.m. Peter Chakmakian, Esq.
- Petition of William E. Knode and Jo Ann Knode to vacate unused streets and alley under §7-1-3h to set date for Public Hearing - Discussion/Action
- 3. 10:30 a.m. **Break**
- 4. 10:45 a.m. Jennifer Brockman, Director of Planning and Zoning
- Upcoming US 340 Public meeting and request for joint Planning/County Commission meeting - Discussion/Action
- 5. 11:00 a.m. Barbara Miller, Director of Homeland Security & Emergency Management
- Homeland Security Grant application for a Pets Sheltering Trailer and Supplies in the amount of \$30,000 - Discussion/Action

6. 11:15 a.m. Roger Goodwin, Chief County Engineer
 - Letters of Credits securing construction bonds - Discussion/Action
 - Tolling of Construction Bond for the Jackson Woods Subdivision, Lots 1-12 - File #06-28 - Discussion/Action

UNFINISHED BUSINESS:

7. Approval of the Sexual Harassment Policy - Discussion/Action

NEW BUSINESS:

8. Approval of Board of Review and Equalization Notice - Discussion/Action
9. Request to approve no cost internship for administrative assistant - Discussion/Action
10. Request to complete the revitalization of the County Commission meeting room - Discussion/Action
11. Approval to increase the Public Service District Board membership from three to five members (DM) - Discussion/Action
12. Request to use the County Commission meeting room by the Poverty Initiative at Union Theological Seminary - Discussion/Action
13. Approval of Resolution - Paul Rosa - Discussion/Action
14. Approval of Resolution - Active WV 2015: WV Physical Activity Plan - Discussion/Action

DEPARTMENT HEAD QUARTERLY REPORTS

- Mark Schiavone, Director of Capital Management

BOARDS, COMMISSIONS OR AUTHORITIES QUARTERLY REPORTS

- Water Advisory Committee

COUNTY ADMINISTRATOR REPORTS

COUNTY COMMISSION REPORTS

~~~~~ EVENING SESSION ~~~~~

15. 7:00 p.m. **Public Hearing**  
The purpose of the hearing is for public input for the Zoning Map Amendment (Rezoning) for property designated as Tax District: Harpers Ferry, Map: 9, Parcel: 39.1. This property is currently zoned Residential Growth and Residential/Light Industrial/Commercial zoning is being requested. The property is located on the south side of Route 340 (William L. Wilson Freeway); the east side of Route 27 (Millville Road) and on the north side of Route 27/2 (Allstadt's Hill Road) and is a total of 12.97 acres. James and Barbara Gibson are the owners.

**ADJOURN**

**CORRESPONDENCE:**

Letter received from Paul Comes of Comcast regarding program changes.

Notice of Public Hearing on Thursday, January 12, 2012 at 11:00 a.m. concerning the FY 2012 Home Consortium.

Request for funding and Annual report received from the Potomac Valley Audubon Society.

Letter received from Public Service Commission regarding E-911 fees in the amount of \$167,175.20.

County Commissioners Association of West Virginia's registration information received for the January 22-24,2012 Legislative Association Meeting and Training Series Program.

Article concerning "Changes to public benefits take effect on July 1, 2012" received from the West Virginia Association on Counties.

The weekly settlement report for Charles Town Races and Slots for the week ending December 24, 2011 received from the West Virginia Lottery.

Letter of reflection received from the Eastern Panhandle Free Clinic.

Note of appreciation received from the staff of the Berkeley/Jefferson Day Report Center.

Article regarding changes to PEIA received from the West Virginia Association of Counties.

**Letter received from the United States Department of the Interior regarding Proposed Facilities Maintenance and Upgrading Activities U.S. Geological Survey Leetown Science Center, Kearneysville, WV Compliance with the National Environmental Policy Act.**

**Notice of Increase of Motor Fuel Exercise Tax and Motor Carrier Road Tax received.**

**Letter received from Blue Ridge Mountain Volunteer Fire Company regarding the 2012 officers.**

**The December 2011 West Virginia Ethics Reporter received from the West Virginia Ethics Commission.**

**The December 2011 Commissioner's Corner received from the County Commissioners' Association of West Virginia.**

***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.***

Commission Office Use Only

Date on Agenda:

Appt Time or New Business:

### AGENDA REQUEST FORM

Name: Nichelle Hosby

Department or Entity: Co. Commission

Estimation of amount of time needed for appointment: 15 minutes

Date Requested – 1<sup>st</sup> Choice: 1/5/2012

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

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

Subject: **Assignments to Boards, Commissions and Organizations**

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:

**Assisgment to Boards, Commissions & Organizations  
Calendar Year 2012**

| <i>Organization</i>                                        | <i>Commissioner 2011</i> | <i>Commissioner 2012</i> |
|------------------------------------------------------------|--------------------------|--------------------------|
| Affordable Housing                                         | Noland/Manuel            |                          |
| Air Quality Control Board                                  | Widmyer                  |                          |
| Approval of Bills                                          | Morgan/Pellish           |                          |
| Board of Health                                            | Morgan                   |                          |
| Building Repair                                            | Manuel                   |                          |
| Community Corrections Committee                            | Morgan/Manuel            |                          |
| Court House Committee                                      | Noland                   |                          |
| Development Authority                                      | Pellish                  |                          |
| E-911 Council                                              | Manuel                   |                          |
| Extension Service                                          | Noland                   |                          |
| Farmers Market Committee                                   | Noland/Manuel            |                          |
| Farmland Preservation Board                                | Morgan/Pellish (Alt.)    |                          |
| Jefferson County Convention & Visitors Bureau              | Noland/Pellish (Alt.)    |                          |
| Jefferson County Emergency Services Agency / Fire & Rescue | Manuel                   |                          |
| Historic Landmarks Commission                              | Morgan                   |                          |
| Homeland Security                                          | Manuel                   |                          |
| Legislative Liaison                                        | Noland/Manuel            |                          |
| Local Emergency Planning Committee                         | Manuel                   |                          |
| Mental Health Center                                       | Prosecuting Attorney     |                          |
| MPO Interstate Council                                     | Widmyer                  |                          |
| Parks and Recreation                                       | Manuel/Widmyer           |                          |
| Planning Comission                                         | Pellish                  |                          |
| Public Service District Liaison                            | Widmyer/Noland           |                          |
| Region 9                                                   | Widmyer                  |                          |
| Roundtable/Council of Government                           | Noland                   |                          |
| Solid Waste Authority                                      | Widmyer                  |                          |
| Telemon Board                                              | Morgan                   |                          |
| Water Advisory Committee                                   | Widmyer/Manuel           |                          |
| Workforce Investment Act Liaison                           | Morgan                   |                          |

**Minutes**  
**Jefferson County Commission**  
**Thursday, December 15, 2011**

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A meeting of the Jefferson County Commission was held on Thursday, December 15, 2011 in the County Commission meeting room at the Old Charles Town Library located at 200 E. Washington Street, Charles Town, WV 25414. Present were Commissioners Patricia Noland, Dale Manuel, Lyn Widmyer, Frances Morgan and Walt Pellish. Also present were Tim Boyde, County Administrator, Debbie Stellato, Administrative Assistant and Jimmy Eddy, Bailiff. (An audio tape of the December 15, 2011 meeting is available through the Jefferson County Commission Office.)

**PLEDGE OF ALLEGIANCE**

Commissioner Widmyer led the Pledge of Allegiance.

**APPROVAL OF MINUTES**

Motion by Mr. Manuel to approve the Amended Minutes of the December 8, 2011 meeting. Motion seconded by Ms. Morgan and unanimously approved.

Motion by Ms. Morgan to approve the Minutes of the December 8, 2011 Public Hearing as presented. Motion seconded by Ms. Widmyer and unanimously approved.

**APPROVAL OF PURCHASE ORDERS**

Motion by Mr. Manuel to approve Purchase Orders in the amount of \$136,977.01, being purchase order numbers: 52981, 50676, 53170, 53171, 53172, 53284, 50461, 50460, 50653, 50469, 49110, 53244, 50762, 50766, 53270, 53269, 53267, 53271, 53272, 50759, 50648, 50756, 50757, 50758, 50760, 50761, 50691, 50721, 50440, 50488, 50480, 50481, 50482, 50483, 50484, 50485, 50486, 50487, 50770, 50755, and 50763. 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 \$232,747.57. Motion seconded by Mr. Manuel and unanimously approved.

**Ralph Lorenzetti, Jefferson County Prosecuting Attorney**, invited the Commissioners and the public to an open house at the new offices of the Prosecuting Attorney located at 201 N. George Street, from 3:00 p.m. to 5:00 p.m. on Wednesday, December 21, 2011. Mr. Lorenzetti also thanked the Maintenance Department for a good job done in moving the office.

**PUBLIC COMMENT:**

**Tyler Quynn** spoke regarding Jefferson County Public Sewer District Board appointments.

**Lyle Bivens** spoke regarding unlimited corporate influence in elections.

**Lori Stilley, Ph.D.** spoke regarding commercial impact fees.

**Mark Dyck** spoke regarding commercial impact fees.

**David Tabb** spoke regarding commercial impact fees.

**Kathy knight** spoke regarding commercial impact fees.  
**Debbie Royalty** spoke regarding the rezoning issue on last week's Agenda.

**PRESENTATIONS:**

**1. Interviews and Appointments to the Board of Zoning Appeals.**

Motion by Ms. Morgan to reappoint Christy Huddle and Edwin T. Kelly, II to the two full terms beginning in January 2012. Motion seconded by Mr. Manuel and unanimously approved. Commissioners directed Staff to readvertise the remaining two positions.

**2. (a) Interviews and Appointment to the Jefferson County Emergency Services Agency.**

**Dr. Russell Kitchner** outlined his qualifications to serve on the JCESA.

Motion by Ms. Morgan to appoint Dr. Russell Kitchner to the unexpired term ending November 2, 2013. Motion seconded by Mr. Manuel and unanimously approved.

It was suggested that a Resolution be prepared to commend Paul Rosa on his excellent service on the Jefferson County Emergency Services Agency Board. The Resolution will be prepared and presented on the January 5, 2012 Agenda.

**(b) Interviews and Appointment to the Jefferson County Building Commission for an unexpired term ending July 27, 2016.**

**Michael Johnson** spoke to the Commission regarding his qualifications to serve on the Jefferson County Building Committee.

Motion by Mr. Manuel to appoint Michael Johnson to the unexpired term ending July 27, 2016. Motion seconded by Mr. Pellish and unanimously approved.

**3. Enactment of the agreed fees of \$110 for residential and \$.08 s/f commercial and approval of PR funding.**

(a) **Fee** – Motion by Mr. Pellish to consider the implementation of the fire fee. No second.

Ms. Widmyer moved that the County Commission determine a date to hold a public hearing and hear testimony regarding establishing an emergency service fee of \$110 for residential and \$.08 per square foot of commercial. Mr. Manuel seconded the motion and added "that legal counsel in conjunction with the Jefferson County Emergency Services Agency prepare a draft for public review to be available at the four meetings to be held by the JCESA and at the County Commission's public hearing." Mr. Manuel asked that this be added as a friendly amendment.

Ms. Widmyer agreed and restated her motion that the County Commission determine a date to hold a public hearing to receive testimony on establishing an emergency service fee of \$110 for residential and \$.08 per square foot of commercial and that prior to the public hearing there be community meetings which include presentations of the draft ordinance as prepared by legal staff. Motion was previously seconded by Mr. Manuel and is unanimously approved.

Mr. Hannon will provide the Commission with the dates of the four community meetings to be held in January 2012 and subsequent to these meetings the County Commission will hold a public hearing. The Commission will share all written comments with the Jefferson County Emergency Services Agency.

- (b) **Funding Request** – Ed Hannon requested \$5,000 from the Commission in addition to the \$3,000 previously allocated to the Jefferson County Emergency Services Agency PR Committee to continue moving forward with further implementation of the 5-year Plan including the fee.

Motion by Mr. Manuel to approve the requested \$5,000 as additional funding for the Jefferson County Emergency Services Agency PR Committee to complete its education of the public. Motion seconded by Ms. Widmyer and unanimously approved.

The Commission took a short recess at 10:45 a.m.

The Commission reconvened the meeting at 10:55 a.m.

4. **Roger Goodwin – Partial release of Letter of Credit #292 in the amount of \$412,058.00 for the Avalon Hills Subdivision, Lots 1-14 & Residue Lots A, B, C & D – File #06-24.**

Motion by Ms. Widmyer to approve the partial release of the construction bond as presented by Staff. Mr. Manuel seconded the motion. The motion carried 4 to 1 with Ms. Morgan voting “no.”

5. **Appointment to the Jefferson County Public Service District Board.**

Applicants were Tyler Quynn, Bill Strider and Roger Forshee.

Mr. Pellish nominated Bill Strider. Mr. Manuel seconded the nomination.

Ms. Morgan nominated Roger Forshee. Ms. Widmyer seconded the nomination.

Upon vote taken, Bill Strider was appointed to serve on the JSPSD Board for the 6-year term ending 12-1-2017 by a vote of 3 to 2. Mr. Pellish, Mr. Manuel and Ms. Noland voted for Mr. Strider and Ms. Morgan and Ms. Widmyer voted for Mr. Forshee.

6. **Mark Schiavone, Director of Capital Planning and Management** reminded the Commission that July 1, 2012 is the deadline to have a program in place to accommodate affordable housing within the impact fee program. He discussed a broad range of options and concluded with a draft of a specific proposed waiver program for the Commission’s review.

Ms. Widmyer requested that Mr. Schiavone provide the Commission with an outline/time frame setting forth the number of work sessions and public hearings that need to be held before the July 1, 2012 deadline. Mr. Schiavone will prepare the outline.

7. **Decision on the Proposed Suspension of Commercial Impact Fees.**

Motion by Mr. Pellish to adopt the Resolution prepared by the Jefferson County Development Authority but modify the wording to state “consider a reduction to \$1.00 of all impact fees on non-residential projects . . .” Motion seconded by Ms. Noland. Motion failed 3 to 2 with Mr. Manuel, Ms. Widmyer and Ms. Morgan voting “no.”

Motion by Mr. Manuel that the Commission reduce the commercial impact fees by 25% contingent upon a 25% reduction in municipal business and occupation taxes for new businesses locating in Jefferson County. Ms. Widmyer seconded the motion for discussion purposes. Motion failed 4 to 1 with Mr. Manuel only voting “yes.”

Motion by Mr. Pellish to suspend the law enforcement and EMS impact fees for new commercial development for a period of four years. Motion seconded by Ms. Noland but motion failed 3 to 2 with Mr. Pellish and Ms. Noland voting “yes.”

8. **Request by Elizabeth Wheeler of the Farmland Protection Board** for approval of a Deed of Easement for the American Battlefield Protection Program and farmland conservation easement.

Motion by Ms. Morgan to approve the Deed of Easement as presented by Ms. Wheeler. Motion seconded by Ms. Widmyer and unanimously approved.

The Commission took a short recess at 12:15 p.m.  
The Commission reconvened the meeting at 12:23 p.m.

9. **Attorneys Neal Barkus and Tracy Eberling** provided an update of the Leslie Smith litigation.

Motion by Mr. Pellish that the Commission convene an Executive Session regarding other pending litigation pursuant to Peters v. County Commission of Wood County. Motion seconded by Ms. Widmyer and unanimously approved. The Commission convened an Executive Session at 12:30 p.m.

Motion by Ms. Morgan to end the Executive Session. Motion seconded by Ms. Widmyer and unanimously approved. The Commission ended its Executive Session and reconvened its regular meeting at 1:40 p.m.

**NEW BUSINESS:**

10. **Request to approve the 2012 Jefferson County Holiday Schedule.**

Motion by Ms. Morgan to approve the 2012 Jefferson County Holiday Schedule as presented. Motion seconded by Mr. Manuel and unanimously approved.

**THE COUNTY COMMISSION OF JEFFERSON COUNTY**

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

Phone: 304-728-3284 [www.jeffersoncountywv.org](http://www.jeffersoncountywv.org) Fax: 304-725-7916

**JEFFERSON COUNTY COMMISSION HOLIDAY SCHEDULE 2012**

NEW YEAR'S DAY MONDAY, JANUARY 02, 2012  
MARTIN LUTHER KING'S BIRTHDAY MONDAY, JANUARY 16, 2012  
PRESIDENT'S DAY MONDAY, FEBRUARY 20, 2012  
PRIMARY ELECTION TUESDAY, MAY 08, 2012  
MEMORIAL DAY MONDAY, MAY 28, 2012  
WEST VIRGINIA DAY WEDNESDAY, JUNE 20, 2012  
INDEPENDENCE DAY WEDNESDAY, JULY 4, 2012  
LABOR DAY MONDAY, SEPTEMBER 03, 2012  
COLUMBUS DAY MONDAY, OCTOBER 08, 2012  
GENERAL ELECTION TUESDAY, NOVEMBER 6, 2012  
VETERAN'S DAY MONDAY, NOVEMBER 12, 2012  
THANKSGIVING THURSDAY, NOVEMBER 22, 2012  
FRIDAY, NOVEMBER 23, 2012  
CHRISTMAS EVE ½ DAY MONDAY, DECEMBER 24, 2012  
CHRISTMAS TUESDAY, DECEMBER 25, 2012  
NEW YEARS EVE ½ DAY MONDAY, DECEMBER 31, 2012

IN ADDITION TO THE DAYS LISTED ABOVE, THE COMMISSION WILL OBSERVE AS HOLIDAYS, ANY NATIONAL, STATE OR OTHER ELECTION DAY THROUGHOUT THE COUNTY, AND ALL DAYS WHICH MAY BE APPOINTED OR RECOMMENDED BY THE GOVERNOR, OF THIS STATE, OR THE PRESIDENT OF THE UNITED STATES, AS DAYS OF THANKSGIVING, OR FOR THE GENERAL CESSATION OF BUSINESS, ANY DAY OR PART THEREOF DESIGNATED BY THE GOVERNOR AS TIME OFF, WITHOUT CHARGE AGAINST ACCRUED

ANNUAL LEAVE, FOR STATE EMPLOYEES STATEWIDE MAY ALSO BE TIME OFF FOR COUNTY EMPLOYEES IF THE COUNTY COMMISSION ELECTS TO DESIGNATE THE DAY OR PART THEREOF AS TIME OFF, WITHOUT CHARGE AGAINST ACCRUED ANNUAL LEAVE FOR COUNTY EMPLOYEES. ANY ENTIRE OR PART STATE WIDE DAY OFF DESIGNATED BY THE GOVERNOR MAY, FOR ALL COURTS, BE TREATED AS IF IT WERE A LEGAL HOLIDAY, AS PROVIDED FOR IN 2-2-1 OF THE WEST VIRGINIA CODE, AS AMENDED.

DATE: 12/15/11

\_\_\_\_\_/s/\_\_\_\_\_  
PRESIDENT, JEFFERSON COUNTY COMMISSION

**11. Request to approve copier leasing package.** Mr. Boyde introduced Paul Shroyer, the new Director of Financial Management and Debbie Keyser, consultant for Human Resources.

Motion by Ms. Morgan to approve a 5-year lease for multi-copy copiers as presented by Mr. Boyde. Motion seconded by Mr. Manuel and unanimously approved.

**12. Request to approve Compensation During Temporary Assignment draft policy.**

The Commission recommended two changes to the proposed policy – that the time elapsed before the temporary assignment begins be ten (10) days and that the person taking over the duties of the absent party must have been assigned the position by the County Commission.

Motion by Mr. Manuel to approve the Compensation During Temporary Assignment Policy as amended. Motion seconded by Ms. Morgan and unanimously approved.

**13. Request to approve the Sexual Harassment draft policy.**

Due to time constraints this item was tabled until Thursday, January 5, 2012.

### **COUNTY ADMINISTRATOR REPORTS**

#### **County Administrator Tim Boyde:**

- Mr. Boyde requested that the Commission approve the use of the County Commission Meeting Room by the Maryland Transit Authority on Saturday, January 7, 2012 from 12:30 p.m. to 4:30 p.m. for a Town Hall meeting to discuss MARC train schedules.

Motion by Ms. Widmyer to approve the use of the County Commission Meeting Room by the Maryland Transit Authority on Saturday, January 7, 2012 from 12:30 p.m. to 4:30 p.m. for a Town Hall meeting to discuss MARC train schedules. Motion seconded by Mr. Manuel and unanimously approved.

### **COUNTY COMMISSIONER REPORTS**

#### **Commissioner Manuel:**

- Passed on a “thank you” from the Kiwanas for the toys donated for needy children. He reported that all of the toys were distributed and they helped make some children’s Christmases a little happier.

**Commissioners Widmyer, Noland, Pellish and Morgan had nothing to report this week.**

Motion by Ms. Morgan to adjourn the meeting. Motion seconded by Mr. Pellish and unanimously approved. There being no further business meeting adjourned at 2:50 p.m. until Thursday, January 5, 2012.

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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 held at the Jefferson County Commission Meeting Room on the lower floor of the Old Charles Town Library at 200 E. Washington Street, on Wednesday, December 14, 2011 beginning at 7:00 o'clock p.m.

**PUBLIC HEARING - COMMERCIAL IMPACT FEES**

Ms. Noland called the Public Hearing to order at 7:00 p.m.

Present were: Patricia Noland, President  
Lyn Widmyer, Commissioner  
Frances Morgan, Commissioner  
Walt Pellish, Commissioner  
(Commissioner Manuel was absent with notice)

Administrative Assistant: Debbie Stellato

Stephanie Grove, Esq. Assistant Jefferson County Prosecuting Attorney  
Mark Schiavone Director, Capital Planning and Management  
Mark Dyck President, Jefferson County Development Authority

Mark Dyck explained the reason for the Development Authority's request for a suspension of commercial impact fees.

Public comment was made by:

Lori Stilley, Ph.D. (also submitted her comments in writing)  
Eric Lewis (also submitted a Property Tax and Impact Fee Analysis)  
Woody O'Brien  
Josh Householder  
Beth Haney  
Barbara Hume  
Bill Chesley  
Barry Grimm (also submitted written comments from Ronnie Marcus, Marcus Enterprises, Ltd.)  
  
Mike Wiley  
David Tabb  
David Hartley  
Kristen Ringstaff (also submitted written comments for Peter Zadoretzky, President of OA Partners)

Doug Stolipher  
Mark Dyck

There being no further public comment the Public Hearing was concluded at 8:00 p.m.

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PATSY A. NOLAND, PRESIDENT

**PURCHASE ORDERS TO BE APPROVED**  
**January 5, 2012**

| DEPARTMENT     | PURCHASE ORDER | AMOUNT       | VENDOR                       | DESCRIPTION                                                      |
|----------------|----------------|--------------|------------------------------|------------------------------------------------------------------|
| ADDRESSING     | 52982          | \$ 3,273.00  | SHANNON-BAUM SIGNS           | Street signs                                                     |
|                | 52983          | \$ 667.60    | IKON OFFICE SOLUTIONS        | Annual maint. Support                                            |
|                | 52984          | \$ 2,000.00  | PICTOETRY INTERNATIONAL CORP | Mosaic tiles                                                     |
|                | 52985          | \$ 32,199.00 | PICTOETRY INTERNATIONAL CORP | Community level 12in. Resolution Imagery                         |
| ASSESSOR       | 53285          | \$ 260.00    | MONROE                       | (2) calculators                                                  |
|                | 53286          | \$ 200.97    | PIFER OFFICE SUPPLY          | Hanging folders & ribbons                                        |
|                | 53287          | \$ 195.00    | WVACO                        | Registration fee annual conference                               |
| CIRCUIT CLERK  | 50463          | \$ 400.00    | VITAL SIGNS                  | Envelopes                                                        |
| COMMUNICATIONS | 49111          | \$ 592.00    | TELTRONIC                    | Power supply                                                     |
|                | 49112          | \$ 1,105.19  | IKON                         | Copier usage                                                     |
|                | 49113          | \$ 320.00    | Priority Dispatch            | Training                                                         |
| COUNTY CLERK   | 50655          | \$ 4,227.09  | ES&S                         | RMA for automark                                                 |
|                | 50654          | \$ 213.52    | ES&S                         | Automark shipping                                                |
|                | 50657          | \$ 243.90    | JEFFERSON PUB. CO.           | Notice of Admin:<br>Bresnahan/Chiders, Lamp<br>Ausherman/Bentley |

|                 |       |    |          |                            |                                      |
|-----------------|-------|----|----------|----------------------------|--------------------------------------|
| COURTHOUSE      | 50772 | \$ | 468.50   | AUDITHEAD                  | Invoice for long distance savings    |
|                 | 50804 | \$ | 2,089.00 | BOLAND                     | Materials/supplies                   |
|                 | 50806 | \$ | 1,314.24 | DONALS B RICE TIRE CO. INC | Tires                                |
|                 | 50809 | \$ | 147.90   | BATTERY MART               | Vehicle batteries                    |
|                 | 50812 | \$ | 468.13   | DAYCON                     | Cleaning supplies                    |
|                 | 50818 | \$ | 218.50   | AUDITHEAD                  | Monthly savings                      |
|                 | 50821 | \$ | 902.06   | MATTHEWS LUBRICANTS        | Oil & Supplies for autos             |
|                 | 50822 | \$ | 521.40   | DONALS B RICE TIRE CO. INC | Vehicle materials/supplies           |
|                 |       |    |          |                            |                                      |
| MAINTENANCE     | 49114 | \$ | 2,539.36 | DELL                       | Workstation server                   |
| Lot 18          | 50813 | \$ | 6,318.00 | WINCHESTER SECURITY        | Install fire alarm 128 Indust. Blvd. |
|                 |       |    |          |                            |                                      |
| OTHER BUILDINGS | 50617 | \$ | 2,593.19 | CAPITALTRISTATE            | Ballast/lights/wall pack             |
|                 | 50774 | \$ | 191.88   | GRAINGER                   | pleated air filters                  |
|                 | 50798 | \$ | 131.20   | JEFFERSON RENTALS          | Jack hammer/cut off saw              |
|                 | 50799 | \$ | 1,279.32 | DAYCON                     | Cleaning supplies                    |
|                 | 50800 | \$ | 425.00   | JEFFERSON UTILITIES        | Back flow test                       |
|                 | 50801 | \$ | 933.45   | BK OFFICE SUPPLY           | Copy paper                           |
|                 | 50803 | \$ | 104.85   | BATTERY MART               | Sealed lead acid battery             |
|                 | 50811 | \$ | 1,500.00 | WINCHESTER SECURITY        | Retro fit existing faulty fire alarm |
|                 | 50771 | \$ | 948.00   | BOLAND                     | Replace crank case heater/keypad     |
|                 |       |    |          |                            |                                      |
| PLANNING        | 50689 | \$ | 158.66   | JEFFERSON PUBLISHING CO.   | Notice of Public Hearing             |

|                      |       |                     |                                     |                               |  |
|----------------------|-------|---------------------|-------------------------------------|-------------------------------|--|
|                      |       |                     |                                     |                               |  |
| PROSECUTING ATTORNEY | 50722 | \$ 125.00           | WVPAA                               | Registration                  |  |
|                      | 50723 | \$ 311.44           | MATTHEW BENDER & CO., INC           | WV Evidence HDBK 2011         |  |
|                      |       |                     |                                     |                               |  |
| SHERIFF              | 50808 | \$ 103.50           | MILLER'S JEEP CHRYSLER RAM<br>DODGE | #56 DIAGNOSTIC CHECK          |  |
|                      | 48567 | \$ 380.92           | BLUE GRENADE                        | Laptop (Grant)                |  |
|                      | 48566 | \$ 5,229.00         | FREELINE                            | Laptop (Grant)                |  |
|                      |       |                     |                                     |                               |  |
| SHERIFF TAX          | 50777 | \$ 724.54           | JEFFERSON PUBLISHING CO             | List of purchases of Tax Lien |  |
|                      |       |                     |                                     |                               |  |
| <b>GRAND TOTAL</b>   |       | <b>\$ 76,024.31</b> |                                     |                               |  |

Printed at 1:27 p.m. on 12/30/11

|                                                                                                                            |
|----------------------------------------------------------------------------------------------------------------------------|
| <p>Commission Office Use Only</p> <p>Date on Agenda: <u>12/15/11</u></p> <p>Appt Time or New Business: <u>10:00 am</u></p> |
|----------------------------------------------------------------------------------------------------------------------------|

**AGENDA REQUEST FORM**

Name: Angela Banks, County Assessor

Department or Entity: Office of the County Assessor

Estimation of amount of time needed for appointment: 15 minutes

Date Requested – 1<sup>st</sup> Choice: 12-15-11

Date Requested – 2<sup>nd</sup> Choice: 1-5-11

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

Subject: **SB 401 and Changes to the WV Code for Board of Review and the Office of the Assessor.**

Please provide the County Commission with a description of your request or presentation, including any background information: **To explain specific changes to the WV Code for Board of Review and the Office of the Assessor. Implementation of SB 401.**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): **None required.**

Attachments: **Email from Angela Banks, County Assessor**

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ENROLLED

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 401**

(SENATORS MCCABE, WELLS, PREZIOSO,  
K. FACEMYER, BOLEY, PLYMALE, FANNING,  
MINARD, EDGELL, JENKINS, CHAFIN AND FOSTER, *original sponsors*)

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[Passed March 16, 2010; in effect ninety days from passage.]

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AN ACT to amend and reenact §11-3-1, §11-3-2a, §11-3-10, §11-3-12, §11-3-15, §11-3-19, §11-3-24, §11-3-24a and §11-3-25 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto fourteen new sections, designated §11-3-15a, §11-3-15b, §11-3-15c, §11-3-15d, §11-3-15e, §11-3-15f, §11-3-15g, §11-3-15h, §11-3-15i, §11-3-23a, §11-3-24b, §11-3-25a, §11-3-32 and §11-3-33; to amend said code by adding thereto a new article, designated §11-6K-1, §11-6K-2, §11-6K-3, §11-6K-4, §11-6K-5, §11-6K-6, §11-6K-7 and §11-6K-8; and to amend and reenact §18-9A-12 of said code, all relating to taxation of real and personal property for ad valorem property tax purposes; defining and conforming terms used; making technical corrections in certain code sections to

1 conform to prior acts of the Legislature; accelerating date  
2 for issuance of notices of increase in assessed value of real  
3 property; updating penalties for failure to file required  
4 property tax reports and returns; clarifying report and return  
5 filing requirements; accelerating due dates for filing reports  
6 and returns; assessment of property of limited liability  
7 companies; requiring assessors to notify owners of commercial  
8 business personal property of increases in assessed values for  
9 current assessment year by an established deadline; providing  
10 procedures for property owners to protest notices of assessed  
11 valuation and obtain appropriate adjustments from county  
12 assessors; providing for appeal of protested assessments to  
13 county board of equalization and review, board of assessment  
14 appeals and circuit court; providing for protest of  
15 classification or taxability to Tax Commissioner; specifying  
16 effective dates; providing for discovery; authorizing  
17 assignment to hearing examiner; providing methods for  
18 assessment of industrial property and natural resources  
19 property; establishing time and basis for assessments;  
20 providing for pertinent definitions; specifying form and  
21 manner of making returns; establishing criminal penalties for  
22 failure to file; providing for tentative appraisals by Tax  
23 Commissioner and notification to taxpayers; providing  
24 procedures for informal review of tentative appraisals; making

1 of final appraisals; transmitting final appraisals to  
2 assessors; providing for appeals; authorizing reductions of  
3 assessments upon instruction of Tax Commissioner in certain  
4 circumstances; specifying effective dates; and holding  
5 harmless the local share for public school support for  
6 reductions in revenues resulting from decisions of a board of  
7 assessment appeals.

8 *Be it enacted by the Legislature of West Virginia:*

9 That §11-3-1, §11-3-2a, §11-3-10, §11-3-12, §11-3-15,  
10 §11-3-19, §11-3-24, §11-3-24a and §11-3-25 of the Code of West  
11 Virginia, 1931, as amended, be amended and reenacted; that said  
12 code be amended by adding thereto fourteen new sections, designated  
13 §11-3-15a, §11-3-15b, §11-3-15c, §11-3-15d, §11-3-15e, §11-3-15f,  
14 §11-3-15g, §11-3-15h, §11-3-15i, §11-3-23a, §11-3-24b, §11-3-25a,  
15 §11-3-32 and §11-3-33; that said code be amended by adding thereto  
16 a new article, designated §11-6K-1, §11-6K-2, §11-6K-3, §11-6K-4,  
17 §11-6K-5, §11-6K-6, §11-6K-7 and §11-6K-8; and that §18-9A-12 of  
18 said code be amended and reenacted, all to read as follows:

19 **CHAPTER 11. TAXATION.**

20 **ARTICLE 3. PROPERTY TAX ASSESSMENTS GENERALLY.**

21 **§11-3-1. Time and basis of assessments; true and actual value;**  
22 **default; reassessment; special assessors; criminal**  
23 **penalty.**

24 (a) All property, except public service businesses assessed

1 pursuant to article six of this chapter, shall be assessed annually  
2 as of July 1 at sixty percent of its true and actual value, that is  
3 to say, at the price for which the property would sell if  
4 voluntarily offered for sale by the owner thereof, upon the terms  
5 as the property, the value of which is sought to be ascertained, is  
6 usually sold, and not the price which might be realized if the  
7 property were sold at a forced sale.

8 (b) Any conflicting provisions of subsection (a) of this  
9 section notwithstanding, the true and actual value of all property  
10 owned, used and occupied by the owner thereof exclusively for  
11 residential purposes shall be arrived at by also giving  
12 consideration to the fair and reasonable amount of income which the  
13 same might be expected to earn, under normal conditions in the  
14 locality wherein situated, if rented: *Provided*, That the true and  
15 actual value of all farms used, occupied and cultivated by their  
16 owners or bona fide tenants shall be arrived at according to the  
17 fair and reasonable value of the property for the purpose for which  
18 it is actually used regardless of what the value of the property  
19 would be if used for some other purpose; and that the true and  
20 actual value shall be arrived at by giving consideration to the  
21 fair and reasonable income which the same might be expected to earn  
22 under normal conditions in the locality wherein situated, if  
23 rented: *Provided, however*, That nothing herein shall alter the  
24 method of assessment of lands or minerals owned by domestic or

1 foreign corporations.

2 (c) The taxes upon all property shall be paid by those who are  
3 the owners thereof on the assessment date whether it be assessed to  
4 them or others.

5 (d) If at any time after the beginning of the assessment year,  
6 it be ascertained by the Tax Commissioner that the assessor, or any  
7 of his or her deputies, is not complying with this provision or  
8 that they have failed, neglected or refused, or is failing,  
9 neglecting or refusing after five days' notice to list and assess  
10 all property therein at sixty percent of its true and actual value  
11 as determined under this chapter, the Tax Commissioner may order  
12 and direct a reassessment of any or all of the property in any  
13 county, district or municipality, where any assessor, or deputy,  
14 fails, neglects or refuses to assess the property in the manner  
15 herein provided. And, for the purpose of making assessment and  
16 correction of values, the Tax Commissioner may appoint one or more  
17 special assessors, as necessity may require, to make assessment in  
18 any county and any such special assessor or assessors, as the case  
19 may be, has the power and authority now vested by law in assessors,  
20 and the work of such special assessor or assessors shall be  
21 accepted and treated for all purposes by the county boards of  
22 review and equalization and the levying bodies, subject to any  
23 revisions of value on appeal, as the true and lawful assessment of  
24 that year as to all property valued by him or her or them. The Tax

1 Commissioner shall fix the compensation of all special assessors  
2 appointed, which, together with their actual expenses, shall be  
3 paid out of the county fund by the county commission of the county  
4 in which any such assessment is ordered, upon the receipt of a  
5 certificate of the Tax Commissioner filed with the clerk of the  
6 county commission showing the amounts due and to whom payable,  
7 after such expenses have been audited by the county commission.

8 (e) Any assessor who knowingly fails, neglects or refuses to  
9 assess all the property of his or her county, as herein provided,  
10 shall be guilty of malfeasance in office and, upon conviction  
11 thereof, shall be fined not less than \$100 nor more than \$500, or  
12 imprisoned not less than three nor more than six months, or both,  
13 in the discretion of the court, and upon conviction, shall be  
14 removed from office.

15 (f) For purposes of this chapter and chapter eleven-a of this  
16 code, the following terms have the meanings ascribed to them in  
17 this section unless the context in which the term is used clearly  
18 indicates that a different meaning is intended by the Legislature:

19 (1) "Assessment date" means July 1 of the year preceding the  
20 tax year.

21 (2) "Assessment year" means the twelve-month period that  
22 begins on the assessment date.

23 (3) "Tax year" or "property tax year" means the next calendar  
24 year that begins after the assessment date.

1 (4) "Taxpayer" means the owner and any other person in whose  
2 name the taxes on the subject property are lawfully assessed.

3 **§11-3-2a. Notice of increased assessment required for real**  
4 **property; exceptions to notice.**

5 (a) If the assessor determines the assessed valuation of any  
6 item of real property appraised by him or her is more than ten  
7 percent greater than the valuation assessed for that item in the  
8 last tax year, the increase is \$1,000 or more and the increase is  
9 entered in the property books as provided in section nineteen of  
10 this article, the assessor shall give notice of the increase to the  
11 person assessed or the person controlling the property as provided  
12 in section two of this article. The notice shall be given on or  
13 before January 15 of the tax year and advise the person assessed or  
14 the person controlling the property of his or her right to appear  
15 and seek an adjustment in the assessment: *Provided*, That this  
16 notification requirement does not apply to industrial or natural  
17 resources property appraised by the Tax Commissioner under article  
18 six-k of this chapter which is assessed at sixty percent of its  
19 true and actual value. The notice shall be made by first-class  
20 United States postage mailed to the address of the person assessed  
21 or the person controlling the property for payment of tax on the  
22 item in the previous year, unless there was a general increase of  
23 the entire valuation in one or more of the tax districts in which  
24 case the notice shall be by publication of the notice by a Class

1 II-0 legal advertisement in compliance with the provisions of  
2 article three, chapter fifty-nine of this code. The area for the  
3 publication is the county. The requirement of notice under this  
4 section is satisfied and waived if personal notice of the increase  
5 is shown by:

6 (1) The taxpayer having signed the assessment form after it  
7 had been completed showing the increase;

8 (2) Notice was given as provided in section three-a of this  
9 article; or

10 (3) The person assessed executing acknowledgment of the notice  
11 of the increase.

12 (b) During the initial reappraisal of all property under  
13 section seven, article one-c of this chapter, the Tax Commissioner  
14 and each county assessor shall send every person owning or  
15 controlling property appraised by the Tax Commissioner or the  
16 county assessor a pamphlet which explains the reappraisal process  
17 and its equalization goal in a detailed yet informal manner. The  
18 property valuation training and procedures commission, created  
19 under section three, article one-c of this chapter, shall design  
20 the pamphlet for use in all counties while allowing individual  
21 county information to be included if it determines that the  
22 information would improve understanding of the process.

23 **§11-3-10. Failure to list property, etc.; collection of penalties**  
24 **and forfeitures.**

1 (a) If any person, firm or corporation, including public  
2 service corporations, whose duty it is by law to list any real  
3 estate or personal property for taxation, refuses to furnish a  
4 proper list thereof or refuses to list within the time required by  
5 law, or if any person, firm or corporation, including public  
6 service corporations, refuses to answer or answers falsely any  
7 question asked by the assessor or by the Tax Commissioner, or fails  
8 or refuses to deliver any statement required by law, the person,  
9 firm or corporation may forfeit, at the discretion of the assessor  
10 or the Tax Commissioner for good cause shown, not less than \$25 nor  
11 more than \$100. If any person, firm or corporation willfully fails  
12 to furnish a proper list of real estate or personal property for  
13 taxation or refuses to answer or falsely answers any question asked  
14 by the assessor or by the Tax Commissioner, or fails or refuses to  
15 deliver any statement required by law, such person, firm or  
16 corporation shall be denied all remedy provided by law for the  
17 correction of any assessment made by the assessor or by the board  
18 of public works: *Provided*, That no person, firm or corporation  
19 shall be denied the remedy provided by law to contest any  
20 assessment unless the assessor or the Tax Commissioner has notified  
21 such person, firm or corporation in writing that this penalty will  
22 be asserted and the requested information is not provided within  
23 fifteen days of the date of receipt of the notice.

24 (b) If any person, firm or corporation, including public

1 service corporations, required by law to make return of property  
2 for taxation, whether the return is to be made to the assessor, the  
3 board of Public Works, or any other assessing officer or body,  
4 fails to return a true list of all property which should be  
5 assessed in this state, the person, firm or corporation, in  
6 addition to all other penalties provided by law, shall forfeit one  
7 percent of the value of the property not yet returned and not  
8 otherwise taxed in this state.

9 (c) A forfeiture as to all property aforesaid may be enforced  
10 for any default occurring in any year not exceeding five years  
11 immediately prior to the time the default is discovered.

12 (d) Each failure to make a true return as herein required  
13 constitutes a separate offense, and a forfeiture shall apply to  
14 each of them, but all forfeitures, to which the same person, firm  
15 or corporation is liable, shall be enforced in one proceeding  
16 against the person, firm or corporation, or against the estate of  
17 any deceased person, and may not exceed five percent of the value  
18 of the property not returned that is required to be returned for  
19 taxation by this chapter.

20 (e) Forfeitures shall be collected as provided in article two,  
21 chapter eleven-a of this code, the same as any tax liability,  
22 against the defaulting taxpayer, or in case of a decedent, against  
23 his or her personal representative. The sheriff shall apportion  
24 such fund among the state, county, district, school district and

1 municipalities which would have been entitled to the taxes upon the  
2 property if it had been assessed, in proportion to the rates of  
3 taxation for each levying unit for the year in which the judgment  
4 was obtained bears to the sum of rates for all.

5 (f) When the list of property returned by the appraisers of  
6 the estate of any deceased person shows an amount greater than the  
7 last assessment list of real and tangible personal property of the  
8 deceased person next preceding the appraisal of his or her estate,  
9 it is prima facie evidence that the deceased person returned an  
10 imperfect list of his or her property: *Provided*, That any person  
11 liable for the tax, or his or her personal representative, may  
12 always be permitted to prove by competent evidence that the  
13 discrepancy between the assessment list and the appraisal of the  
14 estate is caused by a difference of valuation returned by the  
15 assessor and that made by the appraisers of the same property or by  
16 property acquired after assessment, or that any property enumerated  
17 in the appraisers' list had been otherwise listed for taxation, or  
18 that it was not liable for taxation.

19 (g) Any judgment recovered under this section is a lien, from  
20 the time of the service of the notice, upon all real estate and  
21 personal property of the defaulting taxpayer, owned at the time or  
22 subsequently acquired, in preference to any other lien.

23 **§11-3-12. Assessment of corporate property; reports to assessors**  
24 **by corporations.**

1 (a) Each incorporated company, banking institution and  
2 national banking association, foreign or domestic, having its  
3 principal office or chief place of business in this state, owning  
4 property subject to taxation in this state, except railroad,  
5 telegraph and express companies, telephone companies, pipeline, car  
6 line companies and other public utility companies, shall annually,  
7 between the assessment date and September 1, make a written report,  
8 verified by the oath of the president or chief accounting officer,  
9 to the assessor of the county in which its principal office or  
10 chief place of business is situated or in which property subject to  
11 taxation in this state is located if the corporation does not have  
12 a principal office or chief place of business in this state,  
13 showing the following items: (1) The quantity, location and fair  
14 market value of all of its real estate, and tax district or  
15 districts in which it is located; and (2) the kinds, quantity and  
16 fair market value of all its tangible personal property in each tax  
17 district in which it is located.

18 (b) The oath required for this section shall be substantially  
19 as follows:

20 State of West Virginia, County ....., ss:

21 I, ....., president (treasurer or manager) of  
22 (here insert name of corporation), do solemnly swear (or affirm)  
23 that the foregoing is, to the best of my knowledge and judgment,  
24 true in all respects; that it contains a statement of all the real

1 estate and tangible personal property that the value affixed to  
2 such property is, in my opinion, its value, by which I mean the  
3 price at which it would sell if voluntarily offered for sale on  
4 such terms as are usually employed in selling such property, and  
5 not the price which might be realized at a forced or auction sale;  
6 and said corporation has not, to my knowledge, during the sixty-day  
7 period immediately prior to the assessment date converted any of  
8 its assets into nontaxable securities or notes or other evidence of  
9 indebtedness for the purposes of evading the assessment of taxes  
10 thereon; so help me, God.

11 The officer administering the oath shall append thereto the  
12 following certificate:

13 Subscribed and sworn to before me by ..... this the  
14 ..... day of....., 20 .....

15 **§11-3-15. Assessment of capital used in trade or business by**  
16 **natural persons or unincorporated businesses.**

17  
18 (a) The value of the capital used by any individual or firm,  
19 not incorporated, in any trade or business taxable by law, shall be  
20 ascertained in the following manner: The owner, agent or chief  
21 accountant of every trade or business, except the business of  
22 agriculture, carried on in any county of the state shall annually,  
23 on or after the assessment date and on or before September 1, make  
24 a written report to the assessor, verified by his or her affidavit,

1 showing the following matter and things determined as of the  
2 assessment date:

3 (1) The amount, the true and actual value and classification  
4 of all tangible personal property used in connection with the trade  
5 or business, other than that regularly kept for sale therein,  
6 including chattels real and personal;

7 (2) The true and actual value and classification of all goods  
8 and property kept for sale and remaining unsold; and

9 (3) The location, quantity, the true and actual value and  
10 classification of all real estate owned by the individual or firm  
11 and used in the trade or business.

12 (b) The assessor shall, upon the receipt of such report,  
13 properly verified, if the assessor is satisfied with the  
14 correctness thereof, enter the real estate in the land book of the  
15 county in the tax district wherein the same is situated and assess  
16 the same with taxes, if not otherwise assessed, to the owner  
17 thereof: *Provided*, That the personal property mentioned in the  
18 report shall be entered in the personal property book of the county  
19 for assessment with taxes as follows: Items (1) and (2) shall be  
20 entered in the tax districts where they are for the greater part of  
21 the year kept or located; and item (3) shall be entered under its  
22 appropriate heading in the municipality or tax district wherein the  
23 property is located.

24 (c) If the assessor is not satisfied with the correctness of

1 the report, the assessor may proceed to ascertain a correct list of  
2 the property on which the individual or firm is liable to be  
3 assessed with taxes, and to value the same as in other cases.

4 (d) The person making the report shall take and subscribe an  
5 oath in substantially the following form:

6 I, ....., do solemnly swear (or affirm) that the  
7 foregoing list is true and correct to the best of my knowledge;  
8 that the value affixed to the property therein listed I believe to  
9 be the true and actual value thereof; that none of the assets  
10 belonging to (here state the name of individual or firm) and used  
11 in the business of (here describe the business) have to my  
12 knowledge, since the assessment date, been converted into  
13 nontaxable securities for the purpose of evading the assessment of  
14 taxes thereon; so help me, God.

15 The officer administering the oath shall append thereto the  
16 following certificate:

17 Subscribed and sworn to before me by (here insert affiant's  
18 name) this ..... day of ....., 20 .....

19 **§11-3-15a. Assessment of property of limited liability companies.**

20 Limited liability companies that elect to be treated as a  
21 corporation for federal income tax purposes shall make and file the  
22 report required of corporations in section twelve of this article.  
23 Limited liability companies treated as a partnership for federal  
24 income tax purposes shall make and file the report required in

1 section fifteen of this article. A limited liability company that  
2 elects to be treated as a disregarded entity for federal income tax  
3 purposes shall be treated as a disregarded entity under this  
4 article and its owner shall make and file the report required by  
5 section twelve or section fifteen of this article depending upon  
6 whether the owner is a corporation, a firm or an individual.

7 **§11-3-15b. Notice of increase in assessed value of business**  
8 **personal property.**

9 (a) On or before January 15 of the tax year, the assessor  
10 shall mail a notice of assessed value to any corporation,  
11 partnership, limited partnership, limited liability company, firm,  
12 association, company or other form of organization engaging in  
13 business activity in the county showing the aggregated assessed  
14 value of taxpayer's tangible personal property situated in the  
15 county on the assessment date, if known, that is not appraised by  
16 the Tax Commissioner: *Provided*, That notice is only required if:

17 (1) The aggregated assessed value of taxpayer's tangible  
18 personal property used in business activity is more than ten  
19 percent greater than the aggregated assessed value of the property  
20 in the prior tax year; and

21 (2) The aggregated assessed value of property has increased by  
22 more than \$100,000 since the prior tax year.

23 However, this notification requirement does not apply to  
24 industrial or natural resources personal property that is appraised

1 by the Tax Commissioner under article six-k of this chapter which  
2 is assessed at sixty percent of its true and actual value.

3 (b) The assessor shall include in the assessment notice:

4 (1) The assessed value of the property for the preceding  
5 assessment year;

6 (2) The proposed assessed value of the property for the  
7 current assessment year;

8 (3) The classification of the property pursuant to section  
9 one, Article X of the Constitution of this state;

10 (4) The mailing date of the notice; and

11 (5) The last date on which the taxpayer may file a petition  
12 for review with the assessor from the valuation or classification  
13 assigned to the property.

14 (c) The notice required by this section shall be: (1) In  
15 writing, in the form prescribed by the Tax Commissioner, and mailed  
16 to the taxpayer's last known mailing address; or (2) by electronic  
17 notification.

18 (d) No later than the sixteenth day of the tax year, the  
19 assessor shall certify to the county commission and to the Tax  
20 Commissioner the date on which all notices under this section were  
21 mailed.

22 (e) After the mailing date of the notice any person who owns,  
23 claims, possesses or controls property that is valued by the  
24 assessor may inquire of and be advised by the assessor as to the

1 valuation of the property determined by the assessor.

2 (f) The owner or person in possession of the tangible personal  
3 property may petition the assessor for review as provided in  
4 section fifteen-d of this article.

5 **§11-3-15c. Petition for assessor review of improper valuation of**  
6 **real property.**

7 (a) A taxpayer who is of the opinion that his or her real  
8 property has been valued too high or otherwise improperly valued or  
9 listed in the notice given as provided in section two-a of this  
10 article may, but is not required to, file a petition for review  
11 with the assessor on a written form prescribed by the Tax  
12 Commissioner. This section shall not apply to industrial and  
13 natural resource property appraised by the Tax Commissioner.

14 (b) The petition shall state the taxpayer's opinion of the  
15 true and actual value of the property and substantial information  
16 that justifies that opinion of value for the assessor to consider  
17 for purposes of basing a change in classification or correction of  
18 the valuation. For purposes of this subsection, the taxpayer  
19 provides substantial information to justify the opinion of value by  
20 stating the method or methods of valuation on which the opinion is  
21 based:

22 (1) Under the income approach, including the information  
23 required in section fifteen-e of this article;

24 (2) Under the market approach, including the true and actual

1 value of at least three comparable properties in the same  
2 geographic area or the sale of the subject property; or

3 (3) Under the cost approach, including the replacement cost or  
4 the cost to build or rebuild the property, plus the true and actual  
5 value of the land.

6 (c) The petition may include more than one parcel of property  
7 if they are part of the same economic unit according to the Tax  
8 Commissioner's guidelines or if they are owned by the same owner,  
9 have the same use, are appealed on the same basis and are located  
10 in the same tax district or in contiguous tax districts of the  
11 county, and are in a form prescribed by the Tax Commissioner.

12 (d) The petition shall be filed within five days after the  
13 date the taxpayer receives the notice of increased assessment under  
14 section two-a of this article or the notice of increased value was  
15 published as a Class II-0 legal advertisement as provided in that  
16 section.

17 **§11-3-15d. Administrative review of tangible personal property**  
18 **valuation by assessor.**

19 (a) The owner of business tangible personal property that is  
20 valued by the assessor or the person in whose possession it is  
21 found on the assessment date may appeal to the assessor within five  
22 days after the date the notice of increased assessment required by  
23 section fifteen-b of this article was received by filing a petition  
24 with the assessor on a form prescribed by the Tax Commissioner.

1 The petition shall set forth in writing:

2 (1) The taxpayer's opinion of the value of the tangible  
3 personal property; and

4 (2) Substantial information that justifies the opinion of  
5 value in order for the assessor to consider the information for the  
6 purpose of basing a change in the valuation.

7 (b) The assessor shall rule on each petition no later than  
8 February 10 of the tax year.

9 (c) The notice of the assessor's ruling provided under this  
10 section shall be given in the same manner as prescribed in section  
11 fifteen-h of this article.

12 (d) If the request of the petitioner is denied, in whole or in  
13 part, the notice required by subsection (c) of this section shall  
14 include the grounds for refusing to grant the request contained in  
15 the petition.

16 (e) This section shall not apply to tangible personal property  
17 appraised by the Tax Commissioner as part of an industrial or  
18 natural resource property appraisal.

19 **§11-3-15e. Contents of petition based on income approach to value**  
20 **of real property.**

21 (a) A petition that is filed with the assessor under section  
22 fifteen-c or fifteen-d of this article based on the income approach  
23 to value shall include income and expense data relating to the  
24 property for the three most recent consecutive fiscal years of the

1 petitioner ending on or before June 30 preceding the then current  
2 assessment year. If the income and expense data is not available  
3 to the petitioner, the petitioner shall file with the petition such  
4 income and expense data as is available. The Tax Commissioner, by  
5 rule, may establish additional information to be filed if the  
6 required income and expense data are not available.

7 (b) If a petitioner under this article uses the income  
8 approach to determine valuation, the petitioner, an officer of a  
9 corporate petitioner, a general partner or a designated agent shall  
10 file a sworn affidavit under penalty of perjury that the  
11 information contained in the petition is true and correct to the  
12 best of the petitioner's knowledge.

13 **§11-3-15f. Rejection of petition for failure to include**  
14 **substantial information; amended petition; appeal.**

15 If the assessor rejects a petition filed pursuant to section  
16 fifteen-c, fifteen-d or fifteen-e of this article, the petitioner  
17 may appeal to the county board of equalization and review as  
18 provided in section twenty-four of this article.

19 **§11-3-15g. Meeting between assessor and petitioner.**

20 (a) At the petitioner's written request, the assessor or a  
21 member of his or her staff shall meet with the petitioner and the  
22 petitioner's representative, if any, at a time and place designated  
23 at least three working days in advance by the assessor after the  
24 petition is filed.

1 (b) If the petitioner is unable to appear and meet with the  
2 assessor at the time and place set by the assessor, the petitioner  
3 may submit written evidence to support the petition if it is  
4 submitted before the date of the meeting.

5 **§11-3-15h. Ruling on petition.**

6 (a) In all cases the assessor shall consider the petition and  
7 shall rule on each petition filed pursuant to section fifteen-c,  
8 fifteen-d or fifteen-e of this article by February 10 of the  
9 assessment year. Written notice shall be served by regular mail on  
10 the person who filed the petition.

11 (b) In considering a petition filed pursuant to section  
12 fifteen-c, fifteen-d or fifteen-e of this article, the assessor  
13 shall consider the valuation fixed by the assessor on other similar  
14 property that is similarly situated.

15 **§11-3-15i. Petitioner's right to appeal.**

16 (a) If the assessor grants the requested relief, the  
17 petitioner may not appeal the ruling of the assessor.

18 (b) If the petitioner and the assessor reach an agreement  
19 within five business days after the conclusion of the meeting held  
20 as provided in section fifteen-g of this article, both parties  
21 shall sign the agreement and both parties waive the right to  
22 further appeal.

23 (c) If all or part of the petitioner's request under section  
24 fifteen-c, fifteen-d or fifteen-e of this article is denied, the

1 assessor shall mail, on the date of the ruling, to the petitioner  
2 at the address shown on the petition notice of the grounds of the  
3 refusal to make the change or changes requested in the petition.  
4 A petitioner whose request is denied, in whole or in part, or a  
5 petitioner who does not receive a response from the assessor by  
6 February 10, as provided in section fifteen-h of this article, may  
7 file a protest with the county commission sitting as a board of  
8 equalization and review, as provided in section twenty-four of this  
9 article.

10 **§11-3-19. Property books; time for completing; extension of**  
11 **levies; copies.**

12 The assessor shall complete the assessment and make up the  
13 assessor's official copy of the land and personal property books in  
14 time to submit the same to the board of equalization and review not  
15 later than February 1 of the tax year. The assessor shall, as soon  
16 as practicable after the levy is laid, extend the levies on the  
17 land and personal property books, and shall forthwith make three  
18 copies of the land books and two copies of the personal property  
19 books with the levies extended. One of the copies of the land  
20 books shall be delivered to the sheriff not later than June 7; one  
21 copy shall be delivered to the clerk of the county commission not  
22 later than July 1; and one copy shall be sent to the State Auditor  
23 not later than July 1. One of the copies of the personal property  
24 books shall be delivered to the sheriff and one copy shall be

1 delivered to the clerk of the county commission on or before the  
2 same date fixed above for the delivery of the land books. The  
3 copies shall be official records of the respective officers. The  
4 assessor may require the written receipt of each of the officers  
5 for the copy. Before delivering any of the copies the assessor  
6 shall make and subscribe the following oath at the foot of each of  
7 them:

8 I, ....., assessor of the county of .....,  
9 do solemnly swear, (or affirm) that in making the foregoing  
10 assessment I have to the best of my knowledge and ability pursued  
11 the law prescribing the duties of assessors and that I have not  
12 been influenced in making the same by fear, favor or partiality; so  
13 help me, God.

14 .....  
15 assessor.

16 The officer administering the foregoing oath shall append  
17 thereto a certificate in substantially the following form:

18 Subscribed and sworn to before me, a .....  
19 for the County of ..... and State of West  
20 Virginia, by ....., assessor for said county, this the  
21 ..... day of ....., 20 .....

22 **§11-3-23a. Informal review and resolution of classification,**  
23 **taxability and valuation issues.**

24 (a) General. -- Anytime after real or tangible personal

1 property is returned for taxation, the taxpayer may apply to the  
2 assessor of the county in which the property was situated on the  
3 assessment date for information about the classification,  
4 taxability or valuation of the property for property tax purposes  
5 for the tax year following the July 1 assessment date. A taxpayer  
6 who is not satisfied with the response of the assessor and wants to  
7 further pursue the matter must follow the procedures set forth in  
8 this section.

9 (b) *Classification or taxability.* -- A taxpayer who wants to  
10 contest the classification or taxability of property must follow  
11 the procedures set forth in section twenty-four-a of this article.

12 (c) *Valuation issues - property appraised and assessed by*  
13 *county assessor.* --

14 (1) A taxpayer who is dissatisfied with the response of the  
15 assessor on a question of valuation and who receives a notice of  
16 increase in the assessed value of real property as provided in  
17 section two-a of this article, or a notice of increase in the  
18 assessed value of business personal property as provided in section  
19 fifteen-b of this article, who disagrees with the assessed value  
20 stated in the notice, may utilize the informal review process  
21 specified in this article if the taxpayer decides to challenge the  
22 assessed value.

23 (2) A taxpayer may apply for relief to the county commission  
24 sitting as a board of equalization and review pursuant to section

1 twenty-four of this article not later than February 20 of the tax  
2 year by filing a written protest with the clerk of the county  
3 commission that identifies the amount of the assessed value the  
4 taxpayer believes to be in controversy and states generally the  
5 taxpayer's reason or reasons for filing the protest. The board  
6 shall then set a date and time to hear the taxpayer's protest:  
7 *Provided*, That in the written protest or in a separate notice filed  
8 with the board on or before the day of the hearing, the taxpayer or  
9 taxpayer's representative may notify the board of the taxpayer's  
10 election to have the matter heard when the county commission  
11 convenes as a board of assessment appeals in the fall of the tax  
12 year as provided in section twenty-four-b of this article. A copy  
13 of this election shall be served on the assessor, and the Tax  
14 Commissioner in the case of industrial property or natural  
15 resources property, by personal service or by certified mail. The  
16 notice of election shall include an acknowledgment by the taxpayer  
17 that the taxpayer will timely pay first and second half installment  
18 payments of taxes levied for the current tax year on or before they  
19 become due and that any reduction in assessed value that is  
20 administratively or judicially determined in a decision that  
21 becomes final will result in a credit being established against  
22 taxes that become due for a tax year subsequent to the tax year in  
23 which the decision becomes final, except as otherwise stated in the  
24 decision or as otherwise provided in this article. In the event

1 the board adjourns sine die before February 20 of the tax year, a  
2 taxpayer may still file its written protest and the acknowledgment  
3 described in this subdivision with the county clerk on or before  
4 February 20 of the tax year, and the petition shall be heard when  
5 the county commission meets as a board of assessment appeals, as  
6 provided in section twenty-four-b of this article. If a taxpayer  
7 fails to provide its written protest on or before February 20, and  
8 the board unilaterally increases the assessed value subsequent to  
9 that date, the taxpayer may still file a written protest and the  
10 acknowledgment described in this subdivision with the county clerk,  
11 and the petition shall be heard when the county commission meets as  
12 a board of assessment appeals as provided in section twenty-four-b  
13 of this article.

14 (d) *Valuation issues - property appraised by Tax Commissioner*  
15 *and assessed by county assessor. --*

16 (1) A taxpayer who receives a notice of tentative appraised  
17 value of natural resource property or industrial property from the  
18 Tax Commissioner pursuant to article six-k of this chapter, who  
19 disagrees with the value stated in the notice may utilize the  
20 informal review process specified in this article and article six-k  
21 of this chapter.

22 (2) A taxpayer may apply for relief to the county commission  
23 sitting as a board of equalization and review pursuant to section  
24 twenty-four of this article no later than February 20 of the tax

1 year by filing a written protest with the clerk of the county  
2 commission that identifies the amount of the assessed value the  
3 taxpayer believes to be in controversy and states generally the  
4 taxpayer's reason or reasons for filing the protest. The board  
5 shall then set a date and time to hear the taxpayer's protest:  
6 *Provided*, That in the written protest or in a separate notice filed  
7 with the board on or before the day of the hearing, the taxpayer or  
8 taxpayer's representative may notify the board of the taxpayer's  
9 election to have the matter heard when the county commission  
10 convenes as a board of assessment appeals in the fall of the tax  
11 year as provided in section twenty-four-b of this article. A copy  
12 of this election shall be served on the assessor, and the Tax  
13 Commissioner in the case of industrial property or natural  
14 resources property, by personal service or by certified mail. The  
15 notice of election shall include an acknowledgment by the taxpayer  
16 that taxpayer will timely pay first and second half installment  
17 payments of taxes levied for the current tax year on or before they  
18 become due and that any reduction in assessed value that is  
19 administratively or judicially determined in a decision that  
20 becomes final will result in a credit being established against  
21 taxes that become due for a tax year subsequent to the tax year in  
22 which the decision becomes final, except as otherwise stated in the  
23 decision or as otherwise provided in this article. In the event  
24 the board adjourns sine die before February 20 of the tax year, a

1 taxpayer may still file its written protest and the acknowledgment  
2 described in this subdivision with the county clerk on or before  
3 February 20 of the tax year, and the petition shall be heard when  
4 county commission meets as a board of assessment appeals, as  
5 provided in section twenty-four-b of this article. If a taxpayer  
6 fails to provide its written protest on or before February 20, and  
7 the board unilaterally increases the assessed value subsequent to  
8 that date, the taxpayer may still file a written protest and the  
9 acknowledgment described in this subdivision with the county clerk,  
10 and the petition shall be heard when the county commission meets as  
11 a board of assessment appeals as provided in section twenty-four-b  
12 of this article.

13 **§11-3-24. Review and equalization by county commission.**

14 (a) The county commission shall annually, not later than  
15 February 1 of the tax year, meet as a board of equalization and  
16 review for the purpose of reviewing and equalizing the assessment  
17 made by the assessor. The board shall not adjourn for longer than  
18 three business days at a time, not including a Saturday, Sunday or  
19 legal holiday in this state, until this work is completed. The  
20 board may adjourn sine die anytime after February 15 of the tax  
21 year and shall adjourn sine die not later than the last day of  
22 February of the tax year.

23 (b) At the first meeting of the board, the assessor shall  
24 submit the property books for the current year, which shall be

1 complete in every particular, except that the levies shall not be  
2 extended. The assessor and the assessor's assistants shall attend  
3 and render every assistance possible in connection with the value  
4 of property assessed by them.

5 (c) The board shall proceed to examine and review the property  
6 books, and shall add on the books the names of persons, the value  
7 of personal property and the description and value of real estate  
8 liable to assessment which was omitted by the assessor. The board  
9 shall correct all errors in the names of persons, in the  
10 description and valuation of property, and shall cause to be done  
11 whatever else is necessary to make the assessed valuations comply  
12 with the provisions of this chapter. But in no case shall any  
13 question of classification or taxability be considered or reviewed  
14 by the board.

15 (d) If the board determines that any property or interest is  
16 assessed at more or less than sixty percent of its true and actual  
17 value as determined under this chapter, it shall fix it at sixty  
18 percent of its true and actual value: *Provided*, That no assessment  
19 shall be increased without giving the taxpayer at least five days'  
20 notice, in writing, of the intention to make the increase and no  
21 assessment shall be greater than sixty percent of the true and  
22 actual value of the property.

23 (e) Service of notice of the increase upon the taxpayer shall  
24 be sufficient, or upon his or her agent or attorney, if served in

1 person, or if sent by registered or certified mail to the property  
2 owner, his or her agent, or attorney, at the last known mailing  
3 address of the person as shown in the records of the assessor or  
4 the tax records of the county sheriff. If such person cannot be  
5 found and has no last known mailing address, then notice shall be  
6 given by publication thereof as a Class I legal advertisement in  
7 compliance with the provisions of article three, chapter fifty-nine  
8 of this code and the publication area shall be the county. The  
9 date of the publication shall be at least five days, not including  
10 a Saturday, Sunday or legal holiday in this state, prior to the day  
11 the board acts on the increase. When the board intends to increase  
12 the entire valuation in any one tax district by a general increase,  
13 notice shall be given by publication thereof as a Class II-0 legal  
14 advertisement in compliance with the provisions of article three,  
15 chapter fifty-nine of this code and the publication area shall be  
16 the county. The date of the last publication shall be at least  
17 five days, not including a Saturday, Sunday or legal holiday in  
18 this state, prior to the meeting at which the increase in valuation  
19 is acted on by the board. When an increase is made, the same  
20 valuation shall not again be changed unless notice is again given  
21 as heretofore provided.

22 The clerk of the county commission shall publish notice of the  
23 time, place and general purpose of the meeting as a Class II legal  
24 advertisement in compliance with the provisions of article three,

1 chapter fifty-nine of this code and the publication area shall be  
2 the county. The expense of publication shall be paid out of the  
3 county treasury.

4 (f) Any person who receives notice as provided in subsection  
5 (e) of this section may appear before the board at the time and  
6 place specified in the notice to object to the proposed increase in  
7 the valuation of taxpayer's property. After hearing the board's  
8 reason or reasons for the proposed increase, the taxpayer may  
9 present his or her objection or objections to the increase and the  
10 reason or reasons for the objections and may either orally or in  
11 writing advise the board that the taxpayer elects for the matter to  
12 be heard in the fall of the tax year when the county commission  
13 meets as a board of assessment appeals as provided in section  
14 twenty-four-b of this article: *Provided, That taxpayer's election*  
15 *shall not stay a decision by the board to increase the assessed*  
16 *value of the property for the current tax year.*

17 (g) The board may approve an agreement signed by the taxpayer  
18 or taxpayer's representative and the assessor, and by a  
19 representative of the Tax Commissioner when the property is  
20 industrial property or natural resources property, that resolves a  
21 valuation matter while the land and personal property books are  
22 before the board for equalization and review.

23 (h) If any person fails to apply for relief at this meeting,  
24 he or she shall have waived the right to ask for correction in the

1 assessment list for the current year, and shall not thereafter be  
2 permitted to question the correctness of the list as finally fixed  
3 by the board, except on appeal to the circuit court or as otherwise  
4 provided in this article.

5 (i) After the board completes the review and equalization of  
6 the property books, a majority of the board shall sign a statement  
7 that it is the completed assessment of the county for the tax year.  
8 Then the property books shall be delivered to the assessor and the  
9 levies extended as provided by law.

10 (j) A taxpayer who elects to have a hearing before the board  
11 of equalization and review may appeal the board's order as provided  
12 in section twenty-five of this article. A taxpayer who elects to  
13 have a hearing before the board of assessment appeals may only  
14 appeal the assessed value as provided in section twenty-four-b of  
15 this article.

16 **§11-3-24a. Protest of classification or taxability to assessor;**  
17 **appeal to Tax Commissioner.**

18 (a) At any time after property is returned for taxation, and  
19 up to and including the time the property books are before the  
20 county commission sitting as a board of equalization and review,  
21 any taxpayer may apply to the assessor for information regarding  
22 the classification and taxability of the taxpayer's property. In  
23 case the taxpayer is dissatisfied with the classification of  
24 property assessed to the taxpayer or believes that the property is

1 exempt or otherwise not subject to taxation, the taxpayer shall  
2 file objections in writing with the assessor. The assessor shall  
3 decide the question by either sustaining the protest and making  
4 proper corrections, or by stating, in writing if requested, the  
5 reasons for refusal to grant the protest.

6 (b) The assessor may, and if the taxpayer requests, the  
7 assessor shall, certify the question to the State Tax Commissioner  
8 in a statement sworn to by both parties, or if the parties are  
9 unable to agree, in separate sworn statements, giving a full  
10 description of the property and any other information which the Tax  
11 Commissioner requires. The Tax Commissioner shall prescribe forms  
12 on which the aforesaid question shall be certified and the Tax  
13 Commissioner shall have the authority to pursue any inquiry and  
14 procure any information necessary for the disposition of the issue.

15 (c) The Tax Commissioner shall, as soon as possible on receipt  
16 of the question, but in no case later than February 28 of the  
17 assessment year, instruct the assessor as to how the property shall  
18 be treated. The instructions issued and forwarded by mail to the  
19 assessor shall be binding upon the assessor, but either the  
20 assessor or the taxpayer may apply to the circuit court of the  
21 county within thirty days after receiving written notice of the Tax  
22 Commissioner's ruling, for review of the question of classification  
23 or taxability in the same fashion as is provided for appeals from  
24 the county commission sitting as a board of equalization and review

1 in section twenty-five of this article.

2 (d) The amendments to this section enacted in the year 2010  
3 shall apply to classification and taxability rulings issued for  
4 taxes levied after December 31, 2011.

5 **§11-3-24b. Board of Assessment Appeals.**

6 (a) The county commission shall meet as a board of assessment  
7 appeals no sooner than October 1 of the tax year, unless that day  
8 is a Saturday, Sunday or legal holiday in this state, in which  
9 event the board shall begin meeting on the next day that is not a  
10 Saturday, Sunday or legal holiday.

11 (b) The board shall set a date and time for hearing each  
12 protest filed on or before February 20 of the tax year, as provided  
13 in section twenty-three-a of this article, and for which the  
14 taxpayer elected to have the matter heard by the board of  
15 assessment appeals: *Provided*, That the commission may, before, on  
16 or after October 1, begin developing a hearing schedule for  
17 hearings to commence on or after October 1. The board may in its  
18 discretion grant one or more continuances of the hearing date. The  
19 board shall grant a continuance when the continuance is agreed to  
20 by the assessor and the taxpayer. When the hearing involves  
21 industrial property or natural resources property appraised by the  
22 Tax Commissioner, the board shall grant continuances of hearing  
23 dates and otherwise work with the Tax Commissioner to develop a  
24 hearing schedule that recognizes the limitations of state resources

1 and the fact that the Tax Commissioner is responsible for  
2 appraising industrial properties and natural resource properties in  
3 all fifty-five counties.

4 (c) Upon the timely request of any party, the board may,  
5 before, on or after October 1, develop a discovery schedule for the  
6 exchange of information between the taxpayer and the assessor and,  
7 in matters involving industrial property or natural resources  
8 property, the Tax Commissioner. Any objections to discovery may be  
9 made to the board which shall rule on such objections. Any willful  
10 failure to provide the information requested through the discovery  
11 process and required by the board may be grounds for dismissal of  
12 the appeal by the board: *Provided*, That the board shall provide  
13 written justification for dismissal to all parties, and: *Provided*  
14 *further*, That any dismissal may be appealed to the circuit court as  
15 provided in section twenty-five of this article.

16 (d) The board may assign the appeal to a hearing examiner for  
17 the taking of evidence if the hearing examiner is mutually agreed  
18 to by the parties to the appeal. The hearing examiner shall have  
19 the same authority as the board to schedule hearings and schedule  
20 and compel discovery: *Provided*, That, in the case of a willful  
21 failure to provide information, an appeal may be dismissed only by  
22 the board as provided in subsection (c) of this section. Hearings  
23 before a hearing examiner shall be recorded electronically. Upon  
24 the conclusion of discovery and hearings on an appeal, the hearing

1 examiner shall make a written report of findings of fact and  
2 conclusions of law and provide the same to the board and all  
3 parties to the appeal. The board shall issue its order consistent  
4 with the report of the hearing examiner without the taking of  
5 additional evidence. The cost and expenses of the hearing examiner  
6 shall be paid by the board.

7 (e) The board may approve an agreement signed by the taxpayer  
8 or taxpayer's representative and the assessor, and by a  
9 representative of the Tax Commissioner when the property is  
10 industrial property or natural resource property, that resolves a  
11 valuation matter that arose while the land and personal property  
12 books were before the board of equalization and review.

13 (f) The board shall issue its order within a reasonable time  
14 after the record for the hearing is closed and all required briefs  
15 have been submitted.

16 (g) Any party to the hearing may appeal the order of the board  
17 in the manner provided in section twenty-five of this article for  
18 appealing an order of the board of equalization and review.

19 (h) In the event the board reduces an assessed value in an  
20 order that becomes final, the county clerk shall certify copies of  
21 the order to the Auditor, sheriff and assessor, and to the Tax  
22 Commissioner if the property is industrial property or natural  
23 resources property. The taxpayer shall be entitled to a credit  
24 voucher to be applied against future taxes as provided in this

1 article. When endorsed by the taxpayer, the voucher shall be  
2 sufficient to entitle the sheriff to a credit for so much of his or  
3 her settlement which he or she is required to make.

4 (i) The board of assessment appeals shall meet as often as  
5 necessary until the work of the board is completed: *Provided*, That  
6 the board shall adjourn sine die not later than October 31 of the  
7 tax year unless the board, by majority vote, agrees to extend the  
8 term if necessary to afford the parties due process and to complete  
9 its work, after which it shall adjourn sine die.

10 **§11-3-25. Relief in circuit court against erroneous assessment.**

11 (a) Any person claiming to be aggrieved by any assessment in  
12 any land or personal property book of any county who shall have  
13 appeared and contested the valuation as provided in section  
14 twenty-four or twenty-four-a of this article, or whose assessment  
15 has been raised by the county commission sitting as a board of  
16 equalization and review above the assessment fixed by the assessor  
17 may, at any time up to thirty days after the adjournment of the  
18 board sitting as a board of equalization and review, or at anytime  
19 up to thirty days after the order of the board of assessment  
20 appeals is served on the parties, apply for relief to the circuit  
21 court of the county in which the property books are made out; but  
22 any person applying for relief in circuit court shall, before any  
23 application is heard, give ten days' notice to the prosecuting  
24 attorney of the county, whose duty it shall be to attend to the

1 interests of the state, county and district in the matter, and the  
2 prosecuting attorney shall give at least five days' notice of  
3 hearing to the Tax Commissioner.

4 (b) The right of appeal from any assessment by the board of  
5 equalization and review or order of the board of assessment appeals  
6 as provided in this section, may be taken either by the applicant  
7 or by the state, and in case the applicant, by his or her agent or  
8 attorney, or the state, by its prosecuting attorney or Tax  
9 Commissioner, desires to take an appeal from the decision of the  
10 either board, the party desiring to take an appeal shall have the  
11 evidence taken at the hearing of the application before either  
12 board, including a transcript of all testimony and all papers,  
13 motions, documents, evidence and records as were before the board,  
14 certified by the county clerk and transmitted to the circuit court  
15 as provided in section four, article three, chapter fifty-eight of  
16 this code, except that, any other provision of this code  
17 notwithstanding, the evidence shall be certified and transmitted  
18 within thirty days after the petition for appeal is filed with the  
19 court or judge, in vacation.

20 (c) If there was an appearance by or on behalf of the taxpayer  
21 before either board, or if actual notice, certified by the board,  
22 was given to the taxpayer, the appeal, when allowed by the court or  
23 judge, in vacation, shall be determined by the court from the  
24 record as so certified: *Provided*, That in cases where the court

1 determines that the record made before the board is inadequate as  
2 a result of the parties having had insufficient time to present  
3 evidence at the hearing before the board to make a proper record,  
4 as a result of the parties having received insufficient notice of  
5 changes in the assessed value of the property and the reason or  
6 reasons for the changes to make a proper record at the hearing  
7 before the board, as a result of irregularities in the procedures  
8 followed at the hearing before the board, or for any other reason  
9 not involving the negligence of the party alleging that the record  
10 is inadequate, the court may remand the appeal back to the county  
11 commission of the county in which the property is located, even  
12 after the county commission has adjourned sine die as a board of  
13 equalization and review or a board of assessment appeals for the  
14 tax year in which the appeal arose, for the purpose of developing  
15 an adequate record upon which the appeal can be decided. The  
16 county commission shall schedule a hearing for the purpose of  
17 taking additional evidence at any time within ninety days of the  
18 remand order that is convenient for the county commission and for  
19 the parties to the appeal. If, however, there was no actual notice  
20 to the taxpayer, and no appearance by or on behalf of the taxpayer  
21 before the board, or if a question of classification or taxability  
22 is presented, the matter shall be heard de novo by the circuit  
23 court.

24 (d) If, upon the hearing of appeal, it is determined that any

1 property has been assessed at more than sixty percent of its true  
2 and actual value determined as provided in this chapter, the  
3 circuit court shall, by an order entered of record, correct the  
4 assessment, and fix the assessed value of the property at sixty  
5 percent of its true and actual value. A copy of the order or  
6 orders entered by the circuit court reducing the valuation shall be  
7 certified to the Auditor, if the order or orders pertain to real  
8 property, by the clerk within twenty days after the entering of the  
9 same, and every order or judgment shall show that the prosecuting  
10 attorney or Tax Commissioner was present and defended the interest  
11 of the state, county and district. If it be ascertained that any  
12 property has been valued too high, and that the taxpayer has paid  
13 the excess tax, it shall be refunded or credited to the taxpayer in  
14 accordance with the provisions of section twenty-five-a of this  
15 article, and if not paid, he or she shall be relieved from the  
16 payment thereof. If it is ascertained that any property is valued  
17 too low, the circuit court shall, by an order entered of record,  
18 correct the valuation and fix it at sixty percent of its true and  
19 actual value. A copy of any order entered by any circuit court  
20 increasing the valuation of property shall be certified within  
21 twenty days, if the order pertains to real property, to the  
22 Auditor, the county clerk and the sheriff. However, if the order  
23 pertains only to personal property, then the copy shall be  
24 certified within twenty days to the county clerk and to the sheriff

1 and it shall be the duty of the Auditor, the county clerk and the  
2 sheriff to charge the taxpayer affected with the increase of taxes  
3 occasioned by the increase of valuation by applying the rate of  
4 levies for every purpose in the district where the property is  
5 situated for the current year. The order shall also be filed in  
6 the office of the Auditor and clerk of the county commission. The  
7 circuit court shall review the record submitted from the board. If  
8 the court determines that the record is adequate, it shall  
9 establish a briefing and argument schedule that will result in the  
10 appeal being submitted to the court for decision within a  
11 reasonable time, but not to exceed eight months after the appeal is  
12 filed. All final decisions or orders of the circuit court shall be  
13 issued within a reasonable time, not to exceed ninety days, from  
14 the date the last brief is filed and the case is submitted to the  
15 court for decision. The state or the aggrieved taxpayer may appeal  
16 a question of valuation to the Supreme Court of Appeals if the  
17 assessed value of the property is \$50,000 or more, and either party  
18 may appeal a question of classification or taxability.

19 (e) All persons applying for relief to the circuit court under  
20 this section shall be governed by the same presumptions, burdens  
21 and standards of proof as established by law for taxpayers applying  
22 for such relief.

23 (f) *Effective date.* -- The amendments to this section enacted  
24 in 2010 shall apply to tax years beginning after December 31, 2011.

1 §11-3-25a. Payment of taxes that become due while appeal is  
2 pending.

3 (a) All taxes levied and assessed against the property for the  
4 year on which a protest or an appeal has been filed by the taxpayer  
5 as provided in section twenty-four or twenty-four-b of this article  
6 shall be paid before they become delinquent. If the taxes are not  
7 paid before becoming delinquent, the circuit court, having  
8 jurisdiction of the appeal, as appropriate, shall dismiss the  
9 appeal unless the delinquent taxes and interest due are paid in  
10 full within thirty days after taxes for the second half of the tax  
11 year become delinquent.

12 (b) In the event the order of a court becomes final and the  
13 order results in an overpayment of taxes levied for the tax year  
14 that have been paid to the sheriff, the amount of the overpayment  
15 shall be refunded to the taxpayer if the overpayment is \$25,000 or  
16 less within thirty days after the time for appealing the decision  
17 or order expires or, if the decision or order is appealed, within  
18 thirty days of the date the appeals court turns down the appeal:  
19 *Provided, That, if the taxpayer's protest before the county*  
20 *commission below was heard pursuant to the provisions of section*  
21 *twenty-four-b of this article, the refund shall be paid pursuant to*  
22 *the provisions of that section. If the overpayment is more than*  
23 *\$25,000, a credit in the amount of the overpayment shall be*  
24 *established by the county sheriff and allowed as a credit against*

1 taxes owed up to the following two tax years: *Provided*, That the  
2 county commission may elect to refund the amount of overpayment  
3 rather than having a credit established as provided in this  
4 section: *Provided however*, That if any portion of the overpayment  
5 remains unused after the date on which taxes payable for the second  
6 half of the second tax year following the tax year of the  
7 overpayment become delinquent, that portion shall be refunded to  
8 taxpayer by the county sheriff no later than thirty days after that  
9 date or thirty days from the date that the circuit court order  
10 becomes final, whichever date occurs later. Whenever an  
11 overpayment is refunded or credited under this section, the county  
12 shall pay interest at the rate established in section seventeen and  
13 seventeen-a, article ten of this chapter for overpayments of taxes  
14 collected by the Tax Commissioner, which interest shall be computed  
15 from the date the overpayment was received by the sheriff to the  
16 date of the refund check or the date the credit is actually taken  
17 against taxes that become due after the order of the court becomes  
18 final.

19 **§11-3-32. Effective date of amendments.**

20 Unless specified otherwise in this article, all amendments to  
21 this article adopted in the year 2010 shall apply to the assessment  
22 years beginning on or after July 1, 2011.

23 **§11-3-33. Rules.**

24 The Tax Commissioner is hereby authorized to promulgate

1 emergency rules and other rules in accordance with the provisions  
2 of article three, chapter twenty nine-a of this code as necessary  
3 or convenient for administration and interpretation of this  
4 article.

5 **ARTICLE 6K. ASSESSMENT OF INDUSTRIAL PROPERTY AND NATURAL**  
6 **RESOURCES PROPERTY.**

7 **§11-6K-1. Time and basis of assessments; true and actual value;**  
8 **and returns of property to Tax Commissioner.**

9 (a) All industrial property and natural resources property  
10 shall be assessed annually as of the assessment date at sixty  
11 percent of its true and actual value.

12 (b) If required by the Tax Commissioner, all owners or  
13 operators of natural resources property, except oil-producing  
14 property, natural gas-producing property and managed timberland,  
15 shall, on or before May 1 preceding the July 1 assessment date,  
16 make a return to the Tax Commissioner and, if requested in writing  
17 by the assessor of the county where situated, to the county  
18 assessor, at a time and in the form specified by the Tax  
19 Commissioner, of all applicable natural resources property owned by  
20 them. Tax returns required to be filed pursuant to this section  
21 may be filed electronically in the discretion of the Tax  
22 Commissioner. The Tax Commissioner may require the filing of all  
23 information which would be useful in valuing the property covered  
24 by the returns. Upon written application by the taxpayer filed

1 prior to the due date of any return required to be filed by this  
2 section, the Tax Commissioner may for reasonable cause shown grant  
3 an extension of no more than one month in the due date of any  
4 return.

5 (c) If required by the Tax Commissioner, all owners or  
6 operators of industrial property, oil-producing property and  
7 natural gas-producing property, shall, on or before August 1 of the  
8 assessment year, make a return to the Tax Commissioner and, if  
9 requested in writing by the assessor of the county where situated,  
10 to the county assessor, at a time and in the form specified by the  
11 Tax Commissioner, of all industrial property, oil-producing  
12 property and natural gas-producing property, owned by them. Tax  
13 returns required to be filed pursuant to this section may be filed  
14 electronically in the discretion of the Tax Commissioner. The Tax  
15 Commissioner may require the filing of all information which would  
16 be useful in valuing the property covered by the returns. Upon  
17 written application by the taxpayer filed prior to the due date of  
18 any return required to be filed by this section, the Tax  
19 Commissioner may for reasonable cause shown grant an extension of  
20 no more than one month in the due date of any return.

21 **§11-6K-2. Definitions.**

22 As used in this article:

23 (1) "Active coal mining property" means a mineable bed of coal  
24 on a property or portion of a property involved in a permitted

1 mining operation. Each and every bed of coal being mined in a  
2 permitted mining operation is a separate active mining property.

3 (2) "Industrial property" means the real and personal property  
4 integrated as a functioning unit intended for the assembling,  
5 processing and manufacturing of finished or partially finished  
6 products.

7 (3) "Managed timberland" means surface real property, except  
8 farm woodlots, of not less than ten contiguous acres which is  
9 devoted primarily to forest use and which, in consideration of its  
10 size, has sufficient numbers of commercially valuable species of  
11 trees to constitute at least forty percent normal stocking of  
12 forest trees which are well distributed over the growing site, and  
13 that is certified as managed timberland by the Division of  
14 Forestry.

15 (4) "Natural gas-producing property" means the property from  
16 which natural gas has been produced or extracted at any time during  
17 the calendar year preceding the assessment date. Natural gas  
18 producing-property includes the property interest or interests  
19 underlying an area of up to one hundred twenty-five acres of  
20 surface per well for property with active wells on the parcel.

21 (5) "Natural resources property" means any of the following:  
22 Active coal mining property, reserve coal property, natural  
23 gas-producing property, oil-producing property, managed timberland  
24 or other natural resources property.

1 (6) "Oil-producing property" means property from which oil has  
2 been produced or extracted at any time during the calendar year  
3 preceding the assessment date. Oil-producing property includes the  
4 interest or interests underlying an area of up to forty acres of  
5 surface per well with one or more active wells on the parcel.

6 (7) "Operator" means an individual, limited liability company,  
7 partnership, corporation, joint venture or other enterprise which  
8 proposes to or does locate, drill, produce, manage or abandon any  
9 oil and/or natural gas well or which is engaged in actively  
10 obtaining or preparing to obtain coal and/or its by-products from  
11 the earth's crust on an active coal mining property.

12 (8) "Reserve coal property" means any property for which coal  
13 rights are part of the owned estate and which is not part of an  
14 active coal mining property.

15 **§11-6K-3. Form and manner of making return; failure to timely make**  
16 **return; penalties.**

17 (a) All returns required to be made to the Tax Commissioner  
18 under this article shall be made in conformity with any reasonable  
19 requirements of the Tax Commissioner of which the person making the  
20 return shall have had notice, and shall be made upon forms  
21 prescribed by the Tax Commissioner who is invested with full power  
22 and authority to prescribe the forms required from any owner,  
23 operator or producer that may be of use to the Tax Commissioner in  
24 determining the true and actual value of the properties of the

1 owners, operators or producers.

2 (b) All returns shall be signed and sworn to by the owner,  
3 operator or producer if a natural person, or, if the owner,  
4 operator or producer shall be a limited liability company,  
5 corporation, partnership, joint venture or other enterprise, shall  
6 be signed and sworn to by its president, vice president, secretary  
7 or other individual authorized to act on behalf of the taxpayer.

8 (c) If any owner, operator or producer fails to make a return  
9 within the time required by section one of this article, it shall  
10 be the duty of the Tax Commissioner to take steps as necessary to  
11 compel compliance and to enforce any and all penalties imposed by  
12 law for failure to do so.

13 (d) Any owner, operator or producer, whether a natural person,  
14 limited liability company, corporation, partnership, joint venture  
15 or other enterprise, willfully failing to make a return within  
16 thirty days from the day it is herein required shall be guilty of  
17 a misdemeanor and, upon conviction thereof, fined \$100 for each  
18 month the failure continues. In addition, any penalties provided  
19 in this chapter or elsewhere in this code relating to failure to  
20 list any property or to file any return or report for ad valorem  
21 taxation purposes may be applied to any owner of property required  
22 to make a return pursuant to this section.

23 **§11-6K-4. Review of returns; procuring information for tentative**  
24 **appraisals; tentative appraisals by Tax Commissioner;**

1  
2 **and notification to taxpayers.**

3 (a) All returns delivered to the Tax Commissioner shall be  
4 examined by him or her, and if found insufficient in form or in any  
5 respect defective, imperfect or not in compliance with law, he or  
6 she shall compel the person delivering the return to make it in  
7 proper and sufficient form in all respects as required by law.

8 (b) If any owner, operator or producer fails to make a  
9 required return, the Tax Commissioner shall proceed to obtain the  
10 facts and information required to be furnished by the returns.

11 (c) For the purposes of ascertaining the correctness of any  
12 return filed pursuant to this article or of valuing the property of  
13 any industrial taxpayer or natural resources property owner or  
14 operator, the Tax Commissioner may exercise all of the powers and  
15 authority granted to him or her by sections five-a, five-b and  
16 five-c, article ten of this chapter.

17 (d) Using information provided on the returns and all other  
18 pertinent evidence, information and data he or she has been able to  
19 procure, the Tax Commissioner shall annually value and make  
20 tentative appraisals of all industrial property and natural  
21 resources property as provided in section ten, article one-c of  
22 this chapter.

23 (e) On or before October 15 of the assessment year, the Tax  
24 Commissioner shall complete the preparation of tentative appraisals  
of all industrial property and natural resources property and shall

1 notify the owner or operator affected thereby of the amount of the  
2 tentative appraisals: *Provided*, That in the case of oil-producing  
3 property, natural gas-producing property and managed timberland,  
4 the Tax Commissioner shall complete the preparation of tentative  
5 appraisals and notify the affected owner or operator by December 1  
6 of the assessment year, and: *Provided further*, That no notification  
7 shall be required where the total increase in the aggregate amount  
8 of the tentative appraisals to the owner or operator affected  
9 thereby does not exceed \$1,000 and the total tentative appraisals  
10 did not increase by more than ten percent from the prior year's  
11 appraisals. Notification may, at the reasonable discretion of the  
12 Tax Commissioner, be: (1) By written notice deposited in the United  
13 States mail, addressed to the owner or operator at the principal  
14 office or place of business of the owner or operator; (2) by  
15 electronic notification; or (3) by any other means designed to  
16 communicate the tentative appraisal information to the owner or  
17 operator in a timely and efficient manner and in a convenient  
18 useable form. Any notice required to be provided under this  
19 section to an owner or operator shall also be provided by the Tax  
20 Commissioner to the assessor of the county in which the property is  
21 located. The Tax Commissioner shall retain in his or her office  
22 true copies of tentative appraisals and of the underlying work  
23 sheets used to compute the tentative appraisals, all of which shall  
24 be available for inspection by any owner or operator or his or her

1 duly authorized representative.

2 **§11-6K-5. Informal petition to Tax Commissioner for review of**  
3 **tentative appraisals.**

4 (a) A taxpayer who is of the opinion that the tentative  
5 appraisal of its industrial property or natural resources property,  
6 except oil-producing property, natural gas-producing property and  
7 managed timberland, does not reflect the true and actual value of  
8 the property or is otherwise improperly valued may, after receiving  
9 its tentative appraisal and on or before November 15 of the  
10 assessment year, informally petition the Tax Commissioner  
11 requesting a review of the tentative appraisal. Likewise, an  
12 assessor who is of the opinion that the tentative appraisal of any  
13 industrial property or natural resources property, except oil-  
14 producing property, natural gas-producing property and managed  
15 timberland, located in the county does not reflect the true and  
16 actual value of the property or is otherwise improperly valued may,  
17 after receiving the tentative appraisal and on or before November  
18 15 of the assessment year, informally petition the Tax Commissioner  
19 requesting a review of the tentative appraisal. The Tax  
20 Commissioner may require the petition be made on a written form  
21 prescribed by the Tax Commissioner. At the time a petition is  
22 filed by a taxpayer with the Tax Commissioner, the petitioner shall  
23 provide a copy of the petition to the assessor of the county in  
24 which the property is located. At the time a petition is filed by

1 an assessor with the Tax Commissioner, the petitioner shall provide  
2 a copy of the petition to the taxpayer involved.

3 (b) At the petitioner's request, the Tax Commissioner or his  
4 or her representative shall meet with the petitioner or the  
5 petitioner's representative to discuss the petition at a time and  
6 place designated at least five working days in advance by the Tax  
7 Commissioner after the petition is filed. If the petitioner is  
8 unable to appear and meet with the Tax Commissioner at the time and  
9 place set by the Tax Commissioner, the petitioner may submit  
10 written evidence to support the petition if it is submitted before  
11 the date of the meeting.

12 (c) The Tax Commissioner shall consider and rule on each  
13 informal petition filed under this section on or before January 15  
14 of the tax year. If the Tax Commissioner agrees with the petition  
15 he or she shall modify the tentative appraisal accordingly. The  
16 Tax Commissioner shall then notify the petitioner and assessor of  
17 the county in which the property is located in writing of his or  
18 her decision and shall include supporting data that the assessor  
19 might need to evaluate the appraisal.

20 **§11-6K-6. Final appraisal of industrial property and natural**  
21 **resources property by Tax Commissioner; appraisals**  
22 **sent to assessors; appeals of Tax Commissioner's**  
23 **appraisals.**

24 (a) The Tax Commissioner shall finalize the tentative

1 appraisals made pursuant to section four of this article and make  
2 his or her final appraisals of industrial property and natural  
3 resources property on or before December 15 of the assessment year.

4 (b) On or before December 15 of the assessment year, the Tax  
5 Commissioner shall forward each industrial property and natural  
6 resources property appraisal to the county assessor of the county  
7 in which that property is located. In so doing, The Tax  
8 Commissioner shall identify those appraisals that may still be  
9 under review under section five of this article. The assessor  
10 shall then multiply each appraisal by sixty percent and include the  
11 resulting assessed value in the land book or the personal property  
12 book, as appropriate for each tax year. The Tax Commissioner shall  
13 supply supporting data that the assessor might need to evaluate the  
14 appraisal.

15 (c) Any taxpayer claiming to be aggrieved by any assessment  
16 made pursuant to this article may appeal the assessment as provided  
17 under the provisions of article three of this chapter: *Provided,*  
18 That if the assessment exceeds sixty percent of the final appraisal  
19 by the Tax Commissioner, the taxpayer may notify the Tax  
20 Commissioner in writing of this error, whereupon he or she shall,  
21 if the error is confirmed, instruct the assessor in writing to  
22 lower the assessment to sixty percent of the final appraisal. The  
23 assessor shall, upon receipt of instruction from the Tax  
24 Commissioner, lower the assessment as required.

1 **§11-6K-7. Effective date.**

2 The provisions of this article enacted in the year 2010 shall  
3 be effective for the assessment years and the tax years beginning  
4 on or after July 1, 2011.

5 **§11-6K-8. Rules.**

6 The Tax Commissioner is hereby authorized to promulgate  
7 emergency rules and other rules in accordance with the provisions  
8 of article three, chapter twenty nine-a of this code as necessary  
9 or convenient for administration and interpretation of this  
10 article.

11 **CHAPTER 18. EDUCATION.**

12 **ARTICLE 9A. PUBLIC SCHOOL SUPPORT.**

13 **§18-9A-12. County basic foundation; total basic state aid**  
14 **allowance.**

15 (a) The basic foundation program for each county for the  
16 fiscal year shall be the sum of the amounts computed in accordance  
17 with the provisions of sections four, five, six, seven, eight, nine  
18 and ten of this article. On the first working day of July in each  
19 year, the State Board shall determine the basic foundation program  
20 for each county for that fiscal year. Data used in the  
21 computations relating to net and adjusted enrollment, and the  
22 number of professional educators, shall be for the second month of  
23 the prior school term. Transportation expenditures used in these  
24 computations shall be for the most recent year in which data are

1 available. The allocated state aid share of the county's basic  
2 foundation program shall be the difference between the cost of its  
3 basic foundation program and the county's local share as determined  
4 in section eleven of this article except as provided in subsection  
5 (b) of this section.

6 (b) The allocated state aid share shall be adjusted in the  
7 following circumstances in the following manner: *Provided*, That  
8 prior to such adjustment, the State Tax Commissioner shall provide  
9 the State Board, by January 15 of each year, a certified listing of  
10 those counties in which such adjustment shall be made pursuant to  
11 this subsection, together with the amount of revenue which will not  
12 be available to each county board in the ensuing fiscal year as a  
13 result of the circumstance:

14 (1) In those instances where the local share as computed under  
15 section eleven of this article is not reflective of local funds  
16 available because the county is under a final court order, or a  
17 final decision of a board of assessment appeals under section  
18 twenty-four-b, article three, chapter eleven of this code, to  
19 refund or credit property taxes paid in prior years, the allocated  
20 state aid share shall be the county's basic foundation program,  
21 minus the local share as computed under section eleven of this  
22 article, plus the amount of property tax the county is unable to  
23 collect or must refund due to the final court order or final  
24 decision of a board of assessment appeals: *Provided*, That said

1 adjustment shall not be made or shall only be made proportionately  
2 when the Legislature fails to fund or funds only in part the public  
3 school basic foundation support plan state share at a level  
4 sufficient to cover the reduction in state share: *Provided,*  
5 *however,* That nothing herein provided shall be construed to require  
6 or mandate any level of funding by the Legislature.

7 (2) In those instances where the local share as computed under  
8 section eleven of this article is not reflective of local funds  
9 available because the county is collecting tax based upon an  
10 assessed value which is less than that determined by the Tax  
11 Commissioner in the most recent published survey of property  
12 valuations in the state due to an error in the published survey,  
13 which error is certified to by the Tax Commissioner, the allocated  
14 state aid share shall be the county's basic foundation program,  
15 minus the local share as computed under section eleven of this  
16 article, plus the amount of property tax the county is unable to  
17 collect based on differences in the assessed valuation between  
18 those in the most recent published survey of valuation and the  
19 corrected assessed value actually levied upon by the county:  
20 *Provided,* That said adjustment shall not be made or shall only be  
21 made proportionately when the Legislature fails to fund or funds  
22 only in part the public school basic foundation support plan state  
23 share at a level sufficient to cover the reduction in state share:  
24 *Provided, however,* That nothing herein provided shall be construed

1 to require or mandate any level of funding by the Legislature.

2 (3) In instances where a county is unable to collect property  
3 taxes from a taxpayer during the pendency of any court proceeding,  
4 the allocated state aid share shall be the county's basic  
5 foundation program minus the local share as computed under section  
6 eleven of this article, plus the amount the county is unable to  
7 collect as a result of the pending court proceedings as certified  
8 by the Tax Commissioner: *Provided*, That the county is required to  
9 reimburse the amount of allocated state aid share attributable to  
10 the amount of property tax it later receives upon completion of  
11 court proceedings, which shall be paid into the General Revenue  
12 Fund of the state: *Provided, however*, That said adjustment shall  
13 not be made or shall only be made proportionately when the  
14 Legislature fails to fund or funds only in part the public school  
15 basic foundation support plan state share at a level sufficient to  
16 cover the reduction in state share: *Provided further*, That nothing  
17 herein provided shall be construed to require or mandate any level  
18 of funding by the Legislature.

19 (c) The allocated state aid share shall be adjusted in any  
20 county receiving payments or contributions in lieu of property  
21 taxes. In instances where a county receives payments or  
22 contributions in lieu of property taxes, the allocated state aid  
23 share shall be the county's basic foundation program minus the  
24 local share as computed under section eleven of this article, plus

1 any amounts added pursuant to subsection (b) of this section minus  
2 the payments or contributions in lieu of property taxes which are  
3 distributed by the sheriff to the county board of education. In  
4 determining the amount of such contribution or payment in lieu of  
5 taxes, each county commission shall provide to the State Tax  
6 Commissioner, by January 1 of each year, the total amount of such  
7 payments or contributions paid to the county and the proportion of  
8 the total amount that has been or will be distributed to the county  
9 board of education. The State Tax Commissioner then shall provide  
10 the State Board, by January 15 of each year, a certified listing of  
11 those counties in which an adjustment pursuant to this section  
12 shall be made, together with the amount of revenue which will be  
13 available to each county board in the ensuing fiscal year as a  
14 result of contribution or payment in lieu of taxes.

15 (d) Total basic state aid to the county shall be the computed  
16 state share of basic foundation support. After such computation is  
17 completed, the State Board shall immediately certify to each county  
18 board the amount of state aid allocated to the county for that  
19 fiscal year, subject to any qualifying provisions of this article.

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

**IN RE:** ) **PETITION OF WILLIAM E. KNODE, JR.,**  
) **and JO ANN KNODE TO VACATE UNUSED**  
) **STREETS AND ALLEY Under §7-1-3h**  
) **West Virginia Code**

Come now William E. Knode, Jr., and Jo Ann Knode, hereinafter referred to as  
Petitioners, and state as follows:

-1-

That the Petitioners bring this verified application before this County Commission  
pursuant to §7-1-3h of the West Virginia Code.

-2-

That the Petitioners own land, whose property abuts unused streets and an alley,  
as shown on a map of Trussell's Addition, situate in Shepherdstown District, Jefferson  
County, West Virginia.

-3-

That said plat is recorded in the Office of the Clerk of the County Commission of  
Jefferson County, West Virginia, in Slide 2158A.

-4-

That the unused streets and alley, which your Petitioners request that the County  
Commission vacate, shown on said plat are as follows: Princess Street (Extended) from  
the southern limit of Church Alley (which is also the division line between the

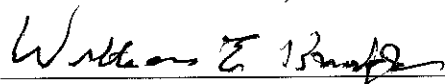
Corporation of Shepherdstown and Jefferson County) to Fairmont Avenue; Fairmont Avenue from Princess Street extending westwardly to the Town Run; Old Prospect Avenue from Princess Street extending westwardly to the Town Run; and an unnamed alley from Princess Street extending westwardly to the Town Run.

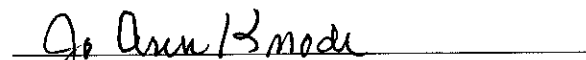
WHEREFORE, your Petitioners request the following:

- 1) That the County Commission consider this application.
- 2) That the County Commission fix a time, date and place for hearing on such application.
- 3) That after hearing any evidence relating to the use of and rights or claims in and to such streets and alley, the County Commission cause to be entered an Order closing and vacating the streets and alley as aforesaid, and causing said Order to be certified for entry of record in said Clerk's Office.

Respectfully submitted,

William E. Knode, Jr.



  
Jo Ann Knode

STATE OF WEST VIRGINIA

COUNTY OF JEFFERSON, to wit:

WILLIAM E. KNODE, JR., and JO ANN KNODE, PETITIONERS named in the foregoing PETITION TO VACATE UNUSED STREETS AND ALLEY, being duly sworn, says that the facts and allegations contained therein are true, except so far as they are therein stated to be on information, and that so far as they are therein stated to be upon information, they believe them to be true.

William E. Knode, Jr.

His William E. Knode, Jr. Mark

Jo Ann Knode  
Jo Ann Knode

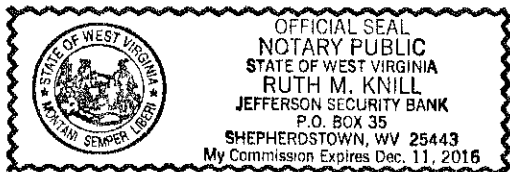
I, Ruth M. Knill, a Notary Public of the said County, do hereby certify that WILLIAM E. KNODE, JR., who signed the writing above and JO ANN KNODE, who signed the writing above, bearing date the 19<sup>th</sup> day of December, 2011, has this day acknowledged the same before me in my said County.

Given under my hand this 19<sup>th</sup> day of December, 2011.

My commission expires: Dec 11, 2016

(Affix Notary Seal)

Ruth M. Knill  
Notary Public



included within the boundaries of any municipal corporation, except as provided herein. Any county commission for the purpose of implementing this section is hereby authorized to enter into such contract or contracts with any municipality or county within this state for the purposes of carrying out the powers vested in such county commissions by this section, and all said county commissions may, pursuant to such contract, exercise the authority herein granted within such contracting municipality: Provided, however, That where an area is furnished garbage and refuse collection service by an existing carrier under authority issued by the Public Service Commission of West Virginia, the county commission may enter into contracts or agreements with such carrier to supplement such existing service, but shall not enter into any competing service without authority being granted by the Public Service Commission.

The term "users" as used herein shall mean and include any person to whom such services are made available under the provisions of this section.

The authority granted by this section expires on the first day of January, one thousand nine hundred eighty-nine.

**History.** 1955, c. 30; 1974, c. 15; 1988, c. 84.

**Cross references.** — West Virginia litter control program, §§ 20-7-24 et seq.

**Garbage service fee.** — Garbage service fee provided for in this section may be properly imposed on actual users of the service. How-

ever, the manner in which the fee may be imposed on and collected from other than such actual users of the service needs legislative clarification. Op. Att'y Gen., Oct. 6, 1987, No. 18.

### § 7-1-3g. Acquisition, operation, and maintenance of sewerage systems and sewage plants.

In addition to all other powers and duties now conferred by law upon county courts [county commissions], such courts are hereby empowered to acquire, by purchase, right of eminent domain, lease, gift, or otherwise, and to operate and maintain, sewerage systems and sewage treatment plants, and to pay the cost of operation and maintenance thereof out of a special fund to be derived from sewerage service fees paid by the users of such sewerage system or sewage treatment plant: Provided, however, That the power and authority hereby conferred on county courts shall not extend into territory within the boundaries of any municipal corporation, sanitary district or public service district.

**History.** 1955, c. 30.

county court as county commission, see W.Va. Const. art. IX, § 9.

**Editor's notes.** — For construction of the

### § 7-1-3h. Authority and procedure for closing unused roads, streets and travel ways; notice and hearing; circuit court review.

The county court [county commission] of any county, upon the verified application of any landowner whose land abuts on any unused road, street, or other travel way designated on any map or plat of a subdivision of land or otherwise within such county but outside of incorporated towns or cities thereof, is hereby authorized to close and vacate any part or all of any such

unused road, street or other designated travel way by order entered of record after hearing as hereinafter provided. Before acting to close and vacate any such road, street or travel way, the county court shall consider the application and shall fix a time and place for hearing on such application. Such hearing shall be held not less than fifteen days after the hearing date and place have been so fixed. The applicant shall cause notice of the time and place of such hearing and the purpose thereof to be published as a Class I legal advertisement in compliance with the provisions of article three [ §§ 59-3-1 et seq. ], chapter fifty-nine of this code, and the publication area for such publication shall be the county. The notice shall be published at least fifteen days before such hearing. The applicant shall also cause to be served, at least fifteen days before such hearing, in the manner provided by law for the service of notices and process, a notice showing the time, place and purpose of such hearing, upon every owner of property, and every person holding a lien thereon, abutting on such unused road, street or other travel way. The affidavit of publication of such notice shall be filed with the county court at or before the hearing as a part of the record in the proceedings.

At the time and place fixed for the hearing, the county court [county commission] shall hear any evidence relating to the use of and rights or claims in or to any such road, street or other designated travel way sought to be closed and vacated. If the county court concludes and finds upon the record and evidence in the proceedings that the use and rights of no person or persons in such road, street or other travel way will be impaired or lost by the closing and vacation thereof, the county court shall proceed to enter an order closing and vacating such road, street or other travel way and shall cause a copy of said order to be prepared and certified for entry of record in the office of the clerk of such county court. The applicant shall pay the recording fee thereon.

Any person aggrieved by the action of the county court [county commission] in any such case may seek review thereof in the circuit court of the county as provided in article three of chapter fifty-eight [ §§ 58-3-1 et seq. ] of this code.

**History.** 1957, c. 26; 1967, c. 105.

**Editor's notes.** — For construction of the county court as county commission, see W.Va. Const. art. IX, § 9.

**Refusal to close road not an acceptance of dedication.** — County commission's refusal of an application by the alleged obstructing parties to close one of two roads that the challenging parties sought to establish as pub-

lic roads was not evidence that the county commission accepted a dedication of that road. There was no requirement in W. Va. Code § 7-1-3h, regarding the closing of roads, that a road at issue be a public road nor was there any other indication that the road was a public road. *Ford v. Dickerson*, — W. Va. —, 662 S.E.2d 503, 2008 W. Va. LEXIS 11 (2008).

**Stated** in *Newman v. Michel*, — W. Va. —, — S.E.2d —, 2009 W. Va. LEXIS 58 (2009).

### § 7-1-3i. County commission may cooperate with other governmental units.

Any county commission may join together in the exercise of any of its powers, duties and responsibilities, or otherwise cooperate with any other county or counties, municipality or municipalities, the government of this State or of the United States in carrying out any lawful purpose not in conflict with the Constitution of West Virginia: Provided, That the county commission of any

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

**AGENDA REQUEST FORM**

Name: Jennifer Brockman

Department or Entity: Planning and Zoning

Estimation of amount of time needed for appointment: 15 minutes

Date Requested – 1<sup>st</sup> Choice: January 5, 2012

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

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

Subject: **Upcoming US 340 Public Meeting and Request for Joint PC/CC Meeting**

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

**As the County Commission is aware, the Department of Planning and Zoning staff has been working to facilitate a citizen-based long range planning process for the US 340 East Gateway Corridor Plan as recommended by the 2004 Comprehensive Plan. There is one final Public Meeting scheduled regarding this Plan – to be held Thursday, January 19, 2012, at 7 pm, Old Charles Town Library Basement Meeting Room.**

**The primary focus of the January 19<sup>th</sup> meeting will be to hear a presentation from the transportation consultant regarding the impact of the preferred land use scenario (finalized at the December 6<sup>th</sup> public meeting) and alternative transportation improvements that should be considered in conjunction with the preferred land use/growth scenario. The public will have the opportunity to provide feedback on the alternative transportation improvements and finalize the recommendations of the plan. Additionally, there will be a brief overview of the components of the 340 plan as a whole, including, but not limited to, draft goals and objectives and recommendations related to parks/trails/greenways, community services/infrastructure, economic opportunities, historic resources, and implementation strategies.**

**After this meeting, the staff will be working to finalize the text of the 340 Small Area Plan based on all of the input received with final recommendations to the County Commission. The next step will be to present this written draft to a joint meeting of the Planning Commission and County Commission for your information and to request that a public hearing be scheduled by the Planning Commission. Staff would like to have 4 – 6 weeks to complete the plan and is requesting that the County Commission set the joint meeting for a time certain in early March at your convenience.**

**Please note that all of the US 340 meetings are open to the public and we encourage participation by all Commissioners and interested parties.**

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

**I move to schedule a joint meeting of the Planning Commission and County Commission for the purpose of hearing the final recommendation of the US 340 East Gateway Corridor Plan on \_\_\_\_\_, 2012 at \_\_\_\_\_ pm. No public testimony will be taken at this meeting but a future public hearing will be scheduled.**

Attachments:  
**N/A**

5

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

**AGENDA REQUEST FORM**

Name: Barbara Miller

Department or Entity: Homeland Security and Emergency Management

Estimation of amount of time needed for appointment: 10 minutes

Date Requested – 1<sup>st</sup> Choice: January 5, 2012

Date Requested – 2<sup>nd</sup> Choice: January 12, 2012

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

Subject:

- 1) Homeland Security Grant application for a Pets Sheltering Trailer and Supplies in the amount of \$30,000 (Needs Approval)

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

- 1) I submitted a project concept to WVDMAPS in August, 2011 to purchase a Rapid Deployment Emergency Companion Animal Shelter Support Trailer. I have been notified by WVDMAPS that we have been selected to receive the funds in order to move towards compliance with the PETS ACT. Pet Evacuation and Transportation Standards ACT of the Federal Government. There are no matching funds required for this project. The Project Period for this grant will be February-October, 2012.

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

- 1) I move to approve the Homeland Security Mass Care Trailer Grant in the amount of \$30,000.

Attachments:

- 1) Copy of the Trailer Grant application

## FY 2010 Homeland Security Grant Eligibility Criteria and Certification

To be eligible to apply for FY 2010 State Homeland Security Program grant funding including Citizen Corps, an agency or organization must comply with specific criteria as hereinafter set forth. Evidence of compliance must be electronically submitted with an organizational point of contact to the Homeland Security Regional Coordinator (HSRC). The HSRC may provide direct assistance to the applicant to come into compliance, or by referral to the appropriate resource. To identify your Regional Coordinator, call (304) 558-2930. The Regional Coordinators will provide notification of eligibility, which may include provisional acceptance requiring further action.

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

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

The applicant must meet or exceed the following:

- a. Prior to submission of the Project Concept, register for a National Incident Management System Comprehensive Assessment Support Tool (NIMSCAST) account and answer all questions in the 2010 matrix, including the development of Corrective Action Plans if necessary. Corrective Action Plans will not disqualify an organization from being an applicant or recipient.
- b. Formally adopt NIMS as the approach to be utilized for all incident management. This is evidenced by Proclamation, Resolution, Executive Order, or other document indicating adoption by the applicant's governing body. A copy of the adoption document must be attached to the FY 10 Homeland Security Grant Eligibility Certification.
- c. Utilize NIMS and the Incident Command System (ICS).
- d. Prior to submission of the Project Concept, an up to date inventory of all the applicant's response/recovery assets must be submitted to the applicant's local and/or county emergency manager.
- e. Identify and submit with the FY 10 Homeland Security Grant Eligibility Certification, a list of all Memoranda/Statements of Understanding and Mutual Aid Agreements to which the applicant is a party.
- f. Prior to submission of the Project Concept, certification of course completion of applicable training by at least 70% of personnel who are required to take the IS 100, IS 200 and/or IS 700 training.

### 2. Continuity of Operations Plan

Prior to submission of the Project Concept, the applicant must tender a written Continuity of Operations (COOP) plan to the HSRC. The plan must contain at a minimum the following elements:

- List of Essential Functions
- Orders of Succession for essential personnel
- List of Delegations of Authority
- Identification of a continuity facility
- Identification of Vital Records
- Communications
- Employee notification procedures for COOP activation
- Reconstitution
- Training plan/schedule for COOP

A continuity plan that contains these elements is not considered a complete plan; rather it demonstrates that significant planning efforts have been undertaken and completed. Any written feedback on the plan provided by the state COOP Coordinator to the organization must be incorporated in the plan prior to submission of the Project Concept.

### 3. Training Database Registration

Prior to submission of the Project Concept, the applicant's training coordinator or another designee must register on the WV DMAPS online training database. To access the database and register, go to [http://www.onlinelearning.wv.gov/coursemill/overview\\_militaryaffairs.jsp](http://www.onlinelearning.wv.gov/coursemill/overview_militaryaffairs.jsp) and click the "Create New User" button. Additionally, the organization should make every effort to have appropriate personnel attend the Homeland Security Exercise and Evaluation Program (HSEEP) course.

### 4. Exercise List and AARs/CAPs

Prior to submission of the Project Concept, the applicant must submit to the HSRC a written list of any exercises in which it has participated since January 1, 2010 along with a copy of the After Action Report (including any Corrective Action Plans) or a list of principle findings of the exercise relative to the organization. Or, if the entity has not participated in any exercises, a written statement must be submitted to the HSRC indicating no participation.

### 5. WV ISAC Registration

Prior to submission of the Project Concept, the applicant must contact the HSRC to initiate the process to register with the WV Information Sharing and Analysis Center (WV-ISAC). WV-ISAC is a part of a national secure information sharing portal that provides a common mechanism for raising the level of cyber security readiness and response. More information is available at [www.msisac.org](http://www.msisac.org).

## FY 10 Homeland Security Grant Eligibility Certification

**Agency/Organization:** Jefferson County Commission

I have reviewed the foregoing and certify that to the best of my information and belief, the agency/organization I represent has met or exceeded the eligibility requirements prerequisite to applying for FY 10 Homeland Security Grant funding.

Agency/Organization Authorized Official:

Patricia Noland Title: County Commission President  
Type or Print Name of Agency/Organization Authorized Official

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

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

Email: pnoland@jeffersoncountywv.org Phone: 304-728-3284

### Emergency Manager

I have reviewed the foregoing and certify that the inventory of all the applicant's response/recovery assets was provided to me, and is accurate to the best of my information and belief, and the agency/organization should be eligible to apply for FY 10 Homeland Security Grant funding.

\_\_\_\_\_  
Type or Print Name of Emergency Manager

\_\_\_\_\_  
Signature of Emergency Manager  
(If agency/organization operates in more than county, use the county where the primary office is located)

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

### Homeland Security Regional Coordinator or SAA Representative

I have reviewed all the foregoing and certify to the best of my information and belief, the agency/organization has complied with the FY 10 Homeland Security Grant Eligibility Criteria.

\_\_\_\_\_  
Type or Print Name of WVDMAPS Regional Coordinator

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

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

# WEST VIRGINIA

## HOMELAND SECURITY GRANT PROGRAM

2010 Sub-grant Application



**WEST VIRGINIA**

Homeland Security State Administrative Agency  
(SAA)

HOMELAND SECURITY GRANT  
PROGRAM

**REQUEST FOR PROPOSALS**

**FY 2009 FUNDS**

Should you have any grant related questions please contact:

Michael W. Cutlip, Homeland Security Grant Manager (304) 558-2930 [michael.w.cutlip@wv.gov](mailto:michael.w.cutlip@wv.gov)

Edward Holsclaw, II, Homeland Security Grant Specialist (304) 558-2930 [edward.a.holsclaw@wv.gov](mailto:edward.a.holsclaw@wv.gov)

Should you have any programmatic related questions please contact:

David Hoge, SAA Director (304) 558-2930 [david.k.hoge@wv.gov](mailto:david.k.hoge@wv.gov)

**WEST VIRGINIA**  
Homeland Security State Administrative Agency  
(SAA)  
**HOMELAND SECURITY GRANT  
PROGRAM**

**GRANT APPLICATION  
SUBMISSION CHECKLIST**

Prior to submitting the application, indicate that the following tasks have been completed by checking the boxes below:

- The application has been completely filled out.  
*SAA reserves the right to not consider an application for funding if any part is incomplete.*
- Format of the project description (page 7) must follow the same outline shown on page 6 of the application and is as detailed as possible.
- Math has been double-checked, is accurate and rounded to the nearest whole dollar amount.
- Authorized Official has signed page 1 of the grant application. That page, with the ORIGINAL SIGNATURE, must be returned with the COMPLETE application, UNSTAPLED/UNBOUND, to this office. ONE ORIGINAL ONLY – NO COPIES
- Applicant has been listed as the State Agency, County Commission, or Municipality.
- A Eligibility Certification has been completed, signed and returned for the applicant and all recipient agencies.
- Certifications regarding lobbying; debarment, suspension and other responsibility matters; and drug-free workplace requirements has been completed by the applicant and signed and ORIGINAL returned.
- Copies of all Project Concepts which are included in the application have been submitted with the application.
- Appropriate goals and objectives have been circled and included in the application.

## WEST VIRGINIA

Homeland Security State Administrative Agency  
(SAA)

HOMELAND SECURITY GRANT  
PROGRAM

GRANT APPLICATION  
INSTRUCTIONS

### COMPLETED APPLICATION MUST INCLUDE:

- Applicant: Name, address, phone and fax number of the agency applying for funds.
- Project Director: Name, address, phone, fax and email of the individual charged with the implementation and day-to-day operations of the project. **This person cannot also be listed as the Fiscal Officer.**
- Fiscal Officer: Name, address, phone, fax and email of the person responsible for the fiscal records/reports of the project. **This person cannot also be listed as the Authorized Official or the Project Director.**
- Funds Requested: Funds requested from the Homeland Security State Administrative Agency (SAA) by the applicant agency.
- Project Matching/In-Kind Funds: Funds committed by the applicant agency if any. If not, enter zero (0).
- Project Period: Time needed to implement and complete the project.
- Certification: Authorized Official: Typed or printed name, title and original signature of the State Agency Head, County Commission President, Mayor/City Manager or agency head. This is the individual who would be authorized to enter into a contractual agreement with the SAA.

The Authorized Official must sign where indicated on page 1 of the grant application before submission.

### RETURN ONE COMPLETED ORIGINAL APPLICATION TO:

WV Dept. of Military Affairs & Public Safety  
Homeland Security State Administrative Agency  
1900 Kanawha Blvd., East, Capitol Complex  
Building 1, Room W-400  
Charleston, WV 25305

**WEST VIRGINIA**  
Homeland Security State Administrative Agency  
(SAA)  
HOMELAND SECURITY GRANT  
PROGRAM

**GRANT APPLICATION**  
PAGE 1

1. Applicant: Jefferson County Commission  
Address: P.O. Box 250  
Charles Town, WV 25414  
Phone/Fax: 304-728-3281/304-728-3320

5. Grant Funds Requested: \$ 30,000  
Project Matching  
Funds (if any): \$ 0

2. Project Director: Barbara J. Miller  
Address: 28 Industrial Blvd., Suite 101  
Kearneysville, WV 25430  
Phone/Fax: 304-728-3290/304-728-3320  
Email: \_\_\_\_\_

6. Type of Agency:  
 State  County  Municipality  
 \_\_\_\_\_

3. Fiscal Officer: Jennifer Maghan, Clerk  
Address: P.O. Box 208  
Charles Town, WV 25414  
Phone/Fax: 304-728-3347/304-728-3279  
Email: jmaghan@jeffersoncountywv.org

7. Project Period:  
# of Months Needed To Complete Project 9  
2/1/12 – 10/31/12

4. Program Applying for: (Check Only One)  
 SHSP  Citizen Corps

8. Investment to be Supported: (List Only)  
Mass Care / Community Preparation

9. Project Title and *Brief Description*:  
The County will purchase a Pet Trailer and Supplies for Sheltering that will enhance capabilities to comply with the PETS Act (Pets Evacuation and Transportation Security) Act

10. Certification:  
To the best of my knowledge, the information contained in this application is true and correct. The submission thereof has been duly authorized by any governing body, and the applicant will comply with all of the attached Special Conditions and Assurances if the sub-grant is awarded.

Authorized Official: Patricia Noland  
TYPED OR PRINTED NAME OF  
AGENCY HEAD

Title: President

Signature: \_\_\_\_\_

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

## WEST VIRGINIA

Homeland Security State Administrative Agency  
(SAA)

HOMELAND SECURITY GRANT  
PROGRAM

## BUDGET INSTRUCTIONS

PAGE 2

Homeland Security Program (HSP) allowable costs are divided into the categories of (1) Planning; (2) Equipment; (3) Training; (4) Exercises. Below is basic information. **For specific information please see the guidelines.**

Note: 25% of the funding must go towards Law Enforcement

### Planning

Planning activities are central to homeland security initiatives and can be used for planning efforts that enable States to prioritize needs, build capabilities, update preparedness strategies, allocate resources, and deliver preparedness programs across disciplines.

### Equipment

Funds may be used for equipment acquisitions. Approved equipment is on the Authorized Equipment Listing (AEL). <http://www1.rkb.mipt.org/> Only equipment on the AEL will be considered for funding. Communications equipment is required to be compatible with the SAFECOM P25 trunked radio hierarchy and the WV Interoperable Radio Project. Per Executive Order 13-07 all communications equipment requests must be reviewed and approved by the Statewide Interoperability Coordinator (SWIC).

### Training

Allowable training-related costs include the establishment, support, conduct, and attendance of training specifically identified under the Homeland Security Grant Program. Allowable training topics include, but are not limited to, CBRNE terrorism and catastrophic events, cyber/agriculture/food security, intelligence gathering and analysis, citizen and community preparedness, and training for volunteers. Training should address a performance gap identified through and After Action Report/Improvement Plan or contribute to building a capability that will be evaluated through an exercise. All training conducted should support the development and testing of the jurisdiction's emergency operations plan or specific annexes.

### Exercises

Exercises conducted must be managed and executed in accordance with the Homeland Security Exercise and Evaluation Program (HSEEP), information and a toolkit can be found at... <http://hseep.dhs.gov>. All exercises must be NIMS compliant and should support the development and testing of the jurisdiction's emergency operations plan or specific annexes.

**Budget Instructions**  
Page 2 (Continued)

Match

Match is not required, but sub-grantees are encouraged to leverage any available state and/or local funds (matching) with awarded SAA funds, provided however, that those matching funds adhere to all federal and state matching requirements.

Federal Employer Identification Number (F.E.I.N.).

F.E.I.N. of the agency. This number must be entered into the appropriate space. The number should be obtainable from the state or local agency's administrative office.

**FUNDING STRATEGY:**

Enter the amount received or anticipated for each source.



**WEST VIRGINIA**

Homeland Security State Administrative Agency  
(SAA)

HOMELAND SECURITY GRANT  
PROGRAM

**ITEMIZATION OF FUNDS BY CATEGORY**

**PAGE 3-2  
(EQUIPMENT ONLY)**

| Budget Category                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Matching Funds | Federal HSP Funds | Approved (SAA Use Only) |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------|-------------------------|
| <p><u>Equipment:</u><br/>(Please see Authorized Equipment List AEL)<br/><a href="https://www.rkb.mipt.org/">https://www.rkb.mipt.org/</a></p> <p>Communications equipment is required to be compatible with the SAFECOM P25 trunked radio hierarchy and the WV Interoperable Radio Project. Per Executive Order 13-07 all communications equipment requests must be reviewed and approved by the State Interoperability Coordinator.</p> <p><u>Requirement: Must list the AEL # beside each piece of equipment.</u></p> <p>Pet Shelter Trailer with Supplies<br/>AEL # 19-SS-00-SHEL/12TR-00-TEQP</p> |                | <u>\$30,000</u>   |                         |
| PLEASE CARRY TOTALS TO THE BOTTOM OF PAGE 3-5                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | ↓              | ↓                 | ↓                       |

**WEST VIRGINIA**  
**Homeland Security State Administrative Agency**  
**(SAA)**  
**HOMELAND SECURITY GRANT**  
**PROGRAM**

**ITEMIZATION OF FUNDS BY CATEGORY**  
**PAGE 3-3**  
**(TRAINING ONLY)**

| Budget Category                               | Matching Funds | Federal HSP Funds | Approved (SAA Use Only) |
|-----------------------------------------------|----------------|-------------------|-------------------------|
| <u>Training:</u>                              |                |                   |                         |
| PLEASE CARRY TOTALS TO THE BOTTOM OF PAGE 3-5 | ↓              | ↓                 | ↓                       |

\* All funds must be rounded to the nearest whole dollar amount. Please make additional copies of this page as necessary.\*

**WEST VIRGINIA**  
Homeland Security State Administrative Agency  
(SAA)  
HOMELAND SECURITY GRANT  
PROGRAM

**ITEMIZATION OF FUNDS BY CATEGORY**  
**PAGE 3-4**  
**(EXERCISES ONLY)**

| Budget Category                               | Matching Funds | Federal HSP Funds | Approved (SAA Use Only) |
|-----------------------------------------------|----------------|-------------------|-------------------------|
| <u>Exercises:</u>                             |                |                   |                         |
| PLEASE CARRY TOTALS TO THE BOTTOM OF PAGE 3-5 | ↓              | ↓                 | ↓                       |

**WEST VIRGINIA**  
 Homeland Security State Administrative Agency  
 (SAA)  
 HOMELAND SECURITY GRANT  
 PROGRAM

**ITEMIZATION OF FUNDS BY CATEGORY**  
 PAGE 3-5

| Budget Category                              | Matching Funds | Federal HSP Funds | Approved (SAA Use Only) |
|----------------------------------------------|----------------|-------------------|-------------------------|
|                                              |                |                   |                         |
| <b>TOTAL MATCHING FUNDS (if Applicable):</b> |                | 0                 |                         |
| <b>TOTAL FEDERAL HSP FUNDS:</b>              | \$30,000       |                   |                         |
| <b>TOTAL APPROVED PROJECT:</b>               | \$30,000       | 0                 |                         |

\* All funds must be rounded to the nearest whole dollar amount. Please make additional copies of this page as necessary.\*

|                                                                                                                          |                                            |
|--------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| <b>WEST VIRGINIA</b><br>Homeland Security State Administrative Agency<br>(SAA)<br><br>HOMELAND SECURITY GRANT<br>PROGRAM | <b>BUDGET SUMMARY</b><br><br><b>PAGE 4</b> |
|--------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|

|                   |                                                       |
|-------------------|-------------------------------------------------------|
| <b>Applicant:</b> | <b>Federal Employer Identification Number (FEIN):</b> |
|                   |                                                       |

| Category            | HSP Funds (A) * | Matching Funds (B) ** | Total Funds (A + B) |
|---------------------|-----------------|-----------------------|---------------------|
| Planning            | 0               | 0                     | 0                   |
| Equipment           | \$30,000        | 0                     | \$30,000            |
| Training            | 0               | 0                     |                     |
| Exercises           | 0               | 0                     |                     |
|                     |                 |                       |                     |
| <b>Total Budget</b> | <b>\$30,000</b> | <b>0</b>              | <b>\$30,000</b>     |

**FUNDING STRATEGY**

| Funding Source(s)               | Amount    |
|---------------------------------|-----------|
| Sub-Grant Funds:                | \$        |
| Matching Funds (If Applicable): | \$        |
| Other Funding (If Applicable):  | \$        |
| <b>Total:</b>                   | <b>\$</b> |

\* Total of column A shall be placed in the space on page 1 – item number 5, for Funds Requested.

\*\* Total of column B shall be placed in the space on page 1 – item number 5, for Project Matching Funds.

*All funds must be rounded to the nearest whole dollar amount.*

|                                                                                                                                  |                                              |
|----------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|
| <b>WEST VIRGINIA</b><br>Homeland Security State Administrative Agency<br>(SAA)<br><br><b>HOMELAND SECURITY GRANT<br/>PROGRAM</b> | <b>BUDGET NARRATIVE</b><br><br><b>PAGE 5</b> |
|----------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|

Provide here a justification and explanation of the budget items shown on pages 3 and 4 of this application. This should contain specific criteria and data used to arrive at estimates and/or costs for all items listed. In completing the project budget narrative, please identify data by the major budget category involved (i.e. Planning, Equipment, Training, Exercises).

**Applications submitted which do not provide a sufficient narrative may be subject to exclusion. Use additional blank pages as necessary.**

PLANNING:

EQUIPMENT:

The County proposes to purchase a Rapid Deployment Emergency Companion Animal Shelter Support Trailer System w/supplies in order to more fully with the PETS Act.

TRAINING:

EXERCISES:

\*Use additional blank pages as necessary\*

|                                                                                                                                           |                                                              |
|-------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|
| <b>WEST VIRGINIA</b><br>Homeland Security State Administrative Agency<br>(SAA)<br><br><b>HOMELAND SECURITY GRANT<br/>         PROGRAM</b> | <b>PROJECT DESCRIPTION INSTRUCTIONS</b><br><br><b>PAGE 6</b> |
|-------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|

On page 7 of this Application, please explain the project utilizing the following outline. State clearly and in concise detail the goals, objectives and intentions of the project; precisely what will be done; who will be involved; and the anticipated result. Add pages as necessary.

PROBLEM STATEMENT

- A. **Problem(s):** Identify the specific problem(s) to be addressed by the project.
- B. **Justification:** Identify why the project is being proposed.

GOAL(S)

A prioritized list of all substantial and concrete goals this project will attempt to achieve and the reasons why each of these goals can be met by the potential sub-grantee. These goals may be both short and long range. **Carefully communicate and relate the goal(s) back to the goals on the WV Statewide Strategy. In other words, which Statewide Strategy Goals are being addressed with this project? A listing of the State Strategy Goals are provided. Print them out and circle the Strategy Goals that are to be addressed by this project.**

OBJECTIVE(S)

Specific statements of desired achievement, which reflect project emphasis. Objectives should be clearly qualified, time-framed and measurable terms of planned levels of project performance to be achieved. The results of objectives must be specific, not general, and must be recognizable and understandable. **Carefully communicate and relate the objectives(s) back to the objectives on the WV Statewide Strategy. In other words, which Statewide Strategy objectives are being addressed with this project? A listing of the State Strategy objectives are provided. Print them out and circle the Strategy objectives that are to be addressed by this project.**

IMPLEMENTATION (Key Activities/Milestones)

Describe the major activities necessary to implement the project including an operational schedule for the project. This should incorporate specific activities, services, and procedures to be followed, and how achievement will be documented. For extremely comprehensive projects, a milestone (ghant) chart is recommended which provides a clear time-line estimating the time necessary for each phase of this project. This is a very important tool used to organize data into categories for follow-up purposes. The "What", "Where", "Who", "When" and "How" of the project. The information placed in this chart can be used as a management tool to monitor progress.

PROJECT ASSESSMENT / EVALUATION

Specify the indicators and measures to be used to assess the results of this project.

**WEST VIRGINIA**

**Homeland Security State Administrative Agency  
(SAA)**

**HOMELAND SECURITY GRANT  
PROGRAM**

**PROJECT DESCRIPTION**

**PAGE 7**

The County proposes to purchase a Rapid Deployment Emergency Companion Animal Shelter Support Trailer System w/supplies in order to more fully with the PETS Act.

**WEST VIRGINIA**  
**Homeland Security State Administrative Agency**  
**(SAA)**  
**HOMELAND SECURITY GRANT**  
**PROGRAM**

**SPECIAL CONDITIONS AND ASSURANCES**  
**PAGE 8**

This program is conditioned upon and subject to compliance with the following Special Conditions and Assurances. By attaching a signature to page one (1), item ten (10), of this grant application, the applicant certifies and assures that it will comply with the following Special Conditions and Assurances, Regulations, Policies, Guidelines and Requirements of the SAA, as further clarified in the Administrative Manual for this program; U.S. Department of Homeland Security; and all other relevant Federal/State Regulations, Policies and Guidelines. These Special Conditions and Assurances apply to all HSP federal and matching funds expended for purposes associated with this project.

All correspondence to the SAA, which is required and/or occurs as a result or action of any of the following Special Conditions and Assurances, or as a result of the administration of any SAA grant program, should be addressed to:

WV Dept. of Military Affairs & Public Safety  
Homeland Security State Administrative Agency  
1900 Kanawha Blvd., East Capitol Complex  
Building 1, Room W-400  
Charleston, WV 25305

**1. LAWS OF WEST VIRGINIA:**

This application/contract shall be governed in all respects by the laws of the State of West Virginia. State procedures and practices will apply to all funds disbursed by the SAA.

**2. LEGAL AUTHORITY:**

The applicant hereby certifies it has the legal authority to apply for the grant; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directly authorizes the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

**3. RELATIONSHIP:**

The relationship of the sub-grantee to the SAA shall be that of an independent contractor, not that of a joint enterprise. The sub-grantee shall have no authority to bind the SAA for any obligation or expense without the express prior written approval from the SAA.

**4. OPERATIONAL WITHIN 90 DAYS:**

If the project is not operational within 90 days of the specified project starting date, the grantee must submit a statement to SAA explaining the delay in implementation. Upon receipt of the 90-day letter, SAA may cancel the project and redistribute the funds to other project areas and/or eligible applicants.

**5. WRITTEN APPROVAL OF CHANGES:**

The sub-grantee must obtain prior written approval from SAA for all project changes (programmatic, fiscal or otherwise).

# WEST VIRGINIA

Homeland Security State Administrative Agency  
(SAA)

HOMELAND SECURITY GRANT  
PROGRAM

## SPECIAL CONDITIONS AND ASSURANCES

PAGE 9

### 6. CIVIL RIGHTS COMPLIANCE:

Sub-Grantee will comply with all federal civil rights laws, including Title VI of the Civil Rights Act, as amended. These laws prohibit discrimination on the basis of race, color, religion, national origin, and sex in the delivery of services.

### 7. PRESS RELEASE:

Release of information pertaining to this sub-grant must include the following information:

1. grant amount;
2. State involvement (WV Homeland Security State Administrative Agency, SAA); and,
3. Federal involvement (U.S. Dept. of Homeland Security).

### 8. Compliance With Federal Rules and Regulations:

Sub-Grantee will comply with all applicable OMB Circulars (A-21, A-87, A-102, A-110, A-122, A-133) as well as 44 CFR Part 13, 2 CFR Part 215, and Federal Acquisition Regulations Part 31.2

### 9. ACCESS TO RECORDS and EQUIPMENT:

SAA, through any authorized representative, shall have access to and the right to examine all records, books, papers, documents, and equipment related to the sub-grant and to relevant books and records of contractors.

### 10. CONFLICT OF INTEREST:

No public official or employee of the sub-grantee agency, who performs any duties under the project, may participate in an administrative decision with respect to the project if such a decision can be expected to result in any benefit to that individual or that individual's immediate family.

### 11. POLITICAL ACTIVITY:

The restrictions of the Hatch Act, Pub. L. 93-433, 5 U.S.C. Chapter III, (as amended), concerning the political activity of government employees are applicable to state grantee staff members and other state and local government employees whose principal employment is in connection with activities financed, in whole or in part, by Title I grants. Under a 1975 amendment to the Hatch Act, such state and local government employees may take an active part in political management and campaigns, except they may not be candidates for office.

## WEST VIRGINIA

Homeland Security State Administrative Agency  
(SAA)

### HOMELAND SECURITY GRANT PROGRAM

## SPECIAL CONDITIONS AND ASSURANCES

PAGE 10

#### 12. RELEASE OF INFORMATION:

All records, papers and other documents kept by recipients of grant funds are required to be made available to the SAA. These records and other documents submitted to the SAA and its grantees, including plans and application for funds, reports, etc., are subsequently required to be made available to the U.S. Department of Homeland Security under the terms and conditions of the Federal Freedom of Information Act, 5. U.S.C. §552.

The SAA recognizes that some information submitted in the course of applying for funding under this program, or provided in the course of its grant management activities, may be considered law enforcement sensitive or otherwise important to national or state security interests. This may include threat, risk, and needs assessment information, and discussions of demographics, transportation, public works, and industrial and public health infrastructures. While this information under federal control is subject to requests made pursuant to the Freedom of Information Act, 5. U.S.C. §552, all determinations concerning the release of information of this nature are made on a case-by-case basis by the Federal Division of Homeland Security FOIA Office, and may likely fall within one or more of the available exemptions under the Act.

Sub-Grantees must consult applicable state and local laws and regulations regarding the release or transmittal of information to any entity which may be considered sensitive in nature. Applicants may also consult the SAA regarding concerns or questions about the release of potentially sensitive information under state and local laws.

#### 13. NATIONAL AND STATE EVALUATION EFFORTS:

The Sub-grantee agrees to cooperate with any national and/or state evaluation efforts directly or indirectly related to this program as requested.

#### 14. OBLIGATION OF PROJECT FUNDS:

Funds may not, without prior written approval from the SAA, be obligated prior to the effective start date or subsequent to the termination date of the project period.

#### 15. USE OF FUNDS:

Funds awarded through the SAA may be expended **ONLY** for the purposes and activities specifically covered by the sub-grantee's approved project description and budget.

#### 16. Elements of a Viable Continuity Capability:

The Continuity Plan is the roadmap for the implementation and management of the Continuity Program. The National Continuity Policy: National Security Presidential Directive-51/Homeland Security Presidential Directive-20 outlines the following ten (10) overarching continuity requirements: Essential Functions, Orders of Succession, Delegations of Authority, Continuity Facilities, Continuity Communications, Vital Records Management, Human Capital, Tests-Training-Exercises, Devolution of Control & Direction, and Reconstitution. *If utilizing subgrant funding for the development of a Continuity Plan, the Plan must address each of these ten (10) elements in order to be eligible to be reimbursed for approved/allowable costs.*

In order to be eligible for funding to support an existing / in development Continuity Plan, the plan must contain the elements specified by the SAA in the Grant Eligibility Criteria.

#### 17. ALLOWABLE AND UNALLOWABLE COSTS:

Allowable and unallowable costs incurred under this grant shall be determined in accordance with the general principles and standards for selected cost items set forth in the pertinent Program Guidance or the Office of Grant Operations Financial Guide and OMB Circular A-87.

**WEST VIRGINIA**  
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**PAGE 11**

**18. NON-SUPLANTING:**

Federal funds must be used to supplement existing funds for program activities and may not replace (supplant) non-Federal funds that have been appropriated for the same purpose. Potential supplanting will be the subject of monitoring and audit. Violations can result in a range of penalties, including suspension of future funds under this program, suspension or debarment from Federal grants, recoupment of monies provided under this grant, and civil and/or criminal penalties. The sub-grantee hereby certifies that Federal funds made available under this grant will not be used to supplant state and local funds. Approved full-time positions must hire an additional individual to "backfill" the position.

**19. MATCHING CONTRIBUTION:**

If matching funds are allocated, the applicant assures that those funds shall be in addition to funds that would otherwise be made available for the proposed project by the recipients of grant funds and shall be provided on a project-by-project basis. Cash matching contributions are subject to the same expenditure guidelines established by the SAA and the U.S. Department of Homeland Security for this grant program. All sub-grantees must maintain records that clearly show the source, the amount and the timing of all cash matching contributions. There is no waiver provision for any cash match requirements.

**20. PROJECT INCOME:**

All income earned by the sub-grantee as a result of the conduct of this project, must be accounted for and included in the total budget. Project income is subject to the same expenditure guidelines established by the SAA and the U.S. Department of Homeland Security for this grant program. All sub-grantees must maintain records that clearly show the source, the amount and the timing of all project income. There is no waiver provision for the project income requirement.

**21. CONSULTANT FEES:**

Approval of this sub-grant does not necessarily indicate an approval of specific consultant rates. Please discuss rates with the SAA.

**22. SUSPENSION OF FUNDING:**

SAA may suspend, in whole or in part, terminate, or impose other sanctions on any sub-grantee funds for the following reasons:

- Failure to adhere to the requirements, standard conditions, or special conditions and assurances of this program;
- Failure to submit reports;
- Filing a false certification in this application or in another report or document; or,
- Other just cause.

**23. SANCTIONS FOR NONCOMPLIANCE:**

In the event of the sub-grantee's noncompliance with the terms, conditions, covenants, rules, or regulations of this grant, the SAA shall impose such contract sanctions, as it may deem appropriate, including but not limited to:

- Withholding of payments to the sub-grantee until the sub-grantee complies;
- Cancellation, termination or suspension of the contract, in whole or in part; or,
- Refrain from extending any further assistance to the sub-grantee until satisfactory assurance of future compliance has been received.

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**PAGE 12**

**24. SUBMISSION/RELEASE OF PROPOSED PUBLICATIONS:**

The sub-grantee shall submit one copy of all reports and proposed publications resulting from this agreement to the SAA twenty (20) days prior to public release. Any publications (written, visual, sound, or otherwise), whether published at the grantee's or government's expense, shall contain the following statements:

"This document [product] was prepared under a grant from the United States Department of Homeland Security, and the WV State Homeland Security State Administrative Agency. Points of view or opinions expressed in this document [product] are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Homeland Security, nor the WV State Homeland Security State Administrative Agency."

**25. PROPERTY ACCOUNTABILITY:**

The sub-grantee shall establish and administer a system to control, protect, preserve, use, maintain, and properly dispose of any property or equipment furnished it, or made available through a sub-grant by the SAA. This obligation continues as long as the property is retained by the sub-grantee, notwithstanding the expiration of this agreement. Prior to sale, trade in or disposal of property, disposition instructions will be obtained from the SAA. Sub-Grantee assures inventory checks will be performed annually or pursuant to guidance promulgated in the Administrative Manual for this program, with copies provided to the SAA. The SAA reserves the right to inspect and review any equipment purchased with this sub-grant.

**26. REPORTS:**

Each subgrantee shall submit such reports as the SAA shall deem reasonably necessary to the execution of monitoring, stewardship and evaluation of programmatic and fiscal responsibilities.

**27. PURCHASING:**

When making purchases relevant to the sub-grant, the sub-grantee will abide by applicable State and local laws, which address purchasing procedures by a state or local unit of government.

**28. PATENTS AND/OR COPYRIGHTS AND RIGHTS IN DATA:**

Sub-Grantee acknowledges that the SAA, and subsequently the U.S. Department of Homeland Security; reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for State or Federal government purposes: (1) the copyright in any work developed under an award or sub award; and, (2) any rights of copyright to which a recipient or sub recipient purchases ownership, in whole or in part, with State or Federal support.

Sub-Grantee agrees to consult with the SAA regarding the allocation of any patent rights that arise from, or are purchased with, this funding.

**29. Environmental & Historic preservation (EHP)**

Subgrantee shall comply with all applicable Federal, State, and local EHP requirements and shall provide any information requested to ensure compliance with applicable laws.

**30. COMMUNICATIONS EQUIPMENT**

With respect to communications initiatives and equipment, the sub-grantee agrees to the following:

Communications equipment is required to be compatible with the SAFECOM P25 trunked radio hierarchy and the WV Interoperable Radio Project. Per Executive Order 13-07 all communications equipment requests must be reviewed and approved by the State Interoperability Coordinator.

**31. TIME EXTENSIONS:**

In general, time extensions for this program are unallowable. Unexpended sub-grant funds remaining at the close of the sub-grant period shall be deobligated.

**32. USE OF GRANT FUNDS TO ENACT LAWS, POLICIES, ETC.:**

Sub-Grantee understands and agrees that it cannot use any sub-grant funds, either directly or indirectly in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government.

**WEST VIRGINIA**  
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**33. PROGRAM ACCOUNTABILITY – FEDERAL AUDIT REQUIREMENTS:**

- I.) Federal Office of Management and Budget (OMB) Circular A-133 sets forth standards for obtaining consistency and uniformity for the audit of states, local government, and non-profit organizations expending Federal awards. This grant shall adhere to the audit requirements set forth in OMB Circular A-133 at the time of award.

As of 10/1/04, the requirements set forth by OMB Circular A-133 are as follows: Non-Federal entities that expend \$500,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year. Non-Federal entities that expend less than \$500,000 a year in Federal awards are exempt from Federal audit requirements for that year, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office.

- II.) OMB Circular A-110 sets forth standards for obtaining consistency and uniformity for the audit of institutions of higher education, hospitals, and other non-profit organizations expending Federal awards. This grant shall adhere to the audit requirements set forth in OMB Circular A-110.

As if 10/1/04, the requirements set forth by OMB Circular A-110 are as follows: Recipients and sub recipients that are institutions of higher education or other non-profit organizations (including hospitals) shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 USC 7501-7507) and revised OMB Circular A-133.

- III.) If an audit must be conducted pursuant to OMB Circular A-133 and A-110, a copy of the audit shall be submitted to SAA as well as to the Federal clearinghouse.

As of 10/1/04, the Federal clearing house is as follows:

Federal Audit Clearinghouse  
Bureau of the Census  
1201 E. 10<sup>th</sup> Street  
Jeffersonville, IN 47132

**34. PROGRAM ACCOUNTABILITY – STATE AUDIT REQUIREMENTS:**

- I.) Chapter 12, Article 4, Section 14 of the West Virginia Code, as amended, sets forth the audit requirements of corporations, associations or other organizations which receive state funds or grants. These audit requirements do not apply to units of local and state government. If applicable, this grant shall adhere to the audit requirements set forth in §12-4-14 at the time of award. All funds disbursed by SAA are appropriated by the WV Legislature; therefore all funds disbursed by the Division are considered state funds. The SAA will notify the Legislative Auditor when a sub-grant is awarded which falls under the requirements of the WV Code.

As of 9/13/05, the requirements set forth by §12-4-14 are as follows: Any corporation, partnership, association, individual or other legal entity (not to include a state spending unit or a local government as defined in § 8-9-1a of the West Virginia Code, as amended) which receives one or more state grants or sub grants in the amount of \$50,000 or more in the aggregate in a state fiscal year shall file with the SAA a **Report of the disbursement of these state funds**. An OMB A-133 Audit or an audit conducted by a certified public accountant may be substituted for the **Report**. The **Report** shall be filed within two years of the end of the fiscal year in which the grant or subgrant closes. The **Report** shall be made by an independent certified public accountant and the scope of the **Report** is limited to showing how the state grant or subgrant funds were spent. The **Report** does not have to be a full-scope audit or review of the entity receiving state funds. Any entity failing to file a required **Report** is barred from subsequently receiving state grant or subgrant funds until the **Report** is filed and is otherwise in compliance with the provisions of West Virginia Code. If a **Report** is not required under this section of the WV Code then the grantee or sub-grantee shall file with SAA a sworn statement of expenditures made under the grant or sub-grant.

The Sub-Grantee assures that it has read, understands and is in full compliance with all requirements as set forth in Chapter 12, Article 4, Section 14 of the West Virginia Code, as amended, and is not currently debarred from receiving state grant funds as a result of non-compliance with this section of the West Virginia Code, as amended.

**WEST VIRGINIA**  
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**PAGE 15**

**35. EQUAL EMPLOYMENT OPPORTUNITY PLAN:**

Each sub-grantee certifies that it has executed and has on file, an Equal Employment Opportunity Plan.

**36. VETERANS PREFERENCE:**

This program includes a provision that grantees utilizing funds to hire additional personnel give suitable preference in employment to military veterans. SAA defines "suitable preference" as the requirement that a sub-grantee agency have in place a mechanism ensuring that veterans are given consideration in the hiring process.

**37. IMMIGRATION AND NATURALIZATION VERIFICATION:**

The sub-grantee agrees to complete and keep on file, as appropriate, applicable Immigration and Naturalization Service Employment Eligibility Verification Forms. These forms are to be used by recipients of Federal funds to verify that employees are eligible to work in the United States.

**38. PURCHASE OF AMERICAN-MADE EQUIPMENT/PRODUCTS:**

It is the sense of the Congress, as conveyed through the FY 1997 Appropriations Act that, as well as the desire of SAA, to the greatest extent practicable, all equipment and products purchased with Federal funds made available under this grant should be American-made.

**39. PERSONNEL TRAINING:**

For projects involving payment of personnel or overtime pay, the SAA reserves the right to require training as a condition of the sub-grant before or at any time during the project period. Proof of training/certification on grant funded equipment must be provided, if applicable.

**40. ACCOUNTING REQUIREMENTS:**

Sub-Grantee agrees to record all project funds and costs following generally accepted accounting procedures. A unique account number or cost recording must separate all project costs from the sub-grantee's other or general expenditures. Adequate documentation for all project costs and income must be maintained. Adequate documentation of financial and supporting material, as defined in the pertinent Administrative Manual, must be retained and be available for audit purposes.

**41. FINANCIAL GUIDE:**

Sub-Grantee agrees to comply with all requirements as set forth in the Financial Guide which governs this program.

**42. EQUIPMENT:**

Sub-Grantees purchasing equipment with grant funds are required to adhere to the established bidding procedures for their respective units of government and or agencies. All equipment must have a primary function of being used for homeland security purposes.

**43. MARKING OF EQUIPMENT AND PUBLICATIONS:**

Sub-Grantee will ensure that, when practicable, any equipment purchased and publications produced with grant funding shall be prominently marked as follows: "Supported with funds provided by the U.S. Department of Homeland Security and the WV SAA."

**CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND  
OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS**

**PAPERWORK BURDEN DISCLOSURE NOTICE**

Public reporting burden for this form is estimated to average 1.7 hours per response. The burden estimate includes the time for reviewing instructions and searching existing data sources, gathering and maintaining the data needed and completing, and submitting the form. You are not required to respond to this collection of information unless a valid OMB control number appears in the upper right corner of this form. Send comments regarding the accuracy of the burden estimate and any suggestions for reducing the burden to: Information Collections Management, Department of Homeland Security, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, Paperwork Reduction Project (1660-0001). **NOTE: Do not send your completed form to this address.**

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 44 CFR Part 18, "New Restrictions on Lobbying" and 28 CFR Part 17, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Federal Emergency Management Agency (FEMA) determines to award the transaction, grant, or cooperative agreement.

**1. LOBBYING**

As required by section 1352, Title 31 of the U.S. Code, and implemented at 44 CFR Part 18, for persons entering into a grant or cooperating agreement over \$ 100,000, as defined at 44 CFR Part 18, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal grant or cooperative agreement.

(b) If any other funds than Federal appropriated funds have been paid or will be paid to any other person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or an employee of Congress, or employee of a member of Congress in connection with this Federal Grant or cooperative agreement, the undersigned shall complete and submit Stand Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly

Standard Form-LLL, "Disclosure of Lobbying Activities" attached

*(This form must be attached to certification if nonappropriated funds are to be used to influence activities.)*

**2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 44 CFR Part 67, for prospective participants in primary covered transactions, as defined at 44 CFR Part 17, Section 17.510-A.

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of a or had a civilian judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or perform a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause of default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

**3. DRUG-FREE WORKPLACE (GRANTEE OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 44 CFR Part 17, Subpart F, for grantees, as defined at 44 CFR Part 17.615 and 17.620-

A. The applicant certifies that it will continue to provide a drug-free workplace by;

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug free awareness program to inform employees about-

- (1) The dangers of drug abuse in the workplace;
- (2) The grantee's policy of maintaining a drug-free workplace;
- (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
- (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant to be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

- (1) Abide by the term of the statement; and
- (2) Notify the employee in writing of his or her conviction for a violation of a criminal drug statute occurring on the workplace no later than five calendar days after such convictions;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position, title, to the applicable FEMA awarding office, i.e., regional office or FEMA office.

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation act of 1973, as amended; or

(2) Requiring such an employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, City, County, State, Zip code)

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Check  If there are workplaces on file that are not identified here.

Sections 17.630 of the regulations provide that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for FEMA funding. States and State agencies may elect to use a state wide certification.

---

Signature of Authorized Official: \_\_\_\_\_

Date:

**STATE OF WEST VIRGINIA**

Dept. of Military Affairs & Public Safety  
Homeland Security State Administrative Agency  
**SUB-GRANT AWARD**

**CFDA Number:**  
97.067

**Commitment Number:**

**Fiscal Year:**  
2012

**Program Name:**

Homeland Security Grant Program

**Sub-Grantee  
Name & Address:**

**F.E.I.N.**

55-6000333

**Sub-Grant Period:**

**From:** 2/1/12

**To:** 10/31/12

Jefferson County Commission  
P.O. Box 250  
Charles Town, WV 25414

**Project Name:**

**Federal Grant Number:** 2010-SS-T0-0074

**Sub-Grant Number:** 10-SHS-\_\_\_\_

**Project Notes**

Implement the project described in the attached application.

The attached application has been reviewed, and the proposed project and expenditures as described in the application fall within all guidelines which govern the Homeland Security Grant Program and sufficient funds do exist to make this award.

Homeland Security Grant Manager \_\_\_\_\_

I have reviewed this sub-grant award and the goals and objectives do fall within West Virginia's HS Strategy Goals and Objectives and the expenditures fall within the grant guidelines.

Director, Homeland Security SAA \_\_\_\_\_  
SAA Point of Contact

**By signing and accepting this award the sub-grantee agrees to comply with all special conditions & assurances included in the application.**

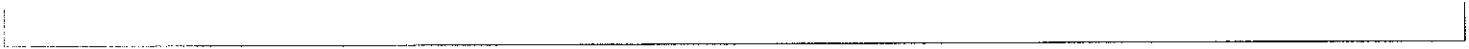
**TOTAL AMOUNT OF:**

**Sub-grantee Authorized Official:**

**WV Homeland Security Advisor:**

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

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



6.

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

**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: January 5, 2012

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

If a specific date is needed, please provide reason for specific date: This is the last date the County Commission meets prior to the January 15, 2012 deadline that Letter of Credits must be renewed by that would give staff the time needed to prepare the necessary paperwork to call on any Letter of Credits that have not been renewed

Subject: Letter of Credits securing construction bonds.

Please provide the County Commission with a description of your request or presentation, including any background information: Ask the Commission to allow Staff to call on any Letter of Credits that have not been renewed by Monday, January 9, 2012.

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): I authorize Staff to call on any Letter of Credits that are due that have not been renewed by the close of business on Monday, January 9, 2012.

Attachments:

6B

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

**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: January 5, 2012

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 the Jackson Woods Subdivision, Lots 1-12 – File #06-28.

Please provide the County Commission with a description of your request or presentation, including any background information: James Crawford on behalf of Harry M. Kable and Carol F. Kable, owner/developer, has requested tolling of the construction bond for the Jackson Woods Subdivision, Lots 1-12 – File #06-28.

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 Jackson Woods Subdivision, Single Family Lots 1-12 - File #06-28.

Attachments: Tolling of Bonding Agreement  
Roger Goodwin's Memo dated December 28, 2011  
Site Location Map

## MEMORANDUM

### Jefferson County, West Virginia Engineering Department

TO: County Commission of Jefferson County

FROM: Roger Goodwin *RHG*  
Chief County Engineer

DATE: December 28, 2011

SUBJECT: Jackson Woods Subdivision, Lots 1-12 (JCPC File no. 06-28) – Tolling of Bonding Request

This memorandum is in response to the attached Tolling Agreement for Harry M. Kable and Carol F. Kable, dated December 16, 2012, requesting to be allowed to toll the bond on the Jackson Woods Subdivision, Lots 1-12. My comments are as follows:

1. The project is a residential subdivision consisting of 12 single family lots in the Jackson Woods Subdivision located on the north side of Hite Road (Route 1/4) just east of its intersection with Route Jefferson Orchard Road (Route 15/1), in the Middleway Tax District, Tax Map 9, Parcel 2.
2. The Owner/Developer is the:  
  
Harry M. Kable and Carol F. Kable  
336 Rosemont Way  
Charles Town, WV 26414
3. The initial/current bond amount is \$431,108.00
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 conditions surrounding the residential real estate and new home building market in Jefferson County, the Declarant has decided to delay construction of the Infrastructure Improvements .....”

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.

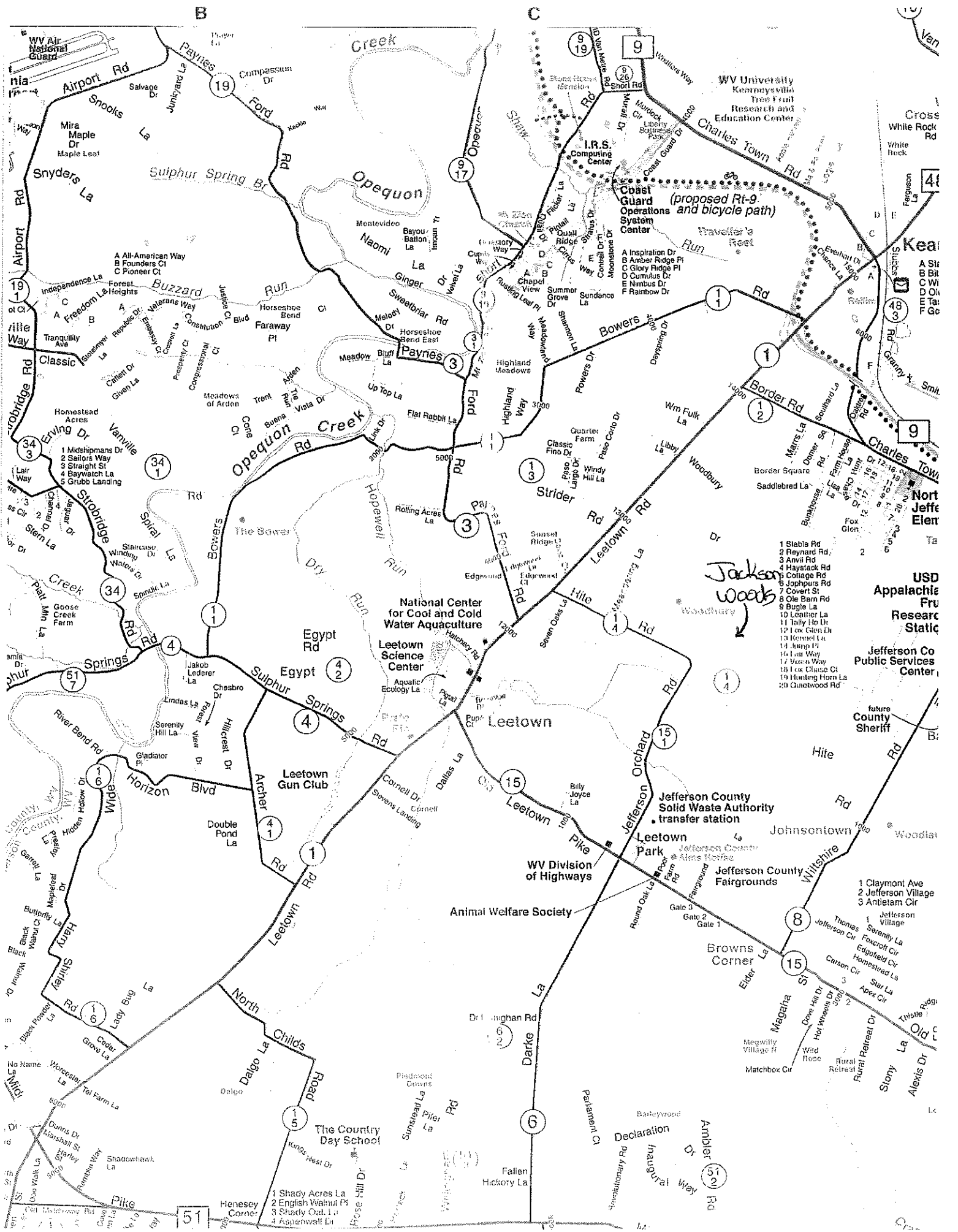
The Tolling of Bonding Agreement will be recorded at the County Clerk's office so that the restriction placed on the lots preventing them from being sold will be found through a title search. The merger deed and the Site Stability Bond will be held by the Bonding Administrator. If the developer defaults 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.

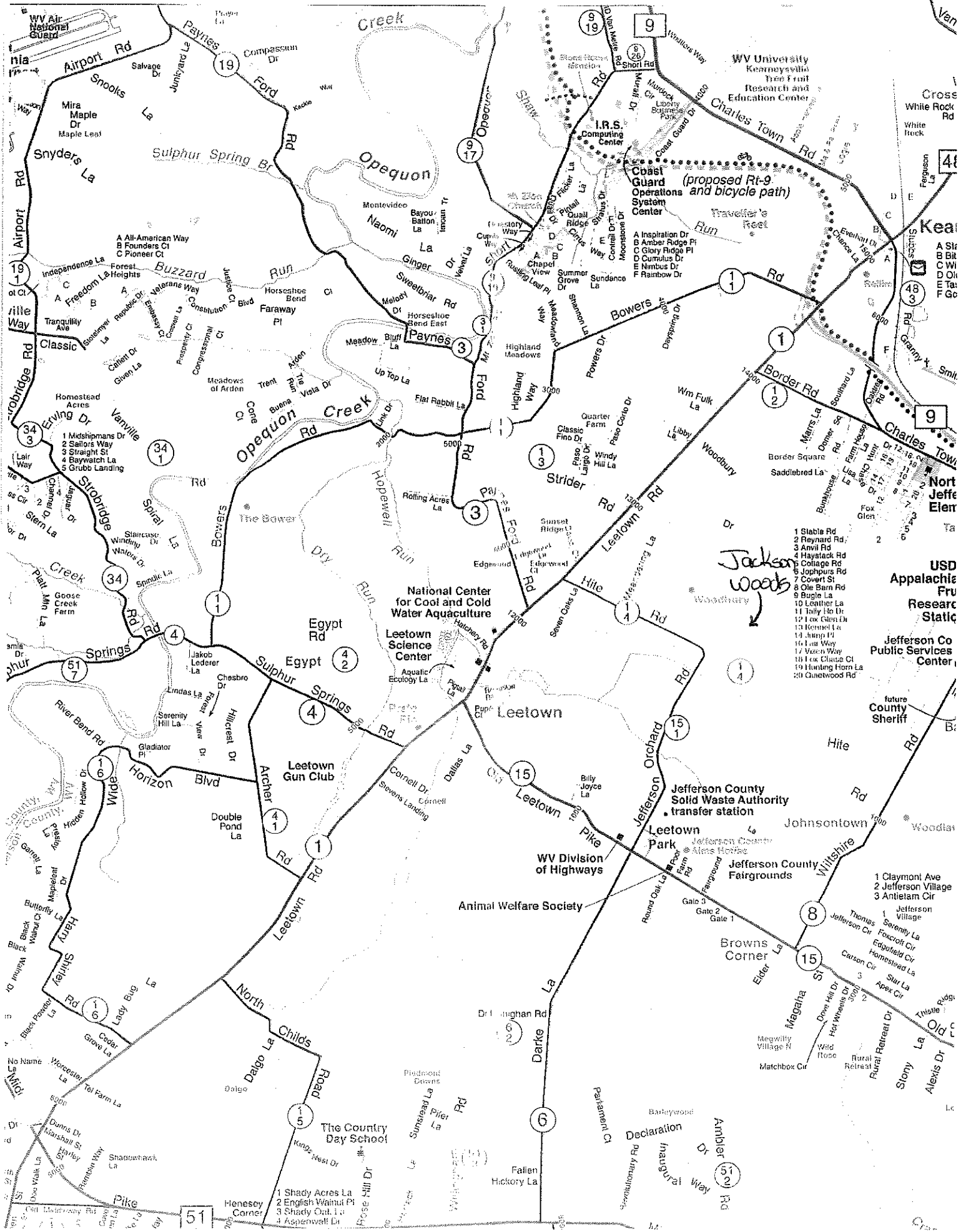
**Recommendation:** The project meets the requirements to be allowed to toll the bond. Recommend authorizing the Commission President and staff to execute the Tolling of Bonding Agreement with the developer, provided the County Commission finds that it is justified due to current economic conditions.



B

C

Jackson Woods



B

C

Jackson Woods



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

*Jackson Woods Subdivision,  
Lots 1-12 & Residue*

THIS AGREEMENT REGARDING BONDING OBLIGATIONS AND DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2012 by HARRY M. KABLE AND CAROL F. KABLE ("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 Exhibit A attached hereto (the "Land"); and

WHEREAS, the Land has been legally subdivided (the "Subdivision") into Twelve (12) single family lots (the "Lots") pursuant to and in accordance with the subdivision ordinance of Jefferson County, West Virginia in effect on October 5, 2007 (the "Subdivision Ordinance"), and as shown on that certain Jackson Woods Subdivision, Lots 1-12 & Residue recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 25 at Page 1 (the "Final Plat"); and

WHEREAS, Declarant posted a bond with the County Commission, in the form of letter of credit, in the amount of \$431,108.00 (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 August 7, 2007 (the "Bond Estimate"), and approved by the Jefferson County Department of Planning, Zoning & Engineering (the "Department") on August 8, 2007; and

WHEREAS, due to the economic conditions surrounding the residential real estate and new home building market in Jefferson County, 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:

I. 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 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 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.

(Balance of page intentionally left blank)

Jackson Woods  
Subdivision, Lots 1-  
12 & Residue

Jefferson County Planning Commission File No. 06-28

By: Harry M. Kable Date: December 16, 2011  
Harry M. Kable

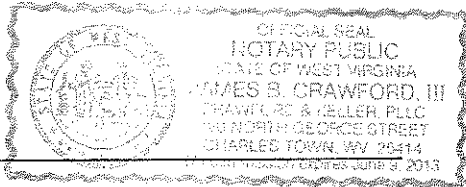
Carol F. Kable  
Carol F. Kable

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

STATE OF WEST VIRGINIA

COUNTY OF JEFFERSON, to-wit:

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of December, 2011  
by Harry M. Kable and Carol F. Kable.



[Signature]  
NOTARY PUBLIC

COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA

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

By: \_\_\_\_\_  
Patricia A. Noland, President

STATE WEST VIRGINIA, COUNTY OF JEFFERSON, to wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2012  
by Patricia A. Noland, President on behalf of the County Commission of Jefferson County, West  
Virginia, a public corporation.

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_

\_\_\_\_\_

ATTEST:

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

EXHIBIT A

All those lots in the Middleway District of Jefferson County, West Virginia and being more particularly bound and described as follows:

BEING all of Lots 1 through 12 of the Jackson Woods Subdivision as the same is designated and described on a final plat showing Lots 1 – 12 & Residue Jackson Woods made by Dewberry & Davis LLC dated October 5, 2007 and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia in Plat Book 25 at Page 1.

713

HOLID  
2 1-5-12

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

Name: Tim Boyde, County Administrator

Department or Entity: County Commission

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

Date Requested – 1<sup>st</sup> Choice: December 15, 2011

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

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

Subject: **Sexual Harassment Policy**

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): **Motion to approve Sexual Harassment Policy as presented**

**Attachments:**

## SEXUAL HARRASSMENT

### POLICY

The Jefferson County Commission prohibits sexual harassment in the workplace, whether committed by supervisory or non-supervisory personnel, elected officials, or third parties.

### PROVISIONS

Title VII of the Civil Rights Act of 1964 prohibits employment discrimination on the basis of race, sex, religion, or national origin. Sexual Harassment is included among those prohibitions.

Specifically, no supervisor shall insinuate or threaten, either explicitly or implicitly, that an employee's submission to or rejection of sexual advances will in any way influence any personnel decision regarding that employee's employment, wages, advancement, assigned duties, shifts, or other condition of employment or career development.

Other sexually harassing conduct in the workplace that may create an offensive work environment, whether it be in the form of physical or verbal harassment, regardless of whether committed by supervisory or non-supervisory personnel, or persons not employed by the county is prohibited. Prohibited conduct included but is not limited to:

- Repeated offensive or unwelcome sexual flirtations, advances, propositions, continued or repeated verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body;
- Sexually degrading words used to describe an individual;
- The display in the workplace of sexually suggestive objects or pictures;
- Harassment based on sexual preference;
- Retaliation for sexual harassment complaints such as disciplining, changing work assignments of, providing inaccurate work information to, or refusing to cooperate or discuss work related matters with any employee because that employee has complained about or resisted harassment, discrimination or retaliation;
- Intentionally pressuring, denying, lying about, or otherwise covering up or attempting to cover up improper conduct;
- Creating and/or spreading rumors of a sexual nature;
- Physical assaults of a sexual nature such as:
  1. Rape, sexual battery, molestation or attempts to commit these assaults; and
  2. Intentional physical contact which is sexual in nature such as touching, pinching, patting, grabbing, brushing against another employee's body or touching another employee's body.

Sexual harassment in the workplace by any employee will result in disciplinary action up to and including dismissal and may lead to personal, legal, financial liability.

- Persons involved in a confidential investigation shall cooperate and provide true and complete information.
- Employees who fail to cooperate with county investigations of sexual harassment or retaliation shall be subject to disciplinary action up to and including dismissal.
- Supervisors who allow harassing or offensive language or behavior within their work unit, or who fail to respond promptly to a complaint of sexual harassment, shall be subject to disciplinary action up to and including dismissal.

Employees are encouraged to contact their immediate supervisor, their Elected Official/Department Head, or the County Administrator if they are confronted with sexual harassment or observe any prohibited form of harassment.

- The county will maintain both a male and female contact person for complainants to use for review of an incident or concern.
- Such internal concerns will be investigated promptly, and corrective action will be taken where allegations are verified.
- No employee will suffer retaliation or intimidation as a result of using the internal review team.

## **PROCEDURES**

### **General**

It is the responsibility of each supervisor to ensure the county work environment is free from sexual harassment.

Any complainant wishing to have a review of an alleged incident may express their concern in writing, or make an oral presentation to their supervisor, to the elected official/department head, or the county administrator.

A complainant need not be limited to someone who was the target of harassment or retaliation. Anyone who has observed sexual harassment or retaliation should report it to their immediate supervisor. Upon hearing of a complaint, the supervisor must report this information to the county administrator immediately. The supervisor may be asked to help in the investigation of the complainant, if appropriate.

### **Process**

Where possible, the complainant should first discuss the incident or concern with the supervisor of the department or area from which the alleged concern originates.

The investigation will generally be as follows:

1. The investigator will create a confidential and separate file.
2. The investigator will review relevant county policies and procedures.
3. The investigator will interview the complainant and document the interview.
4. The investigator will interview the alleged perpetrator and will document the interview.
5. The investigator will interview witnesses for corroboration.
6. The investigator will prepare a report stating the nature of the complaint, information gathered, and recommendations for corrective action.
7. Dissemination of information or findings will be determined on a need-to-know basis to ensure appropriate confidentiality.
8. The investigator will review the report with the Civil Division who, together with the investigator, will separately advise the alleged victim and the alleged perpetrator of the results of the investigation.
9. The elected official/county administrator will take appropriate action recommended by the investigator and counsel.

#### Documentation

General information regarding Sexual Harassment will be available from the county administrator.

The elected official/county administrator will maintain all written records of incidents in separate, confidential, locked files.

Written material regarding any sexual harassment incident or concern will not be made part of an employee's personnel file.

General information regarding any disciplinary actions taken resulting from a confirmed sexual harassment investigation will be in the employee's personnel file.

Authored by: TJB

Date Prepared: 09/12/11

Approved:

8

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

Name: Nichelle Hosby

Department or Entity: Co Commission

Estimation of amount of time needed for appointment: 5-10 Min

Date Requested – 1<sup>st</sup> Choice: 1/5/2012

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

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

Subject: **Approval of Board of Review and Equalization Notice – Discussion/Action**

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): **move to approve Board of Review and Equalization Notice as recommended by County Assessor.**

Attachments:

**NOTICE**  
**Board of Review and Equalization**

The County Commission of Jefferson County will convene as a Board of Review and Equalization in the County Commission Courtroom at the Courthouse of said County on Wednesday, February 1<sup>st</sup>, 2012, at 1:30 p.m., for the purpose of reviewing and equalizing assessments returned by the Assessor of Jefferson County for the tax year 2012.

The Commission will continue to sit as a Board of Review and Equalization on Thursday, February 2<sup>nd</sup>, 2012, at 1:30 p.m., Tuesday, February 7<sup>th</sup>, 2012, at 1:30 p.m., Thursday, February 9<sup>th</sup>, 2012, at 1:30 p.m., and thereafter as deemed necessary.

Persons wishing to appear before the Commission should apply to the Assessor no later than Friday, February 10<sup>th</sup>, 2012, at noon, in order to complete the proper forms and to schedule a hearing date prior to the planned final date of Thursday, February 16<sup>th</sup>, 2012.

Given under my hand this 5<sup>th</sup> day of January, 2012.

/s/ \_\_\_\_\_  
JENNIFER MAGHAN, COUNTY CLERK  
JEFFERSON COUNTY COMMISSION

|                                                                                            |
|--------------------------------------------------------------------------------------------|
| <p>Commission Office Use Only</p> <p>Date on Agenda:</p> <p>Appt Time or New Business:</p> |
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**JEFFERSON COUNTY COMMISSION  
AGENDA REQUEST FORM**

Name: Jeffrey A. Polczynski, ENP – Director of Communications

Department or Entity: Emergency Communications

Estimation of amount of time needed for appointment: N/A

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:  
**Request to approve no cost internship for administrative assistant**

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

**Jefferson County Communications has an individual seeking internship that is required to complete 150 hours for her business degree from Blue Ridge CTC. The individual is seeking administrative assistant work as part of her last semester beginning January 17, 2012. The emergency communications center currently has its administrative/executive assistant position vacant and is currently in the process of interviewing numerous qualified candidates and anticipates selection and hiring in the middle of January. Ms. Jenkins will work with the Director, Deputy Director, and EMD Coordinator to handle administrative duties under her internship.**

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

**Motion to accept the no-cost internship of Ms. Tabatha Jenkins for the Emergency Communications Center for a minimum of 150 hours.**

Attachments:

December 7, 2011

Mr. Jeffery Polczynski  
Communications Director  
28 Industrial BLVD  
Kearneysville, WV 25430

Dear Mr. Polczynski,

My name is Tabatha Jenkins and I am interested in doing an internship at Jefferson County Emergency Communications. I chose this particular place because I believe it would be a knowledgeable place to work. I need to complete 150 hours and will have to keep a logged journal of my daily operations within the business. A supervisor will have to sign the journal weekly. I will also need you to fill out and sign the appropriate paper work for approval. I am finishing up my Business degree with Blue Ridge CTC. I want to focus on the administrative side of business and obtain a job as an administrative assistant. My last semester starts January 17<sup>th</sup> but I would be able to start at an earlier date if needed. If you are interested in me completing my internship at Jefferson County Emergency Communications please contact me at 304-839-4688. I need to hear back from you no later than December 26<sup>th</sup> because if you are not interested I need to find another place to go. I hope to hear from you soon.

Along with this letter are the appropriate documents that you will need to fill out and sign. I will then turn them in for approval.

Sincerely,

Tabatha Jenkins

## **Business Internship – Supervisor Guidelines**

### **Time Requirements**

The student is required to complete a minimum of three credit hours of internship to earn an Associate of Applied Science Degree. Up to three additional credit hours for the internship may be added as elective requirements with approval of the instructor. The total number of internship credits may not exceed six hours.

The student must document 50 relevant work hours per credit.

| Work Hours | Credit Hours |
|------------|--------------|
| 150        | 3            |
| 200        | 4            |
| 250        | 5            |
| 300        | 6            |

} Minimum Required  
} With Approval

### **Purpose of the Internship**

The purpose of an internship is to provide for a demonstration of skills and opportunities for learning in an occupational setting. Successful completion of the internship indicates the student has achieved a satisfactory level of skills to be successful in the business field.

The internship does not award college credits simply for a student having a job. Ideally the internship work will allow the student to apply knowledge and skills developed throughout other program course work and expose the student to new opportunities for learning in a hands-on business environment.

### **Required Student Documentation**

The student is required to keep a journal of internship activities. The student submits a copy of the journal via email to the instructor and keeps a hard copy with the supervisor's signature to submit upon the completion of the internship.

### **Expected Student Behavior**

The student must demonstrate behavior consistent with legal and ethical practices consistent with the work environment. The internship supervisor is required to address the legal and ethical practices demonstrated by the student during the internship activity. The supervisor should feel free to contact the instructor at any time to address any of the above.

**Required Supervisor Documentation**

At the end of the semester, the Internship Supervisor is required to:

1) Write a brief letter or email to the instructor that evaluates the student's overall performance that addresses the following:

- The student's overall performance of assigned duties and tasks outlined in the internship agreement.
- Legal and ethical practices demonstrated by the student during the internship activity.
- A recommended letter grade to be recorded as a final grade for the internship.

The basic criteria for recommending a grade:

- A Demonstrated superior performance in all functions of the internship; exhibited professional behavior; showed initiative; displayed the characteristics of a proficient student of business/information technology; inquired about processes and showed enthusiasm
- B Demonstrated excellent performance in all functions of the job; showed resourcefulness; displayed the characteristics of a trained student of business/information technology; acted professionally and appeared genuinely interested
- C Demonstrated average knowledge of the job, followed directions; and acted responsibly

Performance below a "C" level should be addressed with the Internship Instructor immediately.

2) Complete the *Supervisor Rubric*.

## Internship Supervisor Evaluation Rubric

*To be completed by the Supervisor at the end of the internship.*

Student Name: \_\_\_\_\_

Supervisor Name: \_\_\_\_\_

Supervisor Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Assess the student's **Overall Performance** of the assigned duties and tasks outlined in the internship agreement by checking the best description provided below.

| Supervisor Assessment<br>✓ Selection | Level of Achievement | Overall Performance                                                                                                                                                                                                                                                 |
|--------------------------------------|----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                      | 5                    | Demonstrated superior performance in all functions of the internship; exhibited professional behavior; showed initiative; displayed the characteristics of a proficient student of business/information technology; inquired about processes and showed enthusiasm. |
|                                      | 4                    | Demonstrated excellent performance in all functions of the job; showed resourcefulness; displayed the characteristics of a trained student of business/information technology; acted professionally and appeared genuinely interested.                              |
|                                      | 3                    | Demonstrated average knowledge of the job, followed directions; and acted responsibly.                                                                                                                                                                              |
|                                      | 2                    | Demonstrated minimal knowledge of the job, followed directions and acted responsibly only occasionally.                                                                                                                                                             |
|                                      | 1                    | Unable to perform the assigned duties.                                                                                                                                                                                                                              |

Assess the **Ethical Behavior and Understanding of Diversity** demonstrated by the student during the internship by checking the best description provided below.

| Supervisor Assessment<br>✓ Selection | Level of Achievement | Ethical Behavior and Understanding of Diversity                                                                                                                                                                                                                                                                                              |
|--------------------------------------|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                      | 5                    | Demonstrated superior ethical behavior and understanding of diversity in all functions of the internship; exhibited ethical behavior at all levels; showed social awareness; displayed an understanding and respect for cultural diverse groups; recognized the importance of language in understanding cultural differences.                |
|                                      | 4                    | Demonstrated excellent ethical behavior and understanding of diversity in all functions of the internship; practiced ethical behavior; generally showed social awareness; usually displayed an understanding and respect for cultural diverse groups; regularly recognized the importance of language in understanding cultural differences. |
|                                      | 3                    | Demonstrated average knowledge of ethical behavior and understanding of diversity during the performance of the internship.                                                                                                                                                                                                                  |
|                                      | 2                    | Demonstrated minimal knowledge of ethical behavior and understanding of diversity during the performance of the internship.                                                                                                                                                                                                                  |
|                                      | 1                    | Demonstrated unacceptable ethical behavior and understanding of diversity during the performance of the internship.                                                                                                                                                                                                                          |



Division of Business & Technology  
400 West Stephen Street  
Martinsburg, WV 25401  
Phone: 304-260-4380  
Fax: 304-260-4367

**BUSINESS INTERNSHIP AGREEMENT**

**DIVISION OF BUSINESS & TECHNOLOGY**

**Course:** CBUS 292 – Business Internship

**Credit Hours:** \_\_\_\_\_ (enter number of credit hours)

**Business Internship Instructor:** Patricia Sherwood

**Address:** Blue Ridge Community & Technical College  
400 W Stephen St.  
Martinsburg, WV 25401

**Phone:** (304) 260-4380 Ext: 2327

**Email:** psherw01@blueridgectc.edu

**SECTION I - To be completed by Student (please print legibly):**

**Name:** \_\_\_\_\_

**Major:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone #:** \_\_\_\_\_

**Blue Ridge Email:** \_\_\_\_\_

**Anticipated Graduation (mm/yy):** \_\_\_\_\_



Division of Business & Technology  
400 West Stephen Street  
Martinsburg, WV 25401  
Phone: 304-260-4380  
Fax: 304-260-4367

**SECTION II - To be completed by Student & Internship Supervisor:**

**Company/Organization Name:** \_\_\_\_\_

**Internship Supervisor:** \_\_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_

**Phone #:** \_\_\_\_\_ **Fax #:** \_\_\_\_\_

**Email:** \_\_\_\_\_

Provide the following information. (Attach a separate document if more space is required.)

Describe the intern's regular duties and responsibilities and list specific skills required or expected to be learned in the performance of those duties and responsibilities.

Describe any special projects or tasks the intern will undertake during the internship include any relevant deadlines, outcomes, and resources available.

Describe how the intern's performance will be evaluated.

**Section III – Student agrees to:**

1. Register for the internship for the semester which internship will be performed. The student must get the permission of the internship instructor in order to register.
2. Complete Section I, meet with internship supervisor and complete Section II, review Section III, and sign Section IV of the Internship Agreement.
3. Return the completed Internship Agreement to the College Internship Instructor no later than the first week after the start of the semester. The internship cannot be officially approved by the instructor prior to receipt of the completed agreement.

Note: Failure to submit the completed internship agreement in a timely manner will result in the administrative withdrawal of the student from the internship course. And administrative withdrawal can negatively affect student's ability to qualify for financial aid.

4. Maintain a weekly journal in MS WORD to be approved and **signed or initialed by the Internship supervisor**. For more detail on journal content, refer to the document labeled "Internship Journals." The journal must include:
  - a. hours worked
  - b. duties and tasks performed with connection to skills
  - c. educational and professional experiences
  - d. anecdotal comments
5. Submit journals electronically through WebCT according to the schedule set out by the internship instructor. Late journal submissions negatively impact the overall grade for the internship.
6. Submit a complete compilation of the original journal submissions signed by the Internship Supervisor at end of the semester by the deadline established by the Internship Instructor.
7. Submit a formal internship report according to the provided guidelines for evaluation by the Internship Instructor.
8. Meet with Internship Supervisor and/or internship Instructor at any time before, during, or after the internship as necessary.

**Student Signature** \_\_\_\_\_

**Date** \_\_\_\_\_

**Section IV - Internship Supervisor agrees to:**

1. Complete Section II with student, review Section III, and sign Section IV of the Internship Agreement.
2. Supervise the student during the internship.
3. Approve and initial student's weekly internship journal before they are submitted to the Internship Instructor.
4. **Evaluation of Performance**
  - a. Send a letter or email to the Internship Instructor at the end of the semester evaluating the student's success in accomplishing the duties & responsibilities outlined in Section II of the Internship Agreement. Supervisors are encouraged to utilize the *Guidelines for Internship Supervisor* sheet that should accompany this Agreement as a guide for designation of a letter grade: A, B or C. Any performance falling below "C" level should be communicated immediately to the Internship Instructor.
  - b. Complete the ***Internship Supervisor Evaluation Rubric*** and send to Internship Instructor.
5. Meet with student and Internship Instructor at any time during the internship or at the end of the semester if necessary.
6. Affirm \_\_\_\_\_ (Name of Organization) is an equal opportunity employer, offering employment without regard to race, color, religion, sex, national origin, or age and provides Equal Opportunity to handicapped individuals, disabled veterans, and veterans of the Vietnam era.

**Internship Supervisor Signature:** \_\_\_\_\_

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

**Date** \_\_\_\_\_

**Section V - Internship Instructor agrees to:**

1. Review Internship Agreement and, if approved, sign Section IV and provide a photocopy to the student.
2. Regularly review and evaluate electronic journal submissions.
3. Receive and review student's journal at end of the semester for evaluation.
4. Receive and review Supervisor rubric and Supervisor letter/email with recommendation of final grade.
5. Receive and evaluate student's formal Internship Report.
6. Record a mid-term and final grade.
7. Meet with the student and internship supervisor before, during, or after the internship as necessary.

**College Internship Instructor Signature** \_\_\_\_\_

**Date** \_\_\_\_\_

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

**AGENDA REQUEST FORM**

Name: Nichelle Hosby

Department or Entity: County Commission

Estimation of amount of time needed for appointment: 15 minutes

Date Requested – 1<sup>st</sup> Choice: 12/15/2011 YS/11

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

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

Subject: **Request to complete the revitalization of the County Commission Meeting Room**

Please provide the County Commission with a description of your request or presentation, including any background information: **In July 2010 the staff began remodeling and updating the Commission Meeting Room. New tables and chairs were purchased along with a TV for PowerPoints.**

**The staff would like to complete the room with a new paint job, install a hanging projector, organize the cords that display on the floor, add a possible TV on the Left wall, install new microphones, camera, purchase a speaker timer, purchase 5 laptops or I pads for Commissioners (part of going green) and add additional tables. (See drawing)**

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



K-Log, Inc. 1224 W. 27th St. P.O. Box 5 Zion, IL 60099  
 Phone (800) 872-6611 Fax (847) 872-3728

# Quotation

Quote No.: Q11-117004  
 Date: 11/1/2011

Cust.No.: 194166  
 P.O. No.:

- Customer Delivery Site Features:**
- Loading Dock      Delivery Floor:
  - Freight Elevator
  - Help with Unloading

Phone: **304-728-3284**  
 Fax:   
 Email: **nhosby@jeffersoncountywv.**

*Billing Address*

*Shipping Address*

**NICHELLE HOSBY  
 JEFFERSON COUNTY COURTHOUSE  
 124 E WASHINGTON ST  
 CHARLES TOWN WV 25414**

Fax:  Phone: **304-728-3284**  
 Email: **nhosby@jeffersoncountywv.org**

To:

| Item                                                                                   | Options                                                                            | Customer Delivery Requirements                                                                                                                                                                                                                                                                                                         |
|----------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| NFT-24RCL<br>24x24 Contemp 90° Radius<br>Laminate Connecting Corner<br>Ship Via: Truck | Laminate Color: Charcoal Essence<br>Edge Color: Charcoal                           | <input type="checkbox"/> Tailgate Only      Qty: 2<br><input checked="" type="checkbox"/> Inside Bldg.      Unit Price \$450.24<br><input type="checkbox"/> Extra Deliv. Person<br><input checked="" type="checkbox"/> 24 hr. Notice      Options: \$0.00<br><input checked="" type="checkbox"/> Liftgate      Total Price: \$900.48   |
| NFT-7224L<br>72"Wx24"D Laminate<br>Contemporary Train/Conf Tbl<br>Ship Via: Truck      | Laminate Color: Charcoal Essence<br>Paint Finish: Charcoal<br>Edge Color: Charcoal | <input type="checkbox"/> Tailgate Only      Qty: 1<br><input checked="" type="checkbox"/> Inside Bldg.      Unit Price \$911.04<br><input type="checkbox"/> Extra Deliv. Person<br><input checked="" type="checkbox"/> 24 hr. Notice      Options: \$0.00<br><input checked="" type="checkbox"/> Liftgate      Total Price: \$911.04   |
| NFT-4224L<br>42"Wx24"D Laminate<br>Contemporary Train/Conf Tbl<br>Ship Via: Truck      | Laminate Color: Charcoal Essence<br>Paint Finish: Charcoal<br>Edge Color: Charcoal | <input type="checkbox"/> Tailgate Only      Qty: 3<br><input checked="" type="checkbox"/> Inside Bldg.      Unit Price \$786.24<br><input type="checkbox"/> Extra Deliv. Person<br><input checked="" type="checkbox"/> 24 hr. Notice      Options: \$0.00<br><input checked="" type="checkbox"/> Liftgate      Total Price: \$2,358.72 |

We are pleased to submit the above quotation for your consideration. All quotations are contingent upon the availability of materials and all other causes beyond our control. Typographical errors are subject to correction. PLEASE NOTE: Prices and shipping charges are for the models and quantities listed. Shipping charges are for standard dock to dock tailgate delivery unless otherwise indicated. This quote is valid for 45 days. If I can be of further assistance, please call me. Thank you! Carmen ext. 142

Sub Total: \$4,170.24  
 Tax: \$0.00  
 Shipping: \$580.65  
**K-Log Total: \$4,750.89**

**DSAN** How to purchase Tel: 516-625-5608 | Fax: 516-625-0878 | Email: info@dsan.com

**CATALOG OF PRESENTATION PRODUCTS**

home speaker timers laser pointers cue lights audio accessories projector accessories info displays

Home Products Contact Us

DSan Shop Home Page

Sign out

Find

Sign in

Order Status

Shopping Cart

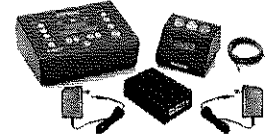
Selected Category

Item Details

Speaker Timers > Limitimer Systems

Speaker timer systems with programmable timer and remote signal light

Item Name: **Limitimer PRO-2000 Bluetooth® Wireless**  
 Item #: **PRO-2000BT**  
 Price/ea: **\$1,117.00**



Wireless Speaker Timer System including timer with built-in Bluetooth® transmitter, podium signal light (PSL-20V), Bluetooth signal light receiver (RFR-2000) 50' Cat 5 cable and power supplies for timer and receiver.

Category List

- Information Display
- Cue Lights
  - Cue Light Systems
  - Accessories
  - Transmitters
- Speaker Timers
  - Limitimer Systems
  - Signal Lights
  - Accessories
  - Battery Powered
- Laser Pointers
  - Large Size Pointers
  - Pen Style Pointers
- Audio Accessories
- Projector Bulbs

Signal light receives data and power from the AC-powered receiver. This allows the receiver to be placed in any position for best reception. Receiver contains two RJ45 jacks and can drive up to four Podium Signal Lights or an Audience Signal light.

This wireless option allows several wireless Limitimer Systems to be used in proximity to one another or with a DSan wireless cue light. Up to six (6) six signal lights can be connected to a Bluetooth-enabled timer. Each signal light will require its own receiver Model TR-2000BT.

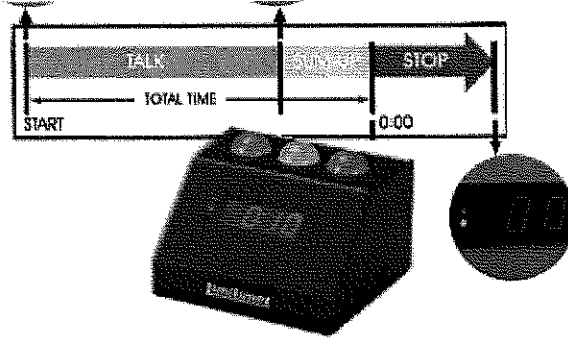
Buy Now Quantity: 1

Email to a friend

UD7

Home Products Contact Us

D'San Corp: Limitimer - Thre Traffic Light for Speakers



Next: Signal Lights

© 2005 -2011 D'san Corporation ■ Tel: 516-625-5608 ■ Fax: 516-625-0878 ■ Email: info@dsan.com  
142 Mineola Avenue Roslyn Heights, New York 11577



**Walmart**

Save money. Live better.

Don't Miss Even More Amazing Online Specials

8

Value of the Day Local Ad Store Finder Registry Gift C

All Departments **We have 8 Coupons for this site.**

Subr

Rollover the DropinSavings Tag to view them.

DropinSavings Settings | Closing window in 4...

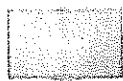
Please see the messages below.

Please note:

- Items in your cart are not reserved until you complete your purchase.
- For support or returns of items purchased from a Marketplace Retailer, please contact the seller directly. These items are not returnable to Walmart.com or Walmart stores. Click "See returns policy" in the Store Pickup or Ship column for more information.

Contin

Cart Items



Philips 46" Class LCD 1080p 60Hz HDTV, 45HFL3505D

home **free** item

Save for later | Remove

Include a Service Plan?



Canopy Faux Leather Short Tapered Storage Basket

Save for later | Remove



Level TV Wall Mount Full Motion Mount Fits 10-40" TV, DC375J

home **free** item

Save for later | Remove

Include installation?

Store Pickup or Ship?

Store Pickup — Free

Confirm pickup location during checkout

Ship — Free

Standard Shipping. Arrives Tue 12/13-Fri 12/13  
Select faster shipping speeds during checkout

When will I get this item?

Store Pickup — Free

Confirm pickup location during checkout

Ship

Standard Shipping. Arrives Tue 12/13-Fri 12/13  
Select faster shipping speeds during checkout

When will I get this item?

Store Pickup — Free

Confirm pickup location during checkout

Ship — Free

Standard Shipping. Arrives Wed 12/14-Fri 12/14  
Select faster shipping speeds during checkout

When will I get this item?

State

Zip Code  Example: 12345

Phone Number   
Phone number associated with your billing address

Date of Birth

Last 4 Digits of SSN   
For verification, please provide your date of birth and the last four digits of your Social Security number.

You must read the E-sign consent section of the Terms and Conditions before checking the checkbox below. Click here for a printer-friendly version.

E-Sign Consent and Terms and Conditions

**You must scroll to the end of the Terms and Conditions before clicking "I Accept".**

I agree to have the Terms and Conditions presented electronically.

### Bottom of Form

[Back](#) [Continue](#)

### Order Summary

[Return to cart](#)

#### Store Pickup

**Charles Town Store** — Walmart Supercenter Store #2566  
96 Patrick Henry Way, Charles Town, WV 25414  
Change Pickup person: Nichelle Hosby

Item

Arrives at store 12/16-12/22

|                                                   | Qty | Total           |
|---------------------------------------------------|-----|-----------------|
| Philips 46" Class LCD 1080p 60Hz HDTV, 46PFL3505D | 1   | <b>\$529.98</b> |

**Charles Town Store** — Walmart Supercenter Store #2566  
96 Patrick Henry Way, Charles Town, WV 25414  
Change Pickup person: Nichelle Hosby

Item

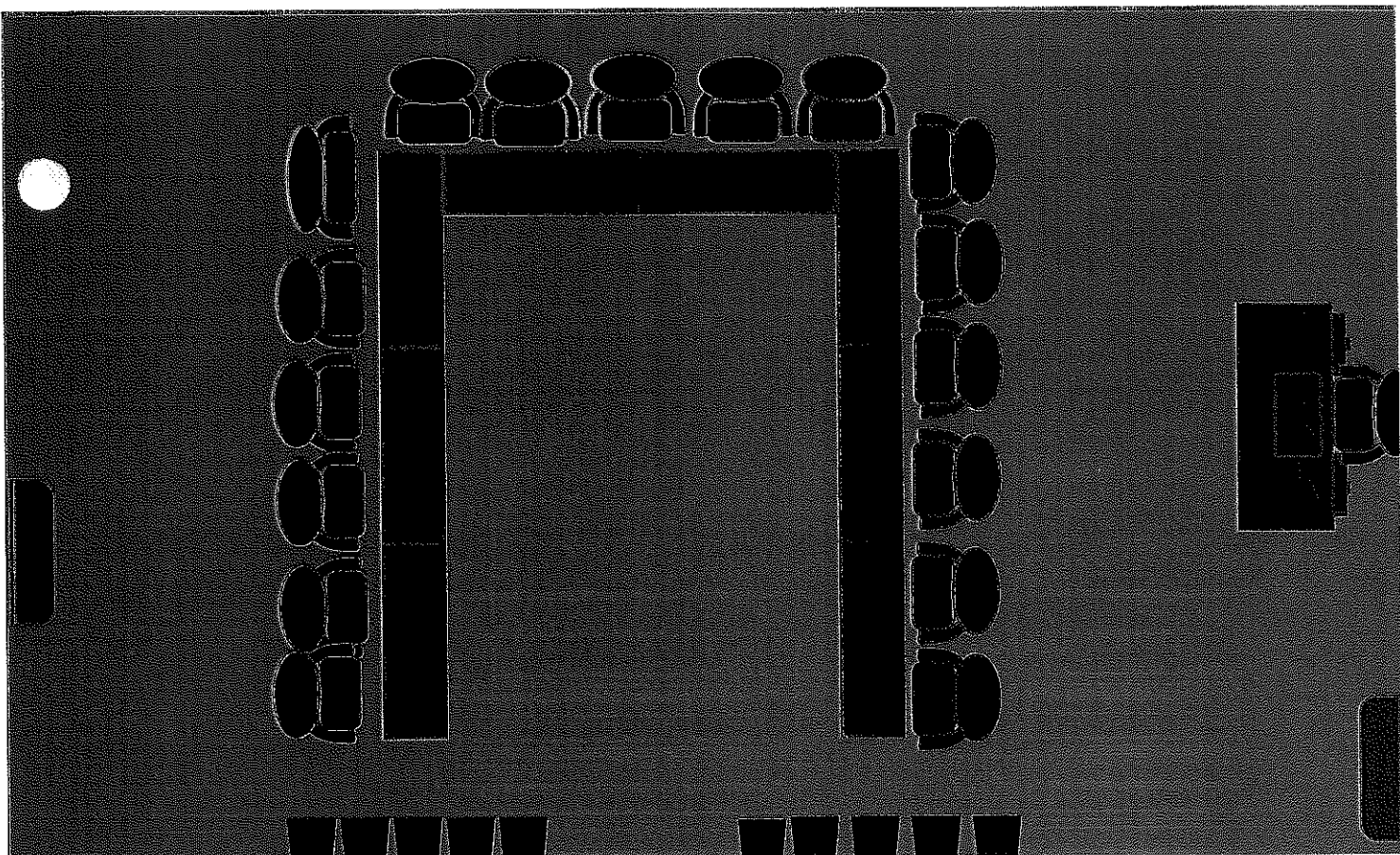
Arrives at store 12/19-12/22

|                                                              | Qty | Total          |
|--------------------------------------------------------------|-----|----------------|
| Level TV Wall Mount Full Motion Mount Fits 10-40" TV, DC375J | 1   | <b>\$38.00</b> |

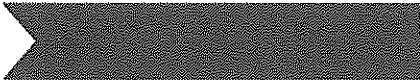
Subtotal (2 items) **\$567.98**

Tax Taxes includes all state and local sales taxes for merchandise, gift wrap and shipping (where applicable). ✓ **\$34.08**

Order Total **\$602.06**



( )



# Rough Order of Magnitude



Modified: 12/14/2011  
Revision: 0

## Hearing Room Audio Systems

### Jefferson County Commission

124 East Washington Street  
Charles Town, WV 25414

Presented By:

**Insight Audio/Visual  
Services, LLC**



*We See AV Clearly*  
[www.AVInsight.com](http://www.AVInsight.com)

### Insight Audio/Visual Services

83 Veronica Lane  
Charles Town, WV 25414 USA  
703-636-1351

# Rough Order of Magnitude

| Qty                     | Description                                                                                                                                                                                                                                                                        | Price              |
|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| <b>Display Devices</b>  |                                                                                                                                                                                                                                                                                    | <b>\$1,775.43</b>  |
| 1                       | <b>Toshiba 46G310U</b><br>46" Widescreen 1080p LCD HDTV                                                                                                                                                                                                                            | \$1,077.97 *       |
| 1                       | <b>Owner Furnished Equipment LCD PROJECTOR</b><br>System Integration Of Client's LCD Projector                                                                                                                                                                                     | \$486.17 *         |
| 1                       | <b>Owner Furnished Equipment LCD (FLAT PANEL)</b><br>System Integration Of Client's Flat Panel Display                                                                                                                                                                             | \$211.29 *         |
| <b>Microphones</b>      |                                                                                                                                                                                                                                                                                    | <b>\$15,923.81</b> |
| 1                       | <b>Listen Technologies WX-WCAP-C</b><br>Confidea Wireless Conference Access Point                                                                                                                                                                                                  | \$3,514.09 *       |
| 1                       | <b>Listen Technologies WC-CD-C</b><br>Confidea Wireless Chairman Unit                                                                                                                                                                                                              | \$1,398.48         |
| 7                       | <b>Listen Technologies WC-DD-C</b><br>Confidea Wireless Delegate Unit                                                                                                                                                                                                              | \$8,866.62         |
| 2                       | <b>Listen Technologies WC-CHT</b><br>Confidea Wireless Charging Tray For 6 Battery Packs                                                                                                                                                                                           | \$2,144.62         |
| <b>Audio Processing</b> |                                                                                                                                                                                                                                                                                    | <b>\$1,696.71</b>  |
| 1                       | <b>Biamp NEXIA CS</b><br>Nexia Cs Is A Digital Signal Processor With 10 Mic/line Inputs and 6 Mic/line Outputs. Intended For A Variety Of Conferencing Applications Such As Boardrooms, Courtrooms, and Council Chambers, Nexia Cs Includes A Broad Selection Of Audio Components, | \$1,696.71 *       |
| 1                       | <b>Owner Furnished Equipment AUDIO AMPLIFIER</b><br>Audio Amplifier                                                                                                                                                                                                                | \$0.00             |

\* Price Includes Accessories

Presented By: Insight Audio/Visual Services  
Project: Hearing Room Audio Systems

12/14/2011  
Page 2 of 5

# Rough Order of Magnitude

| Qty                                                                                                                                                                          | Description                                                                                                                                                                                                     | Price             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| <b>Wiring Infrastructure</b>                                                                                                                                                 |                                                                                                                                                                                                                 | <b>\$126.66</b>   |
| 100                                                                                                                                                                          | <b>West Penn Wire-cdt 25225B</b><br>2 Cond 16 (19x29) Bare CMP                                                                                                                                                  | \$30.00           |
| 1                                                                                                                                                                            | <b>Wiremold NM2044-2</b><br>2 Gang Extra Deep Device Box - For Mounting Power/communication Device When Additional Depth Is Required. Has Combination Twistouts For 2700, 2800, 2900, and Nm2000.               | \$19.14           |
| 8                                                                                                                                                                            | <b>Wiremold NM2000 BC</b><br>1.75" X 1" Nonmetallic Cable Raceway- 5' Stick                                                                                                                                     | \$77.52           |
| <b>Wall Plates</b>                                                                                                                                                           |                                                                                                                                                                                                                 | <b>\$951.91</b>   |
| 1                                                                                                                                                                            | <b>Extron CIA111</b><br>Installation Computer Interface With Modular A/v Faceplate                                                                                                                              | \$834.87 *        |
| 1                                                                                                                                                                            | <b>Extron IN9365D</b><br>Extron Maap Insert, One XLR 3-pin Female To Solder Cups - Neutrik                                                                                                                      | \$41.50 *         |
| 2                                                                                                                                                                            | <b>Extron IN9385</b><br>Extron Maap Insert: One 3.5 MM Stereo Mini Jack To Solder Tabs                                                                                                                          | \$75.54 *         |
| <b>Control Systems</b>                                                                                                                                                       |                                                                                                                                                                                                                 | <b>\$1,123.74</b> |
| Wiring, Control Devices, Control System Equipment, Interfaces, Installation Labor and Programming to Provide Control and Integration of Subsystems as Described in Proposal. |                                                                                                                                                                                                                 |                   |
| 1                                                                                                                                                                            | <b>Crestron MC3</b><br>3-series Control System™<br>control System From Crestron Featuring The All New Core 3 Os, The Mc3 Delivers An Entirely New Level Of Power and Performance With A Unique Set Of Features. | \$1,089.86 *      |
| 1                                                                                                                                                                            | <b>Netgear FS105</b><br>5 Port Fast Ethernet Switch                                                                                                                                                             | \$33.88 *         |
| 1                                                                                                                                                                            | <b>Owner Furnished Equipment iPad</b><br>Ipad Capable Of Running Crestron Mobile Pro Software. Software Must Be Purchased From Itunes Store For \$99                                                            | \$0.00            |

\* Price Includes Accessories

Presented By: Insight Audio/Visual Services  
Project: Hearing Room Audio Systems

12/14/2011  
Page 3 of 5

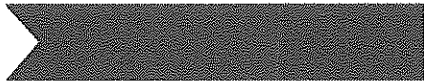
# Rough Order of Magnitude

| Qty                                  | Description                                                                                                                                                                                                                                                                                | Price              |
|--------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| <b>Equipment Racks and Furniture</b> |                                                                                                                                                                                                                                                                                            | <b>\$0.00</b>      |
| 1                                    | <b>Owner Furnished Equipment EQUIPMENT RACK</b><br>Install Equipment Rack and Configure Existing Power Equipment, Build False Wall As Needed So That Rack Is In Front Of Plumbing Pipe In Ceiling.                                                                                         | \$0.00             |
| 1                                    | <b>Owner Furnished Equipment POWER CONDITIONER</b><br>Power Conditioner                                                                                                                                                                                                                    | \$0.00             |
| <b>Video Processing</b>              |                                                                                                                                                                                                                                                                                            | <b>\$338.00</b>    |
| 1                                    | <b>Extron P/2 DA4XI</b><br>The Extron P/2 Da4xi Is A One Input VGA Distribution Amplifier That Splits A Signal and Distributes It To Four Separate Outputs. With 350 MHZ (-3db) RGB Video Bandwidth, Fully Loaded, The P/2 Da4xi Is Compatible With Vga-qxga Graphic Cards and Projectors. | \$338.00 *         |
| <b>Project Subtotal:</b>             |                                                                                                                                                                                                                                                                                            | <b>\$21,936.26</b> |
| <b>Misc. Costs:</b>                  |                                                                                                                                                                                                                                                                                            |                    |
|                                      | Crestron Mobile Pro Software purchased by JCC                                                                                                                                                                                                                                              | \$99.00            |
|                                      | iPad to be furnished by JCC                                                                                                                                                                                                                                                                | \$599.00           |
| <b>Misc. Costs Total</b>             |                                                                                                                                                                                                                                                                                            | <b>\$698.00</b>    |

\* Price Includes Accessories

Presented By: Insight Audio/Visual Services  
Project: Hearing Room Audio Systems

12/14/2011  
Page 4 of 5



# Rough Order of Magnitude

## Project Summary

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|                       |                    |
|-----------------------|--------------------|
| Equipment:            | \$21,936.26        |
| Equipment Adjustment: | \$548.53           |
| Misc Parts:           | \$658.12           |
| Labor:                | \$7,382.65         |
| Sales Tax:            | \$1,157.25         |
| Misc. Costs:          | \$698.00           |
| <hr/>                 |                    |
| <b>Grand Total:</b>   | <b>\$32,380.81</b> |

Client: Michelle Hosby

Date \_\_\_\_\_

Contractor: Insight Audio/Visual Services

Date \_\_\_\_\_

---

\* Price Includes Accessories

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

**AGENDA REQUEST FORM**

Name: Dale Manuel

Department or Entity: County Commission

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

Date Requested – 1<sup>st</sup> Choice: January 5, 2011

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

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

Subject: Approval to increase the Public Service District Board membership from three to five members

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): **Motion to increase the Public Service District Board membership from three to five members**

Attachments:

COUNTY COMMISSION MEETING ROOM

REQUEST FORM

Date Requested: January 20, 2012

Meeting Time: ~~3 PM~~ 3 PM to 7 PM

Organization Name: Poverty Initiative at Union Theological Seminary

Purpose of Meeting: A Seminary immersion course, focusing on the Abolitionist Movement.

Please attach a brief description of your organization. (You may attach other printed materials.)

Please check the boxes on all that apply to your organization:

- Has previously used the library
- Is a not-for-profit organization
- Can provide a certificate of insurance
- Indemnification Form provided in lieu of certificate of insurance

By signing this Request, I acknowledge that I have read and fully understand the Jefferson County Commission Meeting Room Policy for the use of the County Commission Meeting Room located at 200 East Washington Street lower level of the Old Charles Town Library. I agree to assume personal responsibility for my organization's compliance with these regulations, the behavior of all those attending any meeting or program, and the care of the meeting room and all property within the room.

Person Making Request: (printed): Kathy Maskell

Signature of Person Making Request: Kathy Maskell Date: 11/29/11

Contact Person: \_\_\_\_\_  
(If other than the representative signing above)

Representative's Address: 600 W. 122nd St., # 217  
New York, NY 10027

Telephone: 203-687-5375 Fax: \_\_\_\_\_

Email: Kathy.maskell@gmail.com

To: Jefferson County County Commissioner

Fax#: 304,725.7916

Fr: Kathy Maskell, The Poverty Initiative  
at Union Theological Seminary

RE: mtg. room request for 1/20/2012

---

To whom it may concern:

Attached is my completed request to reserve the library auditorium for a group of 60 seminarians from New York City. We are planning an immersion course that is studying the Abolitionist Movement. We are eager to visit Charles Town and learn from the wealth of educational and historic resources your city has to offer.

Sincerely,  
Kathy Maskell

[www.povertyinitiative.org](http://www.povertyinitiative.org)

DATE: December 12, 2011

To: Jefferson County Commissioner, attn: Debbie Stilado  
Fax #: 304.725.7916

Fr: Kathy Maskell, The Poverty Initiative at Union Theological Seminary

RE: proof of insurance for meeting room request for 1/20/2012

---

Dear Debbie,

I apologize for the delay in getting you the proof of insurance for our organization (I just received it on Friday from the school administration). Please let me know if you need anything else for considering our use of the county commission meeting room.

In addition, I would like to update our request form with regards to the meeting time. We would love to use the room from 12:00 p.m.- 7 p.m. on January 20, 2012.

If you need to reach me, please call my cell phone at 203.687.5345 or email, [Kathy.maskell@gmail.com](mailto:Kathy.maskell@gmail.com).

Sincerely,

  
Kathy Maskell



Commission Office Use Only

Date on Agenda:

Appt Time or New Business:

**AGENDA REQUEST FORM**

Name: Nichelle Hosby

Department or Entity: County Commission

Estimation of amount of time needed for appointment: 5 min

Date Requested – 1<sup>st</sup> Choice: 1-5-11

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

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

**Subject: Approval of Resolution of Recognition for Paul Rosa – Service on the Jefferson County Emergency Services Agency**

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): **move to approve the Resolution of Recognition for Paul Rosa and to allow the appropriate signatures to be affixed on the document.**

Attachments:

**RESOLUTION IN RECOGNITION OF PAUL ROSA FOR HIS SERVICE ON THE  
JEFFERSON COUNTY EMERGENCY SERVICES AGENCY**

WHEREAS, the Jefferson County Commission formed the Jefferson County Ambulance Authority in November 1995,

WHEREAS, the Jefferson County Ambulance Authority now known as the Jefferson County Emergency Services Agency, is comprised up of volunteers of Jefferson County Citizens who are knowledgeable and committed to serving and protecting the residents in Jefferson County, WV;

WHEREAS, Paul Rosa was appointed by the Jefferson County Commission to the Jefferson County Ambulance Authority in December 3, 2001 and has served in his capacity as a Volunteer since that time;

WHEREAS, Paul Rosa continues to provide a valuable service to Jefferson County as a member of the Jefferson County Emergency Services Agency by providing his knowledge and applying his professional expertise in order to preserve and protect the residents of Jefferson County, WV;

WHEREAS, the Jefferson County Commission recognizes that the people of Jefferson County will benefit from the knowledge and expertise provided by Paul Rosa for future generations to come as the result of his involvement, dedication and loyalty to the Jefferson County Emergency Services Agency;

THEREFORE, the Jefferson County Commission hereby recognizes Paul Rosa for his years of service as a loyal and dedicated member of the Jefferson County Emergency Services Agency and in appreciation for his service to the citizens of Jefferson County, West Virginia.

By ORDER of the Jefferson County Commission:

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

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

**AGENDA REQUEST FORM**

Name: Nichelle Hosby

Department or Entity: County Commission

Estimation of amount of time needed for appointment: 5 min

Date Requested – 1<sup>st</sup> Choice: 1-5-11

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

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

Subject: **Approval of Resolution of for WV Physical Activity Day**

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): **move to approve the Resolution of WV Physical Activity Day and to allow the appropriate signature to be affixed on the document.**

Attachments:

*A Resolution by the County Commission  
of Jefferson County, WV  
January 19, 2012*

**Whereas**, the citizens of Jefferson County are vitally important to our community; and

**Whereas**, the goal of this day is to support the announcement and subsequent implementation of *Active WV 2015: WV Physical Activity Plan*; and

**Whereas**, increased physical activity can improve the mental and physical well being of those in our area and the quality of life in our state; and

**Whereas**, a population engaged in a physically active lifestyle can help to combat the epidemic levels of obesity and chronic diseases among state and local residents; and

**Whereas**, all sectors of our communities must cooperate to support activities necessary to increase physical activity including: Health Care; Public Health; Education; Business & Industry; Mass Media; Parks, Recreation, Fitness and Sports; Transportation; and Volunteer & Non-Profit; and

**Whereas**, all those who live, work or play in West Virginia can be a part of increasing physical activity by supporting physical activity at school, in the community and within families.

NOW, THEREFORE, BE IT RESOLVED by the County Commission of Jefferson County, that **January 19, 2012** be noted as:

**WV Physical Activity Day**

*Be Wild. Be Wonderful. Be Active.*

APPROVED AND ADOPTED by the County Commission/Council on January 5, 2012.

\_\_\_\_\_  
President

ATTEST: \_\_\_\_\_ Clerk/Secretary \_\_\_\_\_

*A Resolution by the County Commission  
of Jefferson County, WV  
January 19, 2012*

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**Whereas**, the goal of this day is to support the announcement and subsequent implementation of *Active WV 2015: WV Physical Activity Plan*; and

**Whereas**, increased physical activity can improve the mental and physical well being of those in our area and the quality of life in our state; and

**Whereas**, a population engaged in a physically active lifestyle can help to combat the epidemic levels of obesity and chronic diseases among state and local residents; and

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APPROVED AND ADOPTED by the County Commission/Council on January 5, 2012.

\_\_\_\_\_  
President

ATTEST: \_\_\_\_\_ Clerk/Secretary \_\_\_\_\_

**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Capital Planning and Management**  
114 East Washington Street  
Charles Town, West Virginia 25414

**F. Mark Schiavone**  
**Director**  
**Impact Fee Coordinator**

**Phone: (304) 728-3331**  
**Fax: (304) 724-2178**  
**mschiavone@jeffersoncountywv.org**

**TO:** Jefferson County Commission  
**FROM:** F. Mark Schiavone *ms*  
**DATE:** Thursday, December 08, 2011  
**SUBJECT:** DCPM Department Quarterly Update Report

**RECEIVED**

DEC 20 2011

JEFFERSON COUNTY COMMISSION

1. Projects Undertaken
  - a. Fiber optic runs: Brill Building / State broadband computer network / Public Meeting Room
  - b. Cable television station (w/ Commission staff)
  - c. GIS Internet Mapping Service – technical support
  - d. Update to all Impact Fee Ordinances and fee processing databases
  - e. Affordable Housing Waiver Project
  - f. Website upgrade (w/ Commission staff)
  - g. Server room move
  - h. Computer training
  - i. Fire station generators/Potomac Street renovation/Molton Park renovation/Day reporting center presentation
2. Projects Completed
  - a. Brill network extension/State broadband infrastructure installation
  - b. Cable television station
  - c. Update to all impact fee ordinances (drafts)
  - d. Upgrade of all impact fee processing databases.
  - e. Fire station generators/day reporting center
3. Projects Proposed/Underway
  - a. Server room move (awaiting electrical capacity study by Maintenance)
  - b. GIS Internet mapping service
  - c. Affordable Housing Waiver (w/ working group including S. Grove, A. Brown (BOE), and M. Cassell.
  - d. Website upgrade (w/ Commission staff)
  - e. Computer training (currently updating training materials. Plan on initially using public meeting room but ultimately hopeful of space in basement of Mason Building).
  - f. Migration to active directory/network subnets (increased security and more efficient network utilization).
  - g. Replace network firewall (beyond end of support).
  - h. Potomac Street, Molton Park renovations.
4. Items Requiring Commission Action
  - a. Consideration of recent impact fee studies/recalculation and attendant updated ordinances – will require a public hearing as ordinances and fee schedules would change.
  - b. Affordable Housing Waiver – will require a public hearing as Procedures Ordinance would be updated.

RECEIVED

DEC 23 2011

JEFFERSON COUNTY COMMISSION

(FORM)  
JEFFERSON COUNTY  
DEPARTMENTAL MEMORANDUM

TO: Jefferson County Commission  
Tim Boyde, County Administrator

FROM: ROGER ETHIER - WAC CHAIR

DATE: DEC 22/11

SUBJECT: (Insert Department) Quarterly Update Report

1. PROJECTS UNDERTAKEN: (in alphabetical order)

- a. JC STREAM MONITORING SYSTEM  
WATERSHED SIGNS

2. PROJECTS COMPLETED:

- a. JC STREAM MONITORING SYS TRANSFER TO ENGINEERING  
i. \_\_\_\_\_  
\_\_\_\_\_

3. PROJECTS PROPOSED/UNDERWAY:

- a. WATERSHED SIGNS (UNDERWAY)

4. ITEMS REQUIRING COMMISSION ATTENTION:

- a. JC STREAM MONITORING SYSTEM - REVIEW, UPGRADE,  
& CONTRACT.

**NOTICE OF PUBLIC HEARING**

**COUNTY COMMISSION OF JEFFERSON COUNTY**

The County Commission of Jefferson County will hold a Public Hearing on Thursday, January 5, 2012, at 7:00 p.m. in the County Commission meeting room located at the Old Charles Town Library, 200 East Washington Street, Charles Town, WV 25414.

The purpose of the hearing is for public input for the Zoning Map Amendment (Rezoning) for property designated as Tax District: Harpers Ferry, Map: 9, Parcel: 39.1. This property is currently zoned Residential Growth and Residential/Light Industrial/Commercial zoning is being requested. The property is located on the south side of Route 340 (William L. Wilson Freeway); the east side of Route 27 (Millville Road) and on the north side of Route 27/2 (Allstadt's Hill Road) and is a total of 12.97 acres. James and Barbara Gibson are the owners.

Documents may be reviewed at [www.jeffersoncountywv.org](http://www.jeffersoncountywv.org).

Anyone wishing to provide written or oral comment may do so at this meeting or send comments to [info@jeffersoncountywv.org](mailto:info@jeffersoncountywv.org).

A decision will be made at the County Commission Regular meeting on January 12, 2012.

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



# Corporation of Harpers Ferry

1000 WASHINGTON STREET

P.O. BOX 217

Harpers Ferry, West Virginia 25425

(304) 535-2206

FAX (304) 535-6520

**Joe Anderson**

MAYOR

COUNCIL MEMBERS

BETSY BAINBRIDGE

GREG VAUGHN

JERRY HUTTON

DAN RISS

CHARLOTTE THOMPSON

RECORDER  
KEVIN CARDEN

TREASURER  
SHAUNA JOHNSTONE

TOWN CLERK  
CAITLYN DELASHMUTT

Patsy Noland, President

Jefferson County Commission

PO Box 250

Charleston, WV 25414

November 15, 2011

Dear Ms. Noland

I would like to request that the Jefferson County Commission hold a public hearing on the application of James and Barbara Gibson to rezone 12.97 acres from Residential Growth to Residential-Light Industrial- Commercial at the intersection of US 340 and Millville Road.

This is an important decision affecting the Harpers Ferry area, particularly in terms of traffic impacts. The public should be given the opportunity to review and comment on the proposal.

Thank you for your consideration of this request.

**RECEIVED**

NOV 21 2011

Sincerely,

Joe Anderson (Mayor)

Jefferson County Commission

Historic District  
Where The Shenandoah Meets The Potomac





**National Parks Conservation Association®**  
*Protecting Our National Parks for Future Generations®*

National Historical Park. Intense development of the parcel would detract from the national park's historic character, and would directly impact the experience of visitors to the School House Ridge section of the Park – where Confederate General Stonewall Jackson's troops were based during the September 1862 siege and defense of Harpers Ferry, which resulted in the largest surrender of U.S. troops and supplies during the Civil War. Additionally, the significant congestion created as a result of increased development at this busy stretch of Route 340 would exacerbate traffic issues, making Harpers Ferry National Historical Park and the businesses in this corridor less attractive to heritage and recreational tourists.

NPCA respectfully requests that you deny this petition for rezoning. Thank you for the opportunity to submit these comments.

Sincerely,

Joy M. Oakes, Senior Regional Director  
Mid-Atlantic Region

Cc: The Hon. John D. Rockefeller IV  
The Hon. Joe Manchin III  
The Hon. Shelley Moore Capito

**J. Michael Cassell, Esq.**

CASSELL & PRINZ, PLLC  
120 N. George Street, Suite 200  
Charles Town, West Virginia 25414  
304-728-2012/telephone  
304-728-2881/facsimile  
[jcassell@cassellprinz.com](mailto:jcassell@cassellprinz.com)

RECEIVED

November 14, 2011

NOV 14 2011

Mr. Timothy Boyde  
County Administrator  
County Commission of Jefferson County  
Hunterhouse  
Charles Town, WV

JEFFERSON COUNTY COMMISSION

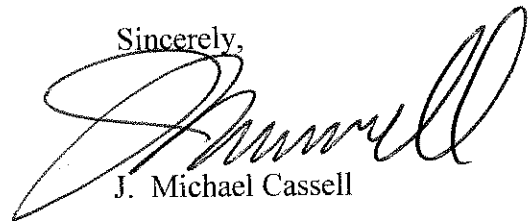
Re: James and Barbara Gibson  
Petition for Rezoning

Dear Mr. Boyd:

Mr. and Mrs. Gibson retained me to represent them regarding their Rezoning Petition for Allstadt's Corner. Please place this matter on the County Commission Agenda on December 1, 2011, for deliberation and a decision on the request for an amendment to the zoning map. I am informed that the Planning Commission conducted the Statutory Public Hearing on November 8, 2011. I am also informed that the staff will complete their report within the week. We may provide additional information to you after a review of the Staff Report.

I thank you.

Sincerely,



J. Michael Cassell

cc: James and Barbara Gibson

James G. and Barbara S. Gibson  
201 Needwood Farm Lane  
Harpers Ferry, West Virginia 25425

November 22, 2011

County Commission  
Of Jefferson County, WV  
Hunter House  
Charles Town, West Virginia 25414

Re: Petition for Zoning Map Amendment  
Submitted by James and Barbara Gibson

Ladies and Gentlemen:

This letter is submitted to the County Commission as a summary of the position of support of our request for a Zoning Map Amendment. Attached to this letter are copies of the Petition filed with Exhibits, a copy of the Supplemental Information filed and dated November 8, 2011, a copy of Section 8A-7-9, WV Code as Amended, and a copy of Article 12 of the Zoning Ordinance.

**I. Introduction**

The property is currently zoned Residential Growth contrary to its current use which has been Commercial since at least 1952. We request a Zoning Map Amendment for the property to be included in the Residential/Light Industrial/Commercial District (See Section 5.8, Jefferson County Zoning and Land Development Ordinance). The property contains 12.97 acres. Since 1983 the Flea Market has operated on the property along with Wilt's Fruit Stand which sells a range of produce and agricultural products. From 1952 until 1983 the property was utilized as a drive-in theatre.

In addition, the property also includes the Allstadt's Ordinary which is where we are currently residing. We have restored this historic property and have placed the property on the National Register of Historic Places. It is currently a Mixed Use Property containing two (2) different Commercial Uses (the flea market and Wilt's Fruit Stand) with the Residential Use of the Allstadt's Ordinary Buildings.

**II. The Petition for a Zoning Map Amendment is Consistent with the Comprehensive Plan.**

A. Comprehensive Plan Recommendation 4.01 (page 78) states as follows:

*“It is the vision of this Comprehensive Plan that development will be concentrated within the designated growth areas.”*

The map on page 75 of the Comprehensive Plan clearly shows that this property is within the “growth area” which is described by this recommendation. A copy of the map is attached as an exhibit with the Petition.

The Comprehensive Plan (page 8) also contains two (2) policies which are entirely consistent with this Map Amendment Request.

“1. *This plan encourages new development patterns that foster Mixed Use Neighborhoods so that a sense of community begins at the subdivision level.*

2. *This plan encourages economic development so that residents can live and work in the County.”*

In addition to these two policies, two of the Statement of Goals in the Comprehensive Plan (page 19) further reflects the consistency of this request with the Comprehensive Plan.

“3. *To encourage growth and development in areas where sewer, water, schools and other public facilities are available or can be provided without unreasonable costs to the community.*

4. *Encourage and support commercial, industrial, and agricultural activities to provide a diversified and sound local economy.”*

It is clear that the fundamental goals and policies of the Comprehensive Plan are to direct development to the “growth area” where infrastructure is already available in a form of water, sewer, and highways.

B. Comprehensive Plan Recommendation 3.03 (page 25) refers to the basic policy that existing Land Uses should be the basis of a Zoning Map Amendment where the basic principles of the Comprehensive Plan are also observed. This property has been a drive-in theatre and a flea market since 1952. Two current Commercial Uses (Flea Market and Fruit Stand) were in existence at the time the

County Commission adopted the Zoning Ordinance in July 1988. The Petition seeks to conform the Zoning Classification of the property with the mixture of Commercial and Residential Uses which have been in existence on the property since the early 1950's.

C. Comprehensive Plan Recommendation 3.13 (page 56) refers to the preservation of historic resources. We have restored the Allstadt's Ordinary Buildings and have maintained them for many years. Recommendation 3.13 specifically states that amendments to the Ordinance should include:

*“rewarding the retention and restoration of historic buildings during the Subdivision process with limited increase density to offset the expense of preservation.”*

The recommendation goes on to suggest that the Amendments and policies should include the reevaluation of Zoning Restrictions to allow for adaptive reuse of historic properties to encourage their continued occupancy and maintenance. We fall squarely within this important historic preservation recommendation and should be given positive consideration as a result of our contributions to historic preservation in this County.

D. Comprehensive Plan Recommendation 3.18 (page 64) relates directly to new Commercial Development to diversify the economy of Jefferson County, increase the tax base and mitigate the problems of increasing residential growth to provide employment opportunities for the workforce. This Zoning Map Amendment is entirely consistent with the recommendation that additional commercial development is necessary to provide a healthy tax base and workforce in this County. A change from High Density Residential to Mixed Use Zoning will provide an opportunity to further diversify the economy of the County rather than increase High Density Residential Housing.

E. Comprehensive Plan Recommendation 3.25 (page 73) describes the US 340 Corridor as the main transportation artery through the County. The Comprehensive Plan recognizes that it is appropriate and logical that development should occur along this corridor. This Zoning Map Amendment will be subject to all of the subsequent design requirements and traffic improvements which may be adopted to comply with recommendation 3.25 of the Comprehensive Plan.

**III. Conditions in the Neighborhood have changed since 1988.**

A. Central water and sewer are now available.

The Comprehensive Plan encourages growth and development where central water and sewer services are available.

B. Adjacent properties on three (3) sides of the Allstadt's property are now in the Residential/Light Industrial/Commercial Use District, including the recently rezoned Shenandoah Professional Building to my north (a residential structure converted to commercial use), and River Riders, to my east, which has greatly expanded business since 2004.

Other commercial enterprises have recently located along US 340 since 2004 including Meadow Farms Nursery and Through the Garden Landscaping.

It is also important to note that the Customs and Border Patrol is constructing a large training complex that includes offices, training facilities, and other buildings. This is the most significant change in the neighborhood. Other new commercial enterprises on the US 340 corridor includes the Eckles-Spencer Funeral Home, the Sears Store, the new Sheetz store, Aldi Grocery Store, Benjamin Moore Paint store, and Rock and Tile.

C. Transportation infrastructure has also changed in the neighborhood. There are new traffic Signals on US 340 at Route 230 and at Country Club Road. There is a proposed traffic signal and intersection realignment planned at the Customs and Border Protection Complex. Other major transportation upgrades include the four (4) lane Route 9 upgrade toward Martinsburg and Leesburg. It is also important to note that a new bridge was constructed over the Shenandoah River.

Since this property is already a Commercial Use with considerable traffic impact, the change in zoning should have little or no net increase in traffic.

**IV. The Petition comes before the County Commission with a clean slate.**

The Planning Commission conducted a public hearing on November 8, 2011 as required by statute. After the hearing the Planning Commission was unable to make a decision on the

Allstadt's property Petition for a Zoning Map Amendment. The Planning Commission had a tie vote which means that the Planning Commission took no action. Although the Planning Commission staff agreed with our petition in many ways, they officially took no position in the Staff Report filed with the Planning Commission. This means that the County Commission can make its decision exclusively on its own judgment regarding the merits of the Petition.

The issue before the County Commission is whether or not the amendment requested in the Petition is consistent with the adopted Comprehensive Plan. We respectfully request that the County Commission find that our Petition for a Zoning Map Amendment is consistent with the adopted Comprehensive Plan.

**V. Conclusion.**

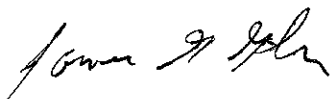
There are two fundamental reasons that the Zoning Map Amendment is consistent with the Comprehensive Plan and should be approved by the County Commission:

- A. The Allstadt's Property has been in use as a Mixed Use/Commercial-Residential Property since 1952.
- B. The Comprehensive Plan directs future growth in the County to be within the growth area described in the map on page 75 of the Plan.

The Zoning Map Request is both consistent with the Comprehensive Plan and consistent with the Uses applied to the property since at least 1952. We respectfully request that the County Commission approve the Zoning Map Amendment.

Sincerely,

James G. Gibson



Barbara S. Gibson



# EXHIBIT 1

PETITION FOR MAP AMENDMENT  
James and Barbara Gibson  
August 30, 2011

*Rec'd  
August 30, 2011  
Janice S. Mathan,  
County Clerk.*

Owner/Applicant:

James G. and Barbara S. Gibson  
201 Needwood Farm Lane  
Harpers Ferry, WV 25425

**RECEIVED**  
AUG 30 2011  
JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

Substantiation for the Request:

1. The property is currently zoned Residential Growth and the Applicant is seeking a map amendment for the Residential/Light Industrial/Commercial District (commonly known as the Mixed-Use District). The Applicant believes that this change is consistent with the 2004 Jefferson County Comprehensive Plan, as explained in this application;
2. There has been a significant change in the neighborhood, since the Jefferson County Zoning Ordinance was adopted in 1988, as explained in this application; and,
3. The Applicant believes that the Residential Zoning Classification is an error due to the long term mixed use nature of the property, as explained in this application.

Tax District, Map and Parcel Number:

Harpers Ferry Tax District, Map 9, Parcel 39.1

Deed Book Reference:

Deed Book 913 at Page 643

Plat:

Attached

Tract Size:

12.97 Acres

Discussion on:

Comprehensive Plan compatibility of the proposed change: See Below.

Any Change of transportation characteristics and neighborhood from when the original ordinance was adopted: See Below.

Typically, an amendment to a zoning map can include three types of justifications based on the jurisdiction. These justifications include: Comprehensive Plan compatibility or consistency; change of neighborhood; and/or error in the zoning map. The Jefferson County Zoning Ordinance requires a discussion on the Comprehensive Plan, transportation characteristics and change of neighborhood. This application will also discuss why the applicant feels that this property should always have been included in the Residential/Light Industrial/Commercial District.

**1. Comprehensive Plan Compatibility**

The 2004 Comprehensive Plan includes a total of 32 recommendations. Of these 32 recommendations, the Applicant believes that 27 of them are neutral with respect to this application. These neutral recommendations include: 3.01; 3.02; 3.04; 3.05; 3.06; 3.07; 3.08; 3.09; 3.10; 3.11; 3.12; 3.14; 3.15; 3.16; 3.17; 3.19; 3.20; 3.21; 3.22; 3.23; 3.24; 3.26; 3.27; 4.02; 4.03; 4.04; and, 4.05.

The Applicant believes that the remaining five (5) recommendations support the map amendment. These recommendations include the following:

**Recommendation 3.03 on page 25 states: "When considering amendments to the Ordinances and Zoning Map to incorporate decisions based on the recommendations of this Plan, the County should address the ordinances in their entirety including: a. The preparation of a comprehensive 'existing land use map'".**

**Comment: If this 'existing land use map' were to be completed, it would demonstrate that this property is currently residential and commercial. In fact, the Ordinary (currently a residence) on site was used as a tavern, meeting hall and an inn in the early 19<sup>th</sup> Century. In addition, this property was used as a drive-in theater from 1952 to around 1983 and was then converted to the flea market in 1983 (prior to the adoption of the Zoning Ordinance). As everyone is aware, the flea market is still an ongoing commercial enterprise. Accordingly, when considering this amendment to the Zoning Map, Recommendation 3.03 appears to support the request based on the 'existing land uses'.**

**Recommendation 3.13 on Page 56 states: "The County should examine existing land use regulations and Planning Commission resources and explore regulation amendments and policies that encourage preservation of historic resources. Some amendments and policies may want to investigate may include: a. Rewarding the retention and restoration of historic buildings during the subdivision process with limited increased density to offset the expense of preservation; b. Re-evaluating zoning restrictions on the adaptive reuse of historic county-wide in order to encourage their continued occupancy and maintenance".**

**Comment: The Applicant has already restored the existing buildings on site, including the Ordinary, at their own expense. The Applicant has also placed them on the National Register of Historic Places. Accordingly, it appears that they have already met the intent of subsection 'a' of Recommendation 3.13; and, in order to meet subsection 'b', the property would need the 'Mixed-Use' Zoning Classification.**

**Recommendation 3.18 on Page 64** states: "The County should continue to pursue new industrial and commercial development in order to diversify its economy, increase the tax base and thereby mitigate the problems of increasing residential growth, and provide quality employment opportunities in the workforce."

Comment: This map amendment would be consistent with this recommendation by the virtue that it would allow the Applicant to pursue these types of projects.

**Recommendation 3.25 on Page 73** states: "The County should study the US 340 corridor, including the land use, viewscape, economic development and traffic design and management in order to create an effective strategy for the long term management of this important mixed-use corridor".

Comment: This is a subjective recommendation that is viewed differently by each person. The Applicant is on record in the recent past indicating that this study is futile, since the corridor has already been developed. It is interesting to note that in the implementation section of the Comprehensive Plan (page 106), it only states that to implement this recommendation the County should 'initiate a cooperative planning effort with the WV DOT to improve the US 340 corridor'. Unfortunately, the County has little to say in what the DOT does in this corridor. This is evident in that the 340 Study doesn't include the area between Harpers Ferry and the Virginia line, because of the discussions taking place between West Virginia, Virginia and Maryland. This also recently became evident since the State and the Border Patrol and Customs appear to be placing a new traffic signal without local County planning input. Finally, this recommendation is written in the suggestive form (should) versus the mandatory form (shall).

Notwithstanding this, the Applicant feels that this recommendation supports the rezoning application for the following reasons: the land use on this property is already mixed-use; the viewscape looking towards this property already includes the flea market and a rezoning would allow marketing to other commercial/office ventures; it would permit economic development; and, traffic design for new commercial development would necessitate improvements, even though the property already generates commercial traffic. A major purpose of this request is to allow mixed uses on the property that meets current design standards, in order to enhance the views from the top of Allstadts Hill.

**Recommendation 4.10 on Page 78** states: "It is the vision of this Comprehensive Plan that development will be concentrated within the designated growth areas".

Comment: With regard to this rezoning application, this is probably the strongest and most definitive recommendation of them all. There is only one map in the Comprehensive Plan that makes land use recommendations. This map is on page 75 of the Plan. Although it shows the limits of four other study areas, it does not mention the '340 Study' area at all. It does, however show the 'Growth Area' as contemplated in recommendation 4.10. The property that the Applicant is requesting a map amendment is located squarely in this Growth Area. What better place to allow a mixed-use community, then one that is already mixed-use and is in the designated growth area where development should be concentrated pursuant to recommendation 4.10?

In addition to these Comprehensive Plan Recommendations, portions of the narrative also support this application. This discussion isn't intended to spark a debate on which narrative portions take precedent over others, since again this is in the eyes of reader. It merely identifies some sections of the Plan that are supportive of this request. Two of the Plan's policies include the following statements:

'This Plan encourages new development patterns that foster mixed-use neighborhoods so that a sense of community begins at the subdivision level'; and,

'This Plan encourages economic development so that residents can live and work in the County'.

Two of the Statement of Goals in the Plan state that the Plan should:

'Encourage growth and development in areas where sewer, water, schools, and other public facilities are available or can be provided without unreasonable costs to the community'; and,

'Encourage and support commercial, industrial, and agricultural activities to provide a diversified and sound local economy'.

With regard to the public services mentioned in the first statement, this property is already zoned Residential, so any commercial component would lessen the demand on schools (school impact fees are in place anyway). Also, public water and sewer are currently available on this site.

Page 71 of the Plan lists a shocking fact. It states that "Land zoned for commercial and industrial use makes up approximately 5% of the County, which is almost evenly split between the I-C District and the mixed use district". If this is true, it would appear to be very difficult for the County to meet recommendation 3.18 listed above (pursue commercial and industrial development); if there is only 5% of the land in the County is zoned for commercial use.

In conclusion, with regard to how this application relates to the Comprehensive Plan, it would appear that the requested map amendment is very much consistent and compatible with the 2004 Jefferson County Comprehensive Plan.

## **2. Change of Neighborhood**

There have been significant changes in the neighborhood that would support the requested change from Residential Growth to the Mixed-Use Zone. These include the following:

### **Availability of Central/Public Water and Wastewater Treatment Facilities:**

Public utilities were not available in this neighborhood when the original zoning ordinance was adopted. These services are now available in the neighborhood as well as directly on this property. As stated earlier, a goal of the Comprehensive Plan is to encourage growth and development where sewer and water services are available.

### **Adjacent and Confronting Zoning, Commercial and Industrial Subdivision Approval and Intensity of Use has changed:**

The zoning classification on the property directly across Route 340 was recently changed from Residential Growth to the Mixed-Use district. As such, the applicant's property is now bordered on the East (River Riders) and the North (Shenandoah Professional Building) by property zoned Residential/Light Industrial/Commercial. This same logic should apply to the applicant's property, especially since this property has had commercial uses on it longer than those adjacent and confronting properties.

Since the adoption of zoning, the intensity of use on the adjacent and confronting properties has also increased. River Riders has greatly expanded their operation to the benefit of the region and the Shenandoah Professional Building is a converted residential structure.

In additions to those changes and expansions, the adjacent Old Standard Quarry is now an approved recorded commercial/industrial subdivision. This is certainly a change in the neighborhood that should favorably justify this application.

Also in the immediate neighborhood, the former Cliffside Inn has undergone extensive renovations to become a Quality Inn. Its renaissance has made it a much more desirable destination.

### **Addition of the Park Service Parking Lot and Bus Transportation/Tourist Center:**

The Park Service parking lot and transportation center was added since the adoption of the zoning ordinance. This parking and transportation has enhanced the transportation network in the area. It also converted open land into a paid parking lot.

### **Addition of Commercial and Residential Uses in the Neighborhood:**

Besides the Shenandoah Professional Building, at least two new commercial enterprises have opened in the immediate neighborhood. These include Through the Garden Landscaping and Meadow's Nursery. These businesses were opened after the zoning ordinance was adopted and are adjacent to two residential developments that were developed after zoning was adopted. These additions further demonstrate that the neighborhood has changed into a mixed-use neighborhood.

Most recently, the Customs and Border Patrol began one of the largest nonresidential developments in the neighborhood. Regardless of who owns it, it is a massive complex that includes offices and training facilities, among other uses. It can't be ignored as a significant change in this particular neighborhood. Based on intensity of use, it is a significant quasi-commercial development in this area.

There have been multiple changes in the slightly expanded neighborhood that would support a change to the Residential/Light Industrial/Commercial District. These include the addition of Eckels-Spencer Funeral Home, the Sears Store along with the multi-unit commercial and warehousing complex in which it is located, the new Sheetz store, the Aldi Grocery Store, Rock and Tile (formerly The Lumber Yard), the Farm and Tractor Supply Store under construction, the zip-line operation along the Potomac River and the townhouse development at Windmill Crossing. All of these projects were developed after the zoning ordinance was adopted. Not only does this demonstrate that the neighborhood has changed to mixed-use, it also demonstrates that mixed-use must be consistent with the Comprehensive Plan, since all of these projects were approved in the past ten or so years.

Finally, with regard to changes in the area since the zoning ordinance was adopted, no discussion would be complete without mentioning the addition of slot machines and table games at the Charles Town Race Track. These enhancements to the Race Track have increased incoming visitors to this area of Jefferson County. Accordingly, the Route 340 Corridor needs to change in order to accommodate the additional commercial growth needed to serve these visitors.

**3. Change of Transportation Characteristics (from when the original ordinance was adopted):**

There have been many changes in the transportation characteristics in this area since the adoption of the zoning ordinance. These include: the reconstruction of the Route 340 Bridge over the Shenandoah River; a new traffic signal at the intersection of Route 230 and Route 340; a new traffic signal at the intersection of Route 24 (Country Club Road) and Route 340; the improvement of the Shipley School access to Route 340; and, the addition of the previously mentioned Harpers Ferry Parking Facility and Bus Transportation Center along Route 340 near Bolivar. There is also a proposed traffic signal and intersection realignment planned at the Customs and Border Patrol Complex. Furthermore, the Planning Staff has reported that West Virginia, Virginia and Maryland are in serious discussions with regard to improving the Route 340 Corridor in the area of the Shenandoah and Potomac Rivers.

All of these improvements have had a positive effect on the transportation characteristics and traffic flow in this area. The opening of the new four lane Route 9 towards Leesburg should also have a positive effect on the traffic flow along Route 340.

Furthermore, the proposed map amendment from Residential Growth to Residential/Light Industrial/Commercial should have very little impact on traffic, since the property is already zoned for high density residential and the site is already utilized commercially.

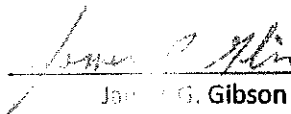
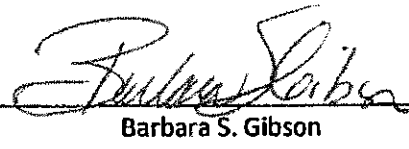
4. Error in the Zoning Map:

The applicant's property had a mix of commercial and residential uses on the property when the original Zoning Ordinance and the Residential/Light Industrial/Commercial District were adopted. As such, the property should always have been included in this mixed-use zone. The property contains the Allstadt residence and an Ordinary which was built in the late 18<sup>th</sup> Century. An Ordinary was a commercial tavern and meeting place. This reference is to show how early the property was utilized both residentially and commercially. More recently, the property was used as a drive-in movie theater from 1952 until 1983; and, as a large flea market from 1983 until the present. The property also contains the Wilt Fruit Stand and farmers' market, which has been open since 1968. The dwellings have remained on the property.

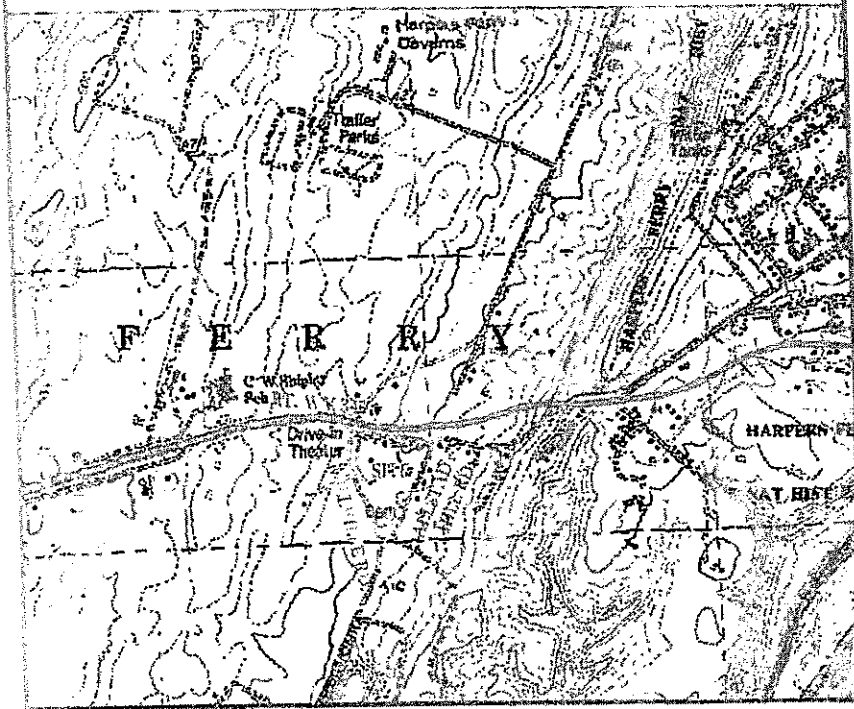
When the Zoning Ordinance was adopted in 1988 and continuing today, the applicant's property contained a large flea market, a fruit stand and several dwelling units. Furthermore, the property is adjacent to one of only a couple of 'Primary' access roads in Jefferson County as defined on a map in the 1987 Comprehensive Plan (the Plan that was in effect at the adoption of the original Zoning Ordinance) and on the same map in the 2004 Comprehensive Plan. Accordingly, the property should have been always been zoned Residential/Light Industrial/Commercial.

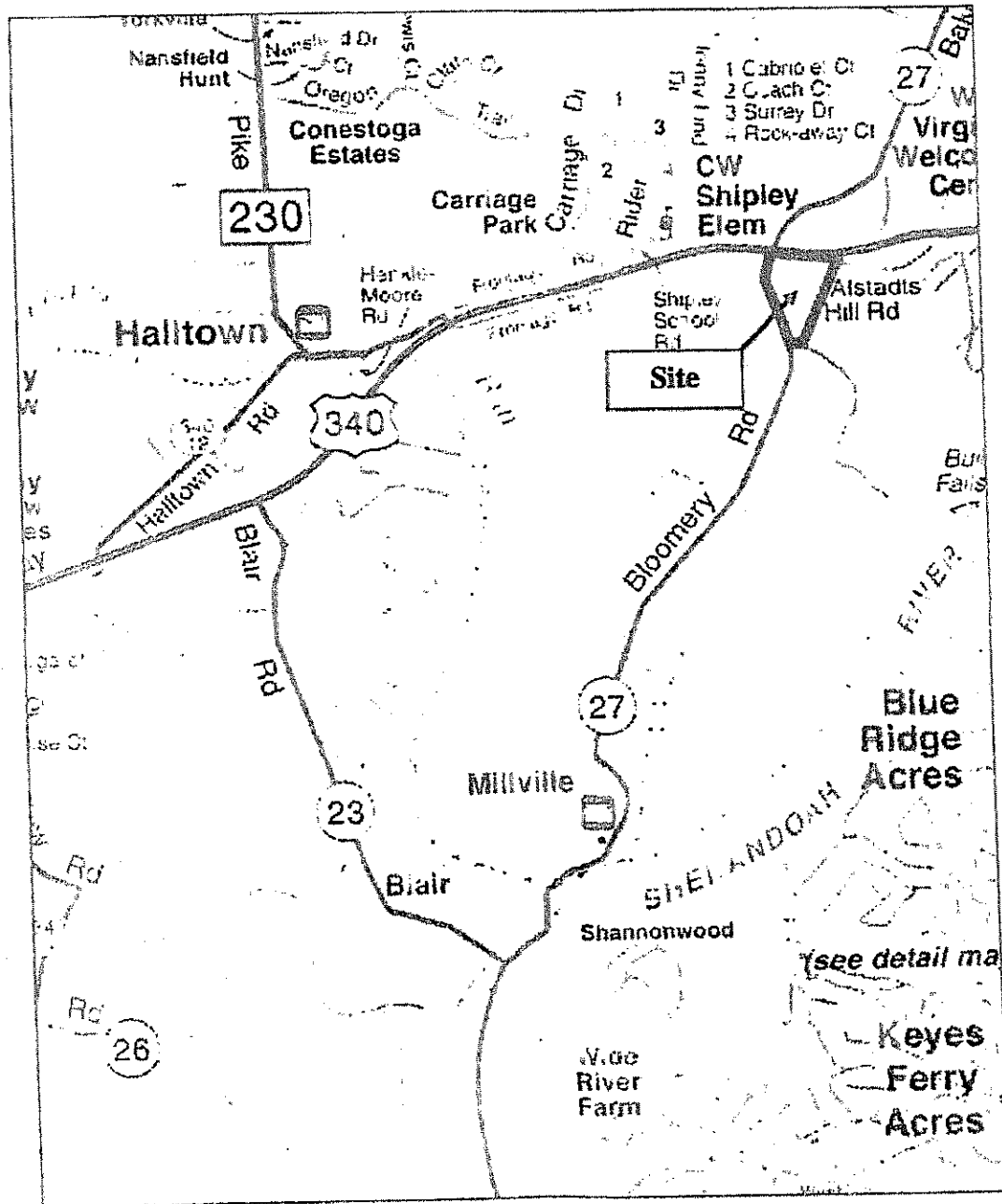
5. Conclusion:

The Applicant is requesting that the County Commission of Jefferson County approve a map amendment to the Jefferson County Zoning Map. This map amendment will change the zoning classification on the applicant's property from the Residential Growth District to the Residential/Light Industrial/Commercial District. This request is supported by the 2004 Jefferson County Comprehensive Plan, along with the other reasons set forth in this petition, which include the Change of Neighborhood and the Error in the Zoning Map.

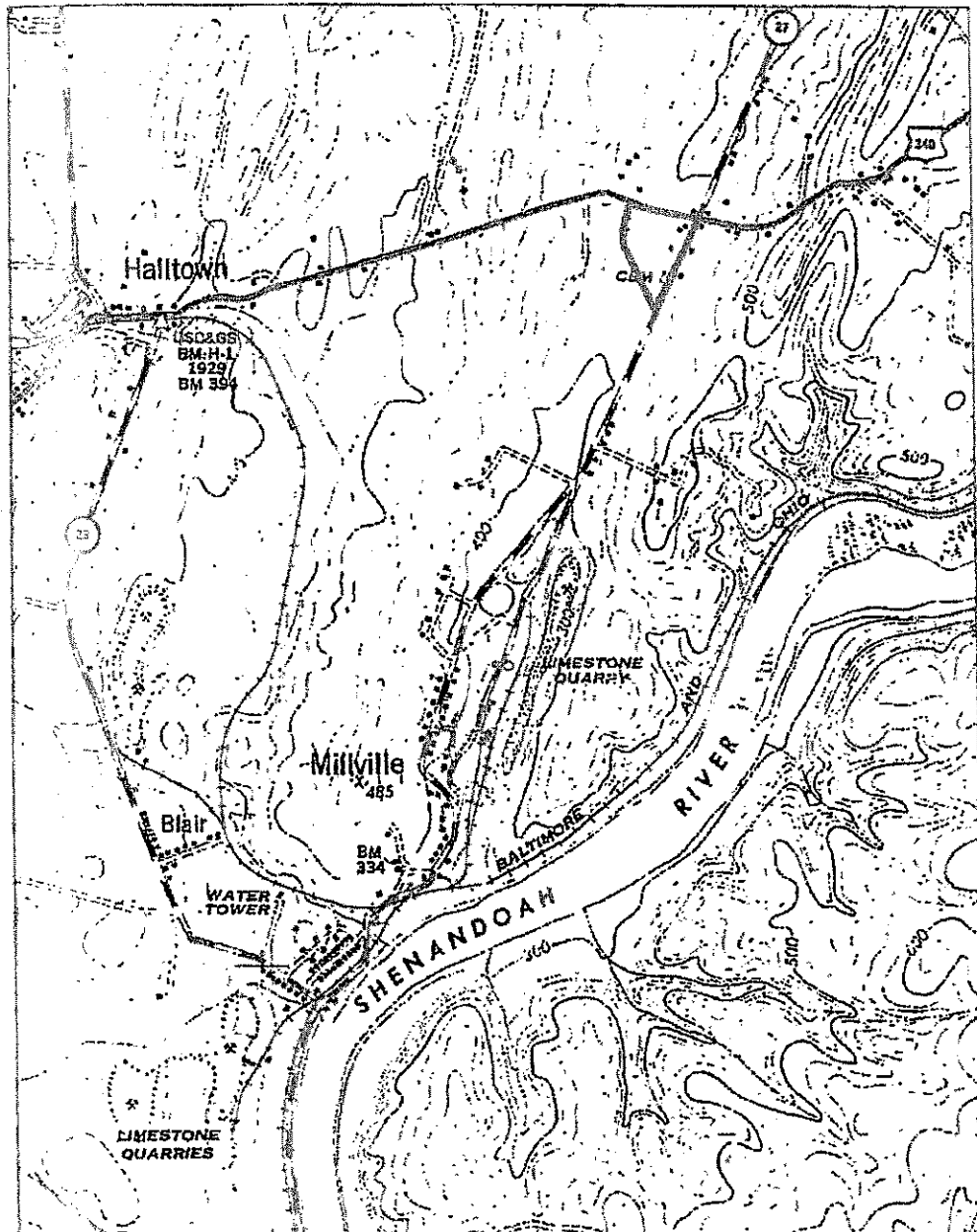
|                                                                                     |                      |                                                                                      |                |
|-------------------------------------------------------------------------------------|----------------------|--------------------------------------------------------------------------------------|----------------|
|  | <u>Aug 29 - 2011</u> |  | <u>8/29/11</u> |
| James G. Gibson                                                                     | Date                 | Barbara S. Gibson                                                                    | Date           |

LOCATION INSET  
SCALE: 1"=2000'





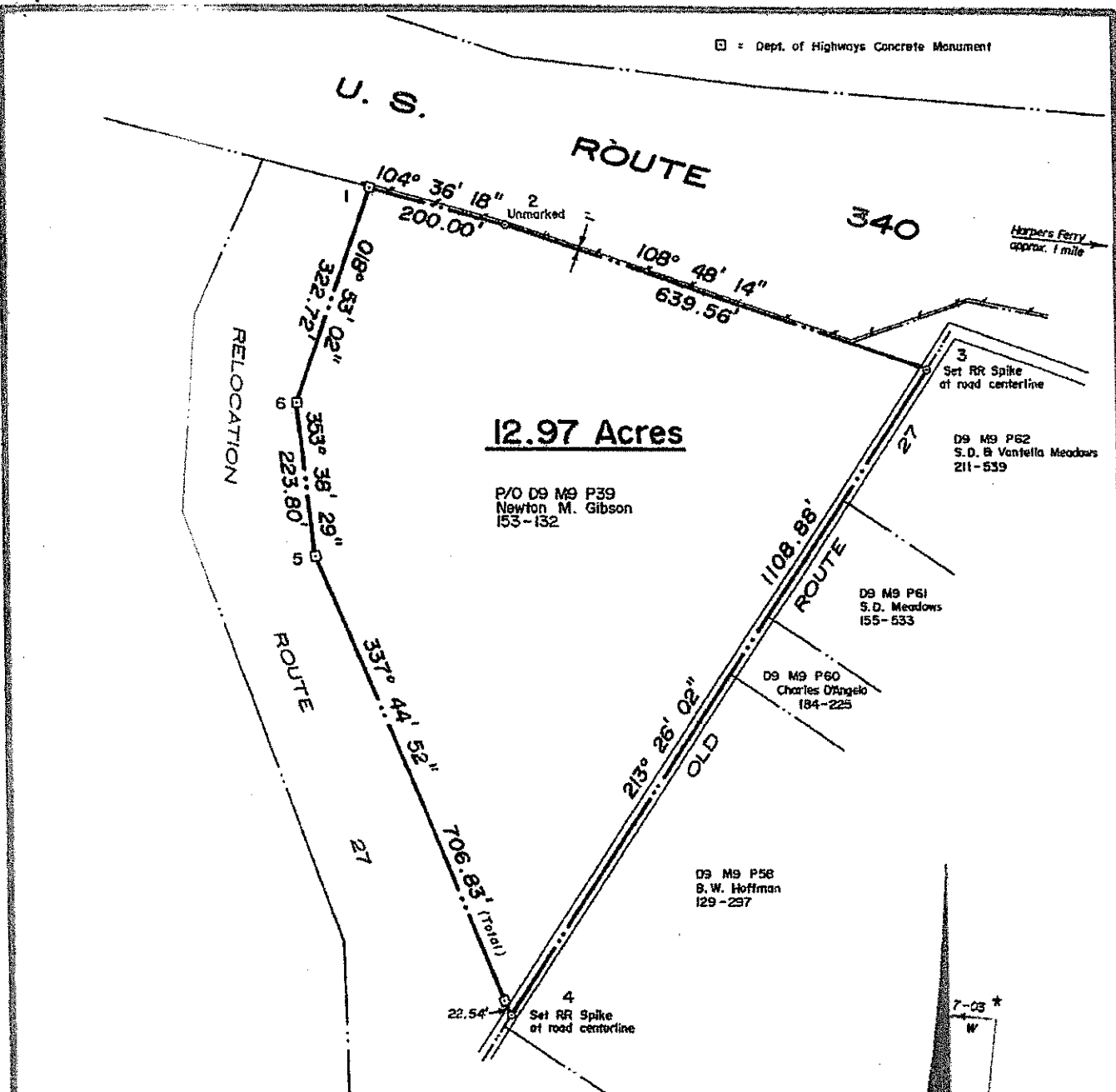
Location of Gibson/Flea Market Property



USGS Map of Property



□ = Dept. of Highways Concrete Monument



**12.97 Acres**

P/O D9 M9 P39  
Newton M. Gibson  
153-132

D9 M9 P62  
S.D. B Vantella Meadows  
211-539

D9 M9 P61  
S.O. Meadows  
155-533

D9 M9 P60  
Charles D'Angelo  
184-225

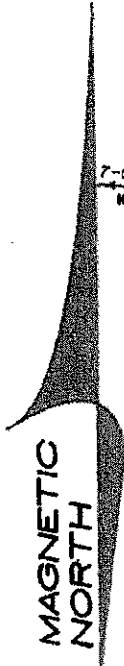
D9 M9 P58  
B.W. Hoffman  
129-237

Plat of Survey  
showing a portion of the  
**Newton M. Gibson property**

Harpers Ferry District  
Jefferson County, W.Va.

Scale : 1" = 200'  
Surveyed : June 1981

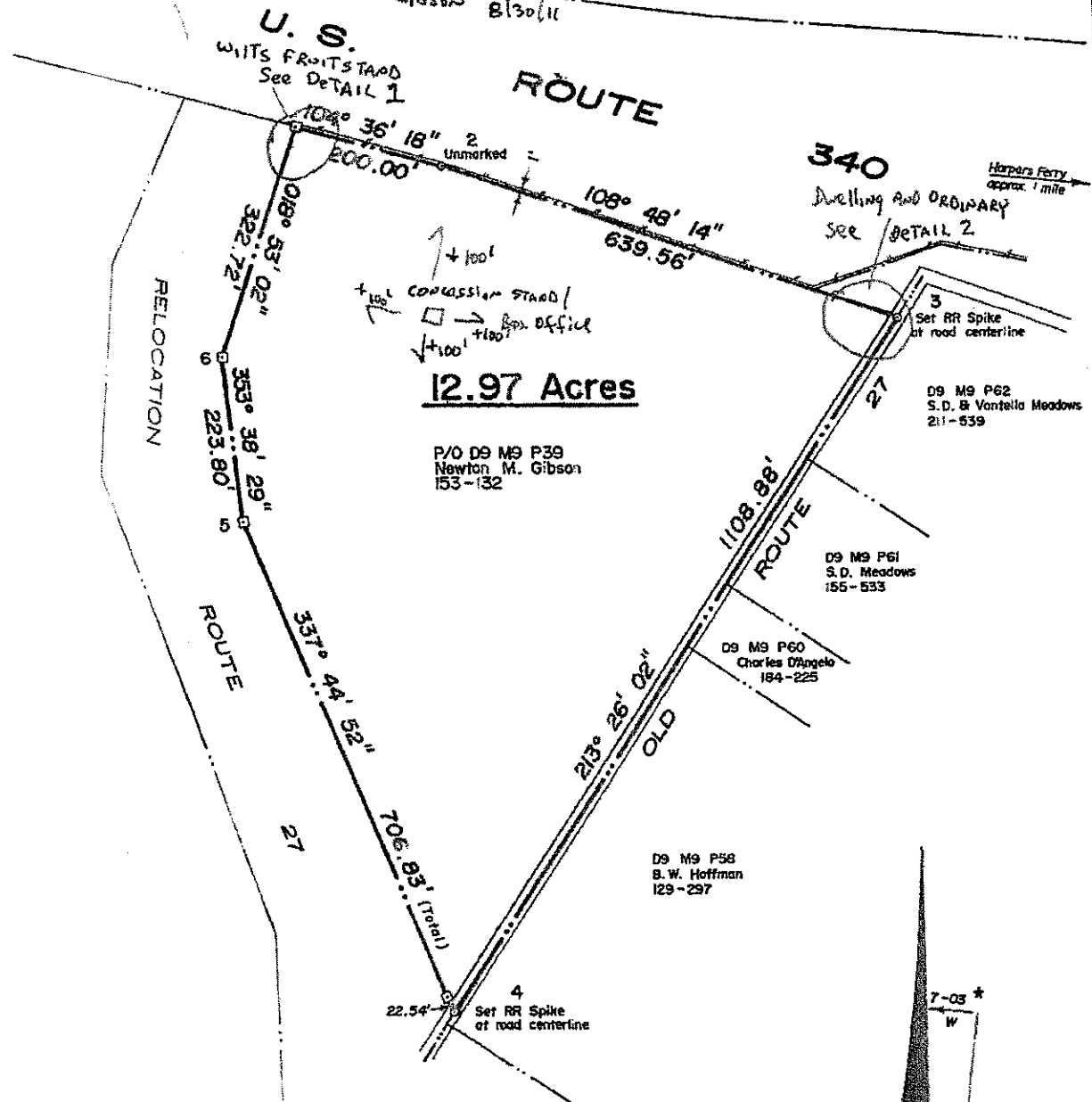
Charles K. Sager  
Jefferson County Surveyor



Declination  
measured  
at the  
Ranson, WV  
Magnetic  
Station  
June 1979.

ILLUSTRATIONS by JAMES GIBSON 8/30/11

☐ = Dept. of Highways Concrete Monument



**12.97 Acres**

P/O D9 M9 P39  
Newton M. Gibson  
153-132

D9 M9 P62  
S.D. & Vantella Meadows  
211-539

D9 M9 P61  
S.D. Meadows  
155-533

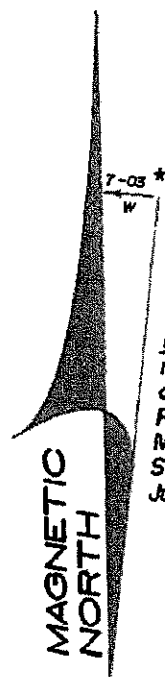
D9 M9 P60  
Charles D'Angelo  
184-225

D9 M9 P58  
S.W. Hoffman  
129-297

Plat of Survey showing a portion of the **Newton M. Gibson** property

Harpers Ferry District  
Jefferson County, W. Va.

Scale: 1" = 200'  
Surveyed: 05 June 1981



Declination measured at the Ranson, WV Magnetic Station June 1979.

Charles K. Sager  
Jefferson County Surveyor

**APPALACHIAN SURVEYS, INC.** — P.O. BOX 35 CHARLES TOWN, WV 25414

Autville Road R-O-W

±20'



±8'

WILT'S FRUIT STAND

Route 340 R-O-W

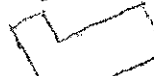
Detail 1

Ordinary



±90'

Dwelling



±65'

±30'

R-O-W

ROUTE 340

R-O-W

ROAD R-O-W -

DETAIL 2

# EXHIBIT 2

James and Barbara Gibson  
Petition for Map Amendment  
Supplemental Information  
November 8, 2011  
File # Z11-04

This supplemental information is intended to clarify some issues that have been addressed in the Gibson Rezoning Staff Report dated November 8, 2011. In that report the Staff defers to the Planning Commission to make the decision. The Staff Finding concludes that the application is both 'in compliance and not in compliance with the Plan'. However, the Planning Commission should note that the West Virginia State Code uses the word 'consistency' with the Plan, as opposed to 'compliance'. Also, the Commission should note that only if the Commission recommends that the request is 'inconsistent' with the Plan, then the County Commission must make an additional finding that there have been major changes in the area that weren't anticipated when the Plan was adopted.

Operating under the primary premise that this application is consistent with the 2004 Comprehensive Plan, the applicant's original submittal demonstrated that of the 32 recommendations in the 2004 Comprehensive Plan, 27 of those recommendations are neutral with respect to the application. The remaining 5 recommendations support the map amendment. All 5 of these recommendations are discussed in the original application, but the most conclusive of these 5 is Recommendation 4.10 that states:

"It is the vision of this Comprehensive Plan that development will be concentrated within the designated growth area."

There is only one map in the 2004 Comprehensive Plan that shows the designated growth area. That map (copy attached) shows clearly that the applicant's property falls directly within that growth area. The Staff Report states that since the Plan lacks a land use component, it is hard to discuss a rezoning application in terms of consistency. However, in this case, this property falls directly within the designated growth area on the reference map that is the closest thing that the Comprehensive Plan has regarding future land use. Accordingly, it appears that this application is very much consistent with the Comprehensive Plan.

Whereas the Applicant's original submittal analyzed the recommendations in the Comprehensive Plan, the Staff Report includes a lot of narrative from the Plan. The Applicant chose to primarily focus on the recommendations since they deal with the technical direction that the County should use to move forward with implementation, while the narrative tends to be anecdotal and editorial.

The Staff Report also suggests that the Central Business Districts (CBD) of Charles Town and Ranson can be threatened by commercial rezonings in the County. This is somewhat disingenuous since Ranson and Charles Town themselves annexed and approved large commercial developments (Home Depot, Weis, Kohls, Rite Aid, Sheetz, Aldi, Farm and Tractor Supply, etc.) well outside of their CBDs. However, all of these discussions in the Staff Report digress from the consistency question that is answered in the referenced Recommendation 4.10.

There are 4 major points that support this rezoning that were raised in the original submission that were not addressed in the Staff Report:

1. The Shenandoah Professional Building property across Route 340 from the subject property at the same intersection was just rezoned to the Residential/Light Industrial/Commercial District. The same justification for that rezoning can be applied directly to this rezoning request. In fact, based in part by that action, this Applicant's property is now surrounded on three sides by property that is zoned Residential/Light Industrial/Commercial. As such, this Applicant's property is now a donut hole out of the middle of the Mixed-Use Classification (see attached map);
2. Central/Public Water and Wastewater Facilities are currently available on this property. The Comprehensive Plan certainly supports development where there are existing water and sewer facilities;
3. The immediate neighborhood has already been planned for commercial uses including: the Shenandoah Professional Building; the expansion of River Riders; and the State approval of the 40 plus commercial/office lots on the Old Standard Quarry property. These changes, along with the other outlined changes in the original submission, all took place since the 2004 Plan was written and are major use changes. The Staff Report suggests that it was the National Park Service acquisitions that were not anticipated in 2004. In fact, those changes were anticipated for at least a decade. In the late 1990s, three scenarios were studied to enlarge the Park Boundaries. These studies showed which properties were intended to be included in the Park Boundary. It is important to note that the subject 12.97 acres included in this rezoning application was NOT included within that expansion.
4. The Staff's transportation analysis did not include the fact that this property is already zoned for Residential Growth and already has a high intensity commercial use on the property. As explained in the original submission, the proposed map amendment to the Mixed-Use District should have very little impact on traffic, since the property is already zoned for high density residential and the site is already utilized commercially. In fact, contrary to the statement in the Staff Report, this property has a residential subdivision approved on this property. The subdivision is not 'expired' as indicated in the Staff Report. As the Planning Commission is aware, all parties have agreed to extend the subdivision through July 1, 2012 (see attached order). As the Commission can see, the 'Variance History' on Page 3 of the Staff report is incomplete since it does not reflect the July 2011 agreement.

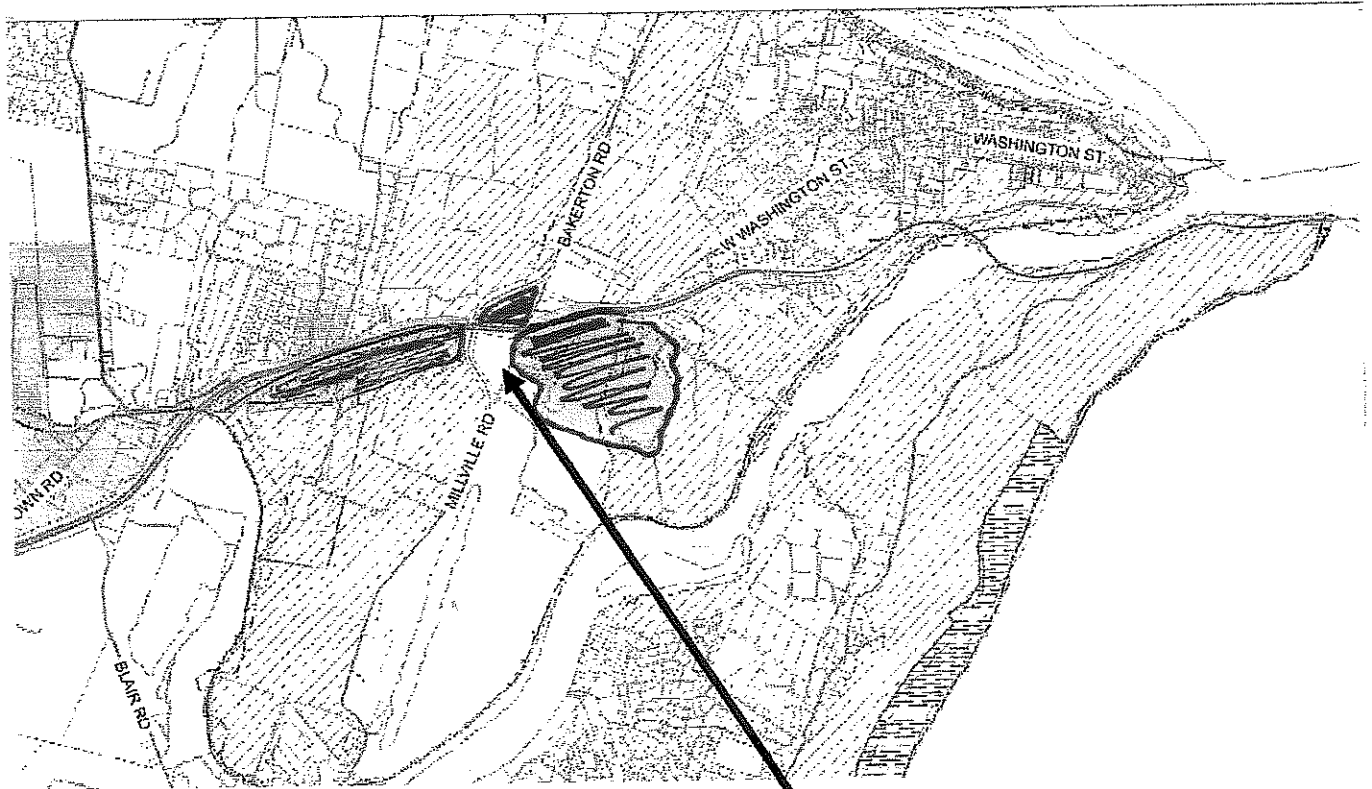
Finally, there is a Staff Recommendation on pages 19-21 of the Staff Report. In that recommendation, the Staff never once states that this application is inconsistent with the Comprehensive Plan. Article 8A of the West Virginia State Code, as amended, only requires a finding that the map amendment is consistent with the Comprehensive Plan. The Applicant feels that the original submission for a rezoning, along with this supplement, provides the Commission with ample evidence that the proposed map amendment is consistent with the Jefferson County Comprehensive Plan. This evidence supports the rezoning of the 12.97 acres from Residential Growth to Residential/Light Industrial/Commercial.

Attached, please find a revised proposed motion that is supported by the original application and this supplement.



Staff Report  
Jefferson County Planning Commission Meeting  
November 8, 2011

Image 4



**Legend**

- Urban Growth Boundary
- Parcels
- Tax District Boundary
- Public/Quasi-Public Land
- Appalachian Trail

**Zoning District**

- Incorporated Town
- Industrial-Commercial
- Residential-Growth
- Residential-Light Industrial-Commercial
- Rural
- Village

Subject Property

Map 2

# EXHIBIT 3

**Library References**

Zoning and Planning ⇨151, 194.  
 Westlaw Key Number Search: 414k151, 414k194.  
 C.J.S. Zoning and Land Planning §§ 65, 67, 71, 87 to 89, 95 to 96.

**Notes of Decisions**

**Notice and hearing 1**

**1. Notice and hearing**

Generally, where statute requires publication of notice for public hearing prior to enactment of zoning ordinance, failure to comply with such requirement will render zoning ordinance invalid. Code, 8-24-44. Grady v. City of St. Albans, 1982, 297 S.E.2d 424, 171 W.Va. 18. Zoning And Planning ⇨ 134.1

Failure of city to give any notice or to hold any public hearing before it received zoning ordinance and had first reading on it rendered the ordinance invalid. Code, 8-24-44. Grady v. City of St. Albans, 1982, 297 S.E.2d 424, 171 W.Va. 18. Zoning And Planning ⇨ 134.1

Violation of statute governing notice and public hearing required for zoning ordinance to be validly enacted did not give rise to implied cause of action. Code, 8-24-44. Grady v. City of St. Albans, 1982, 297 S.E.2d 424, 171 W.Va. 18. Zoning And Planning ⇨ 764

**§ 8A-7-9. Amendments to the zoning ordinance by petition**

(a) After the enactment of the zoning ordinance, the planning commission or the owners of fifty percent or more of the real property in the area to which the petition relates may petition to amend the zoning ordinance. The petition must be signed and be presented to the planning commission or the clerk of the governing body.

(b) Within sixty days after a petition to amend the zoning ordinance is received by the planning commission or the governing body, then the planning commission or the governing body must hold a public hearing after giving public notice. The public notice of the date, time and place of the public hearing must be published in a local newspaper of general circulation in the area affected by the proposed zoning ordinance, as a Class I legal advertisement, in accordance with the provisions of article three, chapter fifty-nine of this code, at least fifteen days prior to the public hearing.

(c) If the petition to amend the zoning ordinance is from the owners of fifty percent or more of the real property in the area, then before amending the zoning ordinance, the governing body with the advice of the planning commission, must find that the amendment is consistent with the adopted comprehensive plan. If the amendment is inconsistent, then the governing body with the advice of the planning commission, must find that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area.  
 Acts 2004, c. 153, eff. 90 days after March 13, 2004.

**Historical and Statutory Notes**

**Derivation:** Former § 8-24-46, which also related to petitions for changes to zoning ordinances, was derived from Acts 1959, c. 118, and Acts 1969, c. 86, and was repealed by Acts 2004, c. 153, eff. 90 days after March 13, 2004.

**Library References**

Zoning and Planning ⇨192.  
 Westlaw Key Number Search: 414k192.  
 C.J.S. Zoning and Land Planning §§ 86, 93.

**§ 8A-7-10. Effect of enacted zoning ordinance**

(a) After enactment of a zoning ordinance by a municipality or county, all subsequent land development must be done in accordance with the provisions of the zoning ordinance.

(b) All zoning ordinances, and all amendments, supplements and changes thereto, legally adopted under any prior enabling acts, and all actions taken under the authority of any such

ordinances, are here of the governing bo These ordinances sh plan of land use or p

(c) Land, building the same use and su the land, buildings alterations or addit industry or manufa manufacturer but n or acquisition of a development or exp present or future s may provide for th one nonconforming

(d) If a use of a p property has been the property can sh absence of natural agricultural, indust use. If the proper structures must cor the land, buildings landmark, historic :

(e) Nothing in tl of urban areas, the Acts 2004, c. 153, eff.

**§ 8A-7-11. Variance**

(a) A variance is not involve permit it involve changing

(b) The board c that the variance:

(1) Will not adv property owners o

(2) Arises from variance is sought

(3) Would elimi

(4) Will allow t done.

Acts 2004, c. 153, ef

**§ 8A-7-12. Validity**

All zoning ordi adopted under p hereby validated action of the gove Acts 2004, c. 153, ef

**Derivation:** Former § 8-24- validation of existi

# EXHIBIT 4

## ARTICLE 12. MAP AND TEXT AMENDMENTS

### Section 12.1 Purpose

- (a) These regulations, restrictions, provisions, and the boundaries of districts provided herein may from time to time be amended, modified, or repealed by the County Commission. Any person, individual, board, commission or bureau of the County may petition the County Commission for such change.
- (b) The County Commission shall refer any amendment or alteration of this Ordinance to the Planning and Zoning Commission for analysis, study, report, and recommendations.

### Section 12.2 Procedure for Amendment by Governing Body

[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 4, 1989]

- (a) After the enactment of the zoning ordinance, the governing body of the County may amend the zoning ordinance without holding an election.  
[PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON \_\_\_\_\_]
- (b) Before amending the zoning ordinance, the governing body with the advice of the planning commission, must find that the amendment is consistent with the adopted comprehensive plan.  
[PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON \_\_\_\_\_]

### Section 12.3 Procedure for Amendment by Petition

- (a) The procedure for amendment shall be as dictated in §8A-1-1 et seq of the West Virginia State Code, as amended.  
[PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON \_\_\_\_\_]
- (b) Petitions to the County Commission for an amendment must contain the following information:
  - 1. Substantiation for the request
  - 2. Tax District, Map and Parcel number
  - 3. Deed Book reference
  - 4. Plat or sketch pursuant to Section 7.4 (b)
  - 5. Tract size

6. Discussion on:

- a. Comprehensive Plan compatibility of the proposed change.
- b. Any change of transportation characteristics and neighborhood from when the original ordinance was adopted  
[PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS  
REINSTATED BY COURT ORDER ON \_\_\_\_\_]



600 Hays Avenue  
Staunton, Virginia 22401

December 05, 2011

Mr. Tim Boyde  
Jefferson County Administrator  
124 East Washington Street  
Charles Town, WV 25414

Dear Mr. <sup>TIM</sup> Boyde:

Comcast would like to advise you of programming changes coming to Jefferson County in January. The attached direct mail piece details the moves that are occurring.

Customers are receiving notice of this change via the direct mail piece.

Please do not hesitate to contact me at (434) 951-3731 with any questions you may have.

Sincerely,

Paul Comes  
Director, Government & Community Affairs

RECEIVED

DEC 09 2011

Jefferson County Commission

xfinity

# Important Channel Lineup Information

Comcast

67547\_Postcard\_V1.indd 1

12/1/11 11:21 AM



Dear Valued Customer,

On or shortly after **Thursday, January 5, 2012**, the following channel changes will occur:

| PROGRAMMING NAME              | CURRENT CHANNEL | NEW CHANNEL | LEVEL OF SERVICE                   |
|-------------------------------|-----------------|-------------|------------------------------------|
| NewsChannel 8 HD <sup>†</sup> | N/A             | 808         | Limited Basic                      |
| HSN HD <sup>†</sup>           | 808             | 811         | Digital Economy and Expanded Basic |

**Comcast.**  
8720 Edgeworth Drive  
Capitol Heights, MD, 20743

Presorted  
First-Class Mail  
U.S. Postage  
**PAID**  
MOSAC

HDTV equipment and an HDTV required to view HD channels.  
© 2011 Comcast. All rights reserved.

67547\_Postcard\_V1.indd 2  
Azzanola, Arlington, Calvert County, Charles County, Fauquier County, Jefferson County, Loudoun County,  
City of Alexandria, Montgomery County, Prince Georges County, Prince William, Fairfax, Spotsylvania,  
Washington DC

12/1/11 11:21 AM

**JEFFERSON COUNTY COMMISSION, JEFFERSON COUNTY, WEST VIRGINIA  
FY 2012 HOME INVESTMENT PARTNERSHIP PROGRAM**

Notice is hereby given by the Jefferson County Commission that it will hold a public hearing on **Thursday, January 12, 2012 at 11:00 a.m.**, prevailing time, in the County Commission meeting room located at the Old Charles Town Library, 200 W. Washington Street, Charles Town, WV 25414. The Jefferson County Commission Chambers are accessible to persons with physical disabilities. If special arrangements need to be made to accommodate citizens in order for them to participate in the public hearing, please call **Sandy Slusher McDonald, Deputy County Administrator, at 304-728-3284** to make those arrangements.

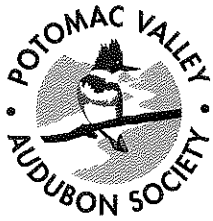
The purpose of this public hearing is to discuss the specific housing needs of Jefferson County, WV. The Jefferson County Commission is a member of the Eastern Panhandle HOME Consortium of West Virginia which consists of the City of Martinsburg, Berkeley County, part of Jefferson County and part of Morgan County, West Virginia. The HOME Consortium is eligible to receive a HOME Investment Partnership Grant in FY 2012. The U.S. Department of Housing and Urban Development will be notifying the City of Martinsburg in the future of the amount of HOME funds that will be available for FY 2012. In order to receive those funds, the member jurisdictions in the Eastern Panhandle HOME Consortium must develop a program for the use of HOME funds as a part of the City of Martinsburg's FY 2012 Consolidated Annual Action Plan. The HOME Consortium will be preparing their HOME Program and they intend to afford citizens, local agencies, and interested parties the opportunity to become involved in the planning process.

The following general types of activities are eligible for funding under the HOME program: Homeowner Rehabilitation, including repair, rehabilitation or reconstruction of owner occupied houses; Homebuyer Activities, including funds for purchase and/or rehabilitation of existing houses or new construction of houses for homebuyers; Rental Housing, including acquisition and/or rehabilitation of existing rental housing or new construction of rental housing; and Tenant Based Rental Assistance, including financial assistance for rent, security deposits and under certain conditions, utility deposits for tenants. All HOME funds must be used for persons and households that meet the HUD income guidelines and definition of low- and moderate-income.

Notice is also hereby given that the JEFFERSON COUNTY COMMISSION is accepting proposals for the use of its portion of the HOME Consortium funds for FY 2012 beginning December 5, 2011. Application packets, instructions and information are available on an open basis. All interested applicants are encouraged to contact the Jefferson County Commission office, in order to obtain the application packet and to address any questions. **Please contact Sandy Slusher McDonald at 124 E. Washington Street, Charles Town, WV 25414 or 304-728-3284.**

All interested citizens are encouraged to attend this public hearing and they will be given the opportunity to present oral or written testimony concerning the housing needs of Berkeley County and the use of HOME funds to address those needs. Written comments may be addressed to **Sandy Slusher McDonald, Deputy County Administrator, 124 E. Washington Street, Charles Town, WV 25414 or 304-728-3284**

**Patricia A. Noland, President**  
Jefferson County Commission



# Potomac Valley Audubon Society

P.O. Box 578  
Shepherdstown, WV 25443  
www.potomacaudubon.org

December 1, 2011

## Board of Directors:

Peter Smith,  
*President*

Diana Mullis,  
*Immediate Past President*

Bob Reynolds,  
*Vice President*

Mina Goodrich,  
*Secretary*

Lex Miller,  
*Treasurer*

Wayne Braunstein

Donald E. Briggs

Rob Hoxton

Leigh Jenkins

Georgia Jeppesen

Heather McSharry

Jesse Morgan

Kathy Stolzenburg

Jane Vanderhook

## Board Member Emerita:

Jean Neely

## Staff:

Kristin Alexander,  
*Executive Director*

Ellen Murphy,  
*Director of Youth Programs*

Dear PVAS members and friends:

As we launch a new annual fundraising appeal, we again want to express our appreciation for all the support you've provided over the years. Thanks to your generosity, we've been able to keep providing the kinds of programs and services the community wants and expects from us.

Now we're seeking your help again so we can continue to meet the community's needs during 2012.

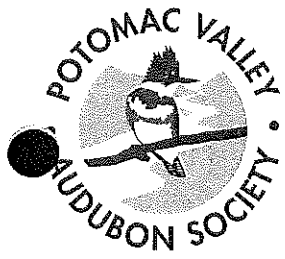
We know that the economy remains uncertain, at best, and everyone is anxious about the future. We're continuing to tighten our belts, too. But *your annual contributions are one of our most important funding sources*, and we'll be very grateful for any contribution you feel you can afford this year!

Please take a look at the Annual Report that accompanies this letter; it will give you an overview of the *wide variety of ways PVAS serves the community*. For example:

- Demand for our *children's programs* remains strong. This past year, more than 4,000 local youngsters participated in them.
- Our *summer camp* at the Yankauer Nature Preserve continues to be very popular with local families, and this year we added a new camp at the historic Peter Burr Farm. In all, nearly 220 kids attended camp sessions at the two locations.
- Our *programming for adults* remains popular as well. This year's field trips attracted more than 550 people, and our Nature Writing Group, Nature Photographers Group, and Master Naturalist Program remained very active.
- Thanks to generous donors, we now have a new nature preserve the public can visit – the Stauffer's Marsh Preserve in Berkeley County – and we've renewed our agreements with The Nature Conservancy to manage the Yankauer and Eidolon Nature Preserves for public use.
- We remain active in *local conservation efforts*. In particular, with assistance from a major grant we received last year, we've continued to help the City of Ranson plan and develop its new Flowing Springs Park.

*A proud partner of the United Way of the Eastern Panhandle  
and the Combined Federal Campaign (CFC #29061).*





# Potomac Valley Audubon Society

P.O. Box 578  
Shepherdstown, WV 25443  
www.potomacaudubon.org

## 2011 Annual Report

### CHILDREN'S PROGRAMS

Our children's programs continue to evolve and grow under the leadership of our Director of Youth Programs, Ellen Murphy. This year, thanks to the development of several new programs and some grants that provided scholarship funds for schools serving low-income children, we reached over 4,000 local youngsters through our programs—an increase of 1,000 and a new all-time record for PVAS.

A total of 1,540 students from 14 area schools participated in our fourth grade **Watershed Education Initiative program** this year. Now in its eighth year, this program continues to help children understand the importance of protecting water resources. It blends classroom sessions with field experiences that include hands-on activities like water quality testing; in all, each child receives up to 10 hours of instruction. Thanks to a grant from the Friends of the Cacapon River, we were able to offer this program at three Morgan County schools this year: Warm Springs Intermediate, Paw Paw Elementary, and Paw Paw High School.



Students from Morgan County show off some of the trash they picked up along the Cacapon River.

We continue to offer **school programs at our Yankauer Nature Preserve**. The programs give children in Kindergarten through sixth grade a chance to explore various aspects of the natural world, and include pre- and post-visit classroom activities to enhance and reinforce the field experience. This year, nearly 450 students participated in these programs. Many students from Ranson Elementary School were able to participate free of charge again this year, thanks to a \$1,000 grant from the City of Ranson.

Unfortunately, school budget constraints continue to make it difficult for many teachers to schedule field trips. To deal with this problem, we've been developing **new versions of our K-6 school programs** that utilize schoolyards for outdoor nature study and exploration. Last year we developed such programs for the second and third grades. In 2011, with a grant from the West Virginia Division of Natural Resources, we piloted school-based programs for Kindergarten, first, fourth and fifth grades. More than 700 children participated in these school-based programs this year.

As schools struggle to cover program fees, PVAS has been fortunate to receive **grants for scholarship funds for classrooms serving children from low-income families**. The Eastern West Virginia Community Foundation, Ecolab, and the National Audubon Society all provided funds to help cover the costs of programs serving disadvantaged youth. In all, 28 classrooms were able to participate in PVAS programs this year thanks to these scholarship funds.

PVAS developed a **special partnership with Martinsburg's St. Joseph Parish School** in 2011. After observing some severe erosion in one location in the school yard for several years, St. Joe's joined us to install a rain garden to help catch and clean

runoff before it leaves school property. James Dillon, a Pennsylvania Certified Horticulturist and owner of Native Havens Design/Horticulture Consultation, Jim Harden of J & J Builders (and a parent at the school) and other volunteers worked through Labor Day weekend to prepare the site. Afterwards, St. Joe's students who participated in our watershed program last year planted appropriate trees, shrubs, and perennials. The resulting garden will prevent further erosion; provide habitat for birds, butterflies, and other pollinators; and constitute a wonderful educational area for students to learn about all these things. In addition to this project, St. Joe's has adopted the Yankauer Preserve as a site for classroom service projects. Each grade will come to the preserve at least once a year to help with projects such as pulling invasive plants.



*Rain garden at St. Joseph Parish School.*

PVAS and members of our Potomac Valley Master Naturalists Program continue to play a major role in the **Jefferson County Science Olympiad**. The event is sponsored by the Jefferson County school system and involves all of the county's sixth graders in a day of intensive science-related activities. This year's Olympiad was again held in the fall at the For the Love of Children Outdoor Education Center near Shannondale. The Master Naturalists led many of the activity stations, reaching about 475 children.

PVAS also reached another 780 area children through its involvement in **special school programs**, such as health fairs sponsored by Kids in Action at Eagle School, Mountain Ridge and Mill Creek Intermediate

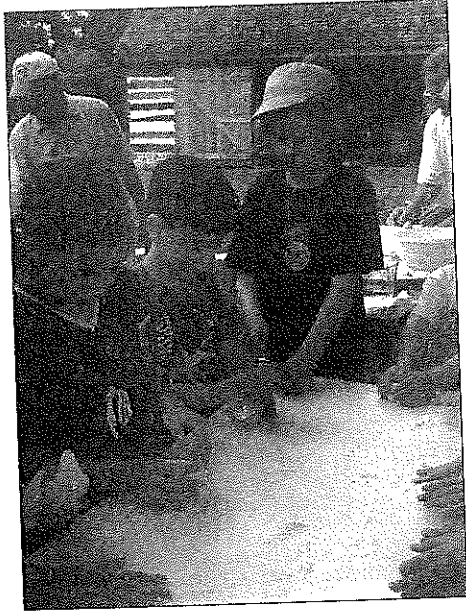
Schools, and a "Science Night" at Lincolnshire Elementary in Washington County, MD.

Our **Wee Naturalist program** has now completed its third year. The program provides pre-school-aged children and loving adults a chance to explore nature together safely at the Yankauer Preserve under the guidance of an experienced PVAS instructor, Suzi Taylor. This year, we continued to make the program more accessible for families with varying preschool schedules by offering sessions twice a month, once on Wednesdays and again on Thursdays. The program continues to grow in popularity and served over 100 children this year.



Our summer **Audubon Discovery Day Camp** at the Yankauer Preserve continues to be one of our most popular children's programs. This year's camp offered sessions for ages 3-12. A visit to Echo Hill Outdoor School gave some of the older campers a special opportunity to explore the Chesapeake Bay. This year for the first time, with support from the Arts and Humanities Alliance of Jefferson County, we also offered two weeks of camp focusing on local history at the Peter Burr Living History Farm near Kearneysville. This beautiful site includes a historic house, barn, bread oven, garden, orchard, and wetland. Campers put all these resources to good use, learning how early settlers made such things as butter, bread, crackers, candles, and even children's toys. We sincerely thank the Jefferson County Historic Landmarks Commission for allowing us to use the property and volunteers from the Peter Burr Bread Bakers' Guild who taught campers how to make bread. We look forward to holding camp sessions at this location again next year.

In all, nearly 220 children attended one or more of our camp sessions this year. While that's a strong number, it was about 20 percent below 2009 attendance, mirroring a two-year trend toward decreased camp enrollments throughout the country. Hopefully, the economy and enrollments will improve next year!

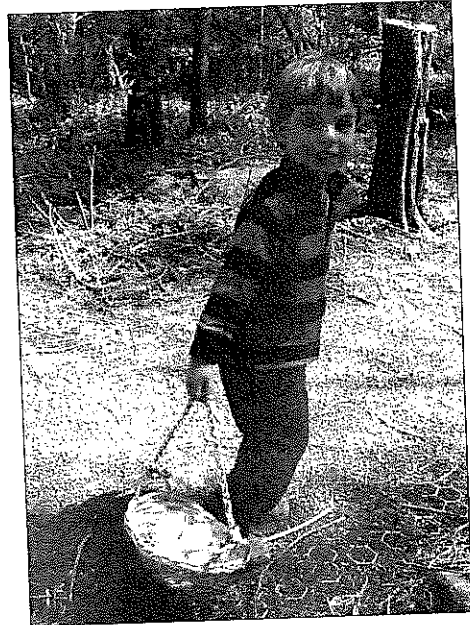


Campers make bread at Peter Burr Farm.

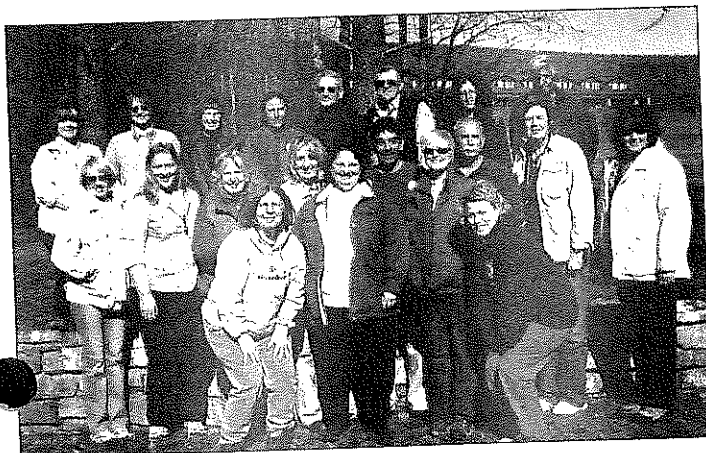
Each year, we use proceeds from our fall birdseed sale and donations from individual sponsors to provide **summer camp scholarships** to area children. This summer, we helped send one student to Mountain Adventures Summer Camp at Spruce Knob, two to Oglebay Institute's Junior Nature Camp near Wheeling, and nearly twenty to our own camp at the Yankauer Preserve. We received more scholarship requests than

ever before this year, reinforcing the importance of this scholarship program in the current economy.

Our fourth annual **Children's Egg Hunt** at the Yankauer Nature Preserve was filled to capacity again this year. Thirty-two children and their families participated in lots of fun activities including making bird nests using grass, bits of yarn, and sticks collected from the ground; examining a paper mache model of an elephant bird fossilized egg; perusing books that featured eggs of birds, snakes and turtles; walking while balancing a plastic, ostrich-sized egg on a spoon; and, of course, the egg hunt itself. Unlike traditional egg hunts, the eggs we use are painted like real eggs of wild birds; this helps children learn how birds use camouflage to keep their eggs hidden from predators.



## ADULT PROGRAMS



In November, our **Potomac Valley Master Naturalist Program** wrapped up its fifth successful year of training. Enrollees received 64 hours of classroom and field instruction in a broad range of natural history and environmental topics. Our program is a chapter of the West Virginia Master Naturalist Program, and those who complete the required training and volunteer service are certified by the state as West Virginia Master Naturalists. This qualifies them to assist with natural resources programming in various ways, such as docenting in state parks and assisting educators with instruction. To date, our program has graduated 70 Certified Master

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Naturalists. Many of these individuals remain actively involved with PVAS, assisting us with our programs.

This year, we continued to offer a series of **Master Naturalist Workshops** as part of our Master Naturalist program. These workshops count as elective courses for Master Naturalists but they are also open to members of the general public who are interested in specific topics. Completely organized by Master Naturalist volunteers, the workshops covered topics ranging from nature sketching to wildfires.

Our **Potomac Valley Nature Writing Group** was created in 2009 for those who love nature, reading and writing. It meets monthly in various informal settings to review and discuss books by prominent nature writers as well as participants' own works. The group is open to new members with similar interests. It maintains a very active and informative blog at [www.potomacvalleynaturewritinggroup.blogspot.com](http://www.potomacvalleynaturewritinggroup.blogspot.com).

Our **Potomac Valley Nature Photographers Group** continued its monthly meetings throughout 2011. Each meeting includes a presentation on a topic of interest or a friendly competition and an opportunity for members to "Show and Share" their recent photographs. This year, the group organized a daylong photography workshop at NCTC that was free and open to the public. The workshop was sponsored by Canon USA and led by Seth Resnick, a nationally recognized photographer. The group's website is [www.potomacvalleynaturephotographers.org/new/index.php](http://www.potomacvalleynaturephotographers.org/new/index.php).

Thanks to the efforts of volunteer Sandy Sagalkin, this

year a **new PVAS Birding Committee** was formed. This group is now coordinating our birding activities and it's strengthened our birding program in many ways. Most impressively, perhaps, the Committee has been working hard to get young people more involved in birding and it's been making significant progress!

We sponsored a record 52 **field trips** this year, and a total of nearly 600 people participated in them. Many were birding trips organized by the Birding Committee but we also continued to offer trips of more general interest. Especially popular trips included a winter tree identification walk at the Yankauer Nature Preserve in February, a trip to the Morgan County Fish Hatchery in March, and an organic farm tour in August.

Our **monthly lectures at NCTC** this year covered a wide range of topics as usual. The big surprise was a February 9 program that featured a presentation about the Brown Marmorated Stink Bug by USDA entomologist Tracy Leskey. By NCTC's estimate, more than 500 people showed up – the largest crowd NCTC has ever had for any kind of evening program. The tent had to be piped into overflow rooms in an effort to accommodate the crowd.

Our spring **"Birding 101"** course continues to be very popular. Twenty people participated this year, with expert birders Bob Dean, Wil Hershberger, and Matt Orsie as their instructors. The four-week course includes one evening classroom session each week, held at NCTC, with a related field experience on the corresponding Saturday.



PVAS' field trip to Redbud Farm, an organic farm in Gerrardstown, WV, drew over 40 people.

## CONSERVATION ACTIVITIES

For the past three years, PVAS has been helping the City of Ranson develop **Flowing Springs Park** that encompasses some 30 acres of undeveloped land including the headwaters of Flowing Springs Run. The city wants to leave the parkland in as natural a state as possible and PVAS and other partners have been furthering that goal by conducting biological surveys and providing land management advice. Last November, we received a grant from TogetherGreen, a collaborative program between National Audubon and Toyota, to help facilitate the park project. Through this grant, we contracted with West Virginia University's Landscape Architecture and Forestry programs to help develop site and land management plans. The grant also enabled us to plant over 300 trees along the stream to protect water quality, host several volunteer days at the park, recruit new volunteers from Ranson and Charles Town, and bring school groups to the park for programs. Our Master Naturalists continued to help with invasive species removal at the park. This year the park was a United Way Day of Caring site for the first time and was adopted by volunteers from Charles Town Rotary, Job Corps, and Master Gardeners.



Staff, students and volunteers from WVU, PVAS, Ranson, WV Division of Forestry, and Freshwater Institute plan future of Flowing Springs Park.

PVAS continues to support local watershed organizations' **stream cleanup efforts** by advertising volunteer opportunities in our newsletter and through e-mail alerts.

In October, PVAS again partnered with the Potomac Conservancy to host a **Growing Native** seed collection event at the Yankauer Nature Preserve. The Conservancy's Growing Native program is aimed at improving water quality in the Potomac watershed by restoring forests that filter pollution and runoff. Volunteers collect seeds of native trees, which are delivered to state nurseries where they are nurtured into small tree seedlings. The seedlings are then planted along streams and rivers in the watershed. It turned out that this year was not an abundant year for seeds or nuts, but adults and children alike had a great time searching for them!



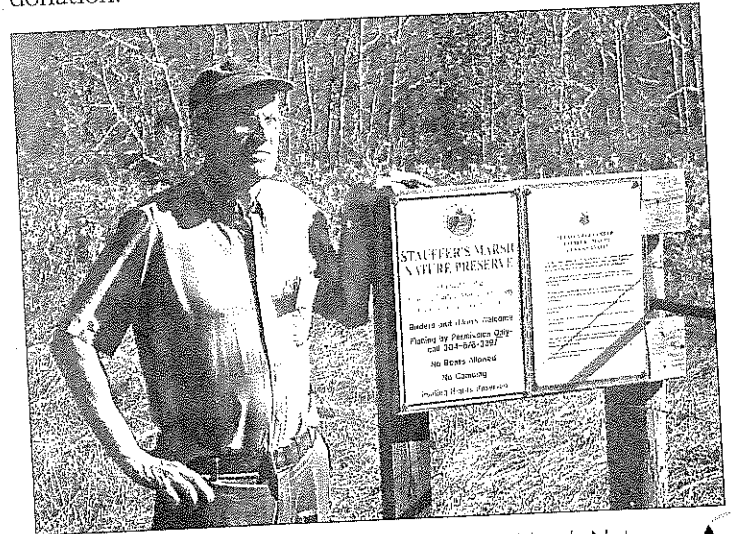
PVAS continues to participate in two **Christmas Bird Counts** each year, one in Charles Town and another in Inwood. PVAS volunteers also participate in the C&O Canal Midwinter Bird Survey, the Cornell Great Backyard Bird Count and the West Virginia Non-game Wildlife Program's annual winter bird survey. Bob Dean continued to run a MAPS (Migratory Avian Population and Survivorship) station to collect bird-banding data for the tenth year at the Yankauer Preserve.

## WILDLIFE RESCUE

We continue to assist with wildlife rescue and rehabilitation efforts. A specially licensed PVAS member, assisted by other volunteers as needed, takes calls, provides expert advice, and coordinates the transport of injured and orphaned wildlife to wildlife rehabilitation facilities. In 2011, PVAS handled a total of 61 rescue and rehabilitation cases—including eleven raptors.



USDA's Wetland Reserve Program. Today, it includes a mix of shallow ponds, marshy areas, woods and edge lands. Although it is only 46 acres in size, its rich, diverse habitat makes it especially attractive to birds and this, in turn, makes it a favorite spot for birders. The preserve will be an important and enduring natural resource not only for the people of Berkeley County but also for residents of the entire Eastern Panhandle and visitors to the area. Needless to say, we're very grateful to the Millers for this very generous and public-spirited donation.



Stauffer Miller at the dedication of Stauffer's Marsh Nature Preserve in November.

## NATURE PRESERVES

This October, The Nature Conservancy and PVAS renewed the **agreements that govern the management of the Yankauer and Eidolon Nature Preserves**. The old management agreements had been in force since October 2006. The new agreements also carry five-year terms, and will expire in October 2016. TNC and PVAS will continue to play the same roles at both properties. The Nature Conservancy owns and has ultimate responsibility for the properties. PVAS handles the day-to-day operations and maintenance and is also responsible for all educational programming and activities.

Perhaps the biggest development for PVAS in 2011 was the establishment of our new **Stauffer's Marsh Nature Preserve** in Back Creek Valley in Berkeley County. Stauffer and Elinor Miller donated this property to us in September, and it is the first nature preserve wholly owned by us. Formerly marshy farmland, most of the property was entered into a permanent, U.S. Department of Agriculture conservation easement in the mid 1990s and restored as a wetland through the

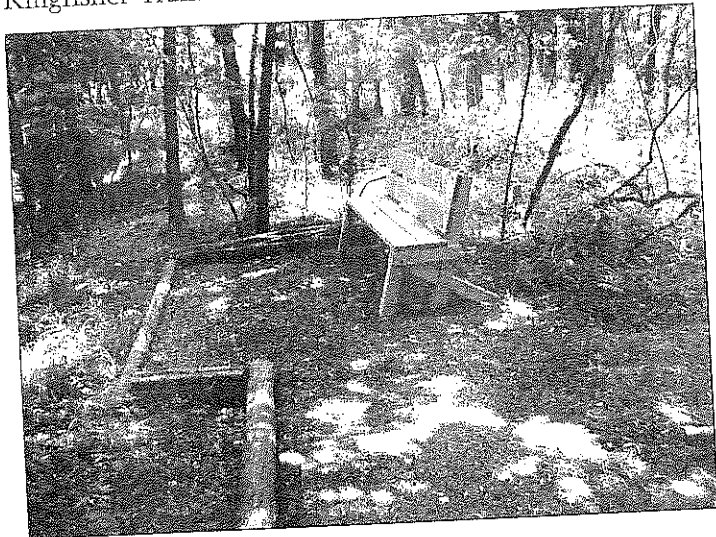
The wheelchair-accessible trail at the **Yankauer Nature Preserve** is now almost finished, with waysides and accessible benches installed. New interpretive signs for the trail and trailhead kiosk will be in place before year's end. This project has been funded by a \$31,350 grant from the West Virginia Department of Transportation's Recreational Trails Program.

A **land management plan and invasive plant map** for the Yankauer Preserve were completed this year by naturalist Michael Schwartz, with a grant from Potomac Headwaters Resource Conservation and Development. The management plan will provide a framework for future management of the preserve. We were very fortunate that someone as well-versed and knowledgeable as Michael was willing to undertake this task.

During the course of the year, **many volunteers helped with these and other projects** at Yankauer. The largest group, more than 100 volunteers, turned out on September 13 to help with various tasks under the auspices of the United Way's Day of Caring.

Shepherd University students pitched in on August 17 to help finish some details on the accessible trail as part of the University's annual Day of Service.

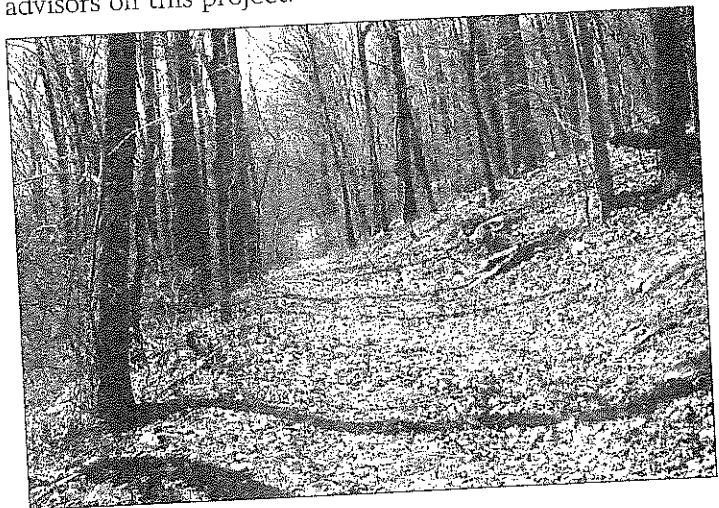
Yankauer was also the site of two **Eagle Scout projects** in 2011. The new Cedar Loop Trail waysides and benches were designed, built and installed by Skylar Benedict. Jack Fleri created beautiful new tree identification signs that have been placed along the Kingfisher Trail.



Special thanks are due to our volunteer land and facilities manager, Tim Murphy, who put in many long hours coordinating all of these Yankauer Preserve activities.

At the **Eidolon Nature Preserve** in Morgan County, we are one step closer to roofing the cottage. As you may recall, we had hoped to re-roof the preserve's **old stone cottage** last year but we were unable to resolve

structural issues that had to be addressed before that work could be undertaken. Thanks to Hedgesville contractor Duane Householder, footings have now been installed for the post-and-beam frame that will support the future roof. We're hoping to undertake that work next summer. Architect Matthew Grove and structural engineer Alicia McCormick continue to be invaluable advisors on this project.



The Yellow Trail at Eidolon.

Meanwhile, our volunteer Eidolon caretaker, Joe Gentile of Berkeley Springs, continues to do an excellent job of keeping Eidolon's **trails** clear and well marked, and of hosting groups visiting the preserve. We appreciate all his work as well. Although we have no way to keep a precise count of visitors to Eidolon, we know greater numbers of people are visiting every year. The number of trail maps we're distributing from the kiosk near the entrance keeps going up, and the preserve's trailways are becoming more and more defined from repeated use.

## SPECIAL EVENTS

Our seventh annual **Wildflower Festival** at the Yankauer Preserve was soggy than usual this April with a solid day of showers ranging from "sprinkle" to "cats and dogs." In spite of the weather, about 20 hardy visitors came to enjoy the wildflowers and the poetry along the trail. More than 40 poems were contributed this year from the local community and from Shepherdstown Elementary School. The poems are proving to be as much of a draw as the wildflowers!

Our tenth annual **This Race is for the Birds**, normally held at the National Conservation Training Center, promised to be the biggest ever with more

runners registered than ever before. Unfortunately, the Center was forced to close because of the threat of a government shutdown. Even though the shutdown was averted at the last minute the facility couldn't be reopened in time for the race to go forward as planned. After a last-ditch effort to find suitable alternate locations to hold a full-blown race, we accepted an offer from Shepherd University's Wellness Center to host a streamlined version of the event on campus. Local runners welcomed race participants and suggested informal routes for runs, and the Wellness Center gave pre-paid runners free access to their facility. Campus police blocked off a route so we could still hold the children's "Fun Run." Forty children participated and all received prizes, ribbons

and cheers at the finish line! We couldn't have asked for better "impromptu" partners than the University and the Wellness Center. While many runners were disappointed, almost all were understanding and supportive. Very few asked for refunds and no sponsors would accept their money back. We want to give special thanks to our lead sponsors, Hoxton Financial and Friends of Mark Benedict for their generosity; to the University and the Wellness Center for all their wonderful help; to NCTC for trying to host and support the event; to Two Rivers Treads for troubleshooting and communicating the changes to the running community; to volunteers James and Suzy Munnis for directing and coordinating the event; to the race committee for helping to pull all the details together (several times); and to the many volunteers who helped out the day of the event. We couldn't have asked for a better team to turn a bad situation into a positive one. Next year's race is set for April 21 in conjunction with NCTC's Open House on Earth Day weekend.



Also during April, we helped Travel Berkeley Springs and others in that community launch a special effort to promote the month of April as **"Get Outside Month" in Berkeley Springs**. Our contributions to this effort included two evening lectures and three field trips, all of which were well attended.

During the weekend of May 14-15, a total of 38 people in 13 teams participated in the annual **Ruth Ann Dean Memorial Birdathon**. Organized by our Birding Committee, this event is named in honor of Ruth Ann Dean, a founding PVAS member and longtime supporter who passed away in 2009. The idea is to count as many birds as possible in a 24-hour period, and to have a great time with fellow birders.

Our summer **Music in the Cedars concerts** at the Yankauer Nature Preserve continued to be well received this year; one performance drew an audience

of 75! The concerts continue to be a great way to showcase the preserve and introduce PVAS programs to new community members, as well as "give back" to our neighbors and friends. The concerts are only possible because of the generosity of the performers who participate out of love for music, the preserve, and PVAS. We sincerely thank all of this year's performers: The Outpatients; Erik Janus; Greg Lloyd, Bob and Robin Dean; Chelsea McBee; The Rolling Coyotes; The Dilletantes; David LaFleur; Betty Jo, Scott, and T-Roy; and Steve Cifala.

The weekend of September 16-18, for the third year in a row, PVAS sponsored a **Fall Birding Festival** in Berkeley Springs. The festival included a rich mix of evening lectures, daytime walks, and workshops. Attendance was higher than ever before (213!) with participants coming from as far as Ohio and Wisconsin. Many thanks are due to Judy Webb and Helen Herlocker for organizing this event and to Judy's Nature Niche store for providing very generous financial support. The names of the festival's other local community sponsors can be found in the donors' list at the end of this report. We plan to continue sponsoring this festival each September.



*Fall Birding Festival was bigger than ever.*

PVAS conducted its 30th annual fall **birdseed sale** this November. This is always a win-win event for PVAS. It provides members and friends with high-quality, fresh birdseed, and the proceeds are used to help fund our summer camp scholarship program.

PVAS held two **fundraising events** this year. In June, Walter Washington generously opened his historic home, Harewood, to PVAS members and friends. Guests were treated to house tours led by Mr. Washington, bird walks led by Bob Dean, music by Daryl Bryarly, and delicious food prepared by Diana Mullis, Alice Barkus, Gretchen Meadows, Deb Patthoff, and Jane Vanderhook. In November, PVAS

headed back to Wild Goose Farm for a barn party hosted by owners Cricky and Michelle Shultz. A delicious pork barbecue dinner with all the fixings was provided by the talented volunteers mentioned above, with help from Joe and Susan Brookreson and Craig Meadows. Guests enjoyed music by Greg Lloyd, Bob and Robin Dean and other musical friends; champagne hayrides; a lively auction; and a special guest, a Eurasian Eagle-Owl. Together, the two events raised valuable funds for PVAS programs.



## FINANCES

In spite of the difficult economic conditions that continued to prevail in our region, we were able to raise \$31,581 during our **annual fundraising appeal** last winter—an increase of nearly 6% over the year before and a new record. A total of 180 households contributed (also a new record), and the average contribution was an impressive \$174.48. Another 25 households contributed an additional \$7,197 to PVAS during the same period through the **United Way and Combined Federal Campaign** appeals, another new record. We're extremely grateful to all the families and individuals who continue to support us financially, even when the going gets tough!

### INCOME

Our overall income was up by 12% for the fiscal year ending June 30, 2011, to \$240,672.\*

For the first time in three years, **grants** outpaced **programs** as our largest source of income. Income from grants accounted for 33% of total income, up from 27% last year, while program income accounted for 27%, down from 33% last year. This shift was due partly to some falloffs in program revenue but it stemmed primarily from special projects undertaken as a result of two major new grants: one to construct a handicapped accessible trail at our Yankauer Nature Preserve and another to assist the City of Ranson in developing their new Flowing Springs Park.

Although the economics of our region are such that we likely will never be able to ask schools and individuals to pay fees that are large enough to cover the full costs of our educational programs, we continue to strive to lessen our dependency on external grants and make our programs as self-sustaining as possible.

**Donations** accounted for 19% of income during the fiscal year and **special events** accounted for 18%. The remainder of our income was from **membership dues** (2%) and earned **interest** (1%).

### EXPENSES

Our expenses increased by 7%, to \$221,020, mostly because of new, grant-funded spending for the special projects cited above. Elsewhere, because of the economy, we continued to hold expenses down. As in the past, the vast majority (67%) of our expenses during the fiscal year ending June 30, 2011 were for programs, a category that includes staff salaries. Our next highest expense category was nature preserve maintenance and improvements, which accounted for 14%. Administrative costs (which include payroll taxes and worker's compensation) accounted for 9% of expenses. Special events, most of which are mission-related, accounted for 8% of expenses. Fundraising expenses accounted for only 2% of our total expenses.

### ASSETS AND RESERVES

Our overall financial position continues to be strong. We follow very conservative budget practices and have consistently achieved operating surpluses throughout the economic turmoil of recent years. And because we also manage our financial resources very conservatively we have not suffered any investment losses during the period. Our last audit, which covered the fiscal year ending June 30, 2010, showed net assets of \$369,751, including real estate. We have since received a gift of additional real estate that brings our net asset total to more than \$450,000. We are free of debt and maintain healthy cash reserves.

### SPECIAL FUNDS

The **Potomac Valley Audubon Society Fund**, an endowment established by the Eastern West Virginia Community Foundation in 2004 in honor of PVAS

founder Jean Neely and managed by the Bank of Charles Town, has continued to rebound from the losses it suffered during 2008-2009. In any case, the PVAS Board remains committed to reinvesting any and all proceeds from this fund back into the fund in order to grow it for the future, so we are not dependent on the fund as a source of immediate income.

Last year, PVAS founder and Board member emerita Jean Neely made a generous donation to PVAS to establish a new **Liz Neely Memorial Education Fund** in memory of her stepdaughter Liz. The fund is supporting our Audubon Discovery Day Camp by providing a full, \$2,000 stipend for one camp instructor per year for as long as its monies last. Friends of Liz have made additional donations, and the Fund now totals \$17,734. This means it will currently support nearly nine years of a camp-instructor stipend. Others who

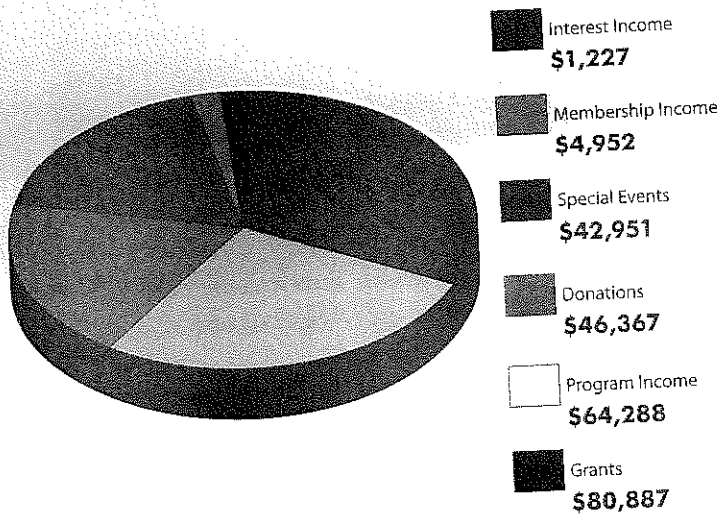
would like to donate to the fund to extend its reach are welcome to do so.

**FINANCIAL ADMINISTRATION AND OVERSIGHT**

Our **treasurer**, Alexander Miller, is a retired research actuary who is a Fellow of the Society of Actuaries. We continue to employ a very capable part-time **bookkeeper**, Elizabeth Lowe. She works closely with our treasurer on payroll, disbursements, tax reports, and monthly financial statements. On all financial matters, they and our staff and Board follow a **Fiscal Operations Policy Manual** that we have developed to guide all our financial procedures and recordkeeping. Our **accountant** is Chad Lawyer, CPA, of the Martinsburg firm of Ours, Lawyer, Lewis & Company. Our most recent professional audit, covering the fiscal year that ended June 30, 2010, found that our books and procedures are in good order.

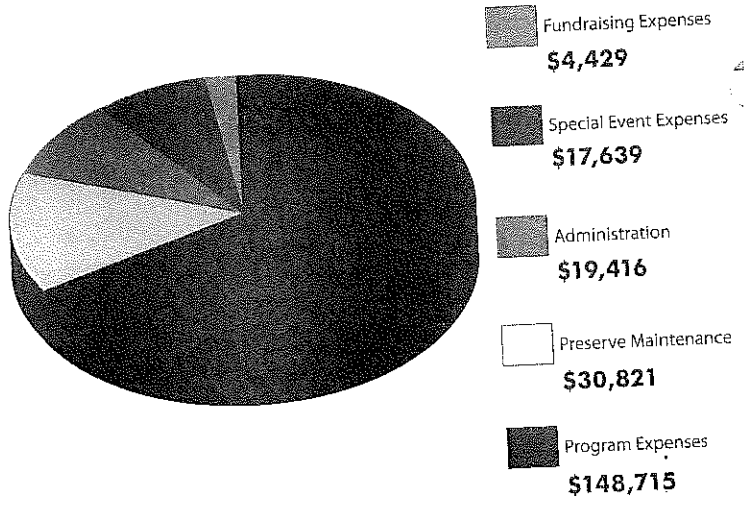
**PVAS INCOME**

July 1, 2010–June 30, 2011



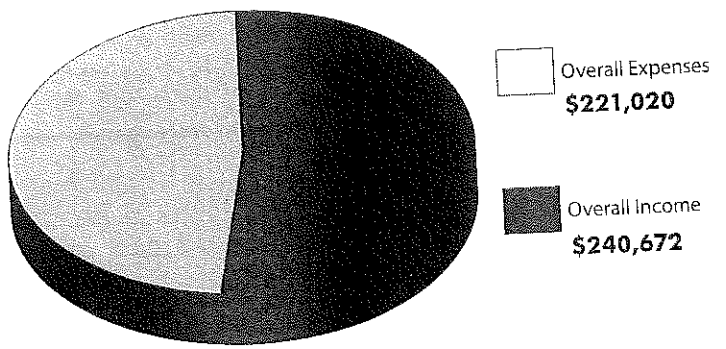
**PVAS EXPENSES**

July 1, 2010–June 30, 2011



**OVERALL**

July 1, 2010–June 30, 2011



*\* Income and expense figures for the fiscal year ending June 30, 2011 are preliminary and subject to change when this year's audit is completed. Income figure does not include in-kind support.*

## GOVERNANCE AND ADMINISTRATION

PVAS continues to be committed to transparency and adherence to the highest best-practice standards for non-profit organizations. This year, thanks to the efforts of volunteer Dan Cogswell, we have continued to refine our new and much-improved database. This database has streamlined all of our recordkeeping and greatly facilitated improved membership and fundraising efforts. We continue to update our Fiscal Operations Policy Manual as new issues arise, and follow best practices in all administrative matters.

## LOOKING AHEAD

As usual, we have several new programs and projects on tap for next year:

- At **Stauffer's Marsh**, we will begin to develop a land management plan, plan trail routes through the preserve that will balance human visitation and enjoyment with bird habitat and protection, design interpretive signage at the preserve, prepare a bird list for visitors, and publish a new preserve brochure.
- Around the first of the year, PVAS will be launching a **new website** that will allow easier communication with members and friends. Among other things, this new site will be easier to navigate, allow participants to register for programs or become members on-line, and host a calendar of events.
- The PVAS Birding Committee will be working on a **Birding Map** for the Eastern Panhandle of WV and Washington County, MD to help birders from near and far find the rich birding "hotspots" found here.
- As was noted earlier, we hope to have the old stone cottage at the **Eidolon Preserve** re-roofed next summer. After that, the next (and for the time being, last) major infrastructure improvement at the preserve will be the construction of a satellite parking lot and bus turnaround in the vicinity of the cottage. When all that work is done, we'll finally be in a position to begin offering educational programming at the preserve.
- PVAS will be piloting a new preschool program, "Wee Naturalists on the Road," to be delivered to preschools in Jefferson and Berkeley Counties. The program will use puppets, costumes, stories, and role-plays to teach about the natural world and the plants and animals found there. The development and pilot of this new program is being funded by the Two Rivers Giving Circle Donor Advised Fund of the Eastern West Virginia Community Foundation.



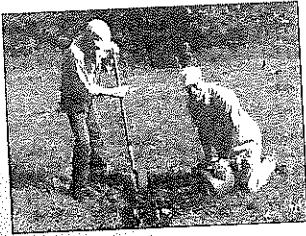
Sunrise at Stauffer's Marsh. Photo by Wil Harshberger, Nature Images and Sounds.

## IN CONCLUSION

So far, PVAS is continuing to weather these uncertain economic times without having to curtail services to the community. And although economic conditions are still unsettled, we continue to be optimistic. We've come a long way since we hired Kristin Alexander as our first and only staff member 11 years ago. Now, we're fortunate to have Kristin as well as Ellen Murphy. Both are capable, dedicated staff, and we have a good management team and many loyal members and friends. And most of all we know that our programs and activities are meeting real community needs and are respected in the community.

One of the main reasons we're able to accomplish so much in times like these is our extensive network of volunteers. These individuals, who come from throughout our region and from all walks of life, play a major role in nearly all of our programs and activities, and many of them make substantial contributions of time and expertise. Some key PVAS activities—like our Master Naturalist Program—are, in fact, managed almost entirely by volunteers.

We're also fortunate to have the assistance of some wonderful, long-time partner organizations. **The U.S. Fish and Wildlife Service's National Conservation Training Center** continues to be extremely supportive, providing meeting space, professional expertise, volunteers and much more. **Cacapon State Park** also continues to support our efforts in Morgan County by generously providing space for a variety of PVAS activities. We continue to be closely involved with **The Nature Conservancy** through our co-management of the Yankauer and Eidolon Nature Preserves, which the Conservancy owns, and their help and assistance is invaluable.



**The West Virginia Division of Natural Resources** continues to support our Potomac Valley Master Naturalist Program and assist us in other ways. **The Conservation Fund's Freshwater Institute** continues to provide expert assistance with various projects as required. **The United Way of the Eastern Panhandle** continues to offer guidance on non-profit matters, to provide financial support, and to coordinate annual Day of Caring activities that benefit us tremendously.

In recent years, we've gained other partners as well. We greatly appreciate the willingness of **CraftWorks at Cool Spring** to share their wonderful facilities with us. **Shepherd University's Wellness Center** was extraordinarily generous and helpful during this year's "Race for the Birds." **The Friends of the Cacapon River** have been very generous in supporting our Watershed Education Initiative program in Morgan County, and the **Cacapon Institute** assisted with that program significantly in 2011. **Potomac Headwaters Resource Conservation and Development** provided invaluable assistance in funding the completion of a Yankauer Preserve land management plan and invasive plant survey. **St. Joseph Parish School** has been a wonderful new partner with their rain garden project and commitment to involve students in service projects at the Yankauer Preserve. We're very grateful to the **Jefferson County Historic Landmarks Commission** for allowing us to use the Peter Burr Farm for summer camp sessions. The **Peter Burr Bread Baking Guild and other Peter Burr volunteers** have also been extremely helpful to us. As has been noted previously, we've been working closely with the **City of Ranson** in helping them develop their Flowing Springs Park, and through that partnership we've also been working with the **West Virginia Division of Forestry** and the **West Virginia Conservation Agency**. In addition, **Master Gardeners, Charles Town Rotary**, and **Job Corps** helped with Flowing Springs Park this year. We're continuing to participate in health fairs sponsored by **Kids in Action** to encourage kids to go outside and play. We look forward to working closely with **USDA's Natural Resources Conservation Service** to maintain the Stauffer's Marsh Nature Preserve.

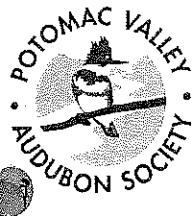
PVAS always has been—and will continue to be—a team effort, and we thank all those who have helped us this year for their many and varied forms of assistance.

As always, if you have any questions about this report or about the projects described, please do not hesitate to contact us. We truly do enjoy hearing from you.

Sincerely,

Peter F. Smith  
President  
pvsmit@frontiernet.net  
304-876-1139

Kristin Alexander  
Executive Director  
PVASmail@aol.com  
304-676-3397



# Potomac Valley Audubon Society

Contributions Received November 2010–November 2011

## GIFT OF LAND

Stauffer Miller, Charlottesville, VA Donated 45.7 acres in Berkeley County's Back Creek Valley, to be known as the "Stauffer's Marsh Nature Preserve."

## 2010 PVAS ANNUAL APPEAL DONORS

(December 2010–April 2011)

### Advocates (\$1,000 and up)

John and Jenny Allen, Shepherdstown  
Neal and Alice Barkus, Shepherdstown  
Mina Goodrich, Shepherdstown  
Mona L. Hayford, Inwood  
Jean Neely, Shepherdstown  
*(in memory of Elizabeth Neely)*  
Bob and Linda Reynolds, Shepherdstown  
Peter and Vicki Smith, Shepherdstown  
Jane and Ray Vanderhook, Shepherdstown

### Supporters (\$500-\$999)

Rich Parker and Joette Borzik, Shenandoah Junction  
Bonnie Sitman and Don Briggs, Shepherdstown  
Susan and Joe Brookreson, Martinsburg  
Gat and Susan Caperton, Berkeley Springs  
Philip Carter Salladay, Shepherdstown  
*(in memory of Margaret Dawson Salladay)*  
Elizabeth Shockley, Charles Town  
Wayne Braunstein and Dannie Wall, Kearneysville  
Henry K. Willard II, Shepherdstown

### Patrons (\$250-499)

Kathy Bilton, Sharpsburg, MD  
William and Vicki Bonifant, Martinsburg  
*(in honor of Susan & Joe Brookreson, Jane & Ray Vanderhook, Gretchen & Craig Meadows)*  
Al Davis, Falling Waters  
*(in memory of Albert E. Davis, Sr., from Al Jr.)*  
Kristin Alexander and Jeff Feldman, Martinsburg  
Jon Pike and Diana Gaviria, Martinsburg  
Virginia S. and Joseph Hankins, Shepherdstown  
James E. Horner, Berkeley Springs  
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Rich and Joan Lyon, Rockville, MD  
Lolly and Tom Martin, Shepherdstown  
Alexander and Pam Miller, Shepherdstown  
Jesse and Adrienne Morgan, Charles Town  
Joy Pardue, Shepherdstown  
Potomac-Mecklenburg Garden Club, Shenandoah Junction *(for educational purposes)*  
Sandy Sagalkin, Sharpsburg, MD  
Mary Stanley and Bob Smith, Shepherdstown

### Sponsors (\$100 to \$249)

Duane and Marianne Alexander, Ellicott City, MD  
Betty J. Beckley, Martinsburg  
Georgia Jeppesen and Skylar Benedict, Martinsburg  
Roland and Barbara Bergman, Shepherdstown  
Laurie Smelter and Dr. Alan R. Biggs, Shepherdstown  
*(in memory of Edgar H. "Hal" Biggs)*  
Charles and Margaret Biggs, Berkeley Springs  
Nick and Joanie Blanton, Shepherdstown  
Dan and Margaret Cogswell, Shepherdstown  
Marika and Barry Cutler, Bethesda, MD  
Michael and Carol Del Colle, Summit Point  
Faye and Henry Davenport, Charles Town  
Clark and Ora Dixon, Ranson  
Sandra and Thomas D'Onofrio, Shepherdstown  
Margaret M. Drennen, Shepherdstown  
Mary and Walter Duke, Martinsburg  
Elizabeth C. Eller, Greensboro, NC  
*(in honor of Jean Neely; in memory of Bill and Liz Neely)*  
Scott and Susan Fluharty, Martinsburg  
*(in memory of Dare Fluharty and Betty Lilly)*  
Sue and Tony Frank, Charles Town  
Karen Stoyko Fuegi, Gerrardstown  
*(in memory of Doris and Michael Stoyko)*  
John T. Gibson, DDS, Martinsburg  
Gary and Iris Heichel, Martinsburg  
Lily Hill, Shepherdstown  
Michael Sullivan and Susan Hirsch, Shepherdstown  
The Ian Thom Foundation ([www.ianthom.org](http://www.ianthom.org)), Martinsburg  
Catherine Irwin, Shepherdstown  
Ed and Kitty Kelly, Shepherdstown  
Elliot and Nancy Kirschbaum, Shepherdstown  
Mike and Becky Lacombe, Harpers Ferry  
Norberta Schoene and Bill Lands, Berkeley Springs  
John and Judith Lilga, Sharpsburg, MD  
Melanie Files and Rick Lowman, Martinsburg  
*(for scholarships)*  
Robert and Tia McMillan, Shepherdstown  
Diana Lee Mullis, Shepherdstown  
Ellen and Kevin Murphy, Harpers Ferry  
Timothy Murphy, Shepherdstown  
David and Kim Myles, Harpers Ferry  
Kris O'Brien, Hedgesville  
Jane and C. Dong Park, Martinsburg  
Deb and Don Patthoff, Martinsburg  
J.P. Miller and Kristan Phillips, Mt. Airy, MD  
Dara Ritter, Knoxville, MD  
Fred Shanholtzer, Paw Paw  
George Snider, Martinsburg  
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Frank and Elisabeth Staro, Shepherdstown  
*(in memory of Ivy Butler)*  
John and Nancy Streeter, Shepherdstown

Sara H. Townsend, Martinsburg  
*(in memory of Dr. Vincent Townsend)*  
Brown Truslow, Shenandoah Junction  
Lois and Fred Turco, Shepherdstown  
Frank and Annette van Hilst, Kearneysville  
*(in memory of Dan and Anne Fisher)*  
Paul and Lisa Welch, Shepherdstown  
Jeffrey and Marguerite Wilson, Jefferson, MD  
Lynne E. Wiseman, Harpers Ferry  
Rodney and Cindy Woods, Martinsburg  
Mary E. Woodward, Bridgeport, WV *(for Eidolon)*  
James and Francis Yankauer, Sacramento, CA  
*(in memory of Dr. Alfred Yankauer)*  
Lynn and Chess Yellott, Shepherdstown

### Donors (up to \$100)

Elaine Alexander, St. Louis, MO  
*(in honor of Kristin Alexander)*  
Paul Woods and Johnna Armstrong, Shepherdstown  
Charles C. Bailey, Berkeley Springs  
Cornelia Belton, Berkeley Springs  
Edwinna Bernat, Shepherdstown  
Sandra Bernardi, Martinsburg  
Mary and David Brittingham, Charles Town  
*(in memory of Frances L. Williams)*  
Evelyn Brydges, Berkeley Springs  
Charles and Patricia Brown, Shepherdstown  
Marian Buckner, Shepherdstown  
Joseph and Ruth Campbell, Harpers Ferry  
S. Andrew Arnold and Carmela Cesare, Shepherdstown  
Dabney Chapman, Shepherdstown  
W. Joseph Coleman Jr., Round Hill, VA  
Frances and Philip Cox, Shepherdstown  
Christopher Craig, Harpers Ferry  
Jill Craig, Keedysville, MD  
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Erdem Ergin, Shepherdstown  
Eleanor Finn, Shepherdstown  
Gale and Gareth Foulds, Berkeley Springs  
John C. Frye, Hagerstown  
Cheryl and John Gates II, Hagerstown  
Joe Gentile, Berkeley Springs  
Robin Good, Harpers Ferry  
Ron and Cindy Gunderson, Hedgesville  
Virginia Harris, Charles Town  
Jean Hartgroves, Charles Town  
Peter S. Hartmann, Martinsburg  
Don and Kathryn Henry, Shepherdstown  
*(in honor of Laura Henry-Stone, Mark Henry and Brad Stone)*  
Mary and Joseph Horky, Shepherdstown  
Mrs. A.R. Hoxton, Shepherdstown

Kevin Hughes, Charles Town  
 Paul H. Hutchings, Williamsport, MD  
 Leigh Jenkins, Berkeley Springs  
*(in honor of Bill Belton)*  
 Dr. James E. Keel, Rippon  
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 Winifred H. Lewis, Martinsburg  
 Karrie and Gary Loucks, Hagerstown, MD  
 Ken and Mary Lowe, Shepherdstown  
 Teak Lynner, Sterling, VA  
*(in honor of my parents, Joe and Ruth Campbell)*  
 John McGrath, Shepherdstown  
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 Sherman and Elinor Ross, Shepherdstown  
 William Sandifer, Bunker Hill  
 Shirley Street and Michael Stanley, Washington, DC  
*(in honor of Eldon Winston and all the fine work he  
 has done for Yankauer)*  
 Elias R. Shilling, Sharpsburg, MD  
 Alex and Patricia Short, Baltimore, MD  
 Anne and Dennis Small, Shepherdstown  
 Ray and Phyllis Smock, Martinsburg  
 Mary Helen Staley, Cascade, MD  
 Kathy and Wil Stolzenburg, Shepherdstown  
 Bonnie and Bill Stubblefield, Martinsburg  
 Sylvia Sutton, Great Cacapon  
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 Dale and Hank Walter, Shepherdstown  
 Steven Warrick, Martinsburg  
 Kate Weatherby, Harpers Ferry  
 Byron Webb, Martinsburg  
*(in memory of Mrs. Byron Webb)*  
 Bill and Janet Weis, Martinsburg  
 Ron and Lyn Widmyer, Charles Town  
 Rie Wilson, Shepherdstown  
 Virginia and Eldon Winston, Martinsburg  
 Susan and Michael Wisniewski, Shepherdstown  
 Ed Zahniser, Shepherdstown

## 2010 UNITED WAY AND COMBINED FEDERAL CAMPAIGN DONORS

Susan Abbott-Jamieson, Shenandoah Junction  
 Duane Alexander, Ellicott City, MD  
 Jeremy Becker-Welts, Charles Town  
 Shelly Blanchard, Martinsburg  
 Joette Borzik, Shenandoah Junction  
 John S. Bresland, Shepherdstown  
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 William Stem, Dumfries, VA  
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## NOVEMBER 2010 GREEN HOME RECEPTION DONORS

### Supporters (\$250+)

Dannie Wall and Wayne Braunstein, Kearneysville  
 Stan and Sarah Corwin-Roach, Martinsburg  
 Peter and Victoria Smith, Shepherdstown  
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### Patrons (\$200-\$249)

Alice and Neal Barkus, Shepherdstown  
 Alexander and Pam Miller, Shepherdstown

### Donors (\$150-\$199)

Bonnie Sitman and Don Briggs, Shepherdstown  
 Joe and Susan Brookreson, Martinsburg  
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 Elliot and Nancy Kirschbaum, Shepherdstown  
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### Contributors (up to \$149)

Janet Ady, Myersville, MD  
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 Marty and Carol Kable, Charles Town  
 Lisa LaCivita, Stephens City, VA

David and Dana DeJarnett, Martinsburg  
 Joy Kiser, Charles Town  
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 Jean Neely, Shepherdstown  
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 Dr. Babulal Pragani, MD, Martinsburg  
 Mary Jane Puckett, Potomac, MD  
 Ron and Tracey Rissler, Charles Town  
 Patrick Shunney and Jennifer Rolston, Kearneysville  
 Donna Shields, Martinsburg  
 Bruce and Carolyn Thomas, Shepherdstown

## DECEMBER 2010 SHEPHERDSTOWN ROTARY HOLIDAY GALA DONORS

Beth Batdorf and John Bresland  
 Mina Goodrich  
 Gary and Iris Heichel  
 Bob and Linda Reynolds  
 Peter Smith  
 Jane Vanderhook

## APRIL 2011 "THIS RACE IS FOR THE BIRDS!" SPONSORS

### Platinum (\$1,000)

Friends of Mark Benedict  
 Hoxton Financial, Inc.

### Gold (\$500)

Hauink.com *(in-kind)*  
 Shepherdstown Chronicle *(in-kind)*  
 Shepherd University Wellness Center *(in-kind)*  
 Two Rivers Treads *(partially in-kind)*  
 U.S. Fish and Wildlife Service *(in-kind)*

### Silver (\$250)

Associated Oral and Maxillofacial Surgeons  
 Caribbean Islands Travel Service  
 Chick-fil-A of Martinsburg *(in-kind)*  
 Hypnocoffee *(in-kind)*  
 Jefferson Security Bank  
 Progressive Printing *(in-kind)*  
 Roach Energy-Oil & Propane  
 Dr. Ray Vanderhook, DDS, MS

### Bronze (\$100)

Bavarian Inn  
 Joe and Susan Brookreson  
 Dickinson and Wait Craft Gallery  
 Edward Jones Investments, Shepherdstown  
 FUNKYCPA.COM  
 GlitterBugz FacePainting  
 Go Green Gals *(in-kind)*  
 Grapes and Grains Gourmet

Jefferson Distributing Company *(in-kind)*  
 MacAteer & Associates, PLLC  
 Mellow Moods Café and Juice Bar *(in-kind)*  
 Dr. David Miljour, Chiropractor  
 Nestle Juicy Juice *(in-kind)*  
 Panhandle Medical Associates  
 Patthoff General Dentistry  
 Potomac-Mecklenburg Garden Club  
 Potomac Portable Restrooms & Septic Service, LLC  
*(in-kind)*  
 Professional Sports Care and Rehab  
 Shepherdstown Pedal and Paddle  
 Shepherdstown Sweet Shop  
 Stone Soup Bistro  
 Lynne.Wiseman@ERA.Com, Realtor

Joy Kiser, Charles Town  
 Paul Koehler, Charles Town  
 Jesse and Karen Jalazo, Martinsburg  
 Dr. Thomas Leslie, DDS, Berkeley Springs  
 Curt and Suzette Mason, Charles Town  
 Erica Pathoff and Ryan McCarthy, Gerrardstown  
 Angus McDonald, Charles Town  
 Frances Morgan, Summit Point  
 Rusty and Cricket Morgan, Rippon  
 Diana Mullis, Shepherdstown  
 Jean Neely, Shepherdstown  
 Grant and Renny Smith, Harpers Ferry  
 Lee Stine, Sharpsburg  
 Susan Hirsch and Michael Sullivan, Shepherdstown  
 Bruce and Carolyn Thomas, Shepherdstown  
 Lois and Fred Turco, Shepherdstown  
 Ron and Lynn Widmyer, Charles Town

Heath Studio Gallery  
 Highland Forge  
 Hsu Studios  
 Bea Jakubowski  
 Shiela Maher  
 Gail Siano  
 Alice Webb

## JUNE 2011 HAREWOOD RECEPTION DONORS

### Supporters (\$250+)

Ramon and Mary Alvarez, Shepherdstown  
 Michael and Carol Del-Colle, Summit Point  
 Gary and Iris Heichel, Martinsburg  
 Bob and Linda Reynolds, Shepherdstown  
 Peter and Victoria Smith, Shepherdstown  
 Jane and Ray Vanderhook, Shepherdstown

### Patrons (\$200-\$249)

Alexander and Pam Miller, Shepherdstown  
 Dannie Wall and Wayne Braunstein, Kearneysville

### Donors (\$150-\$199)

Duane and Marianne Alexander, Ellicott City, MD  
 Alice and Neal Barkus, Shepherdstown  
 Joe and Susan Brookreson, Martinsburg  
 Elliot and Nancy Kirschbaum, Shepherdstown  
 Deb and Don Patthoff, Martinsburg  
 Tom and Ann Trumble, Shenandoah Junction  
 Annette and Frank van Hilst, Kearneysville  
 Paul and Lisa Welch, Shepherdstown  
 Jeffrey and Marguerite Wilson, Jefferson, MD

### Contributors (up to \$149)

Janet Ady, Myersville, MD  
 John and Jenny Allen, Shepherdstown  
 John Bresland and Beth Batdorf, Shepherdstown  
 Joseph and Ruth Campbell, Harpers Ferry  
 Ann Conlan, Shepherdstown  
 Matthew Grove and Lisa Dall'Olio, Martinsburg  
 Faye and Henry Davenport, Charles Town  
 Al and Mel Davis, Falling Waters  
 Jane Davis, Berkeley Springs  
 Bob Dean, Martinsburg  
 Walter and Mary Duke, Martinsburg  
 Eleanor Finn, Shepherdstown  
 Susannah Buckles Flanagan, Charles Town  
 Peter and Linda Fricke, Middleway  
 John and Terri Griffith, Shepherdstown  
 Marty and Carol Kable, Charles Town

### Donated items, food and other support

Bill Ashforth, Martinsburg  
 Alice Barkus, Shepherdstown  
 Gretchen Meadows, Shenandoah Jct.  
 Diana Mullis, Shepherdstown  
 Deb and Don Patthoff, Martinsburg  
 Jane Vanderhook, Shepherdstown

## 2011 BERKELEY SPRINGS FALL BIRDING FESTIVAL SPONSORS AND DONORS

### Cash sponsors

Anonymous *(in honor of Judy Webb)*  
 Cornelia Belton, Berkeley Springs  
 Gat Creek Furniture, Berkeley Springs  
 Mountain View Wind and Solar, Berkeley Springs  
 Claudia Rauch, Great Cacapon

### In-kind sponsors

Janet Ardam  
 Berkeley Springs Cottage Rentals  
 Cacapon State Park  
 The Country Inn  
 Fairfax Coffee House  
 Joe Gentile  
 Jim Kuehn  
 Sheila Maher  
 The Manor Inn  
 Jane McCloud  
 Sleepy Creek Retreat

### Silent Auction Item Donors

Andrews Artworks  
 Georgia Barvinchack  
 Carrot Patch Pottery  
 Fiesta Fibers  
 Frog Valley Artisans *(Veronica Wilson)*  
 Frog Valley Artisans *(Mark Schwenk)*

## LIZ NEELY MEMORIAL EDUCATION FUND DONORS

Marian Buckner, Shepherdstown  
 Barbi Richardson, Boyds, MD  
 Sugarplum Tent Company, Boyds, MD

## OTHER CONTRIBUTIONS

*(November 2010-November 2011)*

### Supporter level (\$1,000 and above)

Faye and Henry Davenport, Charles Town - Cash contribution to support PVAS Audubon Discovery Camp Intern

Philip Carter Salladay - Cash contribution to support summer camp programs.

Georgia Jeppesen and Bill Ashforth - Cash contribution to support the Yankauer Preserve.

### Sponsor level (\$100-\$499)

Geoffrey H. Brown, Washington, DC - Cash contribution to support the Stauffer's Marsh Nature Preserve.

Paul Davis, Shepherdstown - Cash contribution to support summer camp scholarships.

Bob Dean, Martinsburg - Cash contribution to support purchase of binoculars for birding programs.

Elizabeth Eller, Greensboro, NC - Cash contribution in honor of Jean Neely.

Gregori Jakovina, Portland, OR - Cash contribution to support Ruth Ann Dean Memorial Birdathon.

Heather McSharry, Shepherdstown - Cash contribution.

Morgan's Grove Market, Shepherdstown - Donated produce and stall space and allowed PVAS to keep all sales proceeds.

Jean Neely, Shepherdstown - Cash contribution to support purchase of binoculars for birding programs.

On the Wings of Dreams store, Shepherdstown - Donated 3% of proceeds from crystals and minerals sold in 2010.

Winston Gardens Native Plant Nursery, Martinsburg – Donated 15% of proceeds from spring and fall plant sales to support summer camp scholarship program and Stauffer's Marsh Nature Preserve, respectively.

Sandy Sagalkin, Sharpsburg, MD – Cash contribution to support purchase of binoculars for birding programs.

Gordon Sanders, Sharpsburg, MD – Cash contribution in honor of Michelle Cousineau.

Peter Smith, Shepherdstown – Cash contribution to support purchase of binoculars for birding programs.

Jane and Ray Vanderhook – Cash contribution to support summer camp scholarships.

### Contribution level (up to \$100)

Gale and Gareth Foulds, Berkeley Springs – Cash contribution.

Foxglove Garden Club, Berkeley Springs – Cash contribution in memory of Bill Belton.

Katheline Lauffer, Shepherdstown – Cash contribution.

Patricia Mulkeen-Corley, Charles Town – Cash contribution in honor of Jean Neely.

Angela Woo Sosdian, Arlington, VA – Cash contribution.

Bruce Goldstein and Robin Talbert, Silver Spring, MD – Cash contribution.

Kathryn and Barry Wagner, Charles Town – Cash contribution.

## IN-KIND CONTRIBUTIONS

The Outpatients; Erik Janus; Greg Lloyd and Kids; Chelsea McBee; The Rolling Coyotes; The Dilletantes; David LaFleur; Betty Jo, Scott, and T-Roy; Steve Cifala – All donated musical performances for the Yankauer Nature Preserve's 2011 "Music in the Cedars" free community concert series.

Eva Olsson and Keith Alexander, Shepherdstown – Donated laptop computer.

Alice Barkus Wanda Miller, Diana Mullis, Jane Vanderhook, – provided and served all food at Day of Caring at the Yankauer Preserve.

Cacapon State Park, Berkeley Springs – Donated space for Potomac Valley Master Naturalist Program training sessions and other events.

Chick Fil-A Ranson – Donated 40 sandwiches for Day of Caring Volunteers at Flowing Springs Park.

CraftWorks at Cool Spring Farm – Donated space for master naturalist training programs

James Dillon, Kearneysville – Owner of Native Havens Design/Horticulture Consultation designed and helped build rain garden at St. Joseph Parish School. Donated several trees and shrubs to the project as well.

D. Frank Hill III, Shepherdstown – Donated services for all the legal work associated with the donation Stauffer's Marsh to PVAS.

Historic Shepherdstown – Donated space in the Entler Hotel for semi-monthly PVAS board meetings.

J & J Builders - Jim Harden used backhoe and dump truck to dig trench for rain garden at St. Joseph Parish School.

Nature Niche store, Berkeley Springs – Provided bird feeders at cost for Yankauer Nature Preserve.

Progressive Printing, Martinsburg – Provided regular discount on all printing projects and free posters and postcards for "This Race is for the Birds!"

Sandy Sagalkin, Sharpsburg, MD – Donated tripod and 60 mm zoom telescope with leather case for birding programs.

Gary Sylvester, Martinsburg – Provided tractor services for projects at the Yankauer Preserve and St. Joseph Parish School. Also donated educational supplies for programs.

Cam Tabb – Donated and delivered mulch to Flowing Springs Park for the spring volunteer day, and to the Yankauer Preserve for Day of Caring. Also donated compost, mulch, and topsoil for the rain garden at St. Joseph Parish School.

Through the Garden – Donated compost for the rain garden at St. Joseph Parish School.

U.S. Fish and Wildlife Service National Conservation Training Center – Donated space for Potomac Valley Master Naturalist Program training, monthly Potomac Valley Nature Photographers meetings, PVAS monthly programs, and other occasional meetings.

Valley Trees, Shepherdstown – Donated services to remove dangerous limb at Yankauer Nature Preserve.

## GRANTS

Arts and Humanities Alliance of Jefferson County – \$1,500 to cover the costs of supplies and materials for PVAS's summer camp at the Peter Burr Living History Farm.

City of Ranson – \$1,000 to provide programming to students at Ranson Elementary School.

EcoLab, Martinsburg – \$1,500 to provide a scholarship fund for schools that cannot afford PVAS's programs.

Eastern West Virginia Community Foundation – \$2,500 to help underwrite PVAS programming in Title I schools.

Eastern West Virginia Community Foundation – \$1,920 to form a partnership with Berkeley Heights Elementary School to offer teacher training in environmental education.

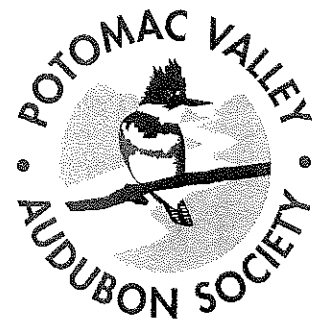
Friends of the Cacapon River – \$5,000 to sponsor PVAS' Watershed Education Program in Morgan County Schools.

National Audubon Society – \$1,652 for general program support.

National Audubon Society – \$273 to provide scholarships for schools that cannot afford PVAS's programs.

Nora Roberts Foundation – \$8,000 to support PVAS's summer camp, "Nature Explorer" backpack program, and Wee Naturalist programs.

West Virginia Division of Natural Resources – \$5,156 to support development of new school-based programs for Kindergarten, 1st, 4th and 5th grades.



# Thanks to all for your generous support of PVAS!

*If any of the information above is inaccurate or incomplete, please get in touch with us so we may correct our records.*

Public Service Commission  
Of West Virginia

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



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

December 6, 2011

Jefferson County Commission  
110 East Washington Street  
Charles Town, WV 25414

SUBJECT: Disbursement of Wireless E-911 Subscriber Fees

Dear County Commissioner:

A check in the amount of \$167,175.20 representing a disbursement of Wireless E-911 subscriber fees **will be mailed directly from the West Virginia State Auditor's Office.** This amount is your County's share of the fees remitted to the Public Service Commission for the months of September, October, and November 2011. The next disbursement will be in three months.

I can be reached at our toll-free number, 1-800-344-511, Extension 364, or direct at 304-340-0364, should you have any questions about the disbursement calculation or about the fees in general.

Sincerely,

A handwritten signature in cursive script that reads "Herb Brooks".

RECEIVED

Herb Brooks  
Budget and Finance Manager

DEC 09 2011

HB:kp

Jefferson County Commission



2309 Washington Street, East  
Charleston, WV 25311  
E-mail: [info@ccawv.org](mailto:info@ccawv.org)  
Phone: (304) 345-4639  
Fax: (304) 346-3512

December 13, 2011

Attention: All County Commissioners' and Staff:

The County Commissioner' Association of West Virginia invites and encourages you to attend the CCAWV Legislative Association Meeting & Educational Training Series. The meeting is scheduled for January 22-24, 2012 at the Marriott Hotel, Charleston, WV.

**The tentative schedule is as follows:**

**Saturday, January 21, 2012**

4:00 pm – 6:00 pm CCAWV Board of Directors Meeting

**Sunday, January 22, 2012**

10:00 am – 11:00 am CCAWV Services Review Committee Meeting

12:30 pm – 5:00 pm Registration

1:30 pm – 6:00 pm CCAWV Legislative Briefing & Association Business Meeting

7:00 pm Group Dinner

9:00 pm – ??? Networking Room Sponsored by E.L. Robinson

**Monday, January 23, 2012**

8:30 am – 1:00 pm Commissioners' Day at the Legislature (go to Capital & visit with Legislators / get introduced during 11:00 am floor session - **(Lunch is on Your Own)**)

1:30 pm – 5:00 pm CCAWV Educational Training Series- Resources for County Government  
WV Division of Tourism, WV Community Development Hub, Governor's Office of Technology, WVU Local Government Leadership Academy, WV Risk Pool, WV Physical Activity Plan

6:30 pm – 8:30 pm **CCAWV Legislative Reception at the Marriott (remember to invite your legislators/we'll also give you invitations to take to them Monday morning when you visit)**

9:00 pm - ??? Networking Opportunities Sponsored by Silling Associates

**Tuesday, January 24, 2012**

9:00 am-10:30 am Legislative De-Briefing

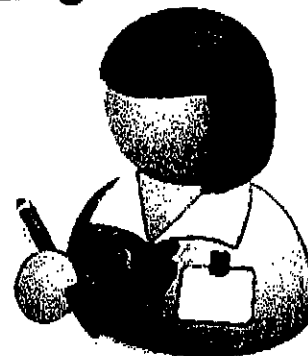


A registration fee of \$195 per county attendee is assessed to cover meeting costs and should be made payable to the County Commissioners' Association of WV. A block of rooms are available at \$125.00 per night by calling the Marriott @ 1-800-228-9290.  
**The cut-off date for the room rate is January 6, 2012.**

*Please call if you have questions (304) 345-4639. We look forward to seeing you there!*

# CCAWV Legislative Association Meeting & Educational Training Series

## Registration Form



\_\_\_\_\_ Name \_\_\_\_\_ County

I plan to attend the Legislative Association Meeting & Education Training Series Program January 22-24, 2012.

\_\_\_\_\_ Please bill my county for the \$195.00 registration fee (due and payable within 30 days of billing)

\_\_\_\_\_ My registration fee of \$195.00 is enclosed (payable to County Commissioners Assoc WV)

Please return by mail or fax (304-346-3512) no later than January 13, 2012 to CCAWV.

*Cancellation Policy: There will be no penalty for cancellations received in writing on or before January 13, 2012. January 14, 2012 and thereafter, all no-shows will be charged the full registration amount. We apologize for the need to adopt this policy, but even when you cancel and the Association is stuck with covering the cost. Thanks for your cooperation in this matter.*

## Benefits

▲ Continued from 1A

### Changes to public benefits take effect on July 1, 2012

They hope to eliminate the liability completely by 2040.

State teachers union representatives asked board members not to approve the contribution cap or the 3 percent increase cap.

Dale Lee, president of the West Virginia Education Association, suggested members wait for state lawmakers to pass a cap in January's legislative session. He said legislators' plan likely would include a funding source to pay down the liability.

The PEIA cap would balance the state budget "on the backs" of retirees, Lee said.

If inflation drove up medical costs by 10 percent and increases in state and local government employer subsidies of retiree premiums were capped at 3 percent, retirees would be left to pay the remaining 7 percent, Lee reasoned.

Judy Hale, president of the state chapter of the American Federation of Teachers, also encouraged board members to wait on the Legislature.

"We all know that 3 percent is not enough. We all know what medical inflation is," she said.

Board member Elaine Harris, who works for the Communication Workers of America union, made a motion to amend the 3 percent limit. Member Joshua Sword, who works for the West Virginia Federation of Teachers, seconded that motion. Harris and Sword were the only board members to vote for that motion, however.

Robert Ferguson, cabinet secretary for the Department of Administration and chairman of the PEIA board, said the move was too important to wait on lawmakers.

"To not act on this today, I don't think it's the prudent thing to do. If the Legislature doesn't do anything, we'd have a problem," he said.

Board member Mike Smith pointed out the finance board's OPEB caps would become moot if the Legislature passed its own cap next year.

The benefit cuts are not nearly as deep as PEIA officials originally proposed.

The agency released a plan last month calling for \$32.6 million in cuts to its health insurance plan.

Those cuts included new \$500 co-payments for hip and knee replacements, shoulder surgeries, gastric bypass surgeries, medically necessary dental procedures and spinal surgeries.

PEIA also proposed a new \$50 co-pay for CT scans, X-rays, MRIs and other imaging services, as well as increased co-pays for specialist visits, emergency rooms and urgent care visits. The plan also would remove coverage for acupuncture, massage therapy and some "third-tier" brand-name drugs.

PEIA held hearings around the state in November to gather public opinion about the plan.

Following that comment period, officials decided to cut benefits by only \$25.6 million.

Their new plan kept massage therapy coverage but added a \$10 co-pay, removed proposed co-pays for hip, knee and shoulder surgeries, and maintained coverage on third-tier drugs with a 75 percent co-pay.

Board members made further changes to the plan at Tuesday's meeting, unanimously voting to remove the \$50 imaging co-pay and postponing an out-of-pocket cost increase for families covered by PEIA.

That reduced cuts by about \$7.2 million to \$18.6 million overall.

Sword proposed the amendment, suggesting the board take \$7 million in recently discovered surplus funds and put it back into employee benefits.

"We're \$7 million better than we thought we were going to be," he said.

Tuesday's benefit changes take effect July 1, 2012. The agency insures 214,000 active employees, retirees and dependents. That's about 11.5 percent of the state's population.

Contact writer Zack Harold at 304-348-7939 or [zack.harold@daily.com](mailto:zack.harold@daily.com). Follow him at [www.twitter.com/ZackHarold](http://www.twitter.com/ZackHarold).

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

| Week Ending Date                                  | Week Ending<br>December 24, 2011 |
|---------------------------------------------------|----------------------------------|
| <b>To be Deposited on:</b>                        | January 3, 2012                  |
| Amount Played                                     | 64,210,398.05                    |
| Amount Won                                        | 57,750,055.77                    |
| Amount Promo                                      | 176,712.00                       |
| MWAP Contribution                                 | <u>4,854.35</u>                  |
| <b>Adjusted Gross Terminal Revenue</b>            | <b><u>6,278,775.93</u></b>       |
| Administrative Costs @ 4%                         | 0.00                             |
| Excess Lottery Fund @ 4%                          | 251,151.04                       |
| <b>Net Terminal Revenue</b>                       | <b><u>6,027,624.89</u></b>       |
| Surcharge @ 10%                                   | 602,762.49                       |
| State Share Excess @ 58%                          | 349,602.24                       |
| Track Share of Capital Reinvestment @ 42%         | 253,160.25                       |
| Track Share of Capital Reinvestment @ 42% - 96%   | \$ 243,033.84                    |
| Track Share of Capital Reinvestment @ 42% - 4%    | \$ 10,126.41                     |
| <b>Adjusted Net Terminal Revenue</b>              | <b><u>5,424,862.40</u></b>       |
| Racetrack @ 46.50% / 42%                          | 2,278,442.21                     |
| Lottery Fund @ 30% / 0%                           | 0.00                             |
| Excess Lottery Fund @ 0% / 41%                    | 2,224,193.60                     |
| Race Track Purses @ 7% / 14% / 8%                 | 433,988.99                       |
| Workers' Compensation Debt Reduction @ 7% / 0%    | 0.00                             |
| Employee Pension Fund @ 1% / .5%                  | 27,124.31                        |
| Greyhound Development @ .75%                      | 40,686.47                        |
| Thoroughbred Development @ .75%                   | 40,686.47                        |
| Racing Commission @ 1%                            | 54,248.62                        |
| County/Municipality @ 2%                          | 108,497.24                       |
| <b>3% Funds:</b>                                  |                                  |
| Tourism Promotion Fund @ 1.375%                   | 74,591.86                        |
| Development Office Promotion Fund @ .375%         | 20,343.23                        |
| Research Challenge Fund @ .5%                     | 27,124.31                        |
| Capitol Renovation and Improvement Fund @ .6875%  | 37,295.93                        |
| 2004 Capitol Complex Parking Garage Fund @ .0625% | 3,390.54                         |
| <b>1% Funds:</b>                                  |                                  |
| State Capitol Complex Parking Garage @ 1%         | 0.00                             |
| Cultural Facilities and Capitol Resources @ .5%   | 27,124.31                        |
| Capitol Dome and Capitol Improvements @ .5% / 1%  | <u>27,124.31</u>                 |
|                                                   | <b><u>5,424,862.40</u></b>       |

**WEST VIRGINIA LOTTERY**  
**First Benchmark**  
**Charles Town**  
**County / City Split**  
**Fiscal Year 2012**

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>8.19%     | CHARLES<br>TOWN<br>41.20% | HARPERS<br>FERRY<br>2.24% | RANSON<br>34.78%     | SHEPHERDS<br>TOWN<br>13.59% |
|---------------------------------------|------------------------------|---------------------------|------------------------|----------------------|---------------------------|---------------------------|----------------------|-----------------------------|
| 2 days ending:<br>7/1/2011 - 7/2/2011 | \$ 69,824.12                 | \$ 69,824.12              | \$ -                   | \$ -                 | \$ -                      | \$ -                      | \$ -                 | \$ -                        |
| Week Ending:                          |                              |                           |                        |                      |                           |                           |                      |                             |
| 07/09/11                              | \$ 171,717.28                | \$ 171,717.28             | \$ -                   | \$ -                 | \$ -                      | \$ -                      | \$ -                 | \$ -                        |
| 07/16/11                              | \$ 143,019.52                | \$ 143,019.52             | \$ -                   | \$ -                 | \$ -                      | \$ -                      | \$ -                 | \$ -                        |
| 07/23/11                              | \$ 146,508.00                | \$ 146,508.00             | \$ -                   | \$ -                 | \$ -                      | \$ -                      | \$ -                 | \$ -                        |
| 07/30/11                              | \$ 144,510.28                | \$ 144,510.28             | \$ -                   | \$ -                 | \$ -                      | \$ -                      | \$ -                 | \$ -                        |
| 08/06/11                              | \$ 151,495.28                | \$ 151,495.28             | \$ -                   | \$ -                 | \$ -                      | \$ -                      | \$ -                 | \$ -                        |
| 08/13/11                              | \$ 149,711.80                | \$ 117,350.38             | \$ 32,361.42           | \$ 2,650.40          | \$ 13,332.90              | \$ 724.90                 | \$ 11,255.30         | \$ 4,397.92                 |
| 08/20/11                              | \$ 143,228.24                | \$ 71,614.12              | \$ 71,614.12           | \$ 5,865.20          | \$ 29,505.01              | \$ 1,604.18               | \$ 24,907.39         | \$ 9,732.36                 |
| 08/27/11                              | \$ 126,864.28                | \$ 63,432.14              | \$ 63,432.14           | \$ 5,195.09          | \$ 26,134.04              | \$ 1,420.88               | \$ 22,061.70         | \$ 8,620.43                 |
| 09/03/11                              | \$ 161,675.52                | \$ 80,837.76              | \$ 80,837.76           | \$ 6,620.81          | \$ 33,305.16              | \$ 1,810.77               | \$ 28,115.37         | \$ 10,985.85                |
| 09/10/11                              | \$ 169,691.60                | \$ 84,845.80              | \$ 84,845.80           | \$ 6,948.87          | \$ 34,956.47              | \$ 1,900.55               | \$ 29,609.37         | \$ 11,530.54                |
| 09/17/11                              | \$ 133,497.24                | \$ 66,748.62              | \$ 66,748.62           | \$ 5,466.71          | \$ 27,500.43              | \$ 1,495.17               | \$ 23,215.17         | \$ 9,071.14                 |
| 09/24/11                              | \$ 137,859.60                | \$ 68,929.80              | \$ 68,929.80           | \$ 5,645.35          | \$ 28,399.08              | \$ 1,544.03               | \$ 23,973.78         | \$ 9,367.56                 |
| 10/01/11                              | \$ 137,743.28                | \$ 68,871.64              | \$ 68,871.64           | \$ 5,640.59          | \$ 28,375.12              | \$ 1,542.72               | \$ 23,953.55         | \$ 9,359.68                 |
| 10/08/11                              | \$ 141,733.80                | \$ 70,866.90              | \$ 70,866.90           | \$ 5,804.00          | \$ 29,197.16              | \$ 1,587.42               | \$ 24,647.51         | \$ 9,630.81                 |
| 10/15/11                              | \$ 150,525.32                | \$ 75,262.66              | \$ 75,262.66           | \$ 6,164.01          | \$ 31,008.22              | \$ 1,685.88               | \$ 26,176.35         | \$ 10,228.20                |
| 10/22/11                              | \$ 137,515.44                | \$ 68,757.72              | \$ 68,757.72           | \$ 5,631.26          | \$ 28,328.18              | \$ 1,540.17               | \$ 23,913.94         | \$ 9,344.17                 |
| 10/29/11                              | \$ 121,015.96                | \$ 60,507.98              | \$ 60,507.98           | \$ 4,955.60          | \$ 24,929.29              | \$ 1,355.38               | \$ 21,044.68         | \$ 8,223.03                 |
| 11/05/11                              | \$ 141,347.76                | \$ 70,673.88              | \$ 70,673.88           | \$ 5,788.19          | \$ 29,117.64              | \$ 1,583.09               | \$ 24,580.38         | \$ 9,604.58                 |
| 11/12/11                              | \$ 135,254.20                | \$ 67,627.10              | \$ 67,627.10           | \$ 5,538.66          | \$ 27,862.36              | \$ 1,514.85               | \$ 23,520.71         | \$ 9,190.52                 |
| 11/19/11                              | \$ 121,381.20                | \$ 60,690.60              | \$ 60,690.60           | \$ 4,970.56          | \$ 25,004.53              | \$ 1,359.47               | \$ 21,108.19         | \$ 8,247.85                 |
| 11/26/11                              | \$ 148,281.08                | \$ 74,140.54              | \$ 74,140.54           | \$ 6,072.11          | \$ 30,545.90              | \$ 1,660.75               | \$ 25,786.08         | \$ 10,075.70                |
| 12/03/11                              | \$ 118,859.88                | \$ 59,429.94              | \$ 59,429.94           | \$ 4,867.31          | \$ 24,485.14              | \$ 1,331.23               | \$ 20,669.73         | \$ 8,076.53                 |
| 12/10/11                              | \$ 102,790.88                | \$ 51,395.44              | \$ 51,395.44           | \$ 4,209.29          | \$ 21,174.92              | \$ 1,151.26               | \$ 17,875.33         | \$ 6,984.64                 |
| 12/17/11                              | \$ 111,962.64                | \$ 55,981.32              | \$ 55,981.32           | \$ 4,584.87          | \$ 23,064.31              | \$ 1,253.98               | \$ 19,470.30         | \$ 7,607.86                 |
| 12/24/11                              | \$ 108,497.24                | \$ 54,248.62              | \$ 54,248.62           | \$ 4,442.96          | \$ 22,350.43              | \$ 1,215.17               | \$ 18,867.67         | \$ 7,372.39                 |
| <b>Subtotal</b>                       | <b>\$ 3,526,511.44</b>       | <b>\$ 2,219,287.44</b>    | <b>\$ 1,307,224.00</b> | <b>\$ 107,061.64</b> | <b>\$ 538,576.29</b>      | <b>\$ 29,281.83</b>       | <b>\$ 454,652.50</b> | <b>\$ 177,651.74</b>        |

Benchmark Goal @ 2% \$ 912,063.48  
 Remainder until 1% / 1% Split \$ -

VIDEO LOTTERY REPORT

| FY 2009    |            | FY 2010    |            | FY 2011    |            | FY 2012    |            |
|------------|------------|------------|------------|------------|------------|------------|------------|
| 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 | 7/1-2/2011 | 69,824.12  |
| 7/12/2008  | 176,592.38 | 7/11/2009  | 168,815.08 | 7/10/2010  | 205,731.64 | 7/9/2011   | 171,717.28 |
| 7/19/2008  | 160,344.08 | 7/18/2009  | 160,652.98 | 7/17/2010  | 161,386.76 | 7/16/2011  | 143,019.52 |
| 7/26/2008  | 162,982.74 | 7/25/2009  | 158,869.08 | 7/24/2010  | 160,368.28 | 7/23/2011  | 146,508.00 |
| 8/2/2008   | 178,171.04 | 8/1/2009   | 174,493.08 | 7/31/2010  | 157,802.08 | 7/30/2011  | 144,510.28 |
| 8/9/2008   | 123,538.04 | 8/8/2009   | 138,408.80 | 8/7/2010   | 136,494.98 | 8/6/2011   | 151,495.28 |
| 8/16/2008  | 82,482.89  | 8/15/2009  | 81,222.14  | 8/14/2010  | 78,376.68  | 8/13/2011  | 117,350.38 |
| 8/23/2008  | 76,426.18  | 8/22/2009  | 76,260.31  | 8/21/2010  | 76,199.02  | 8/20/2011  | 71,614.12  |
| 8/30/2008  | 89,459.86  | 8/29/2009  | 80,472.92  | 8/28/2010  | 72,460.03  | 8/27/2011  | 63,432.14  |
| 9/6/2008   | 91,644.46  | 9/5/2009   | 80,798.15  | 9/4/2010   | 76,362.84  | 9/3/2011   | 80,837.76  |
| 9/13/2008  | 79,729.93  | 9/12/2009  | 86,286.92  | 9/11/2010  | 82,969.36  | 9/10/2011  | 84,845.80  |
| 9/20/2008  | 71,269.36  | 9/19/2009  | 70,010.15  | 9/18/2010  | 67,638.78  | 9/17/2011  | 66,748.62  |
| 9/27/2008  | 79,735.73  | 9/26/2009  | 69,316.87  | 9/25/2010  | 70,435.06  | 9/24/2011  | 68,929.80  |
| 10/4/2008  | 75,186.22  | 10/3/2009  | 72,286.04  | 10/2/2010  | 71,013.86  | 10/1/2011  | 68,871.64  |
| 10/11/2008 | 77,139.04  | 10/10/2009 | 69,650.63  | 10/9/2010  | 69,311.50  | 10/8/2011  | 70,866.90  |
| 10/18/2008 | 80,668.26  | 10/17/2009 | 73,560.21  | 10/16/2010 | 75,234.62  | 10/15/2011 | 75,262.66  |
| 10/25/2008 | 64,379.44  | 10/24/2009 | 67,581.66  | 10/23/2010 | 70,290.80  | 10/22/2011 | 68,757.72  |
| 11/1/2008  | 68,352.42  | 10/31/2009 | 64,528.30  | 10/30/2010 | 65,615.04  | 10/29/2011 | 60,507.98  |
| 11/8/2008  | 70,823.02  | 11/7/2009  | 63,741.59  | 11/6/2010  | 61,337.62  | 11/5/2011  | 70,673.88  |
| 11/15/2008 | 65,565.50  | 11/14/2009 | 65,959.64  | 11/13/2010 | 64,595.28  | 11/12/2011 | 67,627.10  |
| 11/22/2008 | 63,883.80  | 11/21/2009 | 59,547.05  | 11/20/2010 | 56,010.08  | 11/19/2011 | 60,690.60  |
| 11/29/2008 | 69,850.12  | 11/28/2009 | 72,399.98  | 11/27/2010 | 71,170.90  | 11/26/2011 | 74,140.54  |
| 12/6/2008  | 55,696.68  | 12/5/2009  | 51,006.51  | 12/4/2010  | 53,215.08  | 12/3/2011  | 59,429.94  |
| 12/13/2008 | 60,178.04  | 12/12/2009 | 52,460.58  | 12/11/2010 | 46,944.00  | 12/10/2011 | 51,395.44  |
| 12/20/2008 | 52,189.19  | 12/19/2009 | 32,834.39  | 12/18/2010 | 42,076.76  | 12/17/2011 | 55,981.32  |
| 12/27/2008 | 72,205.91  | 12/26/2009 | 53,406.34  | 12/25/2010 | 50,450.28  | 12/24/2011 | 54,248.62  |
| 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 |
| 2/7/2009                 | 83,539.63 | 2/6/2010          | 37,155.14 | 2/5/2011          | 60,777.44 |
| 2/14/2009                | 76,054.44 | 2/13/2010         | 44,334.00 | 2/12/2011         | 67,471.84 |
| 2/21/2009                | 91,838.41 | 2/20/2010         | 76,946.12 | 2/19/2011         | 72,018.54 |
| 2/28/2009                | 80,806.88 | 2/27/2010         | 72,024.40 | 2/26/2011         | 75,544.02 |
| 3/7/2009                 | 48,837.13 | 3/6/2010          | 76,936.85 | 3/5/2011          | 74,535.34 |
| 3/14/2009                | 96,025.39 | 3/13/2010         | 71,007.37 | 3/12/2011         | 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 |
| 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 |
| 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 | 6/18/2011         | 61,200.76 |
| 6/27/2009                | 67,354.10 | 6/26/2010         | 63,950.29 | 6/25/2011         | 65,470.44 |
| 6/30/2009 ***            | 32,059.58 | 6/30/2010         | 29,667.19 | 6/30/2011         | 34,351.16 |
| <b>TOTALS 4403564.04</b> |           | <b>4041141.56</b> |           | <b>4016541.01</b> |           |
|                          |           |                   |           | <b>2219287.44</b> |           |

Table Game Revenue  
 FY 2011

| Date              | Amount     |
|-------------------|------------|
| July/August, 2010 | 154,185.68 |
| September, 2010   | 94,247.84  |
| October, 2010     | 105,903.60 |
| November, 2010    | 108,717.67 |
| December, 2010    | 118,721.11 |
| January, 2011     | 106,189.21 |
| February, 2011    | 105,776.45 |
| March, 2011       | 120,927.10 |
| April, 2011       | 130,654.61 |
| May, 2011         | 130,492.02 |
| June, 2011        | 121,576.41 |
| July, 2011        | 141,718.01 |
| August, 2011      | 137,473.92 |
| September, 2011   | 110,375.25 |
| October, 2011     | 124,273.94 |
| November, 2011    | 121,118.87 |
|                   | 1932351.69 |

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

| Week Ending Date                                       | Week Ending<br>December 10, 2011 |
|--------------------------------------------------------|----------------------------------|
| <b>To be Deposited on:</b>                             | December 16, 2011                |
| Amount Played                                          | 64,349,814.87                    |
| Amount Won                                             | 58,207,693.94                    |
| Amount Promo                                           | 188,466.00                       |
| MWAP Contribution                                      | <u>5,108.62</u>                  |
| <b>Adjusted Gross Terminal Revenue</b>                 | <b><u>5,948,546.31</u></b>       |
| Administrative Costs @ 4%                              | 0.00                             |
| Excess Lottery Fund @ 4%                               | 237,941.85                       |
| <b>Net Terminal Revenue</b>                            | <b><u>5,710,604.46</u></b>       |
| Surcharge @ 10%                                        | 571,060.45                       |
| State Share Excess @ 58%                               | 331,215.06                       |
| Track Share of Capital Reinvestment @ 42%              | 239,845.39                       |
| <i>Track Share of Capital Reinvestment @ 42% - 96%</i> | \$ 230,251.57                    |
| <i>Track Share of Capital Reinvestment @ 42% - 4%</i>  | \$ 9,593.82                      |
| <b>Adjusted Net Terminal Revenue</b>                   | <b><u>5,139,544.01</u></b>       |
| Racetrack @ 46.50% / 42%                               | 2,158,608.48                     |
| Lottery Fund @ 30% / 0%                                | 0.00                             |
| Excess Lottery Fund @ 0% / 41%                         | 2,107,213.04                     |
| Race Track Purses @ 7% / 14% / 8%                      | 411,163.52                       |
| Workers' Compensation Debt Reduction @ 7% / 0%         | 0.00                             |
| Employee Pension Fund @ 1% / .5%                       | 25,697.72                        |
| Greyhound Development @ .75%                           | 38,546.58                        |
| Thoroughbred Development @ .75%                        | 38,546.58                        |
| Racing Commission @ 1%                                 | 51,395.44                        |
| County/Municipality @ 2%                               | 102,790.88                       |
| <b>3% Funds:</b>                                       |                                  |
| Tourism Promotion Fund @ 1.375%                        | 70,668.73                        |
| Development Office Promotion Fund @ .375%              | 19,273.29                        |
| Research Challenge Fund @ .5%                          | 25,697.72                        |
| Capitol Renovation and Improvement Fund @ .6875%       | 35,334.37                        |
| 2004 Capitol Complex Parking Garage Fund @ .0625%      | 3,212.22                         |
| <b>1% Funds:</b>                                       |                                  |
| State Capitol Complex Parking Garage @ 1%              | 0.00                             |
| Cultural Facilities and Capitol Resources @ .5%        | 25,697.72                        |
| Capitol Dome and Capitol Improvements @ .5% / 1%       | <u>25,697.72</u>                 |
|                                                        | <b><u>5,139,544.01</u></b>       |

**WEST VIRGINIA LOTTERY**  
**First Benchmark**  
**Charles Town**  
**County / City Split**  
**Fiscal Year 2012**

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>8.19% | CHARLES<br>TOWN<br>41.20% | HARPERS<br>FERRY<br>2.24% | RANSON<br>34.78% | SHEPHERDS<br>TOWN<br>13.59% |
|---------------------------------------|------------------------------|---------------------------|----------------------|------------------|---------------------------|---------------------------|------------------|-----------------------------|
| 2 days ending:<br>7/1/2011 - 7/2/2011 | \$ 69,824.12                 | \$ 69,824.12              | \$ -                 | \$ -             | \$ -                      | \$ -                      | \$ -             | \$ -                        |
| Week Ending:                          |                              |                           |                      |                  |                           |                           |                  |                             |
| 07/09/11                              | \$ 171,717.28                | \$ 171,717.28             | \$ -                 | \$ -             | \$ -                      | \$ -                      | \$ -             | \$ -                        |
| 07/16/11                              | \$ 143,019.52                | \$ 143,019.52             | \$ -                 | \$ -             | \$ -                      | \$ -                      | \$ -             | \$ -                        |
| 07/23/11                              | \$ 146,508.00                | \$ 146,508.00             | \$ -                 | \$ -             | \$ -                      | \$ -                      | \$ -             | \$ -                        |
| 07/30/11                              | \$ 144,510.28                | \$ 144,510.28             | \$ -                 | \$ -             | \$ -                      | \$ -                      | \$ -             | \$ -                        |
| 08/06/11                              | \$ 151,495.28                | \$ 151,495.28             | \$ -                 | \$ -             | \$ -                      | \$ -                      | \$ -             | \$ -                        |
| 08/13/11                              | \$ 149,711.80                | \$ 117,350.38             | \$ 32,361.42         | \$ 2,650.40      | \$ 13,332.90              | \$ 724.90                 | \$ 11,255.30     | \$ 4,397.92                 |
| 08/20/11                              | \$ 143,228.24                | \$ 71,614.12              | \$ 71,614.12         | \$ 5,865.20      | \$ 29,505.01              | \$ 1,604.16               | \$ 24,907.39     | \$ 9,732.36                 |
| 08/27/11                              | \$ 126,864.28                | \$ 63,432.14              | \$ 63,432.14         | \$ 5,195.09      | \$ 26,134.04              | \$ 1,420.88               | \$ 22,061.70     | \$ 8,620.43                 |
| 09/03/11                              | \$ 161,675.52                | \$ 80,837.76              | \$ 80,837.76         | \$ 6,820.61      | \$ 33,305.16              | \$ 1,810.77               | \$ 28,115.37     | \$ 10,985.85                |
| 09/10/11                              | \$ 169,691.60                | \$ 84,845.80              | \$ 84,845.80         | \$ 6,948.87      | \$ 34,956.47              | \$ 1,900.55               | \$ 29,509.37     | \$ 11,530.54                |
| 09/17/11                              | \$ 133,497.24                | \$ 66,748.62              | \$ 66,748.62         | \$ 5,466.71      | \$ 27,500.43              | \$ 1,495.17               | \$ 23,215.17     | \$ 9,071.14                 |
| 09/24/11                              | \$ 137,859.60                | \$ 68,929.80              | \$ 68,929.80         | \$ 5,645.35      | \$ 28,399.08              | \$ 1,544.03               | \$ 23,973.78     | \$ 9,367.56                 |
| 10/01/11                              | \$ 137,743.28                | \$ 68,871.64              | \$ 68,871.64         | \$ 5,640.59      | \$ 28,375.12              | \$ 1,542.72               | \$ 23,953.55     | \$ 9,359.66                 |
| 10/08/11                              | \$ 141,733.80                | \$ 70,866.90              | \$ 70,866.90         | \$ 5,804.00      | \$ 29,197.16              | \$ 1,587.42               | \$ 24,647.51     | \$ 9,630.81                 |
| 10/15/11                              | \$ 150,525.32                | \$ 75,262.66              | \$ 75,262.66         | \$ 6,164.01      | \$ 31,008.22              | \$ 1,685.88               | \$ 26,176.35     | \$ 10,228.20                |
| 10/22/11                              | \$ 137,515.44                | \$ 68,757.72              | \$ 68,757.72         | \$ 5,631.26      | \$ 28,328.18              | \$ 1,540.17               | \$ 23,913.94     | \$ 9,344.17                 |
| 10/29/11                              | \$ 121,015.96                | \$ 60,507.98              | \$ 60,507.98         | \$ 4,955.60      | \$ 24,929.29              | \$ 1,355.38               | \$ 21,044.68     | \$ 8,223.03                 |
| 11/05/11                              | \$ 141,347.76                | \$ 70,673.88              | \$ 70,673.88         | \$ 5,788.19      | \$ 29,117.64              | \$ 1,583.09               | \$ 24,580.38     | \$ 9,604.58                 |
| 11/12/11                              | \$ 135,254.20                | \$ 67,627.10              | \$ 67,627.10         | \$ 5,538.66      | \$ 27,862.36              | \$ 1,514.85               | \$ 23,520.71     | \$ 9,190.52                 |
| 11/19/11                              | \$ 121,381.20                | \$ 60,690.60              | \$ 60,690.60         | \$ 4,970.56      | \$ 25,004.53              | \$ 1,359.47               | \$ 21,108.19     | \$ 8,247.85                 |
| 11/26/11                              | \$ 148,281.08                | \$ 74,140.54              | \$ 74,140.54         | \$ 6,072.11      | \$ 30,545.90              | \$ 1,660.75               | \$ 25,786.08     | \$ 10,075.70                |
| 12/03/11                              | \$ 118,859.88                | \$ 59,429.94              | \$ 59,429.94         | \$ 4,867.31      | \$ 24,485.14              | \$ 1,331.23               | \$ 20,669.73     | \$ 8,076.53                 |
| 12/10/11                              | \$ 102,790.88                | \$ 51,395.44              | \$ 51,395.44         | \$ 4,209.29      | \$ 21,174.92              | \$ 1,151.26               | \$ 17,875.33     | \$ 6,984.64                 |
| Subtotal                              | \$ 3,306,051.56              | \$ 2,109,057.50           | \$ 1,196,994.06      | \$ 98,033.81     | \$ 493,161.55             | \$ 26,812.68              | \$ 416,314.53    | \$ 162,671.49               |

Benchmark Goal @ 2% \$ 912,063.48

Remainder until 1% / 1% Split \$ -

VIDEO LOTTERY REPORT

FY 2009

Date Amount

|            |            |
|------------|------------|
| 7/5/2008 * | 169,912.56 |
| 7/12/2008  | 176,592.38 |
| 7/19/2008  | 160,344.08 |
| 7/26/2008  | 162,982.74 |
| 8/2/2008   | 178,171.04 |
| 8/9/2008   | 123,538.04 |
| 8/16/2008  | 82,482.89  |
| 8/23/2008  | 76,426.18  |
| 8/30/2008  | 89,459.86  |
| 9/6/2008   | 91,644.46  |
| 9/13/2008  | 79,729.93  |
| 9/20/2008  | 71,269.36  |
| 9/27/2008  | 79,735.73  |
| 10/4/2008  | 75,186.22  |
| 10/11/2008 | 77,139.04  |
| 10/18/2008 | 80,668.26  |
| 10/25/2008 | 64,379.44  |
| 11/1/2008  | 68,352.42  |
| 11/8/2008  | 70,823.02  |
| 11/15/2008 | 65,565.50  |
| 11/22/2008 | 63,883.80  |
| 11/29/2008 | 69,850.12  |
| 12/6/2008  | 55,696.68  |
| 12/13/2008 | 60,178.04  |
| 12/20/2008 | 52,189.19  |
| 12/27/2008 | 72,205.91  |
| 1/3/2009   | 96,504.65  |
| 1/10/2009  | 53,286.62  |

FY 2010

Date Amount

|            |            |
|------------|------------|
| 7/4/2009 * | 128,262.42 |
| 7/11/2009  | 168,815.08 |
| 7/18/2009  | 160,652.98 |
| 7/25/2009  | 158,869.08 |
| 8/1/2009   | 174,493.08 |
| 8/8/2009   | 138,408.80 |
| 8/15/2009  | 81,222.14  |
| 8/22/2009  | 76,260.31  |
| 8/29/2009  | 80,472.92  |
| 9/5/2009   | 80,798.15  |
| 9/12/2009  | 86,286.92  |
| 9/19/2009  | 70,010.15  |
| 9/26/2009  | 69,316.87  |
| 10/3/2009  | 72,286.04  |
| 10/10/2009 | 69,650.63  |
| 10/17/2009 | 73,560.21  |
| 10/24/2009 | 67,581.66  |
| 10/31/2009 | 64,528.30  |
| 11/7/2009  | 63,741.59  |
| 11/14/2009 | 65,959.64  |
| 11/21/2009 | 59,547.05  |
| 11/28/2009 | 72,399.98  |
| 12/5/2009  | 51,006.51  |
| 12/12/2009 | 52,460.58  |
| 12/19/2009 | 32,834.39  |
| 12/26/2009 | 53,406.34  |
| 1/2/2010   | 92,980.40  |
| 1/9/2010   | 55,020.46  |

FY 2011

Date Amount

|            |            |
|------------|------------|
| 7/3/2010   | 115,402.58 |
| 7/10/2010  | 205,731.64 |
| 7/17/2010  | 161,386.76 |
| 7/24/2010  | 160,368.28 |
| 7/31/2010  | 157,802.08 |
| 8/7/2010   | 136,494.98 |
| 8/14/2010  | 78,376.68  |
| 8/21/2010  | 76,199.02  |
| 8/28/2010  | 72,460.03  |
| 9/4/2010   | 76,362.84  |
| 9/11/2010  | 82,969.36  |
| 9/18/2010  | 67,638.78  |
| 9/25/2010  | 70,435.06  |
| 10/2/2010  | 71,013.86  |
| 10/9/2010  | 69,311.50  |
| 10/16/2010 | 75,234.62  |
| 10/23/2010 | 70,290.80  |
| 10/30/2010 | 65,615.04  |
| 11/6/2010  | 61,337.62  |
| 11/13/2010 | 64,595.28  |
| 11/20/2010 | 56,010.08  |
| 11/27/2010 | 71,170.90  |
| 12/4/2010  | 53,215.08  |
| 12/11/2010 | 46,944.00  |
| 12/18/2010 | 42,076.76  |
| 12/25/2010 | 50,450.28  |
| 1/1/2011   | 85,152.12  |
| 1/8/2011   | 54,301.30  |

FY 2012

Date Amount

|            |            |
|------------|------------|
| 7/1-2/2011 | 69,824.12  |
| 7/9/2011   | 171,717.28 |
| 7/16/2011  | 143,019.52 |
| 7/23/2011  | 146,508.00 |
| 7/30/2011  | 144,510.28 |
| 8/6/2011   | 151,495.28 |
| 8/13/2011  | 117,350.38 |
| 8/20/2011  | 71,614.12  |
| 8/27/2011  | 63,432.14  |
| 9/3/2011   | 80,837.76  |
| 9/10/2011  | 84,845.80  |
| 9/17/2011  | 66,748.62  |
| 9/24/2011  | 68,929.80  |
| 10/1/2011  | 68,871.64  |
| 10/8/2011  | 70,866.90  |
| 10/15/2011 | 75,262.66  |
| 10/22/2011 | 68,757.72  |
| 10/29/2011 | 60,507.98  |
| 11/5/2011  | 70,673.88  |
| 11/12/2011 | 67,627.10  |
| 11/19/2011 | 60,690.60  |
| 11/26/2011 | 74,140.54  |
| 12/3/2011  | 59,429.94  |
| 12/10/2011 | 51,395.44  |

|               |           |           |           |           |           |
|---------------|-----------|-----------|-----------|-----------|-----------|
| 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 |
| 2/7/2009      | 83,539.63 | 2/6/2010  | 37,155.14 | 2/5/2011  | 60,777.44 |
| 2/14/2009     | 76,054.44 | 2/13/2010 | 44,334.00 | 2/12/2011 | 67,471.84 |
| 2/21/2009     | 91,838.41 | 2/20/2010 | 76,946.12 | 2/19/2011 | 72,018.54 |
| 2/28/2009     | 80,806.88 | 2/27/2010 | 72,024.40 | 2/26/2011 | 75,544.02 |
| 3/7/2009      | 48,837.13 | 3/6/2010  | 76,936.85 | 3/5/2011  | 74,535.34 |
| 3/14/2009     | 96,025.39 | 3/13/2010 | 71,007.37 | 3/12/2011 | 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 |
| 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 |
| 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 | 6/18/2011 | 61,200.76 |
| 6/27/2009     | 67,354.10 | 6/26/2010 | 63,950.29 | 6/25/2011 | 65,470.44 |
| 6/30/2009 *** | 32,059.58 | 6/30/2010 | 29,667.19 | 6/30/2011 | 34,351.16 |

TOTALS 4403564.04

4041141.56

4016541.01

2109057.5

Table Game Revenue  
FY 2011

| Date              | Amount            |
|-------------------|-------------------|
| July/August, 2010 | 154,185.68        |
| September, 2010   | 94,247.84         |
| October, 2010     | 105,903.60        |
| November, 2010    | 108,717.67        |
| December, 2010    | 118,721.11        |
| January, 2011     | 106,189.21        |
| February, 2011    | 105,776.45        |
| March, 2011       | 120,927.10        |
| April, 2011       | 130,654.61        |
| May, 2011         | 130,492.02        |
| June, 2011        | 121,576.41        |
| July, 2011        | 141,718.01        |
| August, 2011      | 137,473.92        |
| September, 2011   | 110,375.25        |
| October, 2011     | 124,273.94        |
|                   | <b>1811232.82</b> |

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

| Week Ending Date                                         | Week Ending<br>December 17, 2011 |
|----------------------------------------------------------|----------------------------------|
| <b>To be Deposited on:</b>                               | December 23, 2011                |
| <b>Amount Played</b>                                     | 67,775,912.47                    |
| <b>Amount Won</b>                                        | 61,117,351.19                    |
| <b>Amount Promo</b>                                      | 174,055.00                       |
| <b>MWAP Contribution</b>                                 | <u>5,187.20</u>                  |
| <b>Adjusted Gross Terminal Revenue</b>                   | <u>6,479,319.08</u>              |
| <b>Administrative Costs @ 4%</b>                         | 0.00                             |
| <b>Excess Lottery Fund @ 4%</b>                          | 259,172.76                       |
| <b>Net Terminal Revenue</b>                              | <u>6,220,146.32</u>              |
| <b>Surcharge @ 10%</b>                                   | 622,014.64                       |
| <b>State Share Excess @ 58%</b>                          | 360,768.49                       |
| <b>Track Share of Capital Reinvestment @ 42%</b>         | 261,246.15                       |
| <i>Track Share of Capital Reinvestment @ 42% - 96%</i>   | \$ 250,796.30                    |
| <i>Track Share of Capital Reinvestment @ 42% - 4%</i>    | \$ 10,449.85                     |
| <b>Adjusted Net Terminal Revenue</b>                     | <u>5,598,131.68</u>              |
| <b>Racetrack @ 46.50% / 42%</b>                          | 2,351,215.31                     |
| <b>Lottery Fund @ 30% / 0%</b>                           | 0.00                             |
| <b>Excess Lottery Fund @ 0% / 41%</b>                    | 2,295,233.97                     |
| <b>Race Track Purses @ 7% / 14% / 8%</b>                 | 447,850.53                       |
| <b>Workers' Compensation Debt Reduction @ 7% / 0%</b>    | 0.00                             |
| <b>Employee Pension Fund @ 1% / .5%</b>                  | 27,990.66                        |
| <b>Greyhound Development @ .75%</b>                      | 41,985.99                        |
| <b>Thoroughbred Development @ .75%</b>                   | 41,985.99                        |
| <b>Racing Commission @ 1%</b>                            | 55,981.32                        |
| <b>County/Municipality @ 2%</b>                          | 111,962.64                       |
| <b>3% Funds:</b>                                         |                                  |
| <b>Tourism Promotion Fund @ 1.375%</b>                   | 76,974.31                        |
| <b>Development Office Promotion Fund @ .375%</b>         | 20,992.99                        |
| <b>Research Challenge Fund @ .5%</b>                     | 27,990.66                        |
| <b>Capitol Renovation and Improvement Fund @ .6875%</b>  | 38,487.16                        |
| <b>2004 Capitol Complex Parking Garage Fund @ .0625%</b> | 3,498.83                         |
| <b>1% Funds:</b>                                         |                                  |
| <b>State Capitol Complex Parking Garage @ 1%</b>         | 0.00                             |
| <b>Cultural Facilities and Capitol Resources @ .5%</b>   | 27,990.66                        |
| <b>Capitol Dome and Capitol Improvements @ .5% / 1%</b>  | <u>27,990.66</u>                 |
|                                                          | <u>5,598,131.68</u>              |

**WEST VIRGINIA LOTTERY**  
**First Benchmark**  
**Charles Town**  
**County / City Split**  
**Fiscal Year 2012**

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>8.19%     | CHARLES<br>TOWN<br>41.20% | HARPERS<br>FERRY<br>2.24% | RANSON<br>34.78%     | SHEPHERDS<br>TOWN<br>13.59% |
|---------------------------------------|------------------------------|---------------------------|------------------------|----------------------|---------------------------|---------------------------|----------------------|-----------------------------|
| 2 days ending:<br>7/1/2011 - 7/2/2011 | \$ 69,824.12                 | \$ 69,824.12              | \$ -                   | \$ -                 | \$ -                      | \$ -                      | \$ -                 | \$ -                        |
| Week Ending:                          |                              |                           |                        |                      |                           |                           |                      |                             |
| 07/09/11                              | \$ 171,717.28                | \$ 171,717.28             | \$ -                   | \$ -                 | \$ -                      | \$ -                      | \$ -                 | \$ -                        |
| 07/16/11                              | \$ 143,019.52                | \$ 143,019.52             | \$ -                   | \$ -                 | \$ -                      | \$ -                      | \$ -                 | \$ -                        |
| 07/23/11                              | \$ 146,508.00                | \$ 146,508.00             | \$ -                   | \$ -                 | \$ -                      | \$ -                      | \$ -                 | \$ -                        |
| 07/30/11                              | \$ 144,510.28                | \$ 144,510.28             | \$ -                   | \$ -                 | \$ -                      | \$ -                      | \$ -                 | \$ -                        |
| 08/06/11                              | \$ 151,495.28                | \$ 151,495.28             | \$ -                   | \$ -                 | \$ -                      | \$ -                      | \$ -                 | \$ -                        |
| 08/13/11                              | \$ 149,711.80                | \$ 117,350.38             | \$ 32,361.42           | \$ 2,650.40          | \$ 13,332.90              | \$ 724.90                 | \$ 11,255.30         | \$ 4,397.92                 |
| 08/20/11                              | \$ 143,228.24                | \$ 71,614.12              | \$ 71,614.12           | \$ 5,866.20          | \$ 29,505.01              | \$ 1,604.16               | \$ 24,907.39         | \$ 9,732.36                 |
| 08/27/11                              | \$ 126,864.28                | \$ 63,432.14              | \$ 63,432.14           | \$ 5,195.09          | \$ 26,134.04              | \$ 1,420.88               | \$ 22,061.70         | \$ 8,620.43                 |
| 09/03/11                              | \$ 161,675.52                | \$ 80,837.76              | \$ 80,837.76           | \$ 6,620.61          | \$ 33,305.16              | \$ 1,810.77               | \$ 28,115.37         | \$ 10,985.85                |
| 09/10/11                              | \$ 169,691.60                | \$ 84,845.80              | \$ 84,845.80           | \$ 6,948.87          | \$ 34,956.47              | \$ 1,900.55               | \$ 29,509.37         | \$ 11,530.54                |
| 09/17/11                              | \$ 133,497.24                | \$ 66,748.62              | \$ 66,748.62           | \$ 5,466.71          | \$ 27,500.43              | \$ 1,495.17               | \$ 23,215.17         | \$ 9,071.14                 |
| 09/24/11                              | \$ 137,859.80                | \$ 68,929.80              | \$ 68,929.80           | \$ 5,645.35          | \$ 28,399.08              | \$ 1,544.03               | \$ 23,973.78         | \$ 9,367.66                 |
| 10/01/11                              | \$ 137,743.28                | \$ 68,871.64              | \$ 68,871.64           | \$ 5,640.59          | \$ 28,375.12              | \$ 1,542.72               | \$ 23,953.55         | \$ 9,359.66                 |
| 10/08/11                              | \$ 141,733.80                | \$ 70,866.90              | \$ 70,866.90           | \$ 5,804.00          | \$ 29,197.16              | \$ 1,587.42               | \$ 24,647.51         | \$ 9,630.81                 |
| 10/15/11                              | \$ 150,525.32                | \$ 75,262.66              | \$ 75,262.66           | \$ 6,164.01          | \$ 31,008.22              | \$ 1,685.88               | \$ 26,176.35         | \$ 10,228.20                |
| 10/22/11                              | \$ 137,515.44                | \$ 68,757.72              | \$ 68,757.72           | \$ 5,631.26          | \$ 28,328.18              | \$ 1,540.17               | \$ 23,913.94         | \$ 9,344.17                 |
| 10/29/11                              | \$ 121,015.96                | \$ 60,507.98              | \$ 60,507.98           | \$ 4,955.60          | \$ 24,929.29              | \$ 1,355.38               | \$ 21,044.68         | \$ 8,223.03                 |
| 11/05/11                              | \$ 141,347.76                | \$ 70,673.88              | \$ 70,673.88           | \$ 5,788.19          | \$ 29,117.64              | \$ 1,583.09               | \$ 24,560.38         | \$ 9,604.58                 |
| 11/12/11                              | \$ 135,254.20                | \$ 67,627.10              | \$ 67,627.10           | \$ 5,538.66          | \$ 27,862.36              | \$ 1,514.85               | \$ 23,520.71         | \$ 9,190.52                 |
| 11/19/11                              | \$ 121,381.20                | \$ 60,690.60              | \$ 60,690.60           | \$ 4,970.66          | \$ 25,004.53              | \$ 1,359.47               | \$ 21,108.19         | \$ 8,247.85                 |
| 11/26/11                              | \$ 148,281.08                | \$ 74,140.54              | \$ 74,140.54           | \$ 6,072.11          | \$ 30,545.90              | \$ 1,660.75               | \$ 25,786.08         | \$ 10,075.70                |
| 12/03/11                              | \$ 118,859.88                | \$ 59,429.94              | \$ 59,429.94           | \$ 4,867.31          | \$ 24,485.14              | \$ 1,331.23               | \$ 20,669.73         | \$ 8,076.53                 |
| 12/10/11                              | \$ 102,790.88                | \$ 51,395.44              | \$ 51,395.44           | \$ 4,209.29          | \$ 21,174.92              | \$ 1,151.26               | \$ 17,875.33         | \$ 6,984.64                 |
| 12/17/11                              | \$ 111,962.64                | \$ 55,981.32              | \$ 55,981.32           | \$ 4,584.87          | \$ 23,064.31              | \$ 1,253.98               | \$ 19,470.30         | \$ 7,607.86                 |
| <b>Subtotal</b>                       | <b>\$ 3,418,014.20</b>       | <b>\$ 2,165,038.82</b>    | <b>\$ 1,252,975.38</b> | <b>\$ 102,618.68</b> | <b>\$ 516,225.86</b>      | <b>\$ 28,066.66</b>       | <b>\$ 435,784.83</b> | <b>\$ 170,279.35</b>        |

Benchmark Goal @ 2% \$ 912,063.48

Remainder until 1% / 1% Split \$ -

VIDEO LOTTERY REPORT

| FY 2009    |            | FY 2010    |            | FY 2011    |            | FY 2012    |            |
|------------|------------|------------|------------|------------|------------|------------|------------|
| 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 | 7/1-2/2011 | 69,824.12  |
| 7/12/2008  | 176,592.38 | 7/11/2009  | 168,815.08 | 7/10/2010  | 205,731.64 | 7/9/2011   | 171,717.28 |
| 7/19/2008  | 160,344.08 | 7/18/2009  | 160,652.98 | 7/17/2010  | 161,386.76 | 7/16/2011  | 143,019.52 |
| 7/26/2008  | 162,982.74 | 7/25/2009  | 158,869.08 | 7/24/2010  | 160,368.28 | 7/23/2011  | 146,508.00 |
| 8/2/2008   | 178,171.04 | 8/1/2009   | 174,493.08 | 7/31/2010  | 157,802.08 | 7/30/2011  | 144,510.28 |
| 8/9/2008   | 123,538.04 | 8/8/2009   | 138,408.80 | 8/7/2010   | 136,494.98 | 8/6/2011   | 151,495.28 |
| 8/16/2008  | 82,482.89  | 8/15/2009  | 81,222.14  | 8/14/2010  | 78,376.68  | 8/13/2011  | 117,350.38 |
| 8/23/2008  | 76,426.18  | 8/22/2009  | 76,260.31  | 8/21/2010  | 76,199.02  | 8/20/2011  | 71,614.12  |
| 8/30/2008  | 89,459.86  | 8/29/2009  | 80,472.92  | 8/28/2010  | 72,460.03  | 8/27/2011  | 63,432.14  |
| 9/6/2008   | 91,644.46  | 9/5/2009   | 80,798.15  | 9/4/2010   | 76,362.84  | 9/3/2011   | 80,837.76  |
| 9/13/2008  | 79,729.93  | 9/12/2009  | 86,286.92  | 9/11/2010  | 82,969.36  | 9/10/2011  | 84,845.80  |
| 9/20/2008  | 71,269.36  | 9/19/2009  | 70,010.15  | 9/18/2010  | 67,638.78  | 9/17/2011  | 66,748.62  |
| 9/27/2008  | 79,735.73  | 9/26/2009  | 69,316.87  | 9/25/2010  | 70,435.06  | 9/24/2011  | 68,929.80  |
| 10/4/2008  | 75,186.22  | 10/3/2009  | 72,286.04  | 10/2/2010  | 71,013.86  | 10/1/2011  | 68,871.64  |
| 10/11/2008 | 77,139.04  | 10/10/2009 | 69,650.63  | 10/9/2010  | 69,311.50  | 10/8/2011  | 70,866.90  |
| 10/18/2008 | 80,668.26  | 10/17/2009 | 73,560.21  | 10/16/2010 | 75,234.62  | 10/15/2011 | 75,262.66  |
| 10/25/2008 | 64,379.44  | 10/24/2009 | 67,581.66  | 10/23/2010 | 70,290.80  | 10/22/2011 | 68,757.72  |
| 11/1/2008  | 68,352.42  | 10/31/2009 | 64,528.30  | 10/30/2010 | 65,615.04  | 10/29/2011 | 60,507.98  |
| 11/8/2008  | 70,823.02  | 11/7/2009  | 63,741.59  | 11/6/2010  | 61,337.62  | 11/5/2011  | 70,673.88  |
| 11/15/2008 | 65,565.50  | 11/14/2009 | 65,959.64  | 11/13/2010 | 64,595.28  | 11/12/2011 | 67,627.10  |
| 11/22/2008 | 63,883.80  | 11/21/2009 | 59,547.05  | 11/20/2010 | 56,010.08  | 11/19/2011 | 60,690.60  |
| 11/29/2008 | 69,850.12  | 11/28/2009 | 72,399.98  | 11/27/2010 | 71,170.90  | 11/26/2011 | 74,140.54  |
| 12/6/2008  | 55,696.68  | 12/5/2009  | 51,006.51  | 12/4/2010  | 53,215.08  | 12/3/2011  | 59,429.94  |
| 12/13/2008 | 60,178.04  | 12/12/2009 | 52,460.58  | 12/11/2010 | 46,944.00  | 12/10/2011 | 51,395.44  |
| 12/20/2008 | 52,189.19  | 12/19/2009 | 32,834.39  | 12/18/2010 | 42,076.76  | 12/17/2011 | 55,981.32  |
| 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 |
| 2/7/2009      | 83,539.63 | 2/6/2010  | 37,155.14 | 2/5/2011  | 60,777.44 |
| 2/14/2009     | 76,054.44 | 2/13/2010 | 44,334.00 | 2/12/2011 | 67,471.84 |
| 2/21/2009     | 91,838.41 | 2/20/2010 | 76,946.12 | 2/19/2011 | 72,018.54 |
| 2/28/2009     | 80,806.88 | 2/27/2010 | 72,024.40 | 2/26/2011 | 75,544.02 |
| 3/7/2009      | 48,837.13 | 3/6/2010  | 76,936.85 | 3/5/2011  | 74,535.34 |
| 3/14/2009     | 96,025.39 | 3/13/2010 | 71,007.37 | 3/12/2011 | 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 |
| 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 |
| 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 | 6/18/2011 | 61,200.76 |
| 6/27/2009     | 67,354.10 | 6/26/2010 | 63,950.29 | 6/25/2011 | 65,470.44 |
| 6/30/2009 *** | 32,059.58 | 6/30/2010 | 29,667.19 | 6/30/2011 | 34,351.16 |

|        |            |            |            |            |
|--------|------------|------------|------------|------------|
| TOTALS | 4403564.04 | 4041141.56 | 4016541.01 | 2165038.82 |
|--------|------------|------------|------------|------------|

Table Game Revenue  
FY 2011

| Date              | Amount            |
|-------------------|-------------------|
| July/August, 2010 | 154,185.68        |
| September, 2010   | 94,247.84         |
| October, 2010     | 105,903.60        |
| November, 2010    | 108,717.67        |
| December, 2010    | 118,721.11        |
| January, 2011     | 106,189.21        |
| February, 2011    | 105,776.45        |
| March, 2011       | 120,927.10        |
| April, 2011       | 130,654.61        |
| May, 2011         | 130,492.02        |
| June, 2011        | 121,576.41        |
| July, 2011        | 141,718.01        |
| August, 2011      | 137,473.92        |
| September, 2011   | 110,375.25        |
| October, 2011     | 124,273.94        |
| November, 2011    | 121,118.87        |
|                   | <b>1932351.69</b> |

RECEIVED

DEC 17 2011

Jefferson County Commission

December 15, 2011

Dear Friend of the Free Clinic,

This is the time of year when we start to reflect on all that happened during the past year and we begin to dream about the possibilities for the coming year. We see every day at the Clinic the reality that none of us are fully immune to loss, loss of a job and health insurance, loss of a loved one, or place to live or loss of our health. The support you have given to the Eastern Panhandle Free Clinic, in time, talent, or treasure has provided our patients with a knowing that someone cares. Your generosity in 2011 gave our patients an opportunity for hope and help toward recovering their health.

Thanks to you, in this past year we have added a physician, a case manager and another registered nurse to our staff. These are vital positions needed to provide comprehensive patient care. We work toward helping the patients return to health, to again be productive members of the community and able to fully care for their families.

The volume of services we provide to the community continues to grow every year and thanks to our supporters we were able to keep up with the need in 2011. We have also continued to work at addressing the complex health needs of our patients by providing comprehensive care through case management and programs focused on improving patient health. We provide real help not just a short-term bandage.

Last fiscal year (July 1st- June 30<sup>th</sup>) 10,519 patient appointments were provided and 45,842 prescriptions filled worth \$5,215,582. Over \$897,048 were donated in in-kind services, diagnostic tests and supplies. These figures do not include the financial value of health services, through the generosity of local physicians and at West Virginia University Hospital, during the 1,575 specialist visits provided to our patients. Also not included is the invaluable time of our volunteers.

For every dollar you donated to Eastern Panhandle Free Clinic in 2011 we were able to provide almost nine dollars worth of care. \$9! A great return on your charity investment to improve the health of our most vulnerable community members. As we look to the financial challenges of the coming year, we ask that you continue to support us as we provide a health care safety-net and hope to our uninsured low or no income neighbors and friends.

The numbers only tell part of the Free Clinic's story. On the enclosed page you can read the stories of a few of our patients and how they personally have been helped by your generosity. After all, isn't that really what it's all about, improving the health and life of the less fortunate? We hope we can count on your continued support of our mission in 2012.

For this holiday season and throughout the coming New Year we wish you and yours good health, love, joy and peace.

Sincerely,

*Michele Goldman*

Michele Goldman, RN, BSN  
Executive Director

*Susan Sullivan-Rakoff*

Susan Sullivan-Rakoff  
President, Board of Directors

# TESTIMONIALS OF HOPE

You make a difference and here are some examples of how important your support is to our patients. Thanks to your generosity, our patients are looking forward to 2012 with a renewed sense of hope and health. THANK YOU for investing in the health care of the Eastern Panhandle Free Clinic patients.

## *Sounds of the Season*

Lisa is looking forward to the sounds that this time of year brings. For the first time in almost eighteen years, she will get that chance. Lisa first noticed the hearing loss in 1994 and over time, the condition worsened. Now she only hears loud voices and has learned to read lips to help her understand what people are saying to her.

During a recent visit, Lisa met two of our nurse volunteers who could help her. Barb Corey, RN noticed that Lisa could not hear her and referred her to Gale Bard, RN who assists our patients with case management. Gale connected Lisa with the West Virginia Division of Rehabilitation Services that have approved Lisa for hearing aids. On December 14th, Lisa will be fitted for the hearing aids and receive the gift of hearing for the Holidays.

Lisa sees the clinic staff and especially the volunteers as a wonderful blessing. *"I think every volunteer that works there...God's gonna bless them because they give their time and they care."* We are thankful for the time that Barb, Gale and all our volunteers give.



## *A Healing Touch*

Ray and Debra have lived with chronic pain for years. Thirty years ago, Ray fell from a ladder landing heels first onto concrete, causing back and leg pain. Debra has suffered with fibromyalgia and chronic fatigue. When a clinic nurse practitioner suggested massage as a method of pain relief, both were skeptical, but willing to try it.

Looking back, they are both grateful for the referral. Massage therapist, Peter Shor, LMT has provided therapeutic massage for the couple for the past several months. Debra says, *"I haven't been pain free in a long time and I am grateful for that feeling of freedom."* Ray especially likes that Peter tells him what is happening as he "unlocks" the muscles that are causing pain. *"He provides education and exercises so I can feel better between visits,"* Ray said.

Ray and Debra, like many couples in their fifties, had good insurance at one point in their lives. Difficult circumstances in life have brought them to the Eastern Panhandle Free Clinic and they are appreciative for all of the services that have been extended to them. Even with insurance though, Debra says, *"It never would have occurred to me that massage was possible for my condition. We had better things to do without our money and massage seemed like a luxury,"* she added. *"We would have no health care without the free clinic and that is a terrifying statement,"* added Ray. The clinic does not dispense controlled pharmaceuticals to relieve pain. Fortunately for Ray, Debra and other patients living with chronic pain, the clinic provides the healing touch of massage. We are grateful for the services of our volunteer massage therapists.





*To our friends and colleagues:*

*Each year during the holiday season, we take great pleasure in setting aside our regular work and sending a heartfelt message to all our fellow colleagues and supporters. How joyful we are that this time has come again to extend to you our sincere gratitude for all the support and hard work you do during the year to help make The Center a success.*

*May your holiday be filled with joy and the coming year be overflowing with all the good things in life.*

*Sincerely,*

*The Staff of the Berkeley/Jefferson Day Report Center*

*Joe Sacchet, Director  
Mary Newlin, Case Manager  
Brook Tucker, Administrative Assistant  
Gene Gross, Community Service Supervisor*





2211 Washington Street East  
 Charleston, WV 25311-2118  
 Phone: (304) 346.0591  
 Fax: (304) 346.0592

**FAX**

Patricia L. Hamilton  
 Executive Director

TO: ALL COUNTY OFFICIALS  
 FROM: WV ASSOCIATION OF COUNTIES  
 RE: ARTICLE ON CHANGES TO PEIA

Please note that the changes to retiree subsidies affect all counties whether or not they're in PEIA because all counties are in PERS. The PEIA Finance Board has implemented the proposal that was in the Senate bill during the 2011 legislative session but didn't go anywhere. The retiree subsidy "cap" affects all current *and future* public employee retirees who are eligible for PEIA coverage upon retirement.

# PEIA board cuts health care benefits

By ZACK HAROLD  
 DAILY MAIL STAFF

Members of the Public Employees Insurance Agency's finance board unanimously voted Tuesday to cut health benefits by \$16.4 million and take steps that will reduce the plan's long-term liability for retiree premium subsidies by \$5 billion.

Employees will see their co-payments rise for urgent care, emergency room care and specialist visits. New co-payments will be established for gastric bypass surgery, medically necessary dental procedures and physical, occupational, speech and massage therapy services.

With PEIA's coverage costing about \$600 million a year, the benefit cuts represent a reduction of about 3 percent.

The board also voted in favor of an initial cap on retiree premium subsidies of an average \$343 per month. The cap could increase over time, but by no more than 3 percent per year.

Finance board members said the cap would cut in half the state's \$10 billion liability for so-called Other Post Employment Benefits — basically retiree health insurance premiums.

■ Turn to **BENEFITS/15A**



United States Department of the Interior

RECEIVED

U. S. GEOLOGICAL SURVEY  
John Wesley Powell Federal Building  
Eastern Region of Branch Management Services  
12201 Sunrise Valley Drive  
Reston, Virginia 20192

DEC 21 2011

Jefferson County Commission

December 14, 2011

Jefferson County Commission  
P.O. Box 250  
124 E. Washington Street  
Charles Town, WV 25414

Via Registered Mail

Subject: **Proposed Facilities Maintenance and Upgrading Activities  
U.S. Geological Survey Leetown Science Center, Kearneysville, WV  
Compliance with the National Environmental Policy Act**

To Whom It May Concern:

In compliance with the National Environmental Policy Act (NEPA), the U.S. Geological Survey (USGS) is preparing an Environmental Assessment (EA) addressing the projected impacts from the proposed maintenance and upgrading of facilities at the USGS Leetown Science Center (LSC) in Kearneysville, West Virginia (Figure 1 Site Location Map). The purpose of the projects is to support the overall mission of the LSC, which includes preserving water quantity and quality, conducting research to provide information needed to restore, enhance, maintain, and protect fish and other important aquatic and terrestrial organisms and their supporting ecosystems. To ensure that potential environmental effects of the project are fully evaluated and considered, the USGS LSC is requesting that you respond in writing with any concerns relative to the interests of your agency.

The LSC headquarters at Kearneysville houses the Fish Health Branch, Aquatic Ecology Branch, and Restoration Technologies Branch. Facilities supporting the United States Department of Agriculture (USDA) National Center for Cool and Cold Water Aquaculture are located immediately north of the LSC hatchery building. The USDA facility shares water supply and sewage treatment capabilities at the LSC. The LSC and adjacent USDA facility comprise approximately 650 acres of land set aside by the Federal government to protect water quality of the area.

The EA will describe the Proposed Actions, the purpose and need for the Proposed Actions, and reasonable alternatives to accomplish the purpose and need of the Proposed Actions. Alternatives will include the Proposed Actions and No Action. The Proposed Actions will consist of a subset of alternative design considerations. The EA will discuss the existing environment, particularly those areas that may be affected by the project alternatives, and will

provide an analysis of direct, indirect, and cumulative impacts. If the EA concludes that the project alternatives would result in no significant impacts on the environment, the USGS will complete the NEPA process by issuing a Finding of No Significant Impact (FONSI). If the EA concludes that implementation of the Proposed Actions would cause significant impacts, the NEPA process would require an Environmental Impact Statement (EIS) before the Proposed Actions could proceed.

### **Proposed Actions: Provide Routine Maintenance and Upgrading of Facilities at the LSC**

In order to support the overall mission of the LSC, the project would provide for routine maintenance and upgrading of the sewage treatment plant (STP) and facilities at the LSC. Multiple aspects of the Proposed Action have been proposed. These aspects that support the LSC mission include the following:

- Design and build a sewage treatment system to replace the existing sewage treatment plant (STP), using approximately the same footprint. This includes replacing the existing sewage pipe.
- After the STP is completed, consider a system to treat the facility's process wastewater. This system will eventually be placed in the filter building.
- Make repairs to the roof and building exterior of the Administrative Building.
- Construct an earthen embankment to impound and enhance flow from Blue Spring and Gray Spring.
- Install roof hatches at the Degasser Building.
- Remove and replace the existing incinerator and exhaust stack within the same building.
- Replace existing bridge over Hopewell Run with a pre-fabricated drop-in bridge structure using the same bridge footprint.

These improvements are intended to meet the needs of the LSC in terms of projected volume of wastewater, the quality of treated effluent conforming to applicable environmental permit requirements, and the overall facility aesthetics. The approximate locations of existing and proposed improvements at the LSC are shown on Figures 2A and 2B.

### **No Action: Proposed Project Would Not Be Done**

Under the No Action Alternative, the maintenance and upgrading of facilities at the LSC would not take place. Under such an alternative, the ability of the LSC to conduct research would be reduced. Water quantity and quality at the LSC would be compromised, thereby not fulfilling the overall mission of the LSC.

Your agency's participation in the decision making process is important to the USGS and you are encouraged to provide input to the environmental review process. The USGS is requesting information you may have pertaining to any potential concerns and that we should address in the EA. Any suggestions or information you may have will be of great assistance to our analysis.

We request you provide your response by January 12, 2012 to:

Larry E. Herrington  
Area Environmental Specialist  
U.S. Geological Survey, MS-153  
Branch of Management Services, Reston  
12201 Sunrise Valley Drive  
Reston, VA 20192  
Office: 703-648-4634  
Email: [lherrington@usgs.gov](mailto:lherrington@usgs.gov)

Furthermore, the USGS will be holding an open house at the LSC on a Saturday in early to mid January 2012 to solicit public questions and concerns for the Proposed Action. We encourage you to also attend the open house. We will announce the open house in upcoming Wednesday editions of the *Martinsburg Journal* and *Spirit of Jefferson*.

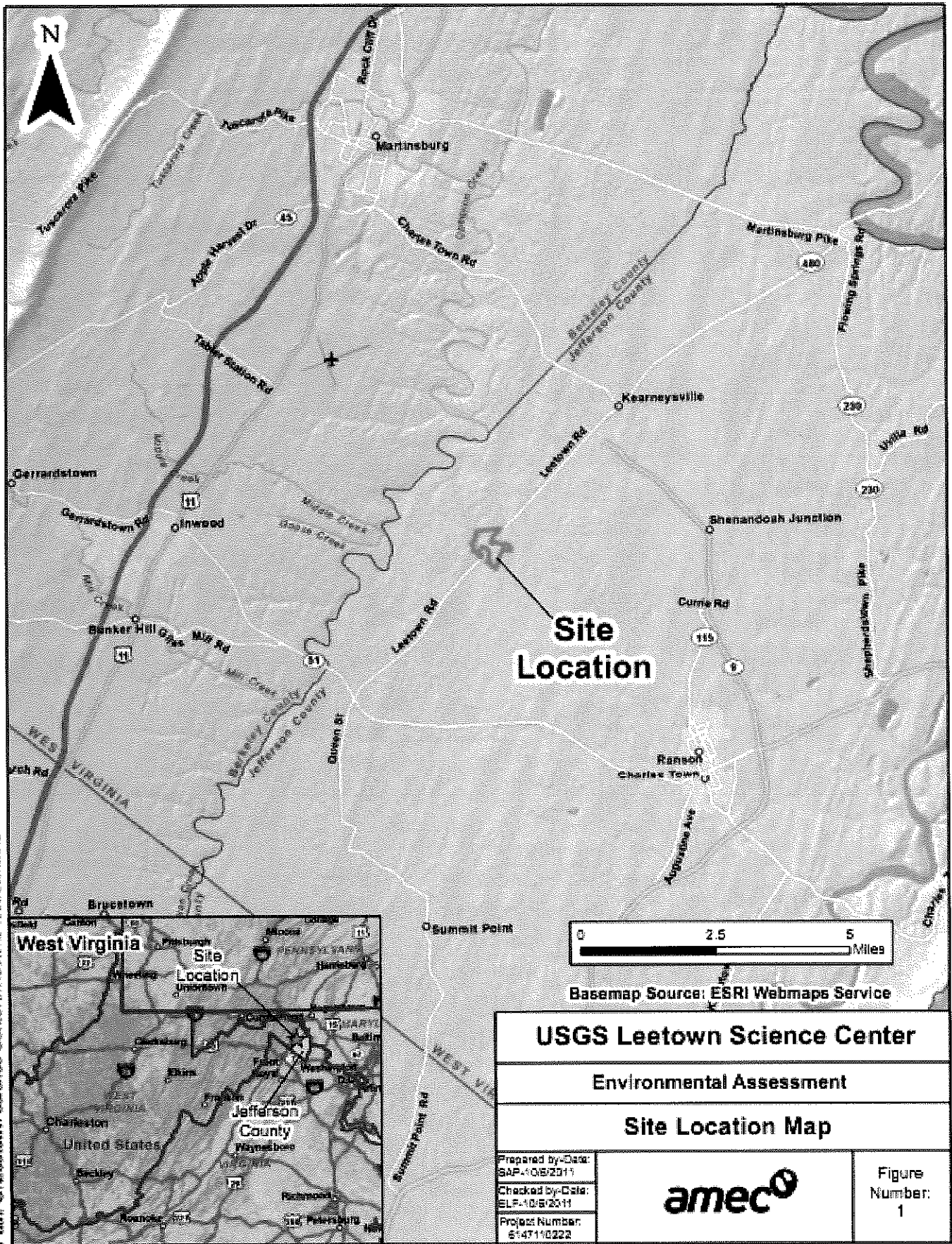
Thank you for your cooperation.

Sincerely,

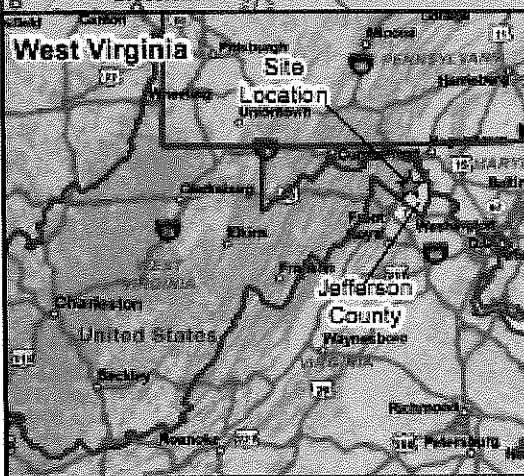


Larry E. Herrington  
Area Environmental Specialist

Attachments: Figure 1 Site Location Map  
Figures 2A and 2B Proposed Improvements

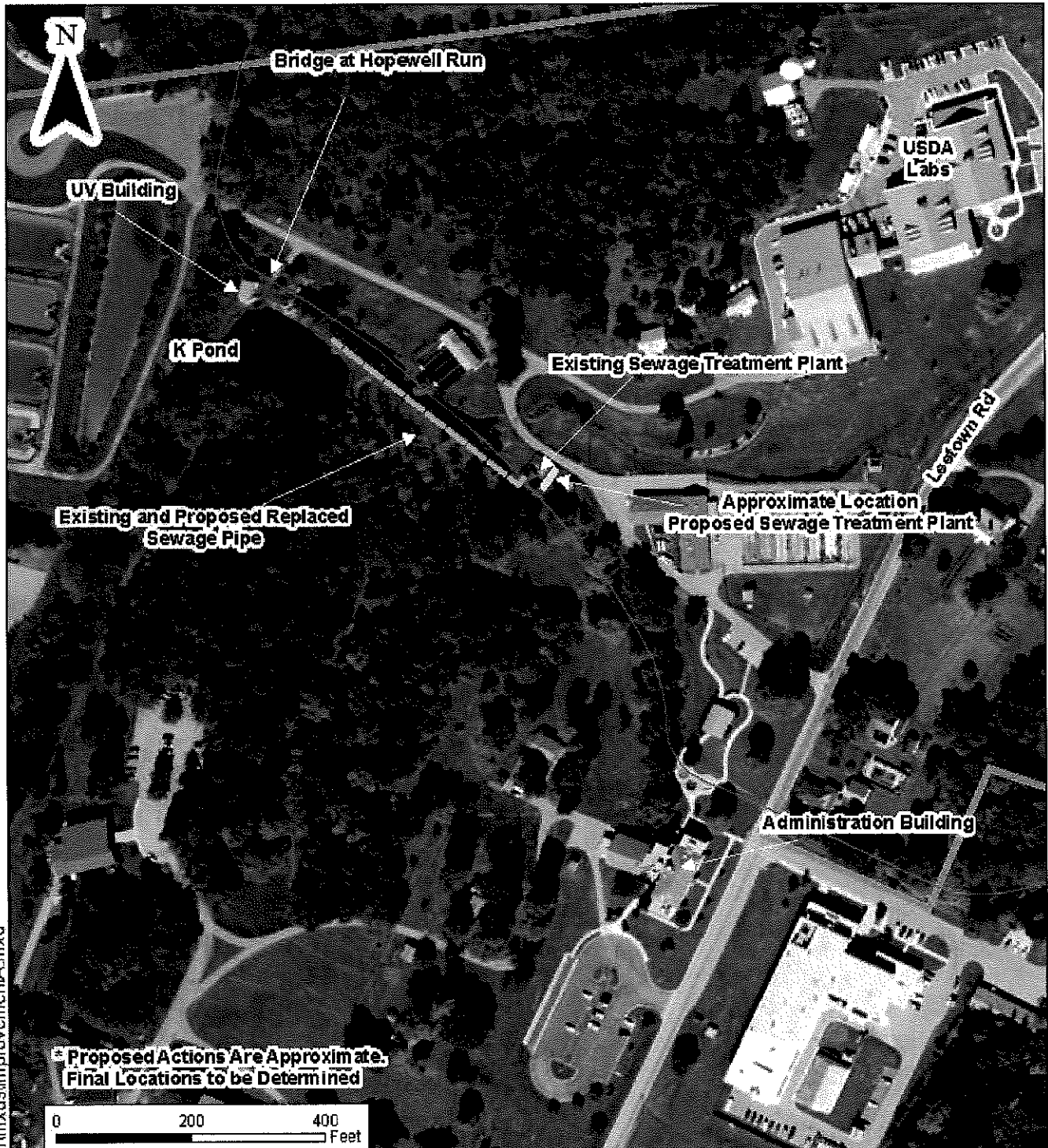


Path: G:\Leetown Science Center\mxd\site location.mxd



|                                    |                          |                        |
|------------------------------------|--------------------------|------------------------|
| <b>USGS Leetown Science Center</b> |                          |                        |
| Environmental Assessment           |                          |                        |
| Site Location Map                  |                          |                        |
| Prepared by-Date:<br>SAP-10/8/2011 | <b>amec</b> <sup>®</sup> | Figure<br>Number:<br>1 |
| Checked by-Date:<br>ELF-10/8/2011  |                          |                        |
| Project Number:<br>6147110222      |                          |                        |

Path: G:\Leetown Science Center\mxd\improvementA.mxd



**\* Proposed Actions Are Approximate.  
Final Locations to be Determined**



| Legend |                                 |
|--------|---------------------------------|
|        | Existing Sewage Pipe            |
|        | Hopewell Run                    |
|        | Proposed Sewage Treatment Plant |
|        | Approximate Property Boundary   |

Image Source: ESRI/Bing Web maps Service

## USGS Leetown Science Center

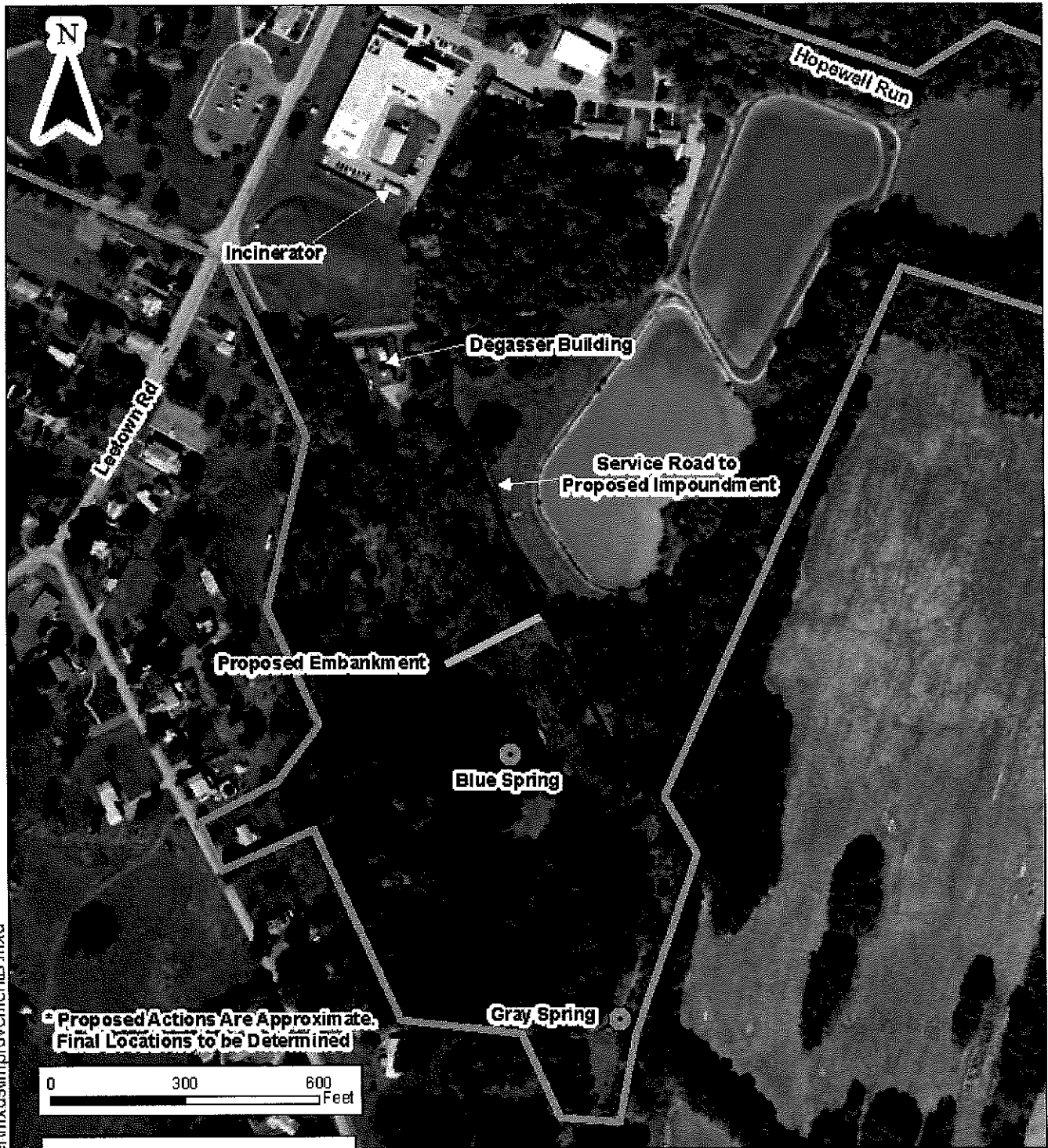
### Environmental Assessment

### Proposed Improvements

Prepared by: Date:  
SKW- 12/07/2011  
Checked by: Date:  
ELF- 12/07/2011  
Proje of Number:  
6147 110222



Figure  
Number:  
2A



Path: G:\Leetown Science Center\mxds\improvementB.mxd

**Legend**







-  Spring
-  Service Road
-  Hopewell Run
-  Proposed Embankment
-  Approximate Property Boundary

Image Source: ESRI/Bing Webmaps Service

|                                                                                                            |                                                                                       |                         |
|------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|-------------------------|
| <b>USGS Leetown Science Center</b>                                                                         |                                                                                       |                         |
| Environmental Assessment                                                                                   |                                                                                       |                         |
| <b>Proposed Improvements</b>                                                                               |                                                                                       |                         |
| Prepared by-Date:<br>SLW-12/07/2011<br>Checked by-Date:<br>ELF-12/07/2011<br>Project Number:<br>6147110222 |  | Figure<br>Number:<br>2B |



STATE OF WEST VIRGINIA  
State Tax Department, Taxpayer Services Division  
P. O. Box 3784  
Charleston, WV 25337-3784



Earl Ray Tomblin, Governor

Craig A. Griffith, Tax Commissioner

JEFFERSON CO COMMISSION  
PO BOX 250  
CHARLES TOWN WV 25414-0250

Letter Id: L1633150592  
Issued: 12/15/2011



00007201010000

**Notice Of Increase**  
**Motor Fuel Excise Tax and Motor Carrier Road Tax**  
For the period  
January 1, 2012 through December 31, 2012

The Motor Fuel Excise Tax is composed of a flat rate of 20.5 cents per gallon plus a variable rate component which is determined annually by the Tax Commissioner. During the period July 1st through October 31st sales data is gathered for purposes of calculating the statewide average wholesale price per gallon; the variable rate component is calculated at 5% of the average wholesale price.

The Tax Commissioner has determined that the single, statewide average wholesale price of motor fuel is \$2.57 per gallon and the variable rate component of the Motor Fuel Excise Tax shall increase from 11.7 cents per gallon to 12.9 cents per gallon for the period January 1, 2012 through December 31, 2012.

The total (flat rate plus the variable rate) motor fuel excise tax and motor carrier road tax becomes 33.4 cents per gallon effective January 1, 2012.

Should you have any questions, please contact the Taxpayer Services Division at (304) 558-3333 or (800) 982-8297.

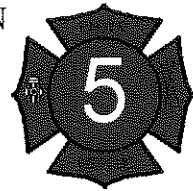
**RECEIVED**

DEC 27 2011

Jefferson County Commission



BLUE RIDGE MOUNTAIN VOLUNTEER FIRE COMPAN  
181 Keys Gap Road  
Harpers Ferry, WV 25425  
Phone: (304) 725-8118 or (304) 728-8006  
Fax: (304) 725 4081



**DATE:** DECEMBER 28, 2011  
**TO:** JEFFERSON COUNTY COMMISSION  
**FROM:** ED BURNS PRESIDENT ELECT  
**SUBJECT:** COMPANY 5 ELECTION RESULTS

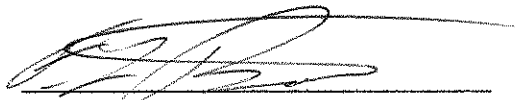
---

The purpose of this memo is to notify the Jefferson County Commission of the results of the December 7, 2011 election of officers for Company 5. These officers will be in effect on January 1, 2012 for a period of one (1) year.

I am gathering up-to-date contact information for all officers and board members. As soon as I have this information I will forward it to you for your records. My Contact information is as follows:

Address: 307 Wildlife Way, Harpers Ferry, WV 25425  
Home Phone: 304-728-1160  
Cell: 301-471-5237  
E-Mail: [elburns@gmail.com](mailto:elburns@gmail.com)

I speak for all Officers, Board Members and the Membership of Company 5 that we are looking forward to a productive and meaningful 2012 and to working proactively with the Jefferson County Commission and all Jefferson County Agencies.

  
E.L. Burns  
President Elect Company

Attachment: Election notice



**BLUE RIDGE MOUNTAIN VOLUNTEER FIRE COMPANY**

181 Keys Gap Road  
Harpers Ferry, WV 25425  
Phone: (304) 725-8118 or (304) 728-8006  
Fax: (304) 725 4081



To All Concerned,


On December 7, 2011 the annual membership meeting was held at the main fire station located at 181 Key Gap Rd Harpers Ferry, WV. As a result of the vote of the membership the following named individuals have been elected by a vote of the membership for the following positions and will serve for one (1) year in the position for which they were elected.

President----Ed Burns  
Vice President---Timmy Lendum  
Secretary--Suzie Weaver  
Treasurer-----Sarah Swisher

Fire Chief---Earl Cogle

EMS Chief---Lenny Lehman

Board of Directors  
Shawn Weaver  
Timmy Day  
Chris Carter

  
Suzie Weaver  
Secretary, BRMVFC

# Ethics Reporter

## Since the Last Reporter

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

At its December 1 meeting, the West Virginia Ethics Commission approved opinions relating to the permissibility of a state board retaining its former executive director to serve as the board's legislative lobbyist, the permissibility of a county commissioner purchasing a tax lien from the sheriff or State Auditor, and the permissibility of members of a state

council voting on matters affecting their interests.

### ADVISORY OPINION REPORT

**Advisory Opinion 2011-18** concerned the permissibility of a governing council who are appointed to represent specific interests voting on various matters pending before the council.

The council under review has telecommunications oriented responsibilities, including providing funding for projects that are being proposed by interested parties. The council is comprised of public officials and private individuals who are specifically designated in statute as being representative of their industry.

The council is seeking guidance on how these private sector members can permissibly fulfill their duties under a

variety of potential conflict scenarios.

The Commission analyzed the provisions of 6B-2-5(b) which prohibit the use of public office for private gain, 6-2-5(d) prohibiting public officials from having interests in public contracts that fall under their control and authority, while also providing recusal procedures for part-time officials, and the language of 6B-2-5(j) governing the voting procedures to be followed by public officials in various scenarios.

In its opinion, the Ethics Commission first ruled that no "industry" representative could serve on a committee that evaluated grants prior to their presentation to the full council. The Commission previously determined in another case that the creation of a special committee or the use of staff to initially review applications was one of the mechanisms

**December, 2011**  
**Page Two**

needed to be implemented by public boards in order to manage the potential conflicts of their members.

The Commission also provided specific guidance on when industry members of a council could vote on matters concerning grant applications by restating its findings from another case. The Commission ruled then and now that an industry representative on a council will only have a conflict if they have a direct personal or family business interest at issue, or if a matter affects their employer in a way that uniquely affects less than five other business of similar character.

Otherwise, the industry member of the council would be permitted to vote because their employer's interests were affected the same as other members of a similar class.

With regard to whether an industry council member may permissibly vote on

proposed legislative rules being proposed by the Council, the Commission similarly determined that no industry member may serve on a committee to draft such rules but that they could vote on them as they are presented to the full council unless they have a personal conflict or they affect their employer uniquely in a case where there are less than five other similar businesses that will be effected.

In those cases, the member would be required to recuse themselves by publicly announcing the presence of a conflict and then physically removing themselves from the decision-making and voting processes on anything that is ruled to be in conflict.

**Advisory Opinion 2011-19** concerned the permissibility of a state board retaining its former executive director to serve as the board's legislative lobbyist.

The former executive director resigned his position prior to the effective date of new

lobbying regulations that may have precluded his continued service with the board in light of his private lobbying clients. The former director possesses unique experience and expertise that the board believes it needs to have in pursuing passage of important legislation of interest to the board.

In this case, the Commission reviewed the provisions of 6B-2-5(b), which prohibits the use of public office for private gain, as well as those provisions of the Ethics Act pertaining to lobbying.

In its opinion, the Commission ruled that the board was permitted to utilize public resources in hiring a part-time employee or a contracted individual to manage its legislative liaison efforts. The Commission further ruled that since the former director had terminated his employment prior to the July 1, 2011 effective date of the new lobbying restrictions, that he could be permissibly retained as the board's lobbyist, provided he properly registered and

complied with all standards associated with being a lobbyist.

**Advisory Opinion 2011-20** addressed the permissibility of a county commissioner purchasing a tax lien at a sheriff's sale or through the State Auditor's office.

State code specifically addresses restrictions on which officials may not purchase tax liens and the statutory list does not include members of county commissions.

At issue for the Commission in this case is the language of 6B-2-5(b) prohibiting a public official from using their position to produce a private gain for themselves or others, the provisions of 6B-2-5(d)(1) prohibiting a public official or a business with which they are associated from having an interest in a contract when that official has authority or control over the decision, and the language of Chapter 61-10-15 making it unlawful for county officials to

have direct or indirect pecuniary interests in matters where they have voice, influence or control.

In this case, the Commission ruled that a county commissioner can permissibly purchase a tax lien through a sheriff's sale or from the state auditor, provided all statutory procedures are properly followed. The Ethics Commission determined that county commissioners have no jurisdiction over the disposition of property through tax sales such that any aspect of the Ethics Act or the 61-10-15 standards are triggered.

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ASSOCIATIONS AND  
LOBBYISTS

NONE PUBLISHED

MISCELLANEOUS

NONE PUBLISHED

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**WEST VIRGINIA ETHICS COMMISSION  
2011 ADVISORY OPINIONS  
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(Includes opinions published through December 1, 2011)**

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Permissibility of a county board of health member, who is the past president of a fraternal organization that has sued the board, and who has business interests that will be affected by the board's rules, voting on matters concerning these interests (See also BOARDS AND COMMISSIONS)

**2011-16:**

Permissibility of a member of a county board of health, who is a member of a fraternal organization, voting on matters that may affect the organization (See also BOARDS AND COMMISSIONS)

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**2011-18:**

Permissibility of members of a governing council who are appointed to represent specific interests voting on various matters pending before the council (See also BOARDS AND COMMISSIONS)

**TRADE ASSOCIATIONS AND LOBBYISTS**

NONE PUBLISHED

**MISCELLANEOUS**

NONE PUBLISHED

ADVISORY OPINION NO. 2011-18

FILED

Issued On December 1, 2011 By The 2011 DEC -2 AM 10: 00

WEST VIRGINIA ETHICS COMMISSION

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

OPINION SOUGHT

A **State Agency** asks whether members of its governing council who are appointed to represent a particular industry/interest must recuse themselves from consideration of grant applications/awards or legislative rules relating to the award of grants, or both.

FACTS RELIED UPON BY THE COMMISSION

The Requester is a public agency that provides funding for technological infrastructure projects for unserved and underserved areas of the State. The State Agency receives its funding from public sources and private entities, including corporations and individuals.

The State Agency is governed by an eleven-member council. In accordance with its enabling statute, four of the members are State officials or their designees. The remaining seven members are appointed by the Governor. The Requester's enabling statute specifies that the seven appointed members represent various interests and industries throughout the State. In particular, one member must represent higher or secondary education and two members must represent the general public. However, by statutory design, the Legislature intended for the other members to be representatives of industries/interests affected by the Agency.<sup>1</sup>

By having members of affected industries on the governing council, a potential situation is created in which the Industry members may have to vote or discuss matters which could financially affect themselves and/or their employers. In an effort to address this potential situation, the Legislature expressly stated in the enabling statute that members with potential conflicts are not disqualified from membership on the council so long as the member recuses him/herself from participation in the issue giving rise to the conflict in accordance with the recusal statute set forth in the West Virginia Ethics Act. (W.Va. Code § 6B-2-5(j)(3)).

The Requester desires to know whether Industry member participation in the drafting and passage of legislative rules and/or the awarding of grants constitutes a conflict of interest which requires recusal.

---

<sup>1</sup> These industry-related council members are collectively referred to as the "Industry members" throughout this opinion.

**CODE PROVISIONS RELIED UPON BY THE COMMISSION**

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

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

...

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

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

[N]o elected or appointed public official or public employee or member of his or her immediate family or business with which he or she is associated may be a party to or have an interest in the profits or benefits of a contract which the official or employee may have direct authority to enter into, or over which he or she may have control. . . . *Provided, however,* That nothing herein shall be construed to prohibit . . . a part-time appointed public official from entering into a contract which the part-time appointed public official may have direct authority to enter into or over which he or she may have control when the official has not participated in the review or evaluation thereof, has been recused from deciding or evaluating and has been excused from voting on the contract and has fully disclosed the extent of his or her interest in the contract.

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

(j) *Limitations on Voting.*

(1) Public officials . . . may not vote on a matter:

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

(B) If a public official is employed by a financial institution and his or her primary responsibilities include consumer and commercial lending, the public official may not vote on a matter which directly affects the financial interests of a customer of the financial institution if the public official is directly involved in approving a loan request from the person or business appearing before the governmental body or if the public official has been directly involved in approving a loan for that person or business within the past 12 months: *Provided*, That this limitation only applies if the total amount of the loan or loans exceeds fifteen thousand dollars.

(D) The appropriations of public moneys or the awarding of a contract to a nonprofit corporation if the public official or an immediate family member is employed by the nonprofit.

(II) A public official may vote:

(A) If the public official, his or her spouse, immediate family members or relatives or business with which they are associated are affected as a member of, and to no greater extent than any other member of a profession, occupation, class of persons or class of businesses. A class shall consist of not fewer than five similarly situated persons or businesses; or

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

### **ADVISORY OPINION**

In establishing the Ethics Act, the Legislature sought to maintain the public's confidence in the impartiality and independence of decisions and actions by public officials and employees, and to ensure that all such decisions be made free of undue influence, favoritism or threat at all levels of government. W.Va. Code § 6B-1-2(a).

In creating these ethical standards for public officials, the Legislature additionally recognized that "many part-time public officials and public employees serv[e] in elected and appointed capacities; and that certain conflicts of interest are inherent in part-time service[.]" W.Va. Code § 6B-1-2(c).

The question presented in this matter is the application of the prohibitions of the Ethics Act to a legislatively created governing council of part-time appointed community and industry leaders when either they or their employers may have a financial interest in the matters before the Agency.

### **A. Prior Opinions**

The Commission recently addressed a similar issue in Advisory Opinion 2009-08. While in that opinion the Commission declined to create a "bright-line rule" applicable to every legislatively created board, the Commission did outline a procedure to follow for the Requester in that opinion, and "caution[ed] other funding boards to examine their own internal decision-making and deliberative committees."

In particular, the Commission held in A.O. 2009-08 that Industry members may remain on the board, but may not participate or serve on a committee which initially evaluates grant applications. In reaching this conclusion, the Commission stated:

The significant difference between the [sub-committee] and the full board is that the [sub-committee] makes determinations among all the proposals presented, and recommends only a limited amount of proposals to the Board for approval. Thus, as full board members, it is possible for the representatives to recuse themselves from voting or discussing their constituents' proposals, but allow participation on non-constituents' proposals.

The Commission additionally reiterated in A.O. 2009-08 its prior comments in A.O. 2006-06 relating to public officials employed by non-profits, and found the guidance equally applicable to all part-time appointed members who serve on funding boards which may consider funding or grants to their respective industry, employer or organization.

The Commission finds that these opinions create a sound framework for handling the types of conflicts raised in this matter. Therefore, with these prior opinions in mind, the Commission shall address the Requester's questions.

### **B. Participation in consideration of Grant Awards**

One of the Requester's statutory missions is to consider and approve grants to various corporations and organizations throughout the State. While the Agency is still determining the structure and procedures for evaluating and awarding grants, the possibility exists that several of the Council members' employers may apply for grants from the Council. Therefore, the Requester desires guidance as to when, if at all, the appointed Council members (i.e. Industry members) should recuse themselves.

The Commission finds that the model adopted in A.O. 2009-08 provides the best framework to avoid conflicts in considering or approving grant applications.

Accordingly, the Commission finds that the council as a whole should not initially review, evaluate, and/or screen the grant applications. Instead, the Council should appoint staff and/or a separate review committee of Council members to evaluate, screen, and/or make a recommendation to the full board for approval.

However, the Council's Industry members **may not** serve or participate on the review committee which initially evaluates, screens, ranks, and/or makes a recommendation to the full Council. The Industry member **may**, however, participate and vote on approval of the recommended grant application as part of the full Council, so long as the member does not have a specific prohibited financial interest or other conflict necessitating recusal. See W.Va. Code § 6B-2-5(j).

The distinction is that the committee assigned to review grant applications makes determinations among all the applicants, and recommends only a limited amount to the full council for approval. Thus, as full board members, it is possible for the members to recuse themselves from voting or discussing applications in which they or their employers have a financial interest, but allow participation on the merits of other applications in which the member has no financial interest.

With respect to financial interest, the Commission reminds board members that recusal is not mandated in every situation in which a decision may benefit a member or member's employer. Instead, W.Va. Code § 6B-2-5(j)(II) states that a "public official may vote...If the public official, his or her spouse, immediate family members or relatives or business with which they are associated are affected as a member of, and to no greater extent than any other member of a profession, occupation, class of persons or class of businesses." The Ethics Act further states that "a class shall consist of not fewer than five similarly situated persons or businesses." W.Va. Code § 6B-2-5(j)(II)(A).

Therefore, if the member or member's employer is one of a class of 5 or more similarly situated business, and is not going to uniquely benefit from the decision, then recusal is not mandated. However, the Commission still cautions members about the prohibitions of use of public office for private gain (W.Va. Code § 6B-2-5(b)), and encourages members to contact the Ethics Commission to inquire about questionable situations in which recusal may still be warranted.

### **C. Participation in approval of Rules**

In furtherance of its statutory responsibilities, the Requester is required to draft and approve legislative rules. Although the Rules are generally procedural in nature, the Rules could potentially involve substantive technology determinations and policy decisions.

According to the Requester, none of the Council's Industry members has assisted in the preparation of the Rules to date. Instead, the council has utilized staff and an outside consultant to assist in the drafting of the Rules. The draft Rules are almost complete and will soon be placed on an agenda for discussion and approval. Therefore, the Requester desires guidance as to when, if at all, the Industry members should recuse themselves.

While the Requester desires a bright-line determination, the Commission is not in a position to assess whether each and every legislative rule is, or potentially could be, a prohibited conflict necessitating recusal. These are fact-specific determinations which require the Council, in consultation with its attorney, to consider on a case-by-case basis. Indeed, a Rule may seem obscure to the lay person yet provide a competitive advantage to a particular person or employer.

In light of such, the Commission believes the approach taken in Advisory Opinion 2009-08 represents the best model to avoid conflicts and maintain transparency. Specifically, the Commission finds that the Council's Industry members **may not** serve or participate on **committees** which initially drafts or evaluates the Council's legislative rules. An Industry member **may**, however, participate and vote on approval of the drafted Rules when they come before the full council, so long as the member does not have a specific prohibited financial interest or other conflict necessitating recusal. See W.Va. Code § 6B-2-5(j).

In the opinion of the Commission, it bolsters public confidence in the process if industry members are not on the committee which makes these initial determinations. Once the Rules are brought before the full governing body, still, there may be provisions in the Rule which affect an industry member's employer or business uniquely as opposed to affecting the employer or business as a class. In those situations, the affected member is still required to recuse him or herself.


Therefore, in answer to the question presented, the council's Industry members may not participate or serve on any committees which initially review, consider, or draft the council's legislative rules. However, the Industry-member may participate and vote on the approval of the proposed Rules, provided they do not have a specific prohibited financial interest or conflict in violation of the Ethics Act (e.g. approval of a Rule requiring a technical specification which only the member's employer can meet).

#### **D. Recusal**

Finally, the Commission reminds the Council members that under the Ethics Act, in order for "a public official's recusal to be effective, it is necessary to excuse him/herself from participating in the discussion and decision-making process by **physically removing him/herself from the room during the period, fully disclosing his interests**, and recusing him or herself from voting on the issue." W.Va. Code § 6B-2-

5(j)(3) (emphasis added). Additionally, the minutes/ record of the meeting must reflect the basis for the recusal and that the council member left the room during all consideration, discussion and vote on the item under consideration.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et. seq.*, and does not purport to interpret other laws or rules. In accordance with W.Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other public agencies unless and until it is amended or revoked, or the law is changed.

  
R. Kemp Morton, Chairperson

ADVISORY OPINION NO. 2011-19

FILED

Issued On December 1, 2011 By The

2011 DEC -2 AM 10:00

WEST VIRGINIA ETHICS COMMISSION

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

OPINION SOUGHT

A **State Licensing Board** asks:

- (1) Whether it may use public funds to hire its former Executive Director, a registered lobbyist, to serve as a Legislative liaison;
- (2) If it hires a registered lobbyist, whether the person must register on behalf of the Board; and,
- (3) Whether the newly enacted revolving door prohibitions relating to lobbying would prohibit the Board from hiring its former Executive Director to lobby on its behalf.

FACTS RELIED UPON BY THE COMMISSION

The Requester is a State Licensing Board which regulates members of a profession. The Board's duties include, but are not limited to, issuing licenses, conducting investigations and proposing legislative rules.

Recently, the Board's Executive Director resigned. Based upon information and belief, the Director resigned his employment prior to July 1, 2011. At the time of his resignation and at all times relevant hereto the Director was a registered lobbyist who represented several private clients. Based upon information and belief, he does not represent clients whose areas of interests fall within the jurisdiction of the Board.

The Board has recently hired a new Executive Director. The new Executive Director is a licensed professional in the profession regulated by the Board. The Board is in the process of proposing a re-write of its enabling legislation and related legislative rules. The Board states that neither the new Director nor the Board has the practical experience or time to undertake this re-write, including working with the Legislature and members of the profession to accomplish this task. As such, the Board is considering hiring its former Executive Director as a contract employee for this purpose. The Board seeks guidance on whether it may do so, and, if so, what other limitations may apply.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

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

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

that of another person.

W.Va. Code § 6B-3-1(6).

"Lobbying" or "lobbying activity" means the act of communicating with a government officer or employee to promote, advocate or oppose or otherwise attempt to influence:  
(i) The passage or defeat or the executive approval or veto of any legislation which may be considered by the Legislature of this state....

W. Va. Code § 6B-3-1(8) defines "Lobbyist" as:

(A) "Lobbyist" means any individual employed by a lobbying firm or who is otherwise employed or contracts for economic consideration, other than reimbursement for reasonable travel expenses, to communicate directly or through his or her agents with any elective state official, agency official or legislative official for the purpose of promoting, advocating, opposing or otherwise attempting to influence:

(i) The passage or defeat or the executive approval or veto of any legislation which may be considered by the Legislature of this state...

(B) The term "lobbyist" does not include the following persons, who are exempt from the registration and reporting requirements set forth in this article, **unless they engage in activities which would otherwise subject them to the registration and reporting requirements.**(emphasis added):  
....

(vi) Employees of the executive branch whose duties include seeking to have Legislation introduced and passed at the request of their agency, or who otherwise serve as a Legislative liaison, do not have to register as a lobbyist. W.Va. Code § 6B-3-1(8)(B)(vi). Here, the former director does not fall within this exception as he is a professional lobbyist.

## **ADVISORY OPINION**

The Ethics Act prohibits public agencies, including licensing boards, from using public funds for their own private gain or the private gain of another. In determining whether an expenditure of public funds violates the Ethics Act, the Commission relies upon the common law, West Virginia Code, Legislative Rules, Attorney General Opinions and opinion letters issued by the Auditor's Office to determine whether there is express or implied authority for the expenditure.<sup>1</sup> See A.O. 2010-19.

In considering the question presented, the Commission finds that it does not violate the Ethics Act for a public agency to hire a contract employee for purposes of assisting the

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<sup>1</sup> The Board is funded through a special revenue fund consisting of licensing fees collected by the agency; however, these funds are still public funds and may only be expended for purposes authorized by law.

agency in drafting legislation or rules or promoting their passage through communications with the Legislature and other interested parties. Normally, agencies have persons on staff with the assigned responsibility of serving as the agency's Legislative liaison. During the Legislative session and throughout the year, this staff person or the head of the agency may communicate with the Legislature on matters of interest to the agency.

The term "lobbying" is defined, in relevant part as, "the act of communicating with a government officer or employee to promote, advocate or oppose or otherwise attempt to influence...the passage or defeat ...of legislation."<sup>2</sup> W. Va. Code § 6B-3-1(8). When an agency is communicating with the Legislature to promote the passage of legislation or legislative rules, these communications constitute lobbying.

There is no prohibition in the Ethics Act against an agency using public resources and staff to lobby, i.e. to communicate with the Legislature. If an agency is interested in promoting the passage of a proposed rule or legislation which the agency believes is necessary for the efficient operation of the agency or promotes the mission of the agency, then it is necessary for its staff to interact with the Legislature to communicate the agency's position.

If the agency does not have adequate staff to draft legislation or rules, field questions from interested parties, meet with Members of the Legislature or attend Legislative Committee meetings, then the agency may elect to hire a temporary employee or contract employee for this purpose. The Commission finds that the expenditure of public funds for this purpose does not violate the private gain provisions in the Ethics Act, even if the person the agency hires is a registered lobbyist.

The Commission recognizes that the question presented is unique as a public agency is using public resources to hire a professional registered lobbyist to serve as its Legislative liaison. Based upon information and belief, historically, few public agencies in West Virginia have hired professional lobbyists.

On the national level, some states hire lobbyists to lobby Congress. Some commentators believe that this practice does not constitute sound public policy; others argue the contrary. Regardless, it does not violate the Ethics Act's private gain provision for a public agency to hire a lobbyist; provided that, the agency consults with the Auditor's Office to determine whether the expenditure of public funds for this purpose is authorized. Additionally, the Commission cautions public agencies against using public funds to purchase meals or gifts for public officials in furtherance of the agency's lobbying efforts.

Next, the Commission must consider whether a registered lobbyist who is hired as a contract employee by a public agency to serve as its Legislative liaison must register as a lobbyist.

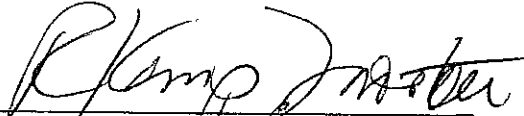
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<sup>2</sup> The fact that a person communicates with Members of the Legislature to express his or her view on a bill constitutes lobbying; however, such communications, standing alone, do not trigger the lobbyist registration requirements. Instead, the test is whether the person is compensated to lobby or expends \$150.00 or more on public officials in furtherance of his or her lobbying activities.

Public officials and employees are not required to register as lobbyists when lobbying the Legislature on behalf of their agency. W. Va. Code § 6B-3-1(8)(B)(vi) and A.O. 99-09. However, in the present case, a different rule of law applies. Specifically, if the Board hires the person under consideration as its Legislative liaison, he is not exempt from the registration requirements for executive branch employees as he is a professional registered lobbyist. The Commission reached a similar conclusion in A.O. 2010-07 wherein the Commission found that a registered lobbyist is required to register as a lobbyist on behalf of a non-profit organization even if she volunteers her lobbying services to the non-profit without compensation. As such, if hired, he must register the Board as one of his clients with the West Virginia Ethics Commission and pay the \$100.00 registration fee.

Last, the Commission must consider whether the agency's act of hiring its former Executive Director as a contract employee/lobbyist triggers the newly enacted revolving door prohibition which requires certain public officials, including heads of agencies, to wait one year before registering as a lobbyist. This provision became effective July 1, 2011. The Executive Director terminated his employment prior to July 1<sup>st</sup>. Hence, if he is hired as a contract employee and is in fact a contract employee as defined by applicable federal law and Internal Revenue Service regulations, then the contract for his services does not trigger the one year waiting period. This question was considered and answered in Advisory Opinion 2011-04.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.* and W.Va. Code § 61-10-15, and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other public agencies unless and until it is amended or revoked, or the law is changed.

  
R. Kemp Morton, III Chairperson

ADVISORY OPINION NO. 2011-20

Issued On December 1, 2011 By The

WEST VIRGINIA ETHICS COMMISSION

FILED

2011 DEC -2 AM 10:00

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

OPINION SOUGHT

An **Elected County Commissioner** asks whether he may purchase a tax lien at a Sheriff's sale or through the State Auditor's Office, or both.

FACTS RELIED UPON BY THE COMMISSION

In West Virginia, County Assessors are, on an annual basis, responsible for appraising the value of real and personal property situated in their county.<sup>1</sup> Once the annual assessment is complete, the Assessor submits the property books/assessments to the County Commission. The County Commission, acting in its statutory capacity as the board of equalization and review, must examine and review the property books and correct all errors in regard to the description and valuation of property. W.Va. Code § 11-3-24. Property owners may appear before the board of equalization and review to object to the valuation of their property. *Id.* The board of equalization and review, based upon the facts presented and applicable law, may grant or deny the property owner's request. The amount of property taxes owed is, in relevant part, based upon the assessed value of the property and its classification, e.g. residential, business or other.

Once the assessment process is complete, the County Sheriff is responsible for collecting property taxes. W.Va. Code § 11A-1-4. If a person fails to pay their property taxes, then the Sheriff may bring a civil action to recover the taxes or may sell the tax lien on the property. W.Va. Code §§ 11A-2-1, -2, and -10. The Code requires the Sheriff to sell tax liens at a public auction "to the highest bidder in the amount which shall not be less than the taxes, interest and charges which shall be due thereon..." W.Va. Code § 11A-3-2. Before the Sheriff's sale, the Sheriff must present a delinquent list to the County Commission for examination. If the County Commission finds the list to be correct, it directs the County Clerk to certify the list. W.Va. Code § 11A-2-14. This list is then published before the sale.

If tax lien is not sold at the auction, the Sheriff then certifies the property to the State Auditor for disposition. W.Va. Code § 11A-3-8. The State Auditor's office may then sell the tax lien. The State Auditor must first attempt to sell the lien at a public auction. If it is not sold at the auction, then the State Auditor may sell the lien directly to interested purchasers.

Regardless of what means is used to sell the tax lien, once a tax lien is sold, property owners are afforded various opportunities to redeem their property before the deed is conveyed to

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<sup>1</sup> There are numerous laws governing the assessment of property and the sale of tax liens/property. Each required step is not outlined herein; only those steps deemed relevant to the question before the Ethics Commission.

the person who purchased the lien at the tax sale. Additionally, they may redeem their property at any point before the Sheriff's sale. W.Va. Code § 11A-3-4.

The law clearly prohibits the following public officials or employees from purchasing tax liens at Sheriffs' tax sales: sheriffs, clerks of the county commission or circuit court, assessors, State Auditor, or deputies or assistants of any of them. W.Va. Code § 11A-3-6. In regard to tax liens sold by the Auditor, there are similar prohibitions. Specifically, the following public servants may not purchase property sold by the Auditor: deputy commissioners, sheriffs, clerks of the county commission or circuit court, assessors, or deputies of any of them. W.Va. Code § 11A-3-49.

The Requester, an elected County Commissioner, seeks guidance on whether he may purchase delinquent property at a Sheriff's sale or from the State Auditor, or both.

### **CODE PROVISIONS RELIED UPON BY THE COMMISSION**

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

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

W. Va. Code § 6B-2-5(d)(1) provides in part that:

[N]o elected or appointed public official ... or business with which he or she is associated may be a party to or have an interest in ... a contract which such official or employee may have direct authority to enter into, or over which he or she may have control...

W. Va. Code § 61-10-15 states in part that:

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

### **ADVISORY OPINION**

#### **The Ethics Act**

Pursuant to W.Va. Code § 6B-2-5(d)(1) a public official may not have more than a limited interest in the profits or benefits of a public contract over which he or she has direct authority or control.

The primary responsibility for assessing property values and taxes lies with the County Assessor. The responsibility for collecting taxes, including the sale of tax liens, lies with the Sheriff. A County Commissioner has no direct control over the decision of a Sheriff to sell a tax lien at a public auction. Instead, the Sheriff may only sell the tax lien if the property owner fails to pay the taxes and is placed on notice that the tax lien will be sold at the Sheriff's sale unless the taxes are paid by a date certain. Moreover, at the tax sale, the Sheriff is statutorily required to sell the tax lien to the highest bidder in an amount which shall not be less than the taxes, interest and charges. If the tax lien is sold at the sale, still the property owner may redeem the property if he or she pays the purchaser of the tax lien the statutory fees and interest to which the purchaser is entitled. If the tax lien is not sold at the Sheriff's sale, then the State Auditor becomes responsible for disposing of the property/tax lien. If a tax lien is purchased from the State Auditor, the property owner still has the right to redeem the property.

Based upon the statutory procedures governing the assessment of property and the sale of tax liens, the Commission finds that elected County Commissioners do not exercise direct authority or control over tax liens sold at the Sheriff's tax sale or by the State Auditor so long as the County Commissioner was not involved in decisions which directly impacted the assessment or sale of the particular piece of property being sold. For example, a County Commissioner may not purchase a tax lien if the lien is on property for which the owner requested an adjustment of the assessed value or other relief from the County Commission directly, or in its capacity as the board of equalization and review.<sup>2</sup> In contrast, if the County Commission's only involvement in assessing the property was certifying the assessment through its duty to review the property books to correct errors and equalize assessments, then the Ethics Commission finds that this action does not constitute direct control over the sale of a tax lien, either at the Sheriff's tax sale or by the State Auditor. Hence, under these circumstances, the purchase of a tax lien by a County Commission would be permissible and would not be in violation of the Ethics Act's prohibition against having an interest in a public contract over which the public official exercises control.

### **West Virginia Code § 61-10-15**

W.Va. Code § 61-10-15, a separate criminal statute, contains a stricter standard than the Ethics Act, and imposes criminal penalties against any "member of a county commission, district school officer, secretary of a board of education, supervisor or superintendent, principal or teacher of public schools or any member of any other county or district board or any county or district officer" who are pecuniarily interested, either directly or indirectly, in the proceeds from a public contract over which the public official may exercise voice, influence or control. Any person who violates this provision is guilty of a misdemeanor and may be removed from public office. See generally Alexander v. Ritchie, 53 S.E.2d 735 (W.Va. 1949).

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<sup>2</sup>W.Va. Code § 6B-2-5(h) prohibits full-time public employees and officials from purchasing property from persons they regulate. As the position of elected County Commissioner is not a full-time position, this code provision does not apply to them.

In the present case, for the reasons outlined in the preceding section, the Ethics Commission finds that there is an insufficient nexus between the statutory duties of the County Commissioners and the statutory duties of the Sheriff to find that County Commissioners exercise voice, influence or control over the sale of tax liens at the Sheriff's tax sale or by the State Auditor. See A.O. 2011-02 wherein the Commission ruled that a County Commission may contract with a Conservation District under certain limited circumstances. While the exercise of "voice, influence or control" is broader than the exercise of "direct control", the Commission finds that an elected County Commissioner does not have voice or influence over which tax liens are offered for sale at the Sheriff's tax sale. While the County Commission must certify the delinquent list, this power is essentially ministerial in nature.


As such, the Commission finds that W.Va. Code § 61-10-15 does not prohibit County Commissioners from purchasing tax liens so long as they had no direct involvement in the assessment of the property. The analysis of what constitutes direct versus indirect involvement is discussed above and is equally applicable for purposes of complying with the limitations in W.Va. Code § 61-10-15. Specifically, a County Commissioner may not purchase a tax lien if the lien is on property for which the owner requested an adjustment of the assessed value or other relief from the County Commission directly, or in its capacity as the board of equalization and review. In contrast, if the County Commission's only involvement in assessing the property was certifying the assessment through its duty to review the property books to correct errors and equalize assessments, then the Ethics Commission finds that this action does not constitute direct control over the sale of a tax lien, either at the Sheriff's tax sale or by the State Auditor. Hence, under these circumstances, the purchase of a tax lien by a County Commission would be permissible.

The holding in this opinion should not be construed as authorizing County Commissioners to engage in other financial transactions with the Sheriff's Department or other County agencies. It only authorizes the purchase of tax liens at the Sheriff's sale or from the State Auditor.

In rendering this opinion, the Commission has considered the plain language in W.Va. Code § 61-10-15. It has also considered that the Legislature has expressly prohibited certain county officials from purchasing tax liens. These officials include: sheriffs, clerks of the county commission or circuit court, assessors, State Auditor, or deputies or assistants of any of them. W.Va. Code § 11A-3-6 and W.Va. Code § 11A-3-49. Additionally, W.Va. Code § 11A-3-6 was amended and/or reenacted in 1994 and again in 2010; however, on neither occasion was this code section amended to include County Commissioners. While the language in these code sections is not controlling in regard to the application of the Ethics Act and W.Va. Code § 61-10-15, nevertheless, the Commission has given it weight. Whether this list should be expanded to include County Commissioners is a policy decision which ultimately lies with the Legislature.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.* and W.Va. Code § 61-10-15, and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and

may be relied upon in good faith by other public agencies unless and until it is amended or revoked, or the law is changed.

  
R. Kemp Morton, III Chairperson

## ADVISORY OPINION NO. 2011-18

FILED

Issued On December 1, 2011 By The 2011 DEC -2 AM 10: 00

WEST VIRGINIA ETHICS COMMISSION

OFFICE WEST VIRGINIA  
SECRETARY OF STATEOPINION SOUGHT

A **State Agency** asks whether members of its governing council who are appointed to represent a particular industry/interest must recuse themselves from consideration of grant applications/awards or legislative rules relating to the award of grants, or both.

FACTS RELIED UPON BY THE COMMISSION

The Requester is a public agency that provides funding for technological infrastructure projects for unserved and underserved areas of the State. The State Agency receives its funding from public sources and private entities, including corporations and individuals.

The State Agency is governed by an eleven-member council. In accordance with its enabling statute, four of the members are State officials or their designees. The remaining seven members are appointed by the Governor. The Requester's enabling statute specifies that the seven appointed members represent various interests and industries throughout the State. In particular, one member must represent higher or secondary education and two members must represent the general public. However, by statutory design, the Legislature intended for the other members to be representatives of industries/interests affected by the Agency.<sup>1</sup>

By having members of affected industries on the governing council, a potential situation is created in which the Industry members may have to vote or discuss matters which could financially affect themselves and/or their employers. In an effort to address this potential situation, the Legislature expressly stated in the enabling statute that members with potential conflicts are not disqualified from membership on the council so long as the member recuses him/herself from participation in the issue giving rise to the conflict in accordance with the recusal statute set forth in the West Virginia Ethics Act. (W.Va. Code § 6B-2-5(j)(3)).

The Requester desires to know whether Industry member participation in the drafting and passage of legislative rules and/or the awarding of grants constitutes a conflict of interest which requires recusal.

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<sup>1</sup> These industry-related council members are collectively referred to as the "Industry members" throughout this opinion.

**CODE PROVISIONS RELIED UPON BY THE COMMISSION**

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

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

...

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

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

[N]o elected or appointed public official or public employee or member of his or her immediate family or business with which he or she is associated may be a party to or have an interest in the profits or benefits of a contract which the official or employee may have direct authority to enter into, or over which he or she may have control. . . . *Provided, however,* That nothing herein shall be construed to prohibit . . . a part-time appointed public official from entering into a contract which the part-time appointed public official may have direct authority to enter into or over which he or she may have control when the official has not participated in the review or evaluation thereof, has been recused from deciding or evaluating and has been excused from voting on the contract and has fully disclosed the extent of his or her interest in the contract.

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

(j) *Limitations on Voting.*

(1) Public officials . . . may not vote on a matter:

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

(B) If a public official is employed by a financial institution and his or her primary responsibilities include consumer and commercial lending, the public official may not vote on a matter which directly affects the financial interests of a customer of the financial institution if the public official is directly involved in approving a loan request from the person or business appearing before the governmental body or if the public official has been directly involved in approving a loan for that person or business within the past 12 months: *Provided*, That this limitation only applies if the total amount of the loan or loans exceeds fifteen thousand dollars.

(D) The appropriations of public moneys or the awarding of a contract to a nonprofit corporation if the public official or an immediate family member is employed by the nonprofit.

(II) A public official may vote:

(A) If the public official, his or her spouse, immediate family members or relatives or business with which they are associated are affected as a member of, and to no greater extent than any other member of a profession, occupation, class of persons or class of businesses. A class shall consist of not fewer than five similarly situated persons or businesses; or

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

### **ADVISORY OPINION**

In establishing the Ethics Act, the Legislature sought to maintain the public's confidence in the impartiality and independence of decisions and actions by public officials and employees, and to ensure that all such decisions be made free of undue influence, favoritism or threat at all levels of government. W.Va. Code § 6B-1-2(a).

In creating these ethical standards for public officials, the Legislature additionally recognized that "many part-time public officials and public employees serv[e] in elected and appointed capacities; and that certain conflicts of interest are inherent in part-time service[.]" W.Va. Code § 6B-1-2(c).

The question presented in this matter is the application of the prohibitions of the Ethics Act to a legislatively created governing council of part-time appointed community and industry leaders when either they or their employers may have a financial interest in the matters before the Agency.

#### **A. Prior Opinions**

The Commission recently addressed a similar issue in Advisory Opinion 2009-08. While in that opinion the Commission declined to create a "bright-line rule" applicable to every legislatively created board, the Commission did outline a procedure to follow for the Requester in that opinion, and "caution[ed] other funding boards to examine their own internal decision-making and deliberative committees."

In particular, the Commission held in A.O. 2009-08 that Industry members may remain on the board, but may not participate or serve on a committee which initially evaluates grant applications. In reaching this conclusion, the Commission stated:

The significant difference between the [sub-committee] and the full board is that the [sub-committee] makes determinations among all the proposals presented, and recommends only a limited amount of proposals to the Board for approval. Thus, as full board members, it is possible for the representatives to recuse themselves from voting or discussing their constituents' proposals, but allow participation on non-constituents' proposals.

The Commission additionally reiterated in A.O. 2009-08 its prior comments in A.O. 2006-06 relating to public officials employed by non-profits, and found the guidance equally applicable to all part-time appointed members who serve on funding boards which may consider funding or grants to their respective industry, employer or organization.

The Commission finds that these opinions create a sound framework for handling the types of conflicts raised in this matter. Therefore, with these prior opinions in mind, the Commission shall address the Requester's questions.

#### **B. Participation in consideration of Grant Awards**

One of the Requester's statutory missions is to consider and approve grants to various corporations and organizations throughout the State. While the Agency is still determining the structure and procedures for evaluating and awarding grants, the possibility exists that several of the Council members' employers may apply for grants from the Council. Therefore, the Requester desires guidance as to when, if at all, the appointed Council members (i.e. Industry members) should recuse themselves.

The Commission finds that the model adopted in A.O. 2009-08 provides the best framework to avoid conflicts in considering or approving grant applications.

Accordingly, the Commission finds that the council as a whole should not initially review, evaluate, and/or screen the grant applications. Instead, the Council should appoint staff and/or a separate review committee of Council members to evaluate, screen, and/or make a recommendation to the full board for approval.

However, the Council's Industry members **may not** serve or participate on the review committee which initially evaluates, screens, ranks, and/or makes a recommendation to the full Council. The Industry member **may**, however, participate and vote on approval of the recommended grant application as part of the full Council, so long as the member does not have a specific prohibited financial interest or other conflict necessitating recusal. See W.Va. Code § 6B-2-5(j).

The distinction is that the committee assigned to review grant applications makes determinations among all the applicants, and recommends only a limited amount to the full council for approval. Thus, as full board members, it is possible for the members to recuse themselves from voting or discussing applications in which they or their employers have a financial interest, but allow participation on the merits of other applications in which the member has no financial interest.

With respect to financial interest, the Commission reminds board members that recusal is not mandated in every situation in which a decision may benefit a member or member's employer. Instead, W.Va. Code § 6B-2-5(j)(II) states that a "public official may vote...If the public official, his or her spouse, immediate family members or relatives or business with which they are associated are affected as a member of, and to no greater extent than any other member of a profession, occupation, class of persons or class of businesses." The Ethics Act further states that "a class shall consist of not fewer than five similarly situated persons or businesses." W.Va. Code § 6B-2-5(j)(II)(A).

Therefore, if the member or member's employer is one of a class of 5 or more similarly situated business, and is not going to uniquely benefit from the decision, then recusal is not mandated. However, the Commission still cautions members about the prohibitions of use of public office for private gain (W.Va. Code § 6B-2-5(b)), and encourages members to contact the Ethics Commission to inquire about questionable situations in which recusal may still be warranted.

### **C. Participation in approval of Rules**

In furtherance of its statutory responsibilities, the Requester is required to draft and approve legislative rules. Although the Rules are generally procedural in nature, the Rules could potentially involve substantive technology determinations and policy decisions.

According to the Requester, none of the Council's Industry members has assisted in the preparation of the Rules to date. Instead, the council has utilized staff and an outside consultant to assist in the drafting of the Rules. The draft Rules are almost complete and will soon be placed on an agenda for discussion and approval. Therefore, the Requester desires guidance as to when, if at all, the Industry members should recuse themselves.

While the Requester desires a bright-line determination, the Commission is not in a position to assess whether each and every legislative rule is, or potentially could be, a prohibited conflict necessitating recusal. These are fact-specific determinations which require the Council, in consultation with its attorney, to consider on a case-by-case basis. Indeed, a Rule may seem obscure to the lay person yet provide a competitive advantage to a particular person or employer.

In light of such, the Commission believes the approach taken in Advisory Opinion 2009-08 represents the best model to avoid conflicts and maintain transparency. Specifically, the Commission finds that the Council's Industry members **may not** serve or participate on **committees** which initially drafts or evaluates the Council's legislative rules. An Industry member **may**, however, participate and vote on approval of the drafted Rules when they come before the full council, so long as the member does not have a specific prohibited financial interest or other conflict necessitating recusal. See W.Va. Code § 6B-2-5(j).

In the opinion of the Commission, it bolsters public confidence in the process if industry members are not on the committee which makes these initial determinations. Once the Rules are brought before the full governing body, still, there may be provisions in the Rule which affect an industry member's employer or business uniquely as opposed to affecting the employer or business as a class. In those situations, the affected member is still required to recuse him or herself.

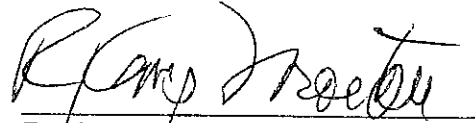
Therefore, in answer to the question presented, the council's Industry members may not participate or serve on any committees which initially review, consider, or draft the council's legislative rules. However, the Industry-member may participate and vote on the approval of the proposed Rules, provided they do not have a specific prohibited financial interest or conflict in violation of the Ethics Act (e.g. approval of a Rule requiring a technical specification which only the member's employer can meet).

#### **D. Recusal**

Finally, the Commission reminds the Council members that under the Ethics Act, in order for "a public official's recusal to be effective, it is necessary to excuse him/herself from participating in the discussion and decision-making process by **physically removing him/herself from the room during the period, fully disclosing his interests,** and recusing him or herself from voting on the issue." W.Va. Code § 6B-2-

5(j)(3) (emphasis added). Additionally, the minutes/ record of the meeting must reflect the basis for the recusal and that the council member left the room during all consideration, discussion and vote on the item under consideration.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et. seq.*, and does not purport to interpret other laws or rules. In accordance with W.Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other public agencies unless and until it is amended or revoked, or the law is changed.

  
R. Kemp Morton, Chairperson

**CCAWV**COUNTY COMMISSIONERS' ASSOCIATION  
OF WEST VIRGINIA*County Government Works*

# Commissioners' Corner

## Inside

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 Director's Discussion  
 CCAWV Calendar  
 Legislative Meeting Info.



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County Commissioner' Assoc. of WV-Cindy Pyles, President - Vivian Parsons, Exec. Dir.

VOLUME 14, NUMBER 3

DECEMBER, 2011

## CCA Legislative Meeting and Educational Training Series to be held January 21—24, 2012...

The County Commissioners' Association of West Virginia invites and encourages you to attend the CCAWV Legislative Association Meeting / County Commissioners' Continuing Educational Training Program. The meeting is scheduled for January 21-24, 2012 at the Marriott Hotel, Charleston, West Virginia.

Sunday, January 22, 2012 registration begins at 12:30 p.m. The Legislative Association Meeting starts at 1:30 p.m. and we will be discussing legislation of interest to counties.

Monday, January 23, 2012 at 9:00 a.m. we will be holding "Commissioners' at the Capital" we would like to have as many of our members attend as possible. This is your chance to help promote our Legislative Agenda.

Monday from 1:30-5:30 we will be holding the CCA Educational Training Series where we will discuss topics regarding resources for county government.

Monday evening CCA will host our Legislative Reception beginning at 6:30 p.m. Please be sure and invite your legislators.

Tuesday, January 24, 2012 beginning at 9:00 a.m. we will be doing a Legislative De-Briefing to discuss what we learned at the capital on Monday.

The CCA Membership will elect their members to serve on the 2012 WVACO Board of Directors at the Legislative Association Meeting on January 22, 2012. Please, mark your calendar now and plan to join us!

### Remember...

January 22-24, 2012

Charleston Marriott Hotel

CCAWV Legislative Association Meeting and Training Series

The CCA Board will have a meeting on

January 21, 2012 from

4:00 p.m. - 6:00 p.m. at the Marriott

Please call if you have questions (304) 345-4639. We look forward to seeing you there!

## 2011-2012 CCA Board of Directors

### President

Cindy Pyles, Mineral (788-5921)

### Vice-President

Tim McCormick, Ohio (234-3628)

### Immediate Past President

Ron Watson, Harrison (624-8500)

### Ex Officio Members

Joe Coburn, Mercer (487-8306)

### District 1-- Western Division

Don Mason, Marshall (845-0482)  
Scott Lemley, Wetzel (455-8217)  
Vacant

### District 1 -- Eastern Division

**Chair:** Janice LaRue, Mineral (788-5921)  
Bernie Fazzini, Harrison (624-8500)

### District 2 -- Western Division

**Chair:** Pat Boyle, Lewis (269-8200)  
Jerry Linkinoggor, Clay (587-4259)

### District 2 -- Eastern Division

Mike Taylor, Randolph (636-2057)  
J.R. Keplinger, Hardy (530-0284)  
Donnie Tenney, Upshur (472-0535)

### District 3 -- Western Division

Mickey Brown, Boone (369-1561)  
Nancy Cartmill, Cabell (526-8634)

### District 3 -- Eastern Division

**Chair:** Chuck Armentrout, Webster  
(847-5780)  
Jack Woodrum, Summers (466-7100)  
Denise Scalph, Fayette (574-4290)

### County Commissioners' Association of WV

2309 Washington Street East  
Charleston, WV 25311  
(304) 345-4639  
info@ccawv.org

Vivian Parsons, Executive Director  
Jennifer Webb, Admin. Assistant

## President's Perspective

by Cindy Pyles, CCAWV President

The legislative agenda has been set. When you receive this newsletter most of the legislative roundtables (and yes I know that most of your tables were square or oblong) in your region will have already taken place. The roundtables are a great way for county commissioners and legislators to become informed in detail about our agenda.



The Association will need you to continue your input throughout the session. If you have any questions concerning an issue that may pop up, call Vivian, your local county commission representatives and read the list serve.

Our goal is to have everyone on the same page. Even though you personally may not agree on an issue, you need to stand by the association.

I Hope to see everyone in January at the Legislative Association Meeting in Charleston. Have a Very Merry Christmas & Happy New Year!!!

## Director's Discussion...

By Vivian Parsons, Executive Director

### Remembering our own...

The County Commissioners' Association lost two of its own this month. CCAWV board member Bernie Kazienko, Brooke County Commissioner, and CCAWV association member, Wayne Stutler, Marion County Commissioner. Both will be sadly missed, by their families and friends, the county constituents they so faithfully represented, and by their Association Family! May they each rest in sweet peace, until we meet again. God Bless.

### Bernie Kazienko, Brooke County Commissioner, CCAWV Board Member-

Bernard "Bernie" Lee Kazienko, 59, of Wellsburg, W.Va., died Monday, December 5, 2011, at Trinity West Hospital in Steubenville, Ohio. He was born January 8, 1952, to the late Clara Evelyn Yonder and John Kazienko. Bernie proudly served the citizens of Brooke County as a Sheriff's Deputy for 22 years, served as Sheriff for eight years, and was finally elected as a **Brooke County Commissioner**, which he served until his passing. He was a Catholic by faith and a member of St. John the Evangelist Church in Wellsburg.



He is survived by his son Kirk and his wife Carrie of Wellsburg; daughter Shaney Clifton and her husband Tracy of Columbus, Ohio; Monica Sickles of Arlington, Va.; and Lindsay Dolfi and her husband Mike, also of Columbus, Ohio; two grandsons, Tyrus Clifton and Dominic Dolfi. Brothers Charles of Hoschton, Ga.; Tom of Wellsburg, W.Va.; Mike of Germantown, Md.; sisters Eleanor "Bubs" Manack of Follansbee, Marion Kleiner of Follansbee; and Marsha Kazienko of Wellsburg. Bernie is also survived by his loving companion Tina Konkle of Wellsburg. In addition to his parents, he was preceded in death by his brother John Kazienko of Downers Grove, Ill. (Continued on Page 5)

**CCAWV****COUNTY COMMISSIONERS' ASSOCIATION  
OF WEST VIRGINIA***County Government Works*2309 Washington Street, East  
Charleston, WV 25311  
E-mail: [info@ccawv.org](mailto:info@ccawv.org)  
Phone: (304) 345-4639  
Fax: (304) 346-3512

December 13, 2011

Attention: All County Commissioners' and Staff:

The County Commissioner' Association of West Virginia invites and encourages you to attend the CCAWV Legislative Association Meeting & Educational Training Series. The meeting is scheduled for January 22-24, 2012 at the **Marriott Hotel, Charleston, WV.**

**The tentative schedule is as follows:****Saturday, January 21, 2012**

4:00 pm – 6:00 pm CCAWV Board of Directors Meeting

**Sunday, January 22, 2012**

10:00 am – 11:00 am CCAWV Services Review Committee Meeting

12:30 pm – 5:00 pm Registration

1:30 pm – 6:00 pm CCAWV Legislative Briefing &amp; Association Business Meeting

7:00 pm Group Dinner

9:00 pm – ??? Networking Room Sponsored by E.L. Robinson

**Monday, January 23, 2012**8:30 am – 1:00 pm Commissioners' Day at the Legislature (go to Capital & visit with Legislators / get introduced during 11:00 am floor session - **(Lunch is on Your Own)**)

1:30 pm – 5:00 pm CCAWV Educational Training Series- Resources for County Government WV Division of Tourism, WV Community Development Hub, Governor's Office of Technology, WVU Local Government Leadership Academy, WV Risk Pool, WV Physical Activity Plan

6:30 pm – 8:30 pm **CCAWV Legislative Reception at the Marriott (remember to invite your legislators/we'll also give you invitations to take to them Monday morning when you visit)**

9:00 pm - ??? Networking Opportunities Sponsored by Silling Associates

**Tuesday, January 24, 2012**

9:00 am-10:30 am Legislative De-Briefing

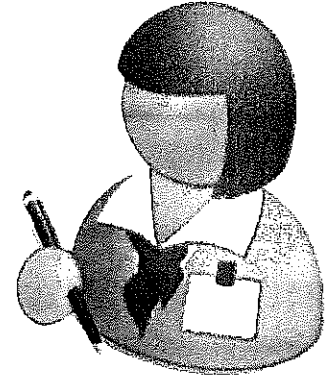


A registration fee of \$195 per county attendee is assessed to cover meeting costs and should be made payable to the County Commissioners' Association of WV. A block of rooms are available at \$125.00 per night by calling the Marriott @ 1-800-228-9290. **The cut-off date for the room rate is January 6, 2012.**

*Please call if you have questions (304) 345-4639. We look forward to seeing you there!*

# CCAWV Legislative Association Meeting & Educational Training Series

## Registration Form



\_\_\_\_\_  
Name

\_\_\_\_\_  
County

I plan to attend the Legislative Association Meeting & Education Training Series Program January 22-24, 2012.

\_\_\_\_\_  
Please bill my county for the \$195.00 registration fee (due and payable within 30 days of billing)

\_\_\_\_\_  
My registration fee of \$195.00 is enclosed (payable to County Commissioners Assoc WV)

Please return by mail or fax (304-346-3512) no later than January 13, 2012 to CCAWV.

*Cancellation Policy: There will be no penalty for cancellations received in writing on or before January 13, 2012. January 14, 2012 and thereafter, all no-shows will be charged the full registration amount. We apologize for the need to adopt this policy, but on this date, the costs for room rentals, refreshments, etc. are incurred on your behalf even when you cancel and the Association is stuck with covering the cost. Thanks for your cooperation in this matter.*

## Statewide WV Broadband Infrastructure

By WV Office of Technology

The West Virginia Statewide Broadband Infrastructure Project extends broadband services across the state by leveraging existing infrastructure to build a middle mile network with Multiprotocol Label Switching (MPLS) over Microwave and Fiber technology. The proposed network will provide a backbone to community anchors, including schools, libraries, hospitals, public safety agencies, county courthouses, and jails.

The broadband services will be built utilizing fiber technology. An agreement was made with county representatives that details the plan for county courthouses to upgrade to a 10 meg circuit, tripling most counties current bandwidth. The cost to each county to increase the bandwidth to 10 meg will be approximately \$130 per month. The increased bandwidth will provide access to services that may have previously been unattainable such as Disaster Recovery and backup solutions. Once fiber has been supplied to an area, they will then have to ability to order a 10 meg circuit through an existing service provider.

The West Virginia Statewide Broadband Infrastructure Project is divided into three initiatives: fiber build out, microwave towers, and Greenbank - WVU. The main objective for the fiber build out is to improve broadband network access to consumers in underserved areas of the State of West Virginia, while improving access to broadband service for public safety agencies. Additionally, the purpose is to stimulate the demand for economic growth and job creation. The purpose of the microwave tower initiative is to upgrade the current microwave network to provide the backhaul for broadband data connectivity to anchor tenants; incorporate fiber segments to provide new infrastructure to extend middle mile deeper into rural areas of West Virginia; and establish 12 new tower locations to allow for redundancy and provide for future growth opportunities. The Greenbank - WVU initiative will provide direct broadband network access between Greenbank Research Observatory and West Virginia University. This will increase bandwidth capacity for educational and Internet purposes. The West Virginia Office of Technology is assisting in the implementation of the fiber build out and the development of the IP network to be placed over the Microwave System.

The overall costs of the project is approximately \$159 million, with \$126 million of the funding coming from the American Recovery & Reinvestment Act (ARRA) grant and \$33 million supported through the state. The grant allows for each identified community anchor to receive a router that will allow for continuous growth for at least 5 to 7 years. A project plan detailing the fiber deployment to the 1,062 identified anchor tenants has been developed and a schedule for the build out is being developed. The plan will track the fiber deployment for each site and provide status updates for executive reports created.

According to the grant, the project is to be completed by February 2013. The build out is being engineered on a regional basis throughout the state and engineering of the entire state is expected to be completed by the end of 2011. The fiber build out will continue throughout the duration of the grant.



The County Commissioners  
Association of West Virginia  
would like to welcome  
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## Director's Discussion

(Continued from page 2)

### Wayne A. Stutler, Marion County Commissioner



Wayne Allen Stutler, 78, of Fairmont crossed over to be with the Lord on Thursday, December 15, 2011 at his home. He was born in Marion County on May 5, 1933, the middle child of the late Harley V. and Cora (Brown) Stutler.

Wayne was a dedicated public servant. He currently served as Marion County Commissioner since 2006. In his earlier years he worked at Owens-Illinois from 1952-1955, then went on to work at the City of Fairmont Police Department from 1955 to 1987, serving as chief of police for 14 of the last 15 years of his tenure and then went on to serve two four-year terms on Fairmont City Council and as Mayor in 1988. He was a life member of the IACP and was a loyal member of the Republican Party and served as parliamentarian for the Marion County executive committee. He enjoyed playing golf and taking care of his property.

He is survived by his loving wife, Elaine (Ash) Stutler of Fairmont, one son, David Stutler of Ocala, Florida, two grandchildren, Stacy Lovingood of Ocala, FL and Tyler Stutler of Ocala, FL and also two great-grandchildren, Alyssa Lovingood and Derick Ackley. Also surviving is his brother-in-law, David Kirby and his companion Bunny Zirkle, two sisters-in-law, Margaret Stutler and Diane Podnak and her husband Don, an uncle, Pastor Don Stutler and family of Spartansburg, SC, nieces and nephews, Kay White, Pastor Bill Stutler, Brenda Morris, Nari Todd and Yasmin Zughni, as well as several great nieces and nephews. In addition to his parents, he was preceded in death by a son, Todd Wayne Stutler in January of 2011, a brother, Edward Stutler, a sister, Dorothy Kirby, and a grandson, Zachary Stutler.

In keeping with the wishes of the deceased, his body will be cremated. The family will receive friends at Carpenter and Ford Funeral Home, 209 Merchant St., Fairmont on Thursday from 10 am to 1 pm. A memorial service will be held in the funeral home on Thursday, December 22, 2011 at 1 pm with Rev. D.D. Meighen and Pastor Bill Stutler officiating.

The family would like to thank Amedisys Hospice caregivers Mark and Paula and also friends Alan and Bill who were always there for support, compassion and care, as well as all friends who were always there for support during Wayne's illness. In lieu of flowers, memorial contributions may be made to Amedisys Hospice, 67 Casino Drive, PO Box 366, Anmoore, WV 26323 or to a charity of choice. Online condolences may be left for the family at [www.carpenterandford.com](http://www.carpenterandford.com).

### CCAWV Calendar of Events



**January 8-10, 2012**  
Interims

**January 11, 2012**  
Session Begins

**January 21, 2012**  
CCAWV Board Meeting  
Marriott Charleston

**January 22-24, 2012**  
CCAWV Legislative Association Mtg.  
Marriott Charleston

**May 20-22, 2012**  
CCAWV Spring Board Mtg.  
Mardi Gras Resort  
Cross Lanes, WV



**Merry Christmas**  
**and**  
**Happy New Year!**