

AGENDA
JEFFERSON COUNTY COMMISSION
THURSDAY, JUNE 14, 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

APPROVAL OF MINUTES

APPROVAL OF PURCHASE ORDERS

APPROVAL OF ACCOUNTS PAYABLE

PUBLIC COMMENT

PRESENTATIONS:

1. 9:45 a.m. Sergeant Jeffery Quinn, United States Army
- Presentation of West Virginia State Flag that was flown on an aircraft during combat in Afghanistan - Discussion/Action

2. 10:00 a.m. Barbara Miller, Director of Homeland Security and Emergency Management
- Presentation of the FEMA (Federal Emergency Management Agency) Community Rating System of the National Flood Insurance Program. This presentation will be by: Kevin Sneed and Robin Mumford of WVDHDEM - Discussion/Action
- Jefferson County All Hazards Risk Assessment and Mitigation Plan - Discussion/Action

3. 10:30 a.m. Break

4. 10:45 a.m. Paul Shroyer, Financial Director
- Approval of Internal Budget Revisions #1018 - #1024 - Discussion/Action
- Capital Outlay Fund Summary of Expenditures for the period 7/1/11 - 6/6/12 - Discussion
- RCS Expenditures - Discussion

5. 11:00 a.m. Roger Goodwin, Chief County Engineer
 - Bond reduction and/or release for a complete release of the Construction Bond security for Summit Point Automotive Research Center, LLC - StaSIS Grading Plan (File #S10-08) Cash in Escrow with the Bank of Charles Town, Charles Town, West Virginia - Discussion/Action
 - Complete release of the Construction Bond Security for McDonald's Corporation - Lot 2 Maddox Square Shopping Center (File #S11-18) Performance Bond No.404002723 with Safeco Insurance Company of America, Seattle, Washington - Discussion/Action
 - Partial release of the Construction Bond security for Summit Point Automotive Research Center LLC - Summit Point Tactical Training Center, Phase II (File #S11-11) - Letter of Credit #313 with the Bank of Charles Town, Charles Town, West Virginia - Discussion/Action

6. 11:15 a.m. C. Mark Hofe, Chief Probation Officer 23rd Judicial Circuit
 - Request the Commission to purchase tables and chairs for the Juvenile Drug Court - Discussion/Action

UNFINISHED BUSINESS:

7. Approval of County Commission priorities and projects - Discussion/Action
8. County Administrator job description /Recruitment announcement - Discussion/Action

NEW BUSINESS:

9. Approval of Grant Contract Agreement for Victims of Crime Act \$59,381 - Discussion/Action

DEPARTMENTS, BOARDS, COMMISSIONS AND AGENCY WRITTEN REPORTS

- Todd Fagan. GIS Director - Quarterly Report

COUNTY ADMINISTRATOR REPORTS

COUNTY COMMISSION REPORTS

10. Break for Lunch

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

11. 7:00 p.m. Public Hearing for public input for the following:

The Jefferson County Commission has scheduled a public hearing on a Zoning Map Amendment (Rezoning) for property designated as Tax District: Harpers Ferry, Map: 9-2, Parcel: 58. This property is located on the south side of Route 340 (William L. Wilson Freeway) and to the east side of Route 27/2 (Alstadt's Hill Road) and is a total of 8.98 acres. This property is currently zoned Residential Growth and a request has been made by the owner, Gene Capriotti to change the zoning to Residential/Light Industrial/Commercial.

12. ADJOURN

**CORRESPONDENCE:**

Reminder that County offices will be closed on Wednesday, June 20, 2012 in observance of West Virginia Day.

Reminder of a Public Hearing on Thursday, June 21, 2012 at 7:00 p.m. in the Count Commission Meeting room concerning the Draft Impact Fee Ordinance.

City of Charles Town postcard of upcoming events received.

West Virginia Ethics Reporter May issue received from the West Virginia Ethics Commission.

Oaths of Office received on behalf of the Jefferson County Sheriff's Department for Dakota White, Paul Hale, Glen Kincaid, Wayne Gambrell and Allen Frazee.

Copy of a letter sent to Glen Litsinger, Deputy Director for Maryland Transit Administration.

Minutes from the Jefferson County Public Service District Board meeting on May 5, 2012 received.

**Weekly Settlement for Hollywood Casinos at Charles Town Races and Slot received for week ending June 2, 2012 received from the West Virginia Lottery.**

**Article of Interest in the Charleston Gazette concerning Counties get coal methane payments received from the West Virginia Association of Counties.**

**Impact Fee Status Report for May 2012 received from the Office of Impact Fees.**

**Correspondence received from Earl L. Jackson, Jr. regarding the public hearing held on May 31, 2012.**

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

# Minutes

## Jefferson County Commission

Thursday, June 7, 2012

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A meeting of the Jefferson County Commission was held on Thursday, June 7, 2012 in the County Commission meeting room at the Old Charles Town Library located at 200 E. Washington Street, Charles Town, West Virginia. Present were Commissioners Patricia Noland, Dale Manuel, Frances Morgan and Lyn Widmyer. (Walt Pellish was absent with notice.) Debbie Keyser, Interim County Administrator, Debbie Stellato, Administrative Assistant, Jimmy Eddie, Bailiff. (An audio tape of this June 7, 2012 meeting is available through the Jefferson County Commission Office.)

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

### PLEDGE OF ALLEGIANCE

Commissioner Manuel led the Pledge of Allegiance.

### APPROVAL OF MINUTES

Motion by Mr. Manuel to approve the Minutes of the May 31, 2012 regular meeting as amended. Motion seconded by Ms. Morgan and unanimously approved.

Motion by Ms. Morgan to approve the May 31, 2012 Special Session Minutes as presented. Motion seconded by Mr. Manuel and unanimously approved.

### APPROVAL OF PURCHASE ORDERS

Motion by Mr. Manuel to approve Purchase Orders of June 7, 2012 in the amount of \$37,151.62, being purchase order numbers: 50847, 50848, 50849, 49687, 49688, 49689, 49691, 49692, 49117, 50998, 53194, 49740, 49741, 49742, 49743, 50708, 50707, 49618, 49619, and 50793. Motion seconded by Ms. Morgan and unanimously approved.

### APPROVAL OF ACCOUNTS PAYABLE

Motion by Ms. Morgan to approve the accounts payable for June 7, 2012 in the amount of \$224,125.58. Motion seconded by Mr. Manuel and unanimously approved.

| CHCKNO | DEPT    | VENDOR                   | PONUM | POAMT     | NOAMT        | CHECK AMOUNT |
|--------|---------|--------------------------|-------|-----------|--------------|--------------|
| 067409 | 425     | ABH SERVICES, INC.       | 49739 | \$ 90.00  | \$ -         | \$ 90.00     |
| 067409 | 425     | ABH SERVICES, INC.       |       | \$ -      | \$ 14,175.00 | \$ 14,175.00 |
| 067410 | PAYROLL | AMERICAN GENERAL FINANCE |       | \$ -      | \$ 108.95    | \$ 108.95    |
| 067411 | 425     | BATTERY MART             | 49729 | \$ 107.70 | \$ -         | \$ 107.70    |
| 067411 | 700     | BATTERY MART             | 50910 | \$ 161.47 | \$ -         | \$ 161.47    |
| 067412 | 424     | B-K OFFICE SUPPLY INC    | 49736 | \$ 508.50 | \$ -         | \$ 508.50    |
| 067412 | 433     | B-K OFFICE SUPPLY INC    | 50846 | \$ 198.48 | \$ -         | \$ 198.48    |
| 067413 | PAYROLL | BUREAU F/CHILD SUPPORT   |       | \$ -      | \$ 49.85     | \$ 49.85     |

|        |         |                          |       |              |             |              |
|--------|---------|--------------------------|-------|--------------|-------------|--------------|
| 067414 | PAYROLL | BUREAU F/CHILD SPRT ENF  |       | \$ -         | \$ 212.31   | \$ 212.31    |
| 067415 | 716     | BLUE RIDGE VETERINARY    | 51156 | \$ 100.00    | \$ -        | \$ 100.00    |
| 067416 | PAYROLL | BUREAU OF CHILD SUPPORT  |       | \$ -         | \$ 461.54   | \$ 461.54    |
| 067417 | 413     | CASTO & HARRIS INC       | 49685 | \$ 150.10    | \$ -        | \$ 150.10    |
| 067418 | 425     | CITY OF CHARLES TOWN     | 49745 | \$ 40.00     | \$ -        | \$ 40.00     |
| 067419 | 424     | CHARLES TOWN UTILITY BRD |       | \$ -         | \$ 82.55    | \$ 82.55     |
| 067419 | 425     | CHARLES TOWN UTILITY BRD |       | \$ -         | \$ 783.58   | \$ 783.58    |
| 067420 | 413     | CHARLES TOWN COPYING SRV | 49683 | \$ 438.90    | \$ -        | \$ 438.90    |
| 067421 | PAYROLL | CHILD SUPPORT ENFORCE AG |       | \$ -         | \$ 27.69    | \$ 27.69     |
| 067422 | 440     | CHOICE STAFFING, INC.    |       | \$ -         | \$ 263.25   | \$ 263.25    |
| 067423 | 402     | COTT SYSTEMS             | 49686 | \$ 348.49    | \$ -        | \$ 348.49    |
| 067424 | 405     | KONICA MINOLTA           |       | \$ -         | \$ 173.11   | \$ 173.11    |
| 067425 | PAYROLL | DIVERSIFIED COLLECTION   |       | \$ -         | \$ 154.83   | \$ 154.83    |
| 067426 | PAYROLL | HIGHMARK INC             |       | \$ -         | \$ 597.60   | \$ 597.60    |
| 067427 | 424     | FRONTIER COMMUNICATIONS  |       | \$ -         | \$ 356.45   | \$ 356.45    |
| 067428 | 700     | GALLS,AN ARAMARK CO      | 50914 | \$ 2,072.00  | \$ -        | \$ 2,072.00  |
| 067428 | 700     | GALLS,AN ARAMARK CO      | 50914 | \$ 82.45     | \$ -        | \$ 82.45     |
| 067428 | 700     | GALLS,AN ARAMARK CO      | 50915 | \$ 1,280.54  | \$ -        | \$ 1,280.54  |
| 067428 | 701     | GALLS,AN ARAMARK CO      | 50914 | \$ 146.00    | \$ -        | \$ 146.00    |
| 067429 | 425     | GRAINGER, INC            | 49737 | \$ 463.98    | \$ -        | \$ 463.98    |
| 067430 | 412     | MICHAEL HARMAN           |       | \$ -         | \$ 214.95   | \$ 214.95    |
| 067431 | 401     | HIRERIGHT                |       | \$ -         | \$ 150.00   | \$ 150.00    |
| 067432 | 700     | INTERNATIONAL POLYGRAPH  | 50905 | \$ 600.00    | \$ -        | \$ 600.00    |
| 067433 | PAYROLL | ING NATIONAL TRUST       |       | \$ -         | \$ 1,110.00 | \$ 1,110.00  |
| 067434 | ALLOC   | JEFF CO COUNCIL ON AGING |       | \$ -         | \$ 5,990.00 | \$ 5,990.00  |
| 067435 | 406     | JEFFERSON PUBLISH CO INC | 53301 | \$ 78.00     | \$ -        | \$ 78.00     |
| 067435 | 413     | JEFFERSON PUBLISH CO INC | 49684 | \$ 1,565.50  | \$ -        | \$ 1,565.50  |
| 067435 | 401     | JEFFERSON PUBLISH CO INC |       | \$ -         | \$ 70.76    | \$ 70.76     |
| 067436 | 700     | JSC-JERRY'S SPORT CENTER | 50912 | \$ 18,778.00 | \$ -        | \$ 18,778.00 |
| 067437 | PAYROLL | JEFFERSON SECURITY BANK  |       | \$ -         | \$ 40.00    | \$ 40.00     |
| 067437 | PAYROLL | JEFFERSON SECURITY BANK  |       | \$ -         | \$ 4,295.48 | \$ 4,295.48  |
| 067438 | 424     | JERRY'S FORD/LINCOLN/MER | 49734 | \$ 137.29    | \$ -        | \$ 137.29    |
| 067439 | 700     | LAW ENFORCEMENT SYS INC  | 50902 | \$ 167.00    | \$ -        | \$ 167.00    |
| 067440 | 405     | STRAFFORD PUBLICATIONS   | 49617 | \$ 531.50    | \$ -        | \$ 531.50    |
| 067441 | 439     | MANPOWER                 | 50706 | \$ 553.90    | \$ -        | \$ 553.90    |
| 067442 | 439     | MANPOWER                 | 50705 | \$ 308.61    | \$ -        | \$ 308.61    |
| 067443 | PAYROLL | MD CHILD SUPPORT ACCOUNT |       | \$ -         | \$ 18.46    | \$ 18.46     |
| 067444 | 424     | MILLER'S CHRYSLER JEEP   | 49733 | \$ 148.60    | \$ -        | \$ 148.60    |
| 067445 | 412     | SHAY MCNEIL              |       | \$ -         | \$ 488.72   | \$ 488.72    |
| 067446 | PAYROLL | HELEN M. MORRIS, TRUSTEE |       | \$ -         | \$ 150.00   | \$ 150.00    |
| 067447 | 406     | MARSHALL & SWIFT         | 53300 | \$ 513.20    | \$ -        | \$ 513.20    |

|        |         |                           |       |             |              |              |
|--------|---------|---------------------------|-------|-------------|--------------|--------------|
| 067448 | PAYROLL | NATIONWIDE RETIREMENT     |       | \$ -        | \$ 774.00    | \$ 774.00    |
| 067449 | 700     | ENHANCED PRINTING & PROM  | 50906 | \$ 101.82   | \$ -         | \$ 101.82    |
| 067450 | 403     | PIFER OFFICE SUPPLY, INC  | 50887 | \$ 17.56    | \$ -         | \$ 17.56     |
| 067450 | 404     | PIFER OFFICE SUPPLY, INC  | 50792 | \$ 159.45   | \$ -         | \$ 159.45    |
| 067450 | 406     | PIFER OFFICE SUPPLY, INC  | 49842 | \$ 26.95    | \$ -         | \$ 26.95     |
| 067451 | 402     | POSTMASTER CHARLES TOWN   | 49693 | \$ 86.00    | \$ -         | \$ 86.00     |
| 067451 | 401     | POSTMASTER CHARLES TOWN   |       | \$ -        | \$ 136.00    | \$ 136.00    |
| 067452 | 700     | PUBLIC AGENCY TRNG COUNCI | 50907 | \$ 425.00   | \$ -         | \$ 425.00    |
| 067453 | 700     | PVP COMMUNICATIONS        | 50904 | \$ 7,029.57 | \$ -         | \$ 7,029.57  |
| 067454 | 425     | RCS SECURITY              |       | \$ -        | \$ 174.00    | \$ 174.00    |
| 067455 | 402     | RECORD MANAGEMENT SOLUTN  | 49695 | \$ 35.00    | \$ -         | \$ 35.00     |
| 067456 | 401     | RETIREE HLTH BENEFIT TRS  |       | \$ -        | \$ 6,438.00  | \$ 6,438.00  |
| 067457 | 700     | RICOH USA, INC.           | 50911 | \$ 409.42   | \$ -         | \$ 409.42    |
| 067458 | 413     | SHEPHERDSTOWN CHRONICLE   | 49682 | \$ 1,880.07 | \$ -         | \$ 1,880.07  |
| 067459 | 402     | SHERIFF OF JEFFERSON CO   | 49697 | \$ 64.61    | \$ -         | \$ 64.61     |
| 067460 | 700     | SPECIALTY BUS SUPPLIES    | 50903 | \$ 246.30   | \$ -         | \$ 246.30    |
| 067461 | PAYROLL | SHERIFF OF JEFFERSON CO   |       | \$ -        | \$ 34,514.66 | \$ 34,514.66 |
| 067461 | PAYROLL | SHERIFF OF JEFFERSON CO   |       | \$ -        | \$ 85.26     | \$ 85.26     |
| 067461 | PAYROLL | SHERIFF OF JEFFERSON CO   |       | \$ -        | \$ 23.78     | \$ 23.78     |
| 067461 | PAYROLL | SHERIFF OF JEFFERSON CO   |       | \$ -        | \$ 9,624.20  | \$ 9,624.20  |
| 067462 | PAYROLL | SHERIFF OF JEFFERSON CO   |       | \$ -        | \$ 118.84    | \$ 118.84    |
| 067462 | PAYROLL | SHERIFF OF JEFFERSON CO   |       | \$ -        | \$ 38,927.15 | \$ 38,927.15 |
| 067463 | 401     | STAPLES CREDIT PLAN       |       | \$ -        | \$ 181.42    | \$ 181.42    |
| 067463 | 412     | STAPLES CREDIT PLAN       |       | \$ -        | \$ 217.23    | \$ 217.23    |
| 067463 | 428     | STAPLES CREDIT PLAN       |       | \$ -        | \$ 29.99     | \$ 29.99     |
| 067463 | 700     | STAPLES CREDIT PLAN       |       | \$ -        | \$ 1,652.29  | \$ 1,652.29  |
| 067463 | 712     | STAPLES CREDIT PLAN       |       | \$ -        | \$ 1,197.16  | \$ 1,197.16  |
| 067464 | 700     | SOUTHERN POLICE EQUIP.CO  | 50913 | \$ 2,629.99 | \$ -         | \$ 2,629.99  |
| 067465 | 711     | SOFTWARE COMPUTER GROUP   | 48391 | \$ 150.00   | \$ -         | \$ 150.00    |
| 067466 | 401     | SHERIFF OF JEFFERSON CO   |       | \$ -        | \$ 12,192.25 | \$ 12,192.25 |
| 067467 | 424     | SOFTWARE SYSTEMS, INC.    |       | \$ -        | \$ 19,527.74 | \$ 19,527.74 |
| 067468 | 716     | TOMAHAWK LIVE TRAP, LLC   | 51153 | \$ 1,583.26 | \$ -         | \$ 1,583.26  |
| 067469 | 403     | UNITED SYSTEMS & SOFTWARE |       | \$ -        | \$ 297.00    | \$ 297.00    |
| 067470 | 424     | US POSTAL SERVICE         |       | \$ -        | \$ 20,000.00 | \$ 20,000.00 |
| 067471 | 716     | VALLEY PET CEMETERY       | 51154 | \$ 210.62   | \$ -         | \$ 210.62    |
| 067472 | 405     | WEST PAYMENT CENTER       | 50419 | \$ 342.00   | \$ -         | \$ 342.00    |
| 067473 | 425     | WM OF WEST VIRGINIA, INC  |       | \$ -        | \$ 670.85    | \$ 670.85    |
| 067473 | 716     | WM OF WEST VIRGINIA, INC  |       | \$ -        | \$ 95.66     | \$ 95.66     |
| 067474 | 700     | WEST VIRGINIA UNIFORM-52  | 50909 | \$ 302.98   | \$ -         | \$ 302.98    |
| 067475 | 402     | XEROX CORPORATION         | 49676 | \$ 1,428.42 | \$ -         | \$ 1,428.42  |
| 067475 | 439     | XEROX CORPORATION         | 52941 | \$ 573.79   | \$ -         | \$ 573.79    |

|              |  |  |  |                     |                     |                      |
|--------------|--|--|--|---------------------|---------------------|----------------------|
|              |  |  |  |                     |                     |                      |
| <b>TOTAL</b> |  |  |  |                     |                     | <b>\$ 224,125.58</b> |
| <b>TOTAL</b> |  |  |  | <b>\$ 47,273.02</b> | <b>\$176,852.56</b> | <b>\$ 224,125.58</b> |

**PUBLIC COMMENT**

**Jennifer Syron** was concerned that allowing the tolling of developers’ properties would leave lots and streets unfinished and would bring down the value of adjacent homes.

**Eleanor Finn** commented on the public hearing held on May 31, 2012 regarding amendments to the subdivision ordinances proposing extensions of time to finalize plans until 2015.

**David Tabb** submitted for the record his undated letter with attachments to the Commission requesting that the Commission assist him in getting his “day in Court” to address assessment issues that he has had over the last five years.

**Debbie Royalty** presented her view on the proposed amendments to the subdivision ordinance. She also commented that she was pleased with the way the Commission has been seeking more public input when making decisions and the increased transparency in county government.

**Nichelle Hosby, Executive Secretary, Jefferson County Commission** introduced Corby and Michael, two new interns from the Job Corps. Corby will be working with the Commission staff and Michael will be assisting Debbie Keyser, Human Resources Director, in the Human Resources office.

**Barbara Miller, Director of Emergency Management and Homeland Security**, was not on the Agenda but who wanted to report an emergency situation stated that one or more of Frontier’s fiber optic lines had been cut and the 911 Emergency Communications Center was down, internet was down, some cell phones and most telephones were down in Jefferson County and that it would take at least three hours for Frontier to get the 911 Emergency Communications Center up and running again. Then they would begin to bring up the affected businesses and residences.

**PRESENTATIONS**

**1. Paul Shroyer, Director of Financial Management**

- **Budget Analysis – Discussion**

Mr. Shroyer submitted a graphic presentation of County expenditures for the month ending April 30, 2012, as well as explaining the different budget categories. He presented a spreadsheet of budget financial data and a listing of Fund Balances as of January 31, 2012.

- **Request for approval of Internal Budget Revisions Nos. 13, 14, 15, 16 and 17.**

**IBR #1013** from the County Commission is for the estimated cost of upgrading the Jefferson County Development Authority offices. This is a county level budget revision requesting a redistribution of current budget funding; no additional funding is required.

Motion by Mr. Manuel to approve Internal Budget Revision No. 1013 as presented by Mr. Shroyer. Motion seconded by Ms. Noland and unanimously approved.

**IBR #1014** from the County Clerk's Office is to re-allocate \$10,000 of current budget funding for elections, building and equipment rent to elections, equipment and repair. The revision is necessary to eliminate expenditures in excess of the allocation in the Elections, Maintenance and Repair of Equipment Budget Line.

Motion by Ms. Widmyer to approve Internal Budget Revision No. 1014 as presented by Mr. Shroyer. Motion seconded by Mr. Manuel and unanimously approved.

**IBR #1015** from the Engineering Department is to increase part time help to \$15,000, which was not previously funded, and reduce Contractual Services by \$12,000 and reduce Engineering Overtime by 3,000. These changes are a re-allocation of current budget funding within the department's budget/

Motion by Ms. Morgan to approve Internal Budget Revision No. 1015 as presented by Mr. Shroyer. Motion seconded by Mr. Manuel and unanimously approved

**IBR #1016** from the County Commission is required to correct expenditures in excess of budget allocations of April 30, 2012 and anticipated expenditures for the remainder of the current fiscal year.

Motion by Ms. Morgan to approve Internal Budget Revision No. 1016 as presented by Mr. Shroyer. Motion seconded by Mr. Manuel and unanimously approved

**IBR #1017** from the GIS Department is a county level budget revision requesting a redistribution of current budget funding. No additional funding is required. Transfer is being made to replace one desktop computer and one laptop computer. The \$4,000 budgeted to GIS -Auto Supplies was overlooked when Auto Supplies from other departments were transferred to Department 424, Courthouse.

Motion by Mr. Manuel to approve Internal Budget Revision No. 1017 as presented by Mr. Shroyer. Motion seconded by Ms. Morgan and unanimously approved

## **2. Roger Goodwin, Chief County Engineer**

- **Proposed Amendments to the Bonding Policy – Tolling of Bonding Provisions – Discussion/Action**

Mr. Goodwin presented two proposed amendments to the Bonding Policy, as directed by the County Commission, due to the recent special requests of two developers regarding tolling of bonding related requests that are not specifically covered under the Bonding Policy. Mr. Goodwin requested that the Commission approve the amendments in Section 10.B and Section 10.C of the Tolling of the Bonding Policy as presented.

Ms. Widmyer recommended that a public hearing be scheduled to receive the public's input on this matter.

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Motion by Mr. Manuel that this matter be scheduled for a public hearing at 7:00 p.m. on a date to be determined by Debbie Keyser, Interim County Administrator. Motion seconded by Ms. Widmyer and unanimously approved.

- 3. The Commission took a short break at 10:45 a.m.  
The Commission reconvened the meeting at 11:00 a.m.**

#### **UNFINISHED BUSINESS**

- 4. County Commission Projects and Priorities – Discussion/Action**

Mr. Manuel commented that the County Commission should have its own attorney. Ms. Morgan stated that the easiest way to accomplish that would be to direct the Prosecutor to release his civil attorneys from representing the Commission and begin the process of obtaining an outside attorney to represent the Commission. Ms. Keyser was appointed Team Leader for this project. The Commission directed her to include a monthly status update in the Agenda Packet.

By general consensus, the Commissioners directed Ms. Keyser to make the suggested changes to the list of Commission Projects and Priorities and resubmit it for review on next week's Agenda.

- 5. Meeting Room Policy – Discussion/Action**

Motion by Mr. Manuel to approve the proposed Meeting Room Policy as presented by Ms. Keyser. Motion seconded by Ms. Morgan and unanimously approved.

- 6. Request by Anne Conlan of Change Mastery to use the County Commission Meeting Room to hold a free Community Workshop on Creating a Life You Love.**

Because Change Mastery is not a non-profit charitable organization and is not connected to county, state or federal government, the Commissioners, by general consensus, could not allow Ms. Conlan to use the room. Staff will telephone Ms. Conlan with their decision.

- 7. Sandy Slusher, Deputy County Administrator, requested approval of the Community Participation Grant Resolution for Citizens Fire Company in the amount of \$10,000.00.**

Motion by Mr. Manuel to approve the Community Participation Grant Resolution for Citizens Fire Company in the amount of \$10,000.00. Motion seconded by Ms. Widmyer and unanimously approved.

### **JEFFERSON COUNTY COMMISSION CHARLES TOWN, WV**

#### **RESOLUTION**

The Jefferson County Commission met on the 7<sup>th</sup> day of June, 2012 with a quorum present and passed the following Resolution:

Be It Resolved that the County Commission of Jefferson County, West Virginia, hereby authorizes Patricia A. Noland, President of the Jefferson County Commission, to act on its behalf to enter into a contractual agreement with the West Virginia Development Office to receive and administer grant funds

pursuant to provisions of the Community Participation Grant Program in the amount of \$10,000. The funds from this project is for the purchase of technology equipment for the Citizens Fire Company.

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

\_\_\_\_\_  
PATRICIA A. NOLAND  
PRESIDENT  
JEFFERSON COUNTY COMMISSION

**ATTESTED:**

**County Clerk**

- 8. Requested approval of the Community Participation Grant Resolution for the Animal Welfare Society in the amount of \$10,000.00.

Motion by Ms. Morgan to approve the Community Participation Grant Resolution for the Animal Welfare Society in the amount of \$10,000.00. Motion seconded by Mr. Manuel and unanimously approved.

**JEFFERSON COUNTY COMMISSION  
CHARLES TOWN, WV  
RESOLUTION**

The Jefferson County Commission met on the 5<sup>th</sup> day of May, 2011 with a quorum present and passed the following Resolution:

Be It Resolved that the County Commission of Jefferson County, West Virginia, hereby authorizes Patricia A. Noland, President of the Jefferson County Commission, to act on its behalf to enter into a contractual agreement with the West Virginia Development Office to receive and administer grant funds pursuant to provision of the Community Participation Grant Program in the amount of \$10,000. The funds from this project will be used to construct an animal isolation room and will also be used for the storm water management requirements for the Animal Welfare Society.

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

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PATRICIA A. NOLAND  
PRESIDENT  
JEFFERSON COUNTY COMMISSION

**ATTESTED:**

**County Clerk**

9. Requested approval of the Community Participation Grant Resolution for the Animal Welfare Society in the amount of \$20,000.00.

Motion by Mr. Manuel to approve the Community Participation Grant Resolution for the Animal Welfare Society in the amount of \$20,000.00. Motion seconded by Ms. Widmyer and unanimously approved.

**JEFFERSON COUNTY COMMISSION  
CHARLES TOWN, WV**

***RESOLUTION***

The Jefferson County Commission met on the 7<sup>th</sup> day of June, 2012 with a quorum present and passed the following Resolution:

Be It Resolved that the County Commission of Jefferson County, West Virginia, hereby authorizes Patricia A. Noland, President of the Jefferson County Commission, to act on its behalf to enter into a contractual agreement with the West Virginia Development Office to receive and administer grant funds pursuant to provisions of the Community Participation Grant Program in the amount of \$20,000. The funds from this project is for new construction space for dog and cat isolation and newborns spaces as well as storage and new dog run space for the Jefferson County Animal Welfare Society.

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

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PATRICIA A. NOLAND  
PRESIDENT  
JEFFERSON COUNTY COMMISSION

**ATTESTED:**

**County Clerk**

**09LEDA0820N**

- 10. Requested approval of the Community Participation Grant Resolution for the Jefferson Memorial Hospital in the amount of \$15,000.00.**

Motion by Ms. Morgan to approve the Community Participation Grant Resolution for the Jefferson Memorial Hospital in the amount of \$15,000.00. Motion seconded by Ms. Widmyer and unanimously approved.

# JEFFERSON COUNTY COMMISSION CHARLES TOWN, WV

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## RESOLUTION

The Jefferson County Commission met on the 7<sup>th</sup> day of June, 2012 with a quorum present and passed the following Resolution:

Be It Resolved that the County Commission of Jefferson County, West Virginia, hereby authorizes Patricia A. Noland, President of the Jefferson County Commission, to act on its behalf to enter into a contractual agreement with the West Virginia Development Office to receive and administer grant funds pursuant to provisions of the Community Participation Grant Program in the amount of \$15,000. The funds from this project is for the purchase of technology equipment and supplies to install closed circuit television for the Jefferson Memorial Hospital.

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

\_\_\_\_\_  
PATRICIA A. NOLAND  
PRESIDENT  
JEFFERSON COUNTY COMMISSION

ATTESTED: \_\_\_\_\_

County Clerk

11. Requested approval of the Community Participation Grant Resolution for the Jefferson Memorial Hospital in the amount of \$25,000.00.

Motion by Mr. Manuel to approve the Community Participation Grant Resolution for the Jefferson Memorial Hospital in the amount of \$25,000.00. Motion seconded by Ms. Widmyer and unanimously approved.

**JEFFERSON COUNTY COMMISSION  
CHARLES TOWN, WV**

**RESOLUTION**

The Jefferson County Commission met on the 7<sup>th</sup> day of June, 2012 with a quorum present and passed the following Resolution:

Be It Resolved that the County Commission of Jefferson County, West Virginia, hereby authorizes Patricia A. Noland, President of the Jefferson County Commission, to act on its behalf to enter into a contractual agreement with the West Virginia Development Office to receive and administer grant funds pursuant to provisions of the Community Participation Grant Program in the amount of \$25,000. The funds from this project is for the purchase of technology equipment and supplies to install closed circuit television for the Jefferson Memorial Hospital.

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

\_\_\_\_\_  
PATRICIA A. NOLAND  
PRESIDENT  
JEFFERSON COUNTY COMMISSION

**ATTESTED:**

**County Clerk**

**10LEDA0978N**

**12. Set date for work session with the Jefferson County Fire and Rescue Association.**

The Commissioners directed Ms. Keyser to look at some dates in July or August to hold the work session and check with the Commissioners to ascertain if any of the dates will work. Once a mutually agreeable date is found, Ms. Keyser will take steps to schedule the meeting.

**COUNTY ADMINISTRATOR REPORTS**

**Debbie Keyser, Interim County Administrator:**

- Nichelle is in the process of obtaining computer software so that the County can print its own employee

discount tickets for Hershey Park and King's Dominion is sending her discount tickets for Jefferson County Employees.

- Stated that she would like to implement a Suggestion Box.
- Update on the Wellness Program. Reported that there are presently nine teams, all with cute names.
- Reported that June 20, 2012 is the last date for Supervisors to submit the new salary requests for the employees in their departments.

## **COUNTY COMMISSIONER REPORTS**

### **Commissioner Widmyer:**

- Attended the Shepherdstown Sesquicentennial celebration.
- Attended the Jefferson County Public Safety District meeting.

### **Commissioner Manuel:**

- Attended a Jefferson County Partnership for Affordable Housing meeting.
- Met with constituents regarding future appointments to Boards and Commissions and the proposed amendments to the subdivision ordinances.
- Reminder that the Mountain Heritage Arts & Crafts Festival is this weekend and the Kiwanas will be selling ice cream.
- Will be attending the senior picnic today from 11:00 a.m. to 1:00 p.m.

### **Commissioner Morgan:**

- Reminder that Farm Days is June 16, 2012 and visitors will be allowed to tour local participating farms.
- John Allen will be giving a lecture on History and Architecture in Middleway, WV on Friday, June 15, 2012 at 7:00 p.m. at Grace Church in Middleway.

### **Commissioner Noland:**

- Attended the WVACO Spring Board Meeting at Twin Falls.
- Reported that there is a health initiative/competition all across West Virginia and there is a website [livewellwestvirginia.ext.wvu.edu](http://livewellwestvirginia.ext.wvu.edu) where you can go to track your progress.
- Attended a Jefferson County Partnership for Affordable Housing meeting.

There being no further business, motion by Mr. Manuel to adjourn the meeting. Motion seconded by Ms. Morgan and unanimously approved. Upon rising at 11:35 p.m. the meeting was adjourned until Thursday next, June 14, 2012 at 9:30 a.m.

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PATRICIA A. NOLAND, PRESIDENT

**PURCHASE ORDERS TO BE APPROVED**

**June 14, 2012**

| DEPARTMENT        | PURCHASE ORDER | AMOUNT      | VENDOR                            | DESCRIPTION                                                                                      |
|-------------------|----------------|-------------|-----------------------------------|--------------------------------------------------------------------------------------------------|
| ADDRESSING        | 50850          | \$5,261.09  | Dell Marketing LP                 | Dell Precision T5500 Workstation And Dell Precision Mobile M6600                                 |
|                   | 50851          | \$795.00    | Earth Vender Systems              | 1Yr. Software support for Pathfinder office and 1Yr. Software support for TerraSync Professional |
|                   | 50853          | \$276.75    | Dell Marketing LP                 | Dell Ultra Sharp 24" Monitor and 3Yr Limited Warranty                                            |
| COUNTY CLERK      | 49689          | \$527.87    | Pifer Office Supply               | Tape, Boxes,Pens, Sticky Notes                                                                   |
|                   | 49694          | \$10,586.80 | Castro & Harris                   | Reprint Republican Ballots                                                                       |
| COUNTY COMMISSION | 51012          | \$95,696.80 | WV Regional Jail                  | May Billing                                                                                      |
| COURT HOUSE       | 49749          | \$250.00    | Burke Street Trimmings            | Railing draperies for the courthouse.                                                            |
|                   | 49748          | \$275.00    | RCS Security                      | Program panel and CPU batteries                                                                  |
|                   | 49753          | \$191.90    | Thomassen Auto Group              | Vehicle materials and supplies                                                                   |
| COMMUNICATIONS    | 48186          | \$1,120.00  | RadioSoft/ AASHTO                 | Modification of WHF Licences and Interservice Fees                                               |
|                   | 49812          | \$300.00    | Panhandle Accident Reconstruction | Background Investigation McIntyre                                                                |
|                   | 50989          | \$365.00    | NAEMD                             | EMD Re-Certification                                                                             |

|                      |       |                     |                                  |                                                                   |
|----------------------|-------|---------------------|----------------------------------|-------------------------------------------------------------------|
| ENGINEERING          | 51028 | \$219.02            | BK Office Supply Inc.            | Office Supplies                                                   |
| OTHER BUILDINGS      | 49746 | \$107.37            | 84 Lumber                        | Materials and Supplies                                            |
| PLANNING             | 50711 | \$129.22            | Jefferson Publishing Company     | Public hearing Notices And Notice of Concept Plan Public Workshop |
|                      | 50713 | \$443.12            | MANPOWER                         | Invoice # 24123837                                                |
| PROSECUTING ATTORNEY | 49620 | \$658.35            | Marcia L.Chandler, RPR           | Transcript from 5/15/12 Pre-Trial                                 |
|                      | 49621 | \$179.95            | Civic Research Institute         | Renewal for Sex Offender Law                                      |
|                      | 49622 | \$1,138.57          | Specialty Business Supplier      | Office Supplies                                                   |
|                      | 49623 | \$119.80            | Staples Credit Plan              | Office Supplies                                                   |
| Various              | 49720 | \$1,307.52          | NAPA                             | Vehicle Materials and Supplies                                    |
|                      | 49747 | \$1,537.39          | Fisher Auto Parts                | Vehicle Materials and Supplies                                    |
|                      | 49754 | \$3,625.80          | Jerrys Ford Lincoln Mercury      | Transmission and Lights                                           |
| WV Extension Office  | 53145 | \$1,395.00          | Cambell Business Machines        | New Staplew Tabber and Factoryey retrofit TBSI Staplex Tabber     |
|                      | 53146 | \$6,046.06          | WPS                              | Savin 9080 SP Copier                                              |
| <b>GRAND TOTAL</b>   |       | <b>\$132,553.38</b> | Printed at 11:15 a.m. on 6/11/12 |                                                                   |

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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: Sergeant Jeffery Quinn, United States Army

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

Estimation of amount of time needed for appointment: 5 min

Date Requested – 1<sup>st</sup> Choice: 6/14/12

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

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

Subject: Presentation of West Virginia State Flag that was flown on an aircraft during combat in Afghanistan

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:

|                                                                                            |
|--------------------------------------------------------------------------------------------|
| <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: 15 minutes

Date Requested – 1<sup>st</sup> Choice: June 14, 2012

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

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

This is the requested date by WV Division of Homeland Security and Emergency Management for their presentation. They have other business in the area that day and need to do the presentation at that time.

**Subject:** Presentation of the FEMA (Federal Emergency Management Agency) Community Rating System of the National Flood Insurance Program. This presentation will be by: Kevin Sneed and Robin Mumford of WVDHSEM. State Director Jimmy Gianato and Governor Earl Ray Tomblin may also be at the presentation. I will keep Ms. Keyser updated on the status of their attendance.

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

Jefferson County entered into the Community Rating Service (CRS) of the National Flood Insurance Program as a Class 9 Community in 2006, which gave county residents who purchase flood insurance a 5% discount on their policies due to the higher standards that Jefferson County Government has adopted for its management of its regulatory floodplain. We also have participated in preparedness activities and mitigation programs that have allowed us to earn this discount. With additional points that we gained with language in our risk assessment and mitigation plan, stormwater management plan, and updated county floodplain ordinance, along with our additional activities, we have been able to earn a yet higher rating of a Class 8. This will give residents a 10% reduction on their flood insurance policies. This is only for policies that are within the unincorporated areas of Jefferson County within the County's regulatory floodplain. Your local CRS Committee: myself, as the CRS Coordinator; Roger Goodwin, County Engineer; and Mason Carter, floodplain coordinator. All members of this group have earned the "Certified Floodplain Manager" designation from the Association of State Floodplain Managers. Kevin Sneed from the WV Division of Homeland Security and Emergency Management's Mitigation Division contacted me to set up this awards presentation for June 14<sup>th</sup>. Robin Mumford from that same department will be with him and he indicated that Jimmy Gianato, WVDHSEM Director and Governor Tomblin have also been invited by him to attend. Director Gianato and then-Governor, Joe Manchin were at the original presentation.

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): No motions will be needed.

Attachments: none

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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: Barbara Miller

Department or Entity: Homeland Security and Emergency Management

Estimation of amount of time needed for appointment: 15 minutes

Date Requested – 1<sup>st</sup> Choice: May 24, 2012

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

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

**Subject:** Jefferson County All Hazards Risk Assessment and Mitigation Plan

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

FEMA requires that all communities develop an All Hazards Risk Assessment and Mitigation Plan in order to be eligible for funding, both pre and post disaster. Jefferson County produced its first plan in 2003; an updated plan in 2008, and is required to submit a new plan, subject to the current rules and regulations by June, 2013 to continue our eligibility. This plan is also a requirement for our Community Rating System of the National Flood Insurance Program, which is giving County residents who have flood insurance, a 10% discount on their policies. This contract has been reviewed by Stephanie Grove and funds are within our budget for planning.

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

I move to approve the contract for the All-Hazards Risk Assessment and Mitigation Plan with J.H. Consulting in the amount of \$8,900.00.

Attachments: Contract and Proposal from J.H. Consulting.

**AGREEMENT**  
**Jefferson County Commission**  
and  
**JH Consulting, LLC**

This Contract, effective **May 24<sup>th</sup>, 2012** is between Jefferson County Commission, and JH Consulting, LLC, hereinafter referred to as "Contractor", who shall be used to complete the scope of work detailed in the attached proposal.

Jefferson County Commission and JH Consulting, LLC agree to the following:

1. **Provision of Services.** See attached proposal (Project Approach) for Scope of Work below.
2. **Agreement Amount.** The Contractor shall be paid by Jefferson County Commission in an amount not to exceed \$8,900.00 for the completion of the duties, completed to the satisfaction of Jefferson County Commission, for the scope of work detailed in the attached proposal.
3. **Agreement Term.** The Agreement shall begin May 24<sup>th</sup>, 2012 and continue until November 30, 2012 unless either party serves written notice thirty (30) days in advance of its intent to cancel the Agreement.
4. **Data Ownership and Security.** Jefferson County Commission retain ownership of the data and all work produced by the Contractor and will be transferred upon completion of the contractual obligations.
5. **Confidentiality.** The Contractor and all support staff agree to comply with all federal and state laws concerning the confidentiality of information concerning individuals rendering services by Jefferson County Commission. Such information shall only be used for the purpose of carrying out this Agreement. Disclosure of information for any other purpose is prohibited except upon the written consent of the eligible individual or appropriate order or a court.
6. **Amendment of Agreement.** This Agreement is the entire Agreement between the parties and may not be amended at any time except by a written Agreement signed by both parties.
7. **Signatures.** Each person executing this Agreement represents and warrants that he has the authority to act for and bind the entity on whose behalf he purports to act.

8. **Severability.** Should any portion of this Agreement be found unenforceable to operation of statute or by administrative or judicial decision, the operation of the balance of this Agreement is not affected thereby, provided, however, the absence of the illegal provision does not render the performance of the remainder of the Agreement impossible.

**Contractor**



\_\_\_\_\_  
Jeffery W. Harvey, Managing Member  
JH Consulting, LLC

5/16/2012

\_\_\_\_\_  
Date

**Jefferson County Commission**

\_\_\_\_\_  
Patricia Noland, President  
Jefferson County Commission

\_\_\_\_\_  
Date

**REQUEST FOR  
PROFESSIONAL SERVICES  
—MULTI-JURISDICTIONAL  
ALL HAZARDS MITIGATION  
PLAN UPDATE**

Presented to:  
Jefferson County Commission  
124 East Washington Street  
Charles Town, WV 25414

May 16<sup>th</sup>, 2012

Ms. Patricia Noland, President  
Jefferson County Commission  
124 East Washington Street  
Charles Town, WV 25414

**Re: Proposal for Professional Services – Hazard Mitigation Plan Update  
Project Approach, Management Capability, and Cost Estimate**

Dear Ms. Noland:

Please accept this letter and the enclosed booklet as a proposal for professional services for the Multi-Jurisdictional All Hazards Mitigation Plan Update project. In the booklet, we have provided a company profile, services summary (discussing our technical expertise), personnel profiles (highlighting personnel qualifications), references, and a description of related prior experience. This letter describes our basic project approach, management capability, and cost estimate.

*Project Approach*

Generally, our approach to projects is based on collaboration and partnership. We believe that a presence with our clients and their stakeholders is more important than our ability to complete a project from behind our desks. As such, we will coordinate heavily with your office and your stakeholders – both in-person and virtually – to ensure that your goals and objectives are achieved throughout the project's progress. We call this approach "PPE" – Partnership, Presence, and Expertise – and it guides all we do.

To start a project such as this, we would advocate a public face-to-face kick-off meeting during which we could discuss your goals for the project and collectively determine how JH Consulting, LLC (JHC) will act on your behalf throughout the contract period. Some of the areas of focus to update the plan will be to increase the language of, and assist the committee to maximize the Community Rating System (CRS) points and, also work with the committee to complete the Threat Hazard Identification Risk Assessment (THIRA). Other issues that will be addressed during the update will include the following:

- Work with Jefferson County GIS Department to develop updated hazard mapping.
- Integration of two (2) new hazard profiles (i.e., solar flares, and dam failure).
- Review and revise the existing asset inventory.
- Update all hazard profiles to include events from 2007 to present.
- Integrate information from recently developed Annex U-Drought from

- the Jefferson County EOP.
- Integrate information from 2012 hazardous materials commodity flow study.
  - Facilitate a meeting with the planning committee to identify new goals, objectives, and strategies.
  - Ensure compliance with all local, state, and FEMA requirements.

Management Capability

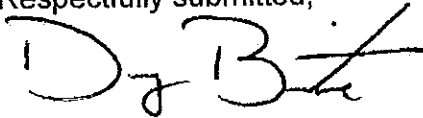
JHC was founded to provide services to the emergency preparedness sector. As such, we do not have to balance the completion of this project with other service areas within our company. We have successfully managed the completion of over 36 Multi-Jurisdictional Hazard Mitigation Plan projects. Our project management team is comprised of JHC's owner, who, prior to founding JHC, managed an emergency planning department for a large engineering firm, and one (1) of the company's project managers, who also filled a similar role prior to joining JHC. Together, this team has approximately 13 years of management experience in the emergency preparedness sector.

Cost Estimate

Our fee to complete this project would be \$8,900.00. This fee includes all hourly and direct costs necessary to complete the project. Further, the fee represents an approved deliverable. If there are local, state, or federal revisions necessary to achieve approval following the submission of the final draft to the state, JHC will coordinate with your office and incorporate said revisions as part of the original agreement.

Thank you for considering JH Consulting, LLC. Should you have any questions or comments, need additional information, or if you would like to schedule an interview, please contact me at (304) 473-1009 or by email at [dbritvec@jhcemergencypreparedness.com](mailto:dbritvec@jhcemergencypreparedness.com). Also, feel free to visit our website at [www.jhcemergencypreparedness.com](http://www.jhcemergencypreparedness.com).

Respectfully submitted,



S. Douglas Britvec  
Project Manager

Enclosure 1

**JH CONSULTING, LLC**  
**PROPOSAL FOR PROFESSIONAL SERVICES**  
**MULTI-JURISDICTIONAL ALL HAZARDS**  
**MITIGATION PLAN UPDATE**  
*for the Jefferson County Commission*

Project Approach, Management Capability, and Estimated Cost

|                         |    |
|-------------------------|----|
| Company Profile.....    | 2  |
| Services Summary.....   | 3  |
| Personnel Profiles..... | 8  |
| Project Experience..... | 13 |
| References.....         | 16 |

## COMPANY PROFILE

Imagine you are a small business owner. The telephone rings at 3 a.m. and you learn that your office has burned to the ground. When was your last data back up? Where are your critical files? How will your business survive?



Imagine you are an emergency manager for the county or city in which you live. A major flood has occurred; more than half of your jurisdiction is without power, including the local hospital; and you just hear of a truck accident that is leaking toluene diisocyanate near a densely-populated residential area.

As evidenced by the above situations, emergencies come in all shapes and sizes. They occur irrespective of the time of day. Many occur as compounding effects of other emergencies. How can you protect yourself, your business, or your home town from these emergencies?

### ***JH Consulting, LLC can help!***

Founded in 2006, JH Consulting combines extensive experience in all facets of emergency planning to prepare you for the next big emergency. Our approach is simple: we are your partner in emergency preparedness. We diligently monitor changing regulations and cutting-edge research and we aggressively train so that we fully understand the advice we give you and your community. We promote extensive communication and information sharing to ensure that your needs are met and that we identify and fill any necessary gaps. We want your plan to be a statement of your community's skills and capabilities, not just a boilerplate that works somewhere else.

## SERVICES SUMMARY

JH Consulting, LLC maintains three (3) primary service areas: risk assessment, operations planning, and training and exercising. Each of these areas receives equal focus from our staff, both in daily tasks and on-going professional development. The following pages outline the broad scope of JH Consulting's capabilities.

### Risk Assessment

#### Hazard Analysis

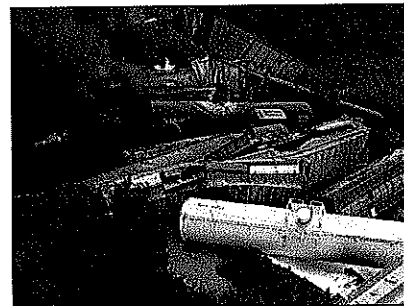
A hazard analysis by JHC is a comprehensive, objective determination of the hazards that most threaten your operation. Our planners determine not only the master list of hazards you face, but also define the types of problems they may cause you.

- **Commodity Flow Studies:** Determine the hazardous materials passing through your jurisdiction by road, rail, water, or air.
- **Hazard IDs:** List the natural, man-made, and technological risks you are most likely to experience.

#### Risk Assessment

Once you know what hazards you are most likely to face, how will they affect you? JHC risk assessments present not only probable hazards, but also their effects from cultural, economic, and social perspectives.

- **Hazard Vulnerability Assessment:** Determine your critical facilities, the hazards to which they are susceptible, and the losses they could experience.
- **Asset Inventory:** List your community's or company's assets and determine the methods most suitable for protecting them.



### Mitigation Planning

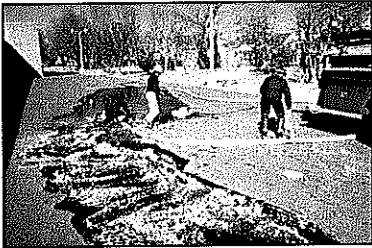
Once identified, your risks can often be mitigated and your potential losses reduced. JHC will partner with you to determine cost effective projects for reducing your vulnerabilities.

- **Hazard Mitigation Planning:** Develop mitigation projects to reduce your losses from the hazards you identify.
- **Participation in Mitigation Programs:** Meet the criteria to participate in such federal programs as the Community Rating System (CRS), Flood Mitigation Assistance (FMA) program, Hazard Mitigation Grant Program (HMGP), and Pre-Disaster Mitigation (PDM) program.

### Operations Planning

#### Operations Planning

Developing a comprehensive, all-hazard Emergency Operations Plan (EOP) is one of the best ways to prepare your agency or community to resolve and recover from any emergencies that may occur. JHC will assess your capabilities and outline the most effective ways to deploy your resources.



- **All-Hazard Emergency Operations Planning:** Determine gaps in your ability to respond to emergencies and ensure your compliance with such initiatives as the National Incident Management System (NIMS).

- **Continuity of Operations Planning:** Prioritize your personnel, services, and resources to ensure that your organization remains operational for as long as possible during major emergencies.

- **Evacuation Planning:** Coordinate the major elements of an evacuation, including maintenance of traffic flow, public information, staging, and sheltering.
- **Resource Categorization:** Per federal mandate, identify, locate, define, and categorize the equipment, personnel, and services that are available to you during a response.

- **Hazard-Specific Operations Planning:** Clarify responsibilities and properly allocate resources to respond to such emergencies as a hazardous material or terrorist incident, major flood, or industrial accident.

#### Facilities Planning

Planning for your facility is different from planning for an entire community. JHC knows how to zero in on the hazards you face and best organize your assets to ensure that you recover from any emergency that arises.

- **Airports:** Utilize current Federal Aviation Administration (FAA) guidance to develop a comprehensive response plan for emergencies at or involving your airport.
- **Educational Facilities:** Create notification guidelines, security measures, public information protocols, and suggested actions for interacting with your local emergency responders to protect your faculty, staff, and students during emergencies.
- **Hospitals:** Integrate the Hospital Emergency Incident Command System (HEICS) to ensure that your personnel can manage large-scale emergencies.
- **Industrial and Manufacturing Facilities:** Maintain your processes and identify the best ways to interact with community response assets.
- **Water/Wastewater Utilities:** Maintain your internal operations and service capability as well as increase security by determining vulnerabilities and outlining appropriate responses.

#### Operating Guidelines

Operating guidelines serve as the link between planning and implementation, providing step-by-step instructions on how to enact your operations plans. JHC will partner with your leaders to assign responsibilities to the appropriate departments and/or personnel to ensure that your plans are as effective as possible.

- **Emergency Operations Centers:** Determine activation thresholds, notification measures, necessary staff positions, and deactivation guidelines to ensure the efficient operation of your Emergency Operations Center (EOC).

- **Point of Distribution (POD) Planning:** Develop site schematics, resource inventories, security plans, and instructions for ensuring that the resources you receive are distributed to your community and/or responders as efficiently as possible.
- **Response Agencies** (such as 911 centers, fire departments, police departments, etc.): Develop instructions for using your department's equipment, personnel conduct, initial notifications and calling for backup, interagency cooperation, reporting, etc.

### Training and Exercises

#### Training Programs

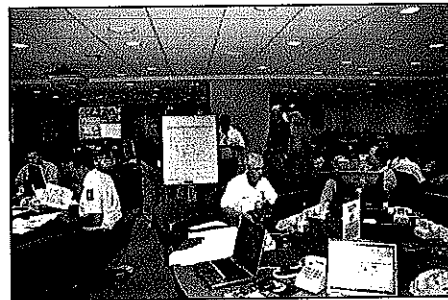
Training your personnel on your plans and procedures is one of the most effective ways to ensure that they can implement them. JHC will review your plans and develop a training program to practice their major elements.

- **Drills:** Short, meaningful practices to ensure that your plans are conceptually sound.
- **Seminars:** Longer, multiple-session training meetings designed to delve deep into the various elements of your plans.
- **Workshops:** Meetings designed to target specific elements of your plans and procedures to build an operational expertise in a single area.

#### Exercise Design

By utilizing the Homeland Security Exercise & Evaluation Program (HSEEP), JHC will create exercises that test what your partner agencies want and need to test.

- **Tabletop Exercises (TTXs):** Short, discussion-based scenarios to identify needs and potential gaps in your response capabilities.
- **Functional Exercises (FEs):** Live-action exercises designed to test the capabilities of an Incident Command Post (ICP) or Emergency Operations Center (EOC).



- **Full-Scale Exercises (FSEs):** Complete, operations-based scenarios that test your community's or agency's capabilities in real-time, simulated-hazard settings.

#### Exercise Facilitation and Evaluation

Evaluating exercises effectively takes teams of subject-matter experts and experienced personnel. JHC can participate as members of your evaluation team or compile a team of experts to ensure that all elements of your exercise are evaluated objectively and thoroughly.

## PERSONNEL PROFILES

Our people are at the heart of what we do. Our focus on your planning process makes our ability to connect with your community partners of paramount importance. We encourage significant professional development to compliment our extensive planning experience. While there are certainly core competencies to which we train, our staff is also free to seek out a variety of specialized training.

This section lists the primary personnel that will be involved with this project as well as a snapshot of the company-wide training that can be put to work for your community.

### Jeffery Wayne Harvey – Owner, Project Manager

Jeff has a broad experience in emergency planning, having worked on projects for local governments, industrial facilities, school systems, and private sector businesses. His advanced education includes a Bachelor's degree in writing, a Master's degree in strategic leadership as well as a multitude of advanced training on hazard mitigation planning, the incident command system, public information in emergencies, and exercise design. Jeff has responded to a number of emergencies, including hazardous material incidents, floods, high-wind events, search and rescue operations, etc. He was also involved in the response to the Sago Mine incident. In addition to his roles with JH Consulting, Jeff currently serves as the Resource and Planning Officer for the Upshur County (WV) Office of Emergency Management. He is also a member of the Lewis-Upshur Local Emergency Planning Committee and the International Association of Emergency Managers (IAEM).

### Steven Douglas Britvec – Project Manager

Doug joined the JHC team in January of 2010 and brings significant experience in emergency preparedness as well as safety engineering. He holds a Bachelor's of Science degree in safety and environmental engineering. Doug's advanced training includes hazard mitigation, incident command, effective communication, vulnerability assessment for water utilities, and continuity of operations. He is also trained to the hazardous materials operations level. He is a member of the American Society of Safety Engineers (ASSE) and the IAEM. Doug's work experience includes risk assessment, mitigation planning, operations planning, hazardous materials response

planning, environmental assessment, pandemic planning, and exercise design/facilitation.

Sean R. Sharp, SSG, USAR (Ret) – Emergency Planner

Sean joined the JHC team in November of 2011 and brings 25 years experience in the industry, including emergency medical, fire service, and emergency management. His advanced training includes Emergency Medical Technician – Paramedic (EMT-P), hazmat operations, incident command, and private security. Sean is retired from the United States Army, where his duties included the development and management of the safety program for his medical unit. As the Safety Officer, he followed OSHA and Department of the Army guidelines for safety inspections, accident review, etc. He has a practical experience in not only the fire and emergency medical services (both domestic and abroad), but also in county-level emergency management and as a medical examiner. Sean is a member of the International Association of Emergency Managers (IAEM).

Company-Wide Advanced Training and Experience

- Core Competencies
  - National Incident Management System (NIMS) – Incident Command System (ICS)
  - ICS/Emergency Operations Center (EOC) interface
  - Exercise design (per HSEEP guidance)
  - Hazard mitigation planning (including risk assessment)
  
- Specializations
  - Joint Information System (JIS) – Joint Information System (JIS) operations
  - Emergency planning for schools
  - Vulnerability assessments for water/wastewater utilities
  - Debris management
  - Emergency planning for special needs populations (including evacuation)
  - Point of Distribution (POD) planning
  - Emergency response to criminal terrorist incidents
  - Evacuation of jail facilities

## RESUME – JEFFERY W. HARVEY, OWNER

### EDUCATION

- B.A. English (Creative and Technical Writing) – *West Virginia University*, 2000
- M.S. Strategic Leadership – *Mountain State University*, 2010

### PROFESSIONAL ASSOCIATIONS

- International Association of Emergency Managers (IAEM)

### ADVANCED TRAINING

- IS-100 – Introduction to the ICS
- IS-200 – Basic ICS
- IS-300 – Intermediate ICS
- IS-400 – Advanced ICS
- IS-700 – NIMS
- IS-800 – The NRF, An Introduction
- IS-26 – Point of Distribution Planning
- IS-120 – Intro to Exercises
- G191 – ICS/EOC Interface
- G202 – Debris Management
- G250.7 – Rapid Needs Assessment
- G357 – Emergency Response To a Criminal/Terrorist Incident
- G361 – Flood Fight Operations
- G908 – Joint Information System/Center
- Crisis Leadership
- Multi-Hazard Emergency Planning for Schools
- HSEEP
- Protecting Community Water and Wastewater Systems – *TEEX*

### RELEVANT PROJECT EXPERIENCE

- Commodity Flow Studies
- Hazardous Material Response Planning
- Emergency Operations Planning
- Continuity of Operations Planning
- Terrorist Incident Response Planning
- Public Information/Warning Planning
- Hazard Mitigation Planning
- Response Planning for Schools
- Safety Audits for Public Facilities
- Exercise Designer & Director
- Vulnerability Assessments
- Evacuation Planning
- Resource Manuals
- Response Planning for Airports
- EMPG Grant Administration

Mr. Harvey serves as one of JH Consulting, LLC's Managing Members. He actively markets clients in all facets of the firm's service areas and manages all projects.

Throughout his career, Mr. Harvey has been involved in technical writing. For the past nine (9) years, he has worked primarily in the field of emergency preparedness. He has actively researched and maintained an understanding of rapidly-changing federal regulations in an effort to better assist localities in their emergency preparedness efforts.

Mr. Harvey was also instrumental in the design of the marketing program for a branch office of a large, multi-jurisdictional engineering firm. His responsibilities included client contacts, proposal preparation and interviewing.

Mr. Harvey is also extensively experienced in community development, having served as a project administrator for a regional community development agency. He worked on such projects as waterline extensions, dam rehabilitations, community and youth center upgrades, and small business development projects.

Several items have been present in all stages of Mr. Harvey's career, including public meeting facilitation, technical writing, client management, and project troubleshooting. All of this experience has given him a realistic understanding of successful project management and completion.

### ADDITIONAL EXPERIENCE

- Emergency Management Performance Grants
- Hazardous Material Emergency Planning Grants
- US Department of Homeland Security Project Concept Grants
- Assistance to Firefighters Grant Program Applications and Award Administration
- Community Development Block Grants
- Section 504/ADA Compliance Assessments
- Environmental Review Records
- Community Needs Analyses
- Marketing Studies
- Housing Needs Analyses
- Business Plans
- Grant Applications – USEDA, WVEDA, SBA, FEMA, USEPA, GCPG, Foundations, Corporate Charities
- Media Features

## RESUME – S. DOUGLAS BRITVEC, PROJECT MANAGER

### EDUCATION

- B.S. Safety/Environmental Engineering Technology – *Fairmont State College*, 2001

### PROFESSIONAL ASSOCIATIONS

- American Society of Safety Engineers (ASSE)
- International Association of Emergency Managers (IAEM)

### ADVANCED TRAINING

- Hazardous Materials, Operations Level
- IS-100 – Introduction to the ICS
- IS-139 – Exercise Design
- IS-547 – Continuity of Operations
- IS-700 – NIMS
- IS-800 – The NRF, An Introduction
- HSEEP
- General Industry Safety & Health, 10-hr. Course, OSHA
- G270.4 – Recovery from Disaster

### RELEVANT PROJECT EXPERIENCE

- Commodity Flow Studies
- Hazardous Material Response Planning
- Site-Specific Hazardous Material Planning
- Tier II Assessments
- Emergency Operations Planning
- Continuity of Operations Planning
- Terrorist Incident Response Planning
- Hazard Mitigation Planning
- Safety Audits for Public Facilities
- Vulnerability Assessments
- Evacuation Planning
- Resource Manuals
- Pandemic Flu Planning
- NIMS Compliance Consulting
- Exercise Designer, Controller, and Evaluator
- Communications Planning
- Communications/Warning System Assessment
- Source Water Assessment & Protection
- Water System Vulnerability Assessment

Mr. Britvec joined JH Consulting, LLC in 2010 as a project manager. He brings extensive emergency planning experience to the JHC team.

This extensive planning experience takes the form of multi-jurisdictional hazard mitigation planning, emergency response and recovery planning, continuity of operations planning, anti-terrorism planning, hazardous materials emergency response planning, vulnerability and risk analysis, and damage assessment. Mr. Britvec is certified by the American Red Cross (ARC) for disaster assessment.

Mr. Britvec also brings a complement of databasing and mapping experience as well as field reconnaissance knowledge in surveying and data collection. He has become an expert in plan composition and compilation. One of Mr. Britvec's core competencies is synthesizing large quantities of information into a usable, effective framework.

Mr. Britvec's experience as a safety engineer includes recognizing, evaluating, and controlling hazards. He has used his experience to identify hazards in various communities and to suggest mitigative actions to lessen the effects of those hazards. In addition, his responsibilities have included fault tree analysis, hazard communications plan preparation, safety shield design, industrial noise audits, and air sampling. He has also conducted and facilitated safety refresher courses.

At JH Consulting, Mr. Britvec interfaces with clients and monitors internal project implementation. He is responsible for the development of and adherence to budgets for his projects. He schedules all data collection, other research, focus groups, and field reconnaissance. Mr. Britvec also troubleshoots and resolves issues with all projects under his watch before they threaten to derail the success of the project.

## RESUME – SEAN R. SHARP, EMERGENCY PLANNER

### EDUCATION

- Certificate, EMS/Paramedic – *Fairmont State College*, 1996

### PROFESSIONAL ASSOCIATIONS

- International Association of Emergency Managers (IAEM)

### ADVANCED TRAINING

- Combat Medic Advanced Skills Course
- Basic Non-Commissioned Officers Course
- Total Quality Leadership, Sales & Management Training
- Additional Duty Safety Officer Course / Safety Management

### RELEVANT PROJECT EXPERIENCE

- Hazard Mitigation Planning
- Terrorism Risk Assessment and Operations Planning
- Continuity of Operations Planning

Mr. Sharp joined JH Consulting, LLC in 2011 as an emergency planner. He provides an operations and logistics perspective to the company's planning efforts.

Mr. Sharp is intimately involved in the day-to-day tasks of completing a number of the firm's projects. He is the primary planner for hazard mitigation planning projects as well as terrorism risk assessments and operations plans, continuity of operations plans, and hazardous material vulnerability assessments. Mr. Sharp also assists in the evaluation of exercises designed by JH Consulting, LLC.

Since the fall of 2011, Mr. Sharp has taken over the primary planner role for the firm's hazard mitigation planning projects. He has established sound working relationships with state mitigation planning personnel in both Ohio and West Virginia, which has benefitted our clients and significantly improved the approval process at the state level.

Mr. Sharp's operations and logistics backgrounds allow JH Consulting to add a level of authenticity to its plans and studies. Mr. Sharp reviews a number of the firm's projects to ensure that tasked agencies can understand their responsibilities. He also provides insight as to whether an agency or jurisdiction has the capability to implement their responsibilities as noted in a plan.

## PROJECT EXPERIENCE – HAZARD MITIGATION PLANNING

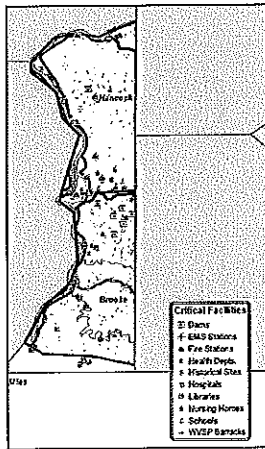
The next few pages detail the Multi-Jurisdictional Hazard Mitigation Plans and updates which have been completed by JH Consulting, LLC. These plans include those which have been done for Ohio and West Virginia counties within the past five (5) years.

- Ashtabula County, OH (Under Review)
- Boone County, WV
- Braxton County, WV
- Clay County, WV
- Fayette County, WV
- Gilmer County, WV
- Greenbrier County, WV
- Hampshire County, WV
- Hancock County, WV
- Kanawha County, WV
- Lake County, OH
- Lincoln County, WV
- Logan County, WV
- Mahoning County, OH
- Marion County, WV (Under Review)
- Marshall County, WV
- Mason County, WV
- Mineral County, WV
- Mingo County, WV
- Monongalia County, WV
- Monroe County, OH (Under Review)
- Nicholas County, WV
- Pocahontas County, WV
- Randolph County, WV
- Region IV, WV
- Region 8, WV
- Region VI, WV
- Region 11, WV
- Stark County, OH (Under Review)
- Trumbull County, OH
- Upshur County, WV
- Wayne County, WV
- Webster County, WV
- Wetzel County, WV
- Ohio County, WV (City of Wheeling)
- Region 9, WV (Under Review)

## PROJECT EXPERIENCE – HAZARD MITIGATION PLANNING REGION 11 HAZARD MITIGATION PLAN

### PROJECT INFORMATION

*Client:* Brooke-Hancock-Jefferson  
Metropolitan Planning Commission  
*Location:* Steubenville, OH  
*Contact:* Ms. Barb Zimnox, Community  
Development Specialist



The Brooke-Hancock-Jefferson Metropolitan Planning Commission (acting as the Region 11 Planning & Development Council) coordinated this update to Brooke and Hancock Counties' Hazard Mitigation Plans (HMPs). The regionalized HMP analyzed all natural hazards to which both counties could be susceptible as well as civil disturbances, dam failures, hazmat incidents, radiological hazards, and terrorism.

This project was completed throughout 2011; JH Consulting worked with West Virginia state mitigation planners as well as FEMA Region III reviewers to ensure efficient plan approval.

Key components included an update to the list of historical hazard events to better capture frequently-occurring events in both counties. The region's asset inventory was updated to reflect new facilities and those that had closed. Detailed loss estimates were generated. A number of hazard profiles were significantly refined. For example, civil disturbance was added to discuss the region's location along a known illegal drug route. Also, the hazardous material profile was revised to include Marcellus shale natural gas drilling operations in the region.

The mitigation project list was significantly updated. All projects were listed as new, completed, deleted, deferred, or on-going. Each project was listed with a detailed status to give stakeholders and reviewers a better picture of mitigation activities. Further, each participating jurisdiction was assigned at least one (1) mitigation project.

Overall, the plan was revised to show consistency with other regional and local planning efforts, including Community Rating System (CRS) requirements, in an effort to make it more implementable as the counties move forward with mitigation.

### KEY ELEMENTS

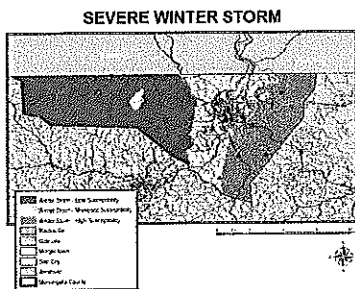
- Multi-jurisdictional elements included participation by 10 jurisdictions
- Section 322 compliant
- Balanced state and local goals
- Balanced issues related to the MPC's service area, which spanned two states and two FEMA regions
- Included CRS planning elements
- Served as a liaison between state and local officials during the approval phase
- Completed and submitted "Plan Review Matrix" to WVDHSEM to expedite review process

## PROJECT EXPERIENCE – HAZARD MITIGATION PLANNING

### MONONGALIA COUNTY HAZARD MITIGATION PLAN

#### PROJECT INFORMATION

*Client:* Monongalia County Office of  
Emergency Management  
*Location:* Morgantown, WV  
*Contact:* Mr. Mike Wolfe



#### KEY ELEMENTS

- Multi-jurisdictional elements included participation by six jurisdictions
- Section 322 compliant
- Balanced state and local goals
- Served as a liaison between state and local officials during the approval phase
- Completed and submitted "Plan Review Matrix" to WVDHSEM and FEMA Region III to expedite review process

The Monongalia County Office of Emergency Management (MCOEM) coordinated this update to Monongalia County's Hazard Mitigation Plan (HMP). The HMP analyzed all hazards to which the county could be susceptible, technological and man-made occurrences. This project was completed throughout calendar year 2009.

Key components included an update to the list of historical hazard events to show those that had occurred since the original adoption as well as the appropriate profile revisions based on information revealed by those events. The county's asset inventory was updated to reflect new facilities (since the county had experienced significant development since the original adoption). The analyzing development trends section was also significantly revised based on this development. Overall, the county's planning committee attempted to better depict municipal vulnerabilities to cement the plan's status as a "multi-jurisdictional" plan.

The mitigation project list was also significantly updated. All projects were listed with a detailed status to give stakeholders and reviewers a better picture of mitigation activities. Further, the list was re-prioritized in a more interactive way than was originally done.

Finally, several sections of the plan were revised to show better integration with other planning efforts (e.g., city and county community and economic development efforts). As such, the mitigation plan is now better aligned with a number of planning initiatives in Monongalia County, which allows for an overall sharing of mitigation project implementation responsibility.

*\*NOTE: Due to a WVDHSEM initiative, this plan was consolidated into the "Region VI Hazard Mitigation Plan" with other counties in North Central West Virginia in 2012.*

## REFERENCES

We believe that one of the most effective ways to gauge our capabilities and performance is to speak directly with our clients. To this end, please accept this brief list of references (in addition to the contacts provided above).

- Mr. Dale Petry, Director  
Kanawha County Office of Emergency Services  
304-746-7911  
dpetry@metro911.org
- Mr. Tom Hart, Director  
Marshall County Office of Emergency Management  
304-843-1130  
mcoes@ovis.net
- Mr. Mike Wolfe, Director  
Monongalia County Office of Emergency Management  
304-598-0301  
mwolfe@mecca911.org
- Mr. Marvin Hill, Director  
Randolph County Office of Emergency Management  
304-636-0483  
ranoem@verizon.net

## **County Commission Agenda June 14, 2012**

Budget Revisions #1018 - #1024 for discussion and approval















4/B

**Jefferson County Commission  
Capital Outlay Fund  
Summary of Expenditures  
For the period 7/1/2011 thru 6/6/2012**

The following is a summary of expenditures by account number.

| Account Name              | Account Number:           | Amount                     | Remarks                           |
|---------------------------|---------------------------|----------------------------|-----------------------------------|
| Other Building Rents      | 246-425-02-219-005-GG-000 | \$77,111.36                | Rent-201 N. George Street         |
| Professional Service      | 246-425-02-223-000-GG-000 | \$2,035.00                 | David A. Kemnitzer                |
| Material & Supplies       | 246-425-03-341-000-GG-000 | \$4,221.75                 | Computer parts & service contract |
| Other Building Repairs    | 234-425-04-457-000-GG-000 | \$290,939.00               | Old courthouse columns            |
| Construction in progress  | 246-425-04-460-000-GG-000 | \$124,161.14               | Most does not appear to be CIP    |
| County Commission Cap O/L | 246-986-04-458-000-CP-000 | \$81,000.00                | Mortgage JCESA                    |
|                           | <b>Total Expenses</b>     | <b><u>\$579,468.25</u></b> |                                   |

| ACCOUNT NUMBER/DESCRIPTION      |                           | POST  | JRNL.      | TRANS  | REF.   | VENDOR | CHECK                     |                    |           |         |           |  |
|---------------------------------|---------------------------|-------|------------|--------|--------|--------|---------------------------|--------------------|-----------|---------|-----------|--|
| --TRANSACTION--                 | DATE                      | NO.   | DATE       | NUMBER | NUMBER | NUMBER | TRANSACTION DESCRIPTION   | DEBIT              | CREDIT    | BALANCE |           |  |
| 246-425-02-219-005-GG-000       | CAP O/L OTHER BLDGS RENT  |       |            |        |        |        | * BEGINNING BALANCE       |                    |           | .00     |           |  |
| VP C01341                       | -001 10/2011              | 04988 | 10/11/2011 | C01341 | 11202  | 001341 | OCT 2011 RENT/DEPOSIT     | 19277.84           |           |         |           |  |
|                                 |                           |       |            |        |        |        | 201 N. GEORGE ST LLC      |                    |           |         |           |  |
| VP C01358                       | -001 12/2011              | 05041 | 12/01/2011 | C01358 | 11202  | 001358 | DEC 2011 RENT             | 9638.92            |           |         |           |  |
|                                 |                           |       |            |        |        |        | 201 N. GEORGE ST LLC      |                    |           |         |           |  |
| VP C01364                       | -001 01/2012              | 05068 | 01/01/2012 | C01364 | 11202  | 001364 | JAN 2012 RENT             | 9638.92            |           |         |           |  |
|                                 |                           |       |            |        |        |        | 201 N. GEORGE ST LLC      |                    |           |         |           |  |
| VP C01371                       | -001 02/2012              | 05101 | 02/01/2012 | C01371 | 11202  | 001371 | FEB 2012 RENT             | 9638.92            |           |         |           |  |
|                                 |                           |       |            |        |        |        | 201 N. GEORGE ST LLC      |                    |           |         |           |  |
| VP C01376                       | -001 03/2012              | 05138 | 03/01/2012 | C01376 | 11202  | 001376 | MARCH 2012 RENT           | 9638.92            |           |         |           |  |
|                                 |                           |       |            |        |        |        | 201 N. GEORGE ST LLC      |                    |           |         |           |  |
| VP C01384                       | -001 04/2012              | 05177 | 04/02/2012 | C01384 | 11202  | 001384 | APRIL 2012 RENT           | 9638.92            |           |         |           |  |
|                                 |                           |       |            |        |        |        | 201 N. GEORGE ST LLC      |                    |           |         |           |  |
| VP C01396                       | -001 05/2012              | 05204 | 05/01/2012 | C01396 | 11202  | 001396 | MAY 2012 RENT             | 9638.92            |           |         |           |  |
|                                 |                           |       |            |        |        |        | 201 N. GEORGE ST LLC      |                    |           |         |           |  |
| TOTAL PREPAID VOUCHERS          |                           |       |            |        |        |        |                           | 77111.36           | .00       |         |           |  |
| TOTAL CAP O/L OTHER BLDGS RENT  |                           |       |            |        |        |        |                           | ** ACCOUNT TOTALS  | 77111.36  | .00     |           |  |
|                                 |                           |       |            |        |        |        |                           | *** ENDING BALANCE |           |         | 77111.36  |  |
| 246-425-02-223-000-GG-000       | CAP O/L PROF SVCS         |       |            |        |        |        | * BEGINNING BALANCE       |                    |           | .00     |           |  |
| VP C01344                       | -001 10/2011              | 04988 | 09/01/2011 | C01344 | 20051  | 001344 | ARCHITECTURAL SERVICES    | 1430.00            |           |         |           |  |
|                                 |                           |       |            |        |        |        | DAVID A. KEMNITZER        |                    |           |         |           |  |
| VP C01345                       | -001 10/2011              | 04988 | 10/03/2011 | C01345 | 20051  | 001345 | REIMB ATTNDING MEETING    | 165.00             |           |         |           |  |
|                                 |                           |       |            |        |        |        | DAVID A. KEMNITZER        |                    |           |         |           |  |
| VP C01349                       | -001 11/2011              | 05015 | 11/01/2011 | C01349 | 20051  | 001349 | VISIT/MEETING/EMEMORANDUM | 220.00             |           |         |           |  |
|                                 |                           |       |            |        |        |        | DAVID A. KEMNITZER        |                    |           |         |           |  |
| VP C01373                       | -001 02/2012              | 05101 | 02/01/2012 | C01373 | 20051  | 001373 | MTNG CRTHSE/CRTHSE REHAB  | 220.00             |           |         |           |  |
|                                 |                           |       |            |        |        |        | DAVID A. KEMNITZER        |                    |           |         |           |  |
| TOTAL PREPAID VOUCHERS          |                           |       |            |        |        |        |                           | 2035.00            | .00       |         |           |  |
| TOTAL CAP O/L PROF SVCS         |                           |       |            |        |        |        |                           | ** ACCOUNT TOTALS  | 2035.00   | .00     |           |  |
|                                 |                           |       |            |        |        |        |                           | *** ENDING BALANCE |           |         | 2035.00   |  |
| 246-425-03-341-000-GG-000       | CAP O/L MATERIAL/SUPPLIES |       |            |        |        |        | * BEGINNING BALANCE       |                    |           | .00     |           |  |
| VP C01350                       | -001 11/2011              | 05015 | 10/27/2011 | C01350 | 12234  | 001350 | CATALYST 2960S/CISCO      | 3929.25            |           |         |           |  |
|                                 |                           |       |            |        |        |        | CORE BTS INC.             |                    |           |         |           |  |
| VP C01357                       | -001 11/2011              | 05015 | 11/04/2011 | C01357 | 12234  | 001357 | MAINT CONTRACT            | 292.50             |           |         |           |  |
|                                 |                           |       |            |        |        |        | CORE BTS INC.             |                    |           |         |           |  |
| TOTAL PREPAID VOUCHERS          |                           |       |            |        |        |        |                           | 4221.75            | .00       |         |           |  |
| TOTAL CAP O/L MATERIAL/SUPPLIES |                           |       |            |        |        |        |                           | ** ACCOUNT TOTALS  | 4221.75   | .00     |           |  |
|                                 |                           |       |            |        |        |        |                           | *** ENDING BALANCE |           |         | 4221.75   |  |
| 246-425-04-457-000-GG-000       | CAP O/L OTHR BLDG - BLDGS |       |            |        |        |        | * BEGINNING BALANCE       |                    |           | .00     |           |  |
| VP C01366                       | -001 01/2012              | 05068 | 12/14/2011 | C01366 | 22050  | 001366 | REPAIRS CRTHSE COLUMNS    | 2312.00            |           |         |           |  |
|                                 |                           |       |            |        |        |        | MINGHINI'S                |                    |           |         |           |  |
| VP C01370                       | -001 02/2012              | 05101 | 01/18/2012 | C01370 | 22050  | 001370 | WV000056/GRADING CRTYRD   | 22950.00           |           |         |           |  |
|                                 |                           |       |            |        |        |        | MINGHINI'S                |                    |           |         |           |  |
| VP C01387                       | -001 04/2012              | 05177 | 03/05/2012 | C01387 | 22050  | 001387 | REPRS TO COLUMNS/CRTHSE   | 108028.00          |           |         |           |  |
|                                 |                           |       |            |        |        |        | MINGHINI'S                |                    |           |         |           |  |
| VP C01390                       | -001 04/2012              | 05177 | 03/27/2012 | C01390 | 10086  | 001390 | INV#1819/COLUMN REINFORCE | 565.00             |           |         |           |  |
|                                 |                           |       |            |        |        |        | A. F. MCCORMICK           |                    |           |         |           |  |
| VP C01399                       | -001 05/2012              | 05204 | 05/21/2012 | C01399 | 22050  | 001399 | COLUMNS/CTRHSE            | 157084.00          |           |         |           |  |
|                                 |                           |       |            |        |        |        | MINGHINI'S                |                    |           |         |           |  |
| TOTAL PREPAID VOUCHERS          |                           |       |            |        |        |        |                           | 290939.00          | .00       |         |           |  |
| TOTAL CAP O/L OTHR BLDG - BLDGS |                           |       |            |        |        |        |                           | ** ACCOUNT TOTALS  | 290939.00 | .00     |           |  |
|                                 |                           |       |            |        |        |        |                           | *** ENDING BALANCE |           |         | 290939.00 |  |
| 246-425-04-460-000-GG-000       | CAP O/L CNSTRCTN IN PRGSS |       |            |        |        |        | * BEGINNING BALANCE       |                    |           | .00     |           |  |

ACCOUNT NUMBER/DESCRIPTION

| ACCOUNT NUMBER/DESCRIPTION | POST DATE | JRNL. NO. | TRANS DATE | REF. NUMBER | VENDOR NUMBER | CHECK NUMBER | TRANSACTION DESCRIPTION                                       | DEBIT    | CREDIT | BALANCE |
|----------------------------|-----------|-----------|------------|-------------|---------------|--------------|---------------------------------------------------------------|----------|--------|---------|
| VP C01338                  | -001      | 10/2011   | 04988      | 09/13/2011  | C01338        | 27065        | 001338 INV#2204/MOBOTIX CAMERAS<br>RCS SECURITY               | 4468.25  |        |         |
| VP C01339                  | -001      | 10/2011   | 04988      | 09/10/2011  | C01339        | 19041        | 001339 BACKHOE/BUFFER/JACKHAMMER<br>JEFFERSON RENTAL          | 443.87   |        |         |
| VP C01342                  | -001      | 10/2011   | 04988      | 09/23/2011  | C01342        | 29028        | 001342 SUPPLIES NEW BLDG<br>CAPITAL TRISTATE                  | 651.84   |        |         |
| VP C01343                  | -001      | 10/2011   | 04988      | 09/27/2011  | C01343        | 14082        | 001343 SUPPLIES NEW BLDG<br>84 LUMBER                         | 2721.54  |        |         |
| VP C01346                  | -001      | 11/2011   | 05015      | 11/01/2011  | C01346        | 12219        | 001346 RPLC HVAC IN MAINT 2<br>CRAIGO 1ST CHOICE HEATING      | 4900.00  |        |         |
| VP C01347                  | -001      | 11/2011   | 05015      | 10/20/2011  | C01347        | 28066        | 001347 PAINT MNT BLDG 2<br>SHERWIN-WILLIAMS                   | 3908.08  |        |         |
| VP C01348                  | -001      | 11/2011   | 05015      | 10/03/2011  | C01348        | 19041        | 001348 EQUIPMNT RENTAL<br>JEFFERSON RENTAL                    | 1184.80  |        |         |
| VP C01351                  | -001      | 11/2011   | 05015      | 10/25/2011  | C01351        | 27065        | 001351 SECURITY MAINT #2/SUPPLS<br>RCS SECURITY               | 4089.64  |        |         |
| VP C01352                  | -001      | 11/2011   | 05015      | 10/14/2011  | C01352        | 11203        | 001352 WHEEL BALACER<br>BG TIRE & BRAKE EQUIPMENT             | 289.50   |        |         |
| VP C01353                  | -001      | 11/2011   | 05015      | 11/01/2011  | C01353        | 15080        | 001353 COMPRESSOR/476873/47207<br>FISHER AUTO PARTS           | 444.06   |        |         |
| VP C01354                  | -001      | 11/2011   | 05015      | 08/04/2011  | C01354        | 23012        | 001354 74888/INSTALL LOCKS<br>NORVAC LOCK TECHNOLOGY          | 802.90   |        |         |
| VP C01355                  | -001      | 11/2011   | 05015      | 10/26/2011  | C01355A       | 14082        | 001355 TRUSS/178209<br>84 LUMBER                              | 10500.00 |        |         |
| VP C01355                  | -002      | 11/2011   | 05015      | 10/26/2011  | C01355B       | 14082        | 001355 SUPPLIES F/MAINT #2<br>84 LUMBER                       | 4560.42  |        |         |
| VP C01356                  | -001      | 11/2011   | 05015      | 11/08/2011  | C01356        | 11051        | 001356 GARAGE DOOR MAINT #2<br>BLUE RIDGE GARAGE DOORS        | 850.00   |        |         |
| VP C01359                  | -001      | 12/2011   | 05041      | 11/30/2011  | C01359        | 12219        | 001359 INSTALL DUCT WORK/GARAGE<br>CRAIGO 1ST CHOICE HEATING  | 6500.00  |        |         |
| VP C01360                  | -001      | 12/2011   | 05041      | 11/16/2011  | C01360        | 10086        | 001360 INV#1781/INSTPEC/CONSULT<br>A. F. MCCORMICK            | 4620.00  |        |         |
| VP C01361                  | -001      | 12/2011   | 05041      | 11/08/2011  | C01361        | 12113        | 001361 CISCO SMARTNET/1936241<br>CDW-GOVERNMENT INC           | 1411.75  |        |         |
| VP C01362                  | -001      | 12/2011   | 05041      | 10/03/2011  | C01362        | 12219        | 001362 RPLC EXSTNG HEATING SYSTM<br>CRAIGO 1ST CHOICE HEATING | 3624.00  |        |         |
| VP C01363                  | -001      | 12/2011   | 05041      | 11/22/2011  | C01363        | 32153        | 001363 LABOR/MATERIALS #1<br>WINCHESTER SECURITY LLC          | 1275.00  |        |         |
| VP C01365                  | -001      | 01/2012   | 05068      | 11/22/2011  | C01365        | 32153        | 001365 NEW FIRE ALARM/11197<br>WINCHESTER SECURITY LLC        | 6318.00  |        |         |
| VP C01367                  | -001      | 01/2012   | 05068      | 12/29/2011  | C01367        | 13030        | 001367 COMPUTER/XFMF6F139<br>DELL MARKETING LP                | 2539.36  |        |         |
| VP C01368                  | -001      | 01/2012   | 05068      | 12/27/2011  | C01368        | 14082        | 001368 ACCT#04350177000<br>84 LUMBER                          | 1548.95  |        |         |
| VP C01369                  | -001      | 01/2012   | 05068      | 12/27/2011  | C01369        | 22047        | 001369 ACCT#4556<br>HOME DEPOT CREDIT SERVICE                 | 613.13   |        |         |
| VP C01372                  | -001      | 02/2012   | 05101      | 01/03/2012  | C01372        | 10090        | 001372 MNTHLY BLLNG/673589<br>AUTOZONE                        | 6399.00  |        |         |
| VP C01374                  | -001      | 02/2012   | 05101      | 02/06/2012  | C01374        | 10124        | 001374 LABOR MAINT OFF/5555<br>ALLIANCE ELECTRIC LLC          | 5511.90  |        |         |
| VP C01377                  | -001      | 03/2012   | 05138      | 02/08/2012  | C01377        | 11082        | 001377 308322/308321/OFFICE SUPP<br>B-K OFFICE SUPPLY INC     | 351.00   |        |         |
| VP C01378                  | -001      | 03/2012   | 05138      | 02/14/2012  | C01378        | 22087        | 001378 INV#330942/SUPPLIES<br>V.E. MAUCK PLUMBING SPPLY       | 1673.08  |        |         |
| VP C01379                  | -001      | 03/2012   | 05138      | 02/21/2012  | C01379        | 27065        | 001379 LOCKS/P2517<br>RCS SECURITY                            | 434.89   |        |         |
| VP C01380                  | -001      | 03/2012   | 05138      | 02/17/2012  | C01380        | 22087        | 001380 INV#331151/SUPPLIES<br>V.E. MAUCK PLUMBING SPPLY       | 606.70   |        |         |
| VP C01381                  | -001      | 03/2012   | 05138      | 02/28/2012  | C01381        | 30076        | 001381 MNTHLY BLLNG/7683<br>UNITED BANKCARD CENTER            | 1748.35  |        |         |
| VP C01382                  | -001      | 03/2012   | 05138      | 02/16/2012  | C01382        | 29028        | 001382 INV#S012228333/ELEC.SUPPL<br>CAPITAL TRISTATE          | 176.42   |        |         |
| VP C01383                  | -001      | 03/2012   | 05138      | 01/27/2012  | C01383        | 14082        | 001383 ACCT#0177/SUPPLIES<br>84 LUMBER                        | 3662.11  |        |         |
| VP C01385                  | -001      | 04/2012   | 05177      | 03/02/2012  | C01385        | 30022        | 001385 INV#2009-1113/JCLOT18<br>U S PAVING LLC                | 23400.00 |        |         |
| VP C01386                  | -001      | 04/2012   | 05177      | 03/01/2012  | C01386A       | 27065        | 001386 INV2537/2535<br>RCS SECURITY                           | 995.20   |        |         |
| VP C01386                  | -002      | 04/2012   | 05177      | 03/01/2012  | C01386B       | 27065        | 001386 INV2540 OVERHEAD DOOR<br>RCS SECURITY                  | 144.00   |        |         |
| VP C01386                  | -003      | 04/2012   | 05177      | 03/01/2012  | C01386C       | 27065        | 001386 INV2574/75/BATTERIES/PANL<br>RCS SECURITY              | 266.28   |        |         |
| VP C01388                  | -001      | 04/2012   | 05177      | 02/11/2012  | C01388        | 12098        | 001388 CARPET/CT001242<br>CT CARPET ONE FLOOR&HOME            | 2933.50  |        |         |

| ACCOUNT NUMBER/DESCRIPTION                     | POST DATE    | JRNL. NO. | TRANS DATE | REF. NUMBER | VENDOR NUMBER | CHECK NUMBER | TRANSACTION DESCRIPTION                           | DEBIT     | CREDIT | BALANCE   |
|------------------------------------------------|--------------|-----------|------------|-------------|---------------|--------------|---------------------------------------------------|-----------|--------|-----------|
| VP C01389                                      | -001 04/2012 | 05177     | 03/01/2012 | C01389      | 19041         | 001389       | BOBCAT/17266/17291/17294                          | 247.11    |        |           |
| VP C01391                                      | -001 04/2012 | 05177     | 03/26/2012 | C01391      | 10124         | 001391       | JEFFERSON RENTAL ELECTRICAL CONF ROOM/5580        | 985.00    |        |           |
| VP C01392                                      | -001 04/2012 | 05177     | 03/24/2012 | C01392      | 10086         | 001392       | ALLIANCE ELECTRIC LLC STRUCTURAL INSPEC/1818      | 420.00    |        |           |
| VP C01393                                      | -001 04/2012 | 05177     | 03/15/2012 | C01393      | 11082         | 001393       | A. F. MCCORMICK CHAIRS/TABLES                     | 3344.00   |        |           |
| VP C01394                                      | -001 04/2012 | 05177     | 03/25/2012 | C01394      | 22047         | 001394       | B-K OFFICE SUPPLY INC Mnthly Bllng                | 624.35    |        |           |
| VP C01395                                      | -001 04/2012 | 05177     | 04/04/2012 | C01395      | 32153         | 001395       | HOME DEPOT CREDIT SERVICE LABOR/MATERIALS/4079    | 145.00    |        |           |
| VP C01397                                      | -001 05/2012 | 05204     | 04/06/2012 | C01397      | 12113         | 001397       | WINCHESTER SECURITY LLC INV#J096323/BAND SNGL RDO | 379.18    |        |           |
| VP C01398                                      | -001 05/2012 | 05204     | 04/27/2012 | C01398      | 30076         | 001398       | CDW-GOVERNMENT INC BESTBUY UNITED BANKCARD CENTER | 1799.98   |        |           |
| TOTAL PREPAID VOUCHERS                         |              |           |            |             |               |              |                                                   | 124512.14 | .00    |           |
| VPVC01377                                      | -001 06/2012 | 05208     | 06/06/2012 | C01377      | 11082         | 001377       | VOID CHECK NO. 001377 B-K OFFICE SUPPLY INC       |           | 351.00 |           |
| TOTAL VOIDING PREPAID VOUCHERS                 |              |           |            |             |               |              |                                                   | .00       | 351.00 |           |
| TOTAL CAP O/L CNSTRCTN IN PRGSS                |              |           |            |             |               |              |                                                   | 124512.14 | 351.00 |           |
| ** ACCOUNT TOTALS                              |              |           |            |             |               |              |                                                   | 124512.14 | 351.00 |           |
| *** ENDING BALANCE                             |              |           |            |             |               |              |                                                   |           |        | 124161.14 |
| * BEGINNING BALANCE                            |              |           |            |             |               |              |                                                   |           |        | .00       |
| 246-986-04-458-000-CP-000 CO COMM CAP O/L BLDG |              |           |            |             | 19006         | 001340       | MORTGAGE JEFF CO EMERGY                           | 81000.00  |        |           |
| VP C01340                                      | -001 10/2011 | 04988     | 09/29/2011 | C01340      |               |              | JEFFERSON CO EMERGENCY                            |           |        |           |
| TOTAL PREPAID VOUCHERS                         |              |           |            |             |               |              |                                                   | 81000.00  | .00    |           |
| TOTAL CO COMM CAP O/L BLDG                     |              |           |            |             |               |              |                                                   | 81000.00  | .00    |           |
| ** ACCOUNT TOTALS                              |              |           |            |             |               |              |                                                   | 81000.00  | .00    |           |
| *** ENDING BALANCE                             |              |           |            |             |               |              |                                                   |           |        | 81000.00  |
| * BEGINNING BALANCE                            |              |           |            |             |               |              |                                                   |           |        | .00       |
| TOTAL LEDGER BEGINNING BALANCE                 |              |           |            |             |               |              |                                                   |           |        | .00       |
| TOTAL PERIOD TRANSACTIONS & ENDING BALANCE     |              |           |            |             |               |              |                                                   | 579819.25 | 351.00 | 579468.25 |

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

**AGENDA REQUEST FORM**

Name: Paul Shroyer, Director of Financial Management

Department or Entity: County Commission

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

Date Requested – 1<sup>st</sup> Choice: June 14, 2012

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

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

Subject: **RCS Expenditures and contract**

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:

**This sheet contain a listing of RCS Security Invoices by date and yearly Summary**

| Invoice                                              | P.O. # | Cash Code | Ck No, | Ck Date    | Amount              |
|------------------------------------------------------|--------|-----------|--------|------------|---------------------|
|                                                      | 43770  | BC 001    | 52142  | 04/12/2007 | 250.00              |
|                                                      | 43713  | BC 001    | 52311  | 05/03/2007 | 12,700.00           |
|                                                      | 44296  | BC 001    | 53567  | 09/06/2007 | 5,250.00            |
|                                                      | 45160  | BC 001    | 54834  | 02/14/2008 | 2,694.25            |
|                                                      | 45174  | BC 001    | 54944  | 02/28/2008 | 5,967.50            |
|                                                      | 45174  | BC 001    | 65944  | 02/28/2008 | 3,309.25            |
|                                                      | 45177  | BC 001    | 55006  | 03/06/2008 | 3,532.25            |
|                                                      | 45177  | BC 001    | 55006  | 03/06/2008 | 2,790.00            |
|                                                      | 45913  | BC 001    | 55067  | 03/13/2008 | 3,480.00            |
| 1073                                                 |        | BC 246    | 1073   | 04/04/2008 | 25,630.00           |
| 1075                                                 |        | BC 246    | 1075   | 04/18/2008 | 17,750.00           |
| 1107                                                 |        | BC 246    | 1107   | 06/02/2008 | 21,497.50           |
|                                                      | 44625  | BC 001    | 55904  | 06/05/2008 | 825.00              |
|                                                      | 45703  | BC 001    | 55970  | 06/12/2008 | 260.00              |
| 1127                                                 |        | BC 246    | 1127   | 06/20/2008 | 43,820.74           |
|                                                      | 45729  | BC 001    | 56103  | 06/26/2008 | 916.00              |
| <b>Total for the fiscal Year Ended June 30, 2009</b> |        |           |        |            | <b>\$150,672.49</b> |
|                                                      | 45745  | BC 001    | 56245  | 07/17/2008 | 54.00               |
| 1149                                                 |        | BC 246    | 1149   | 07/21/2008 | 461.89              |
|                                                      | 45767  | BC 001    | 56382  | 08/07/2008 | 37.50               |
| x                                                    |        | BC 246    | 1160   | 08/08/2008 | 18,319.68           |
|                                                      | 45787  | BC 001    | 56495  | 08/21/2008 | 624.53              |
| 1179                                                 |        | BC 246    | 1179   | 08/29/2008 | 1,740.00            |
|                                                      | 46020  | BC 001    | 56601  | 09/04/2008 | 130.00              |
|                                                      | 46064  | BC 001    | 56872  | 10/09/2008 | 54.00               |
|                                                      | 46274  | BC 001    | 56922  | 10/16/2008 | 885.80              |
|                                                      | 46063  | BC 001    | 56922  | 10/16/2008 | 4,010.00            |
|                                                      | 46091  | BC 001    | 56976  | 10/23/2008 | 2,064.00            |
|                                                      | 46093  | BC 001    | 57028  | 10/30/2008 | 561.50              |
|                                                      | 46316  | BC 001    | 57129  | 11/13/2008 | 2,067.50            |
|                                                      | 46335  | BC 001    | 57186  | 11/20/2008 | 7,205.00            |
|                                                      | 46323  | BC 001    | 57186  | 11/20/2008 | 288.25              |
| 1215                                                 |        | BC 246    | 1215   | 11/21/2008 | 7,790.00            |
|                                                      | 46335  | BC 001    | 57406  | 12/04/2008 | 7,205.00            |
|                                                      | 46349  | BC 001    | 57548  | 12/11/2008 | 5,817.00            |
|                                                      | 45995  | BC 001    | 57613  | 12/15/2008 | 1,500.00            |
|                                                      | 46356  | BC 001    | 57613  | 12/18/2008 | 2,497.15            |
| 1223                                                 |        | BC 246    | 1223   | 12/19/2008 | 488.00              |
| 1226                                                 |        | BC 246    | 1226   | 12/19/2008 | 150.00              |
|                                                      | 46505  | BC 001    | 57754  | 01/15/2009 | 54.00               |
|                                                      | 46505  | BC 001    | 57754  | 01/15/2009 | 69.30               |
|                                                      | 46533  | BC 001    | 57956  | 02/12/2009 | 3,850.50            |
|                                                      | 46568  | BC 001    | 58079  | 02/26/2009 | 1,952.04            |
|                                                      | 46576  | BC 001    | 58136  | 03/05/2009 | 1,117.50            |
|                                                      | 46813  | BC 001    | 58254  | 03/19/2009 | 610.00              |
|                                                      | 46828  | BC 001    | 58300  | 03/25/2009 | 3,107.77            |
|                                                      | 46835  | BC 001    | 58355  | 04/02/2009 | 591.00              |
|                                                      | 46835  | BC 001    | 58355  | 04/02/2009 | 30.00               |
| 1247                                                 |        | BC 246    | 1247   | 04/14/2009 | 21,416.16           |

|                                               |  |       |        |       |            |          |             |
|-----------------------------------------------|--|-------|--------|-------|------------|----------|-------------|
|                                               |  | 46850 | BC 001 | 58482 | 04/16/2009 | 1,344.50 |             |
|                                               |  | 46860 | BC 001 | 58482 | 04/16/2009 | 70.35    |             |
|                                               |  | 46885 | BC 001 | 58687 | 05/14/2009 | 505.00   |             |
|                                               |  | 46899 | BC 001 | 58736 | 05/21/2009 | 195.00   |             |
|                                               |  | 47221 | BC 001 | 59004 | 06/18/2009 | 272.00   |             |
| 1013                                          |  | 47248 | BC 001 | 59087 | 06/25/2009 | 97.50    | \$99,233.42 |
| Total for the fiscal Year Ended June 30, 2009 |  |       |        |       |            |          | \$99,233.42 |

|                                               |   |       |        |       |            |           |             |
|-----------------------------------------------|---|-------|--------|-------|------------|-----------|-------------|
|                                               | x |       | BC 001 | 59343 | 07/30/2009 | 324.00    |             |
| 1095                                          |   | 47501 | BC 001 | 59400 | 08/06/2009 | 949.00    |             |
|                                               |   | 47501 | BC 001 | 59400 | 08/06/2009 | 372.71    |             |
| 1128                                          |   | 47527 | BC 001 | 59511 | 08/20/2009 | 195.00    |             |
| 1132                                          |   | 47537 | BC 001 | 59585 | 09/03/2009 | 7,577.50  |             |
| 1137                                          |   | 47538 | BC 001 | 59637 | 09/10/2009 | 2,627.50  |             |
| 1173                                          |   | 47556 | BC 001 | 59753 | 09/24/2009 | 1,656.40  |             |
|                                               | x |       | BC 001 | 59753 | 09/24/2009 | 432.00    |             |
| 1177                                          |   | 47571 | BC 001 | 59812 | 10/01/2009 | 2,641.50  |             |
|                                               |   | 47588 | BC 001 | 59933 | 10/15/2009 | 357.50    |             |
|                                               |   | 47805 | BC 001 | 59982 | 10/22/2009 | 5,200.00  |             |
|                                               | x |       | BC 001 | 60284 | 12/03/2009 | 378.00    |             |
|                                               |   | 47871 | BC 001 | 60596 | 01/07/2010 | 1,950.00  |             |
| 1383                                          |   |       | BC 246 | 1283  | 01/08/2010 | 10,835.00 |             |
|                                               |   | 47998 | BC 001 | 60793 | 02/04/2010 | 5,516.75  |             |
|                                               |   | 48045 | BC 001 | 60923 | 02/25/2010 | 5,630.00  |             |
|                                               |   | 48047 | BC 001 | 60986 | 03/04/2010 | 3,800.00  |             |
|                                               |   | 48076 | BC 001 | 61036 | 03/11/2010 | 905.80    |             |
|                                               |   | 48076 | BC 001 | 61036 | 03/11/2010 | 525.00    |             |
|                                               |   | 48100 | BC 001 | 61206 | 04/01/2010 | 1,485.00  |             |
|                                               |   | 48100 | BC 001 | 61206 | 04/01/2010 | 24.89     |             |
|                                               | x |       | BC 001 | 61206 | 04/01/2010 | 378.00    |             |
|                                               |   | 48324 | BC 001 | 61290 | 04/15/2010 | 2,059.00  |             |
|                                               |   | 48324 | BC 001 | 61290 | 04/15/2010 | 2,080.00  |             |
|                                               | x |       | BC 001 | 61835 | 06/17/2010 | 576.00    |             |
|                                               |   | 48437 | BC 001 | 61835 | 06/17/2010 | 900.00    | \$59,376.55 |
| Total for the fiscal Year Ended June 30, 2010 |   |       |        |       |            |           | \$59,376.55 |

|  |   |       |        |       |            |          |  |
|--|---|-------|--------|-------|------------|----------|--|
|  |   | 48457 | BC 001 | 61967 | 07/08/2010 | 600.00   |  |
|  |   | 48465 | BC 001 | 62040 | 07/15/2010 | 959.25   |  |
|  |   | 48739 | BC 001 | 62130 | 07/29/2010 | 300.00   |  |
|  |   | 48758 | BC 001 | 62176 | 08/05/2010 | 1,244.00 |  |
|  | x |       | BC 001 | 62229 | 08/12/2010 | 132.00   |  |
|  |   | 48840 | BC 001 | 62408 | 09/09/2010 | 1,854.00 |  |
|  | x |       | BC 001 | 62408 | 09/09/2010 | 432.00   |  |
|  |   | 48868 | BC 001 | 62612 | 09/30/2010 | 1,993.25 |  |
|  |   | 49011 | BC 001 | 62726 | 10/14/2010 | 225.00   |  |
|  |   | 0     | BC 001 | 62726 | 10/14/2010 | 120.00   |  |
|  |   | 49032 | BC 001 | 62851 | 10/28/2010 | 446.50   |  |
|  |   | 49044 | BC 001 | 62909 | 11/04/2010 | 150.00   |  |
|  | x |       | BC 001 | 62909 | 11/04/2010 | 132.00   |  |

|                                               |       |        |        |            |          |             |
|-----------------------------------------------|-------|--------|--------|------------|----------|-------------|
|                                               | 49054 | BC 001 | 62954  | 11/10/2010 | 225.00   |             |
|                                               | 49046 | BC 001 | 63063  | 11/18/2010 | 8,928.00 |             |
|                                               | 0     | BC 001 | 63154  | 12/02/2010 | 598.31   |             |
|                                               | 49087 | BC 001 | 63203  | 12/09/2010 | 171.00   |             |
| 3229 x                                        |       | BC 001 | 63379  | 01/06/2011 | 120.00   |             |
|                                               | 49252 | BC 001 | 63614  | 02/03/2011 | 130.00   |             |
| 3367 x                                        |       | BC 001 | 63614  | 02/03/2011 | 132.00   |             |
|                                               | 49288 | BC 001 | 63797  | 02/24/2011 | 470.00   |             |
| 3442 x                                        |       | BC 001 | 63842  | 03/03/2011 | 498.00   |             |
|                                               | 49441 | BC 001 | 63894  | 03/10/2011 | 1,712.50 |             |
|                                               | 49455 | BC 001 | 63969  | 03/17/2011 | 262.50   |             |
| 3493 x                                        |       | BC 001 | 641.26 | 04/07/2011 | 120.00   |             |
|                                               | 49484 | BC 001 | 64196  | 04/14/2011 | 235.00   |             |
|                                               | 49496 | BC 001 | 64272  | 04/28/2011 | 939.00   |             |
|                                               | 49507 | BC 001 | 64329  | 05/05/2011 | 255.00   |             |
|                                               | 49592 | BC 001 | 64329  | 05/05/2011 | 2,236.50 |             |
| 3653 x                                        |       | BC 001 | 64329  | 05/05/2011 | 132.00   |             |
|                                               | 52814 | BC 001 | 64444  | 05/19/2011 | 246.70   |             |
| 3668 x                                        |       | BC 001 | 64536  | 05/26/2011 | 498.00   |             |
|                                               | 52833 | BC 001 | 64663  | 06/09/2011 | 4,500.00 |             |
|                                               | 52837 | BC 001 | 64663  | 06/09/2011 | 1,365.00 | \$32,362.51 |
| Total for the fiscal Year Ended June 30, 2011 |       |        |        |            |          | \$32,362.51 |

|          |       |        |       |            |          |             |
|----------|-------|--------|-------|------------|----------|-------------|
| 3786 x   |       | BC 001 | 64878 | 07/07/2011 | 390.00   |             |
|          | 0     | BC 001 | 64994 | 07/21/2011 | 58.20    |             |
|          | 53096 | BC 001 | 65046 | 07/28/2011 | 8,450.20 |             |
| 609001 x |       | BC 001 | 65310 | 09/01/2011 | 69.30    |             |
|          | 53118 | BC 001 | 65347 | 09/08/2011 | 966.00   |             |
|          | 50508 | BC 001 | 65404 | 09/15/2011 | 5,000.00 |             |
| x        |       | BC 001 | 65554 | 10/06/2011 | 661.50   |             |
| 1338     | 50522 | BC 246 | 1338  | 10/07/2011 | 4,468.25 |             |
|          | 0     | BC 001 | 65827 | 11/03/2011 | 74.07    |             |
|          | 50613 | BC 001 | 65872 | 11/10/2011 | 7,400.00 |             |
|          | 50628 | BC 001 | 65949 | 11/17/2011 | 2,250.00 |             |
| 1351     | 50606 | BC 246 | 1351  | 11/18/2011 | 4,089.64 |             |
|          | 50645 | BC 001 | 66119 | 12/15/2011 | 1,418.00 |             |
|          | 50761 | BC 001 | 66174 | 12/22/2011 | 320.00   |             |
| X        |       | BC 001 | 66253 | 01/05/2012 | 720.00   |             |
| 4019 x   |       | BC 001 | 66317 | 01/12/2012 | 66.00    |             |
|          | 50946 | BC 001 | 66589 | 02/16/2012 | 510.00   |             |
| 4118 x   |       | BC 001 | 66789 | 03/05/2012 | 108.00   |             |
|          | 51068 | BC 001 | 66726 | 03/08/2012 | 2,095.00 |             |
| 1379     | 51068 | BC 246 | 1379  | 03/09/2012 | 434.89   |             |
|          | 51106 | BC 001 | 66840 | 03/22/2012 | 454.19   |             |
|          | 51124 | BC 001 | 66933 | 04/05/2012 | 225.80   |             |
| x x      |       | BC 246 | 1386  | 04/06/2012 | 1,405.48 |             |
| 44132 x  |       | BC 001 | 66985 | 04/12/2012 | 120.00   |             |
|          | 51185 | BC 001 | 67085 | 04/26/2012 | 357.60   |             |
|          | 51190 | BC 001 | 67142 | 05/03/2012 | 285.00   |             |
|          | 51198 | BC 001 | 67193 | 05/10/2012 | 113.75   |             |
|          | 49724 | BC 001 | 67334 | 05/24/2012 | 285.00   | \$42,795.87 |
|          |       |        |       |            |          | \$42,795.87 |

Grand total all years \$384,440.84  
Tota Year to date Fiscal Year Ending June 30, 2012

SA

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

**AGENDA REQUEST FORM**

Name: Roger Goodwin

Department or Entity: Department of Engineering

Estimation of amount of time needed for appointment: 5 minutes

Date Requested – 1<sup>st</sup> Choice: June 14, 2012

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

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

Subject: Bond reduction and/or release.

Please provide the County Commission with a description of your request or presentation, including any background information: Complete release of the Construction Bond security for Summit Point Automotive Research Center, LLC – STaSIS Grading Plan (File #S10-08) – Cash in Escrow with Bank of Charles Town, Charles Town, West Virginia.

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): I authorize a complete release of the remaining \$15,571.00 construction bond amount for Summit Point Automotive Research Center, LLC – STaSIS Grading Plan (File #S10-08).

Attachments: Bond Release Letter  
Bond Release Request Report  
Site Map



## JEFFERSON COUNTY COMMISSION

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

Phone: (304) 728-3284 - Fax: (304) 725-7916

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

PRESIDENT  
*Patsy Noland*

VICE PRESIDENT  
*Dale Manuel*

COMMISSIONER  
*Frances Morgan*

COMMISSIONER  
*Walt Pellish*

COMMISSIONER  
*Lyn Widmyer*

June 14, 2012

Mr. David W. Irvin  
Senior Vice President  
Bank of Charles Town  
P. O. Box 906  
Charles Town, West Virginia 25414

RE: Cash in Escrow dated November 9, 2010, Construction Bond Surety for Summit Point Automotive Research Center, LLC – STaSIS Grading Plan (File #S10-08).

Dear Mr. Irvin:

The Jefferson County Commission authorizes a complete release of the remaining 15,571.00 from the construction bond for Summit Point Automotive Research Center, LLC – STaSIS Grading Plan (File #S10-08). This project is located at the intersection of Summit Point Road (Route 13) and Motor Sports Park Circle. The work appears to be 100% complete.

In summary, you are hereby authorized to fully release the remaining amount of the above referenced Cash in Escrow, originally issued in the amount of \$49,243.00. Please contact the Jefferson County Department of Engineering at (304)-728-3257 if you have any questions.

Sincerely,

Patricia A. Noland, President  
Jefferson County Commission

PAN:rfb

cc: Ms. Barbara L. Scott  
Summit Point Automotive Research Center  
P. O. Box 190  
Summit Point WV 25414  
Department of Engineering

Acting County Administrator  
*Debbie Keyser*

Deputy County Administrator  
*Sandy Slusher McDonald*

Email: [engineering@jeffersoncountywv.org](mailto:engineering@jeffersoncountywv.org)

**BOND REDUCTION or RELEASE REQUEST - REPORT**

Date Received: 06 / 01 / 2012

J.C.P.C. File No. 510 - 08 Grading

Consultant/Engineer/Firm Name: Kubic Construction

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Contact Person: Pete Kubic Phone: \_\_\_\_\_

Project/Subdivision Name: Stasis

Section/Phase: Grading + Foundation Lots: \_\_\_\_\_

Review Comments:

The bond release/reduction is Approved as Submitted.  The bond release/reduction request is Denied.

Add items/revise as shown per our comments on your attached bond release/reduction form & resubmit reduction/release request to our office for review and approval.

Some site work has progressed beyond the required "milestone" site inspections that are to be performed by our office. As a result, you will need to schedule the inspections with our Land Development Inspector, and/or provide the certifications noted on the attached "Third-Party Certifications" checklist. Please collect all the required third-party certifications and submit them all at one time along with a copy of this report and the checklist.

Bonding Policy & Unit Cost Figures attached for your use.

Comments: \_\_\_\_\_

Approved for:  
Bond Release - \$ 0.00  
By [Signature] 6/4/2012  
County Engineer Date

Original Bond Amt. \$ .42 820 + 15% Cont. \$ 6.423 = Total Original Bond Amt. \$ 49.243

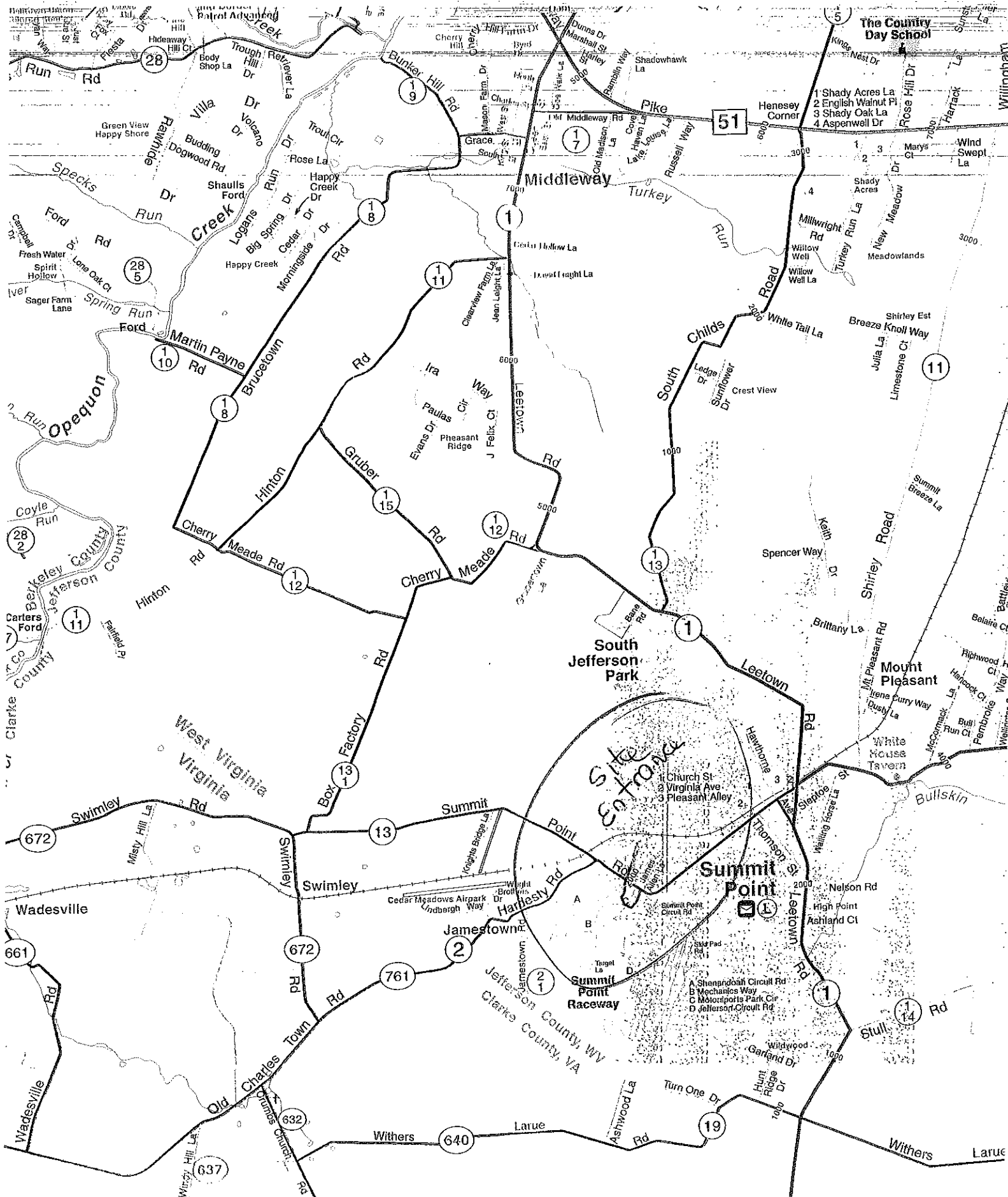
Total Current Bond Amount \$ 15.571 .00

Cost of Work Remaining \$ 0.00 + Contingency Amount \$ 0.00

= Approved for Revised Bond Amount \$ 0.00

Reviewed By: Jonathan Saunders, P.E. Title: County Engineer

Signature: [Signature] Date: 06 / 04 / 2012



A 10

LEGEND

Hay-V  
Boyer  
La

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

**AGENDA REQUEST FORM**

Name: Roger Goodwin

Department or Entity: Department of Engineering

Estimation of amount of time needed for appointment: 5 minutes

Date Requested – 1<sup>st</sup> Choice: June 14, 2012

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

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

Subject: Bond reduction and/or release.

Please provide the County Commission with a description of your request or presentation, including any background information: Complete release of the Construction Bond security for McDonald’s Corporation – Lot 2 Maddex Square Shopping Center (File #S11-18) – Performance Bond No. 404002723 with Safeco Insurance Company of America, Seattle, Washington.

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): I authorize a complete release of the remaining \$50,000.00 construction bond amount for McDonald’s Corporation – Lot 2 Maddex Square Shopping Center (File #S11-18) which is secured by Performance Bond No. 404002723 with Safeco Insurance Company of America, Seattle, Washington.

- Attachments: Bond Release Letter  
 Bond Release Request Report  
 Site Map



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PRESIDENT

*Patsy Noland*

June 14, 2012

VICE PRESIDENT

*Dale Manuel*

Mr. William T. Krumm

Safeco Insurance Company of America

COMMISSIONER

*Frances Morgan*

1001 Fourth Avenue

Safeco Plaza

COMMISSIONER

*Walt Pellish*

Seattle, WA 98154

COMMISSIONER  
*Lyn Widmyer*

RE: Performance Bond No. 404002723 dated January 4, 2012, Construction Bond Surety for  
McDonald's Corporation – Lot 2 Maddex Square Shopping Center (File #S11-18).

Dear Mr. Krumm:

The Jefferson County Commission authorizes a complete release of the remaining \$50,000.00 from the construction bond for McDonald's Corporation – Lot 2 Maddex Square Shopping Center (File #S11-18). This project is located on at the intersection of Route 45-Martinsburg Pike and Maddex Square Drive within the Maddex Square Shopping Center. The work appears to be 100% complete.

In summary, you are hereby authorized to fully release the remaining amount of the above referenced Performance Bond No. 404002723 originally issued in the amount of \$50,000.00. Please contact the Jefferson County Department of Engineering at (304)-728-3257 if you have any questions.

Sincerely,

Patricia A. Noland, President  
Jefferson County Commission

PAN:rfb

cc: Ms. Kathleen Kuta  
McDonald's Corporation  
One McDonald's Plaza  
Oak Brook, IL 60523  
Department of Engineering

Acting County Administrator  
*Debbie Keyser*

Deputy County Administrator  
*Sandy Stusher McDonald*

**BOND REDUCTION or RELEASE REQUEST - REPORT**

Date Received: 06 / 01 / 2012

J.C.P.C. File No. S11 - 18

Consultant/Engineer/Firm Name: CMS ASSOCIATES, LLC

Mailing Address: 4925 ELLIS LANE

City: ELLCOTT CITY State: MD Zip: 21043

Contact Person: GEOFFREY CINIERO Phone: 410 + 988 - 2436

Project/Subdivision Name: MCDONALD'S MADDEX SQUARE

Section/Phase: \_\_\_\_\_ Lots: \_\_\_\_\_

Review Comments:

The bond release reduction is Approved as Submitted. \_\_\_\_\_ The bond release/reduction request is Denied.

\_\_\_\_\_ Add items/revise as shown per our comments on your attached bond release/reduction form & resubmit reduction/release request to our office for review and approval.

\_\_\_\_\_ Some site work has progressed beyond the required "milestone" site inspections that are to be performed by our office. As a result, you will need to schedule the inspections with our Land Development Inspector, and/or provide the certifications noted on the attached "Third-Party Certifications" checklist. Please collect all the required third-party certifications and submit them all at one time along with a copy of this report and the checklist.

\_\_\_\_\_ Bonding Policy & Unit Cost Figures attached for your use.

Comments: RECOMMEND RELEASE OF BOND

|                       |                 |
|-----------------------|-----------------|
| Approved for:         |                 |
| BOND RELEASE          |                 |
| By <u>[Signature]</u> | <u>06/06/12</u> |
| County Engineer       | Date            |

Original Bond Amt. \$ 31,850 + 15% Cont. \$ 18,150 = Total Original Bond Amt. \$ 50,000

Total Current Bond Amount \$ 50,000.00

Cost of Work Remaining \$ 0.00 + Contingency Amount \$ 0.00

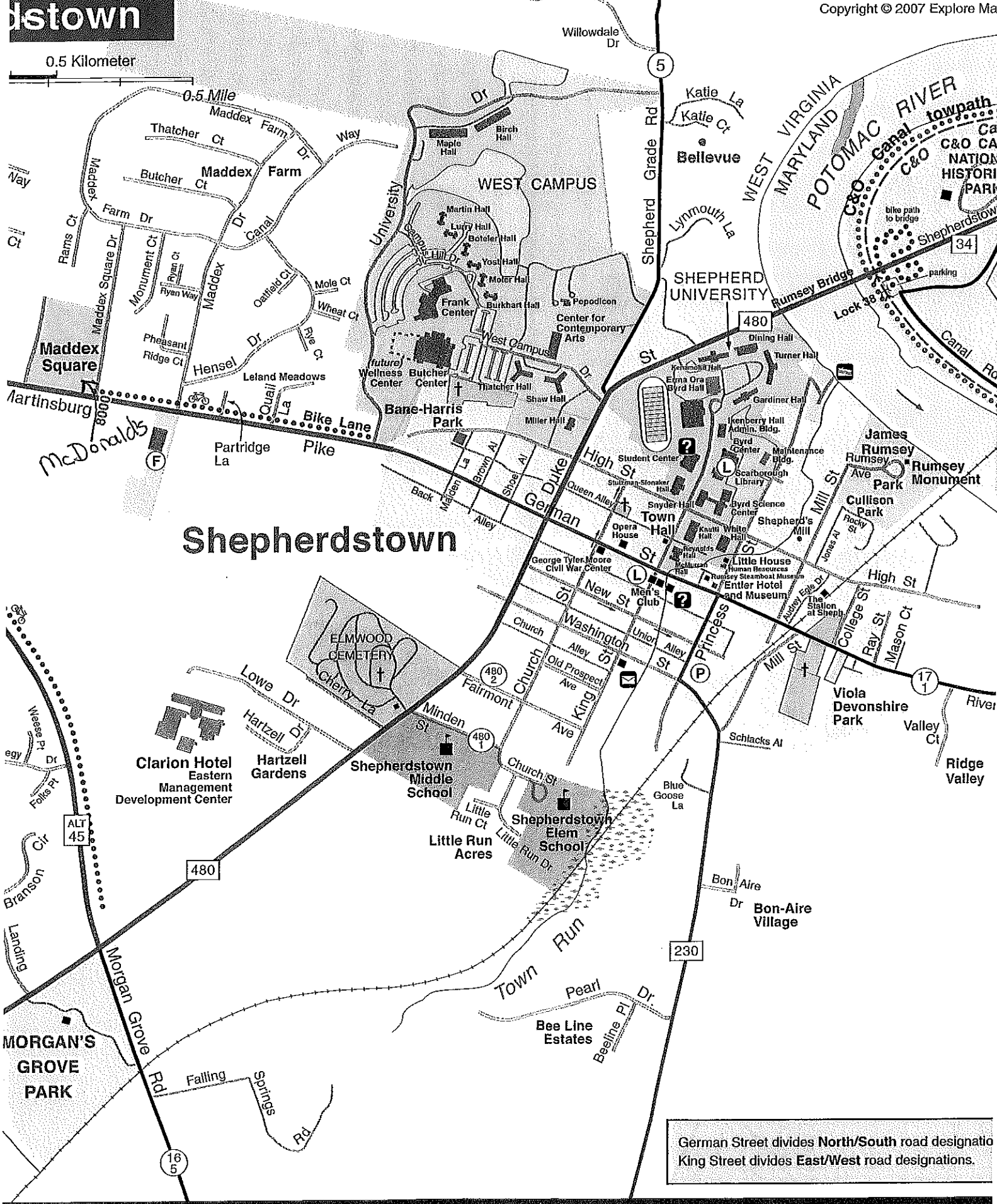
= Approved for Revised Bond Amount \$ 0.00

Reviewed By: JOSEPH W. KENT Title: L.D.I.

Signature: [Signature] Date: 06 / 06 / 2012

0.5 Kilometer

0.5 Mile



## Shepherdstown

German Street divides North/South road designation  
 King Street divides East/West road designations.

50

|                                                                                            |
|--------------------------------------------------------------------------------------------|
| <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: June 14, 2012

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

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

Subject: Bond reduction and/or release.

Please provide the County Commission with a description of your request or presentation, including any background information: Partial release of the Construction Bond security for Summit Point Automotive Research Center LLC – Summit Point Tactical Training Center, Phase II (File #S11-11) – Letter of Credit #313 with The Bank of Charles Town, Charles Town, West Virginia.

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): I authorize a partial release of \$266,117.00 from the construction bond for Summit Point Automotive Research Center LLC – Summit Point Tactical Training Center, Phase II (File #S11-11).

Attachments: Bond Release Letter  
Bond Release Request Report  
Site Map



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PRESIDENT

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*Dale Manuel*

COMMISSIONER

*Frances Morgan*

COMMISSIONER

*Walt Pellish*

COMMISSIONER

*Lyn Widmyer*

June 14, 2012

Mr. David W. Irvin  
Senior Vice President  
Bank of Charles Town  
P. O. Box 906  
Charles Town, West Virginia 25414

RE: Irrevocable Letter of Credit #313 dated July 8, 2011 Construction Bond Surety for Summit Point Automotive Research Center, LLC - Summit Point Tactical Training Center, Phase II (PC File #S11-11).

Dear Mr. Irvin:

The Jefferson County Commission authorizes a partial release of \$266,117.00 from the construction bond for Summit Point Automotive Research Center, LLC – Summit Point Tactical Training Center, Phase II (PC File #S11-11). This project is located on the south side of Summit Point Road (Route 13) at the end of Training Campus Drive. Work remaining includes but is not limited to the following:

1. Landscaping
2. Site stabilization

In summary, you are hereby authorized to reduce the amount of the above referenced Letter of Credit #313, originally issued in the amount of \$699,931.00 to \$167,580.00. Please contact the Jefferson County Department of Engineering at (304)-728-3257 if you have any questions.

Sincerely,

Patricia A. Noland, President  
Jefferson County Commission

PAN:rfb

cc: Ms. Barbara L. Scott  
Summit Point Automotive Research Center, LLC  
P. O. Box 190  
Summit Point, West Virginia 25446  
Department of Engineering

Acting County Administrator  
*Debbie Keyser*

Deputy County Administrator  
*Sandy Shusher McDonald*

**BOND REDUCTION or RELEASE REQUEST - REPORT**

Date Received: 05 / 09 / 2012

J.C.P.C. File No. 311 - 11

Consultant/Engineer/Firm Name: WILLIAM H. GORDON & ASSOC.

Mailing Address: 301 NORTH MILDRED STREET SUITE 1

City: CHARLES TOWN State: WV Zip: 25414

Contact Person: JASON GERHART Phone: 304-725-8456

Project/Subdivision Name: SPARC TACTICAL TRAINING CENTER

Section/Phase: PHASE II Lots: \_\_\_\_\_

Review Comments:

The bond release/reduction is Approved as Submitted. \_\_\_\_\_ The bond release/reduction request is Denied.  
REVISED

\_\_\_\_\_ Add items/revise as shown per our comments on your attached bond release/reduction form & resubmit reduction/release request to our office for review and approval.

\_\_\_\_\_ Some site work has progressed beyond the required "milestone" site inspections that are to be performed by our office. As a result, you will need to schedule the inspections with our Land Development Inspector, and/or provide the certifications noted on the attached "Third-Party Certifications" checklist. Please collect all the required third-party certifications and submit them all at one time along with a copy of this report and the checklist.

\_\_\_\_\_ Bonding Policy & Unit Cost Figures attached for your use.

Comments: RECOMMEND PARTIAL RELEASE OF BOND

|                        |                 |
|------------------------|-----------------|
| <b>Approved for:</b>   |                 |
| <b>BOND REDUCTION</b>  |                 |
| By <u>J. W. Kent</u>   | <u>06/05/12</u> |
| <b>County Engineer</b> | <b>Date</b>     |

Original Bond Amt. \$ 608,635.25 + 15% Cont. \$ 91,295.25 = Total Original Bond Amt. \$ 699,930.50

Total Current Bond Amount \$ 433,697.00

Cost of Work Remaining \$ 145,722.00 + Contingency Amount \$ 21,858.00

= Approved for Revised Bond Amount \$ 167,580.00

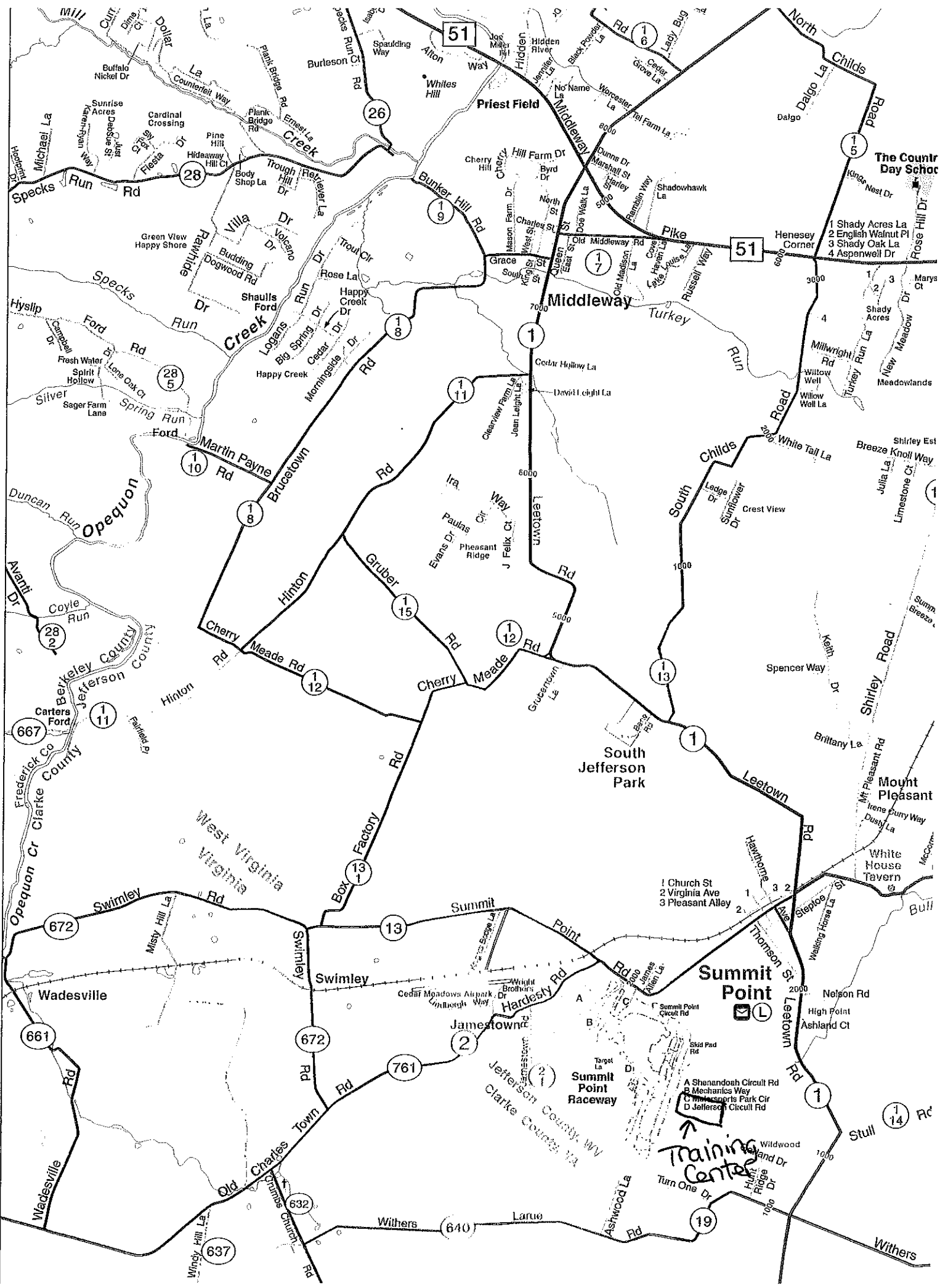
Reviewed By: JOSEPH W. KENT Title: LOI

Signature: [Signature] Date: 06 / 05 / 2012

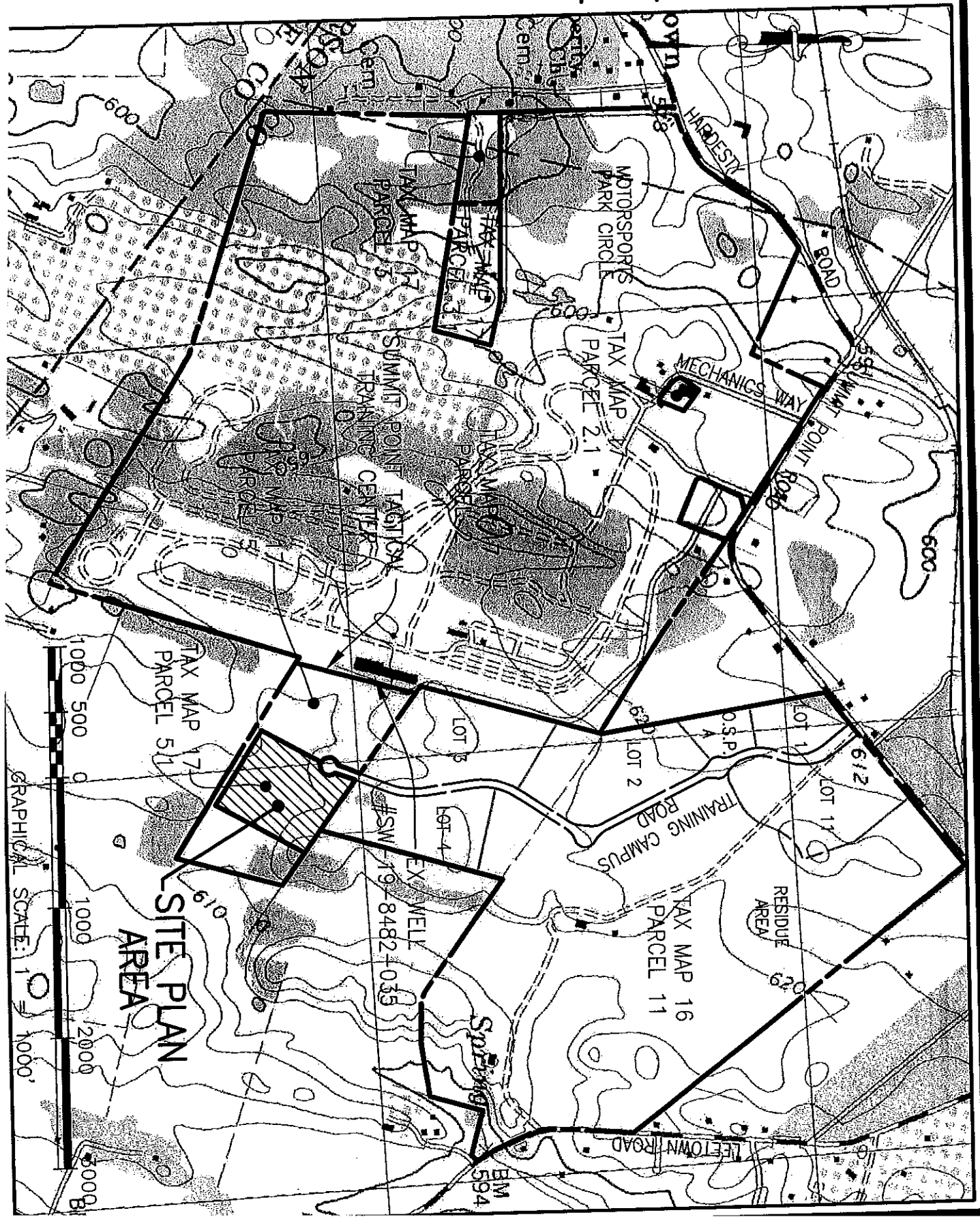
7

8

9



# III





TWENTY-THIRD JUDICIAL CIRCUIT  
PROBATION DEPARTMENT  
380 W. SOUTH STREET  
Suite 1200  
PO Box 1677  
Martinsburg, West Virginia 25402  
(304) 264-1969 \* Facsimile (304) 267-3710

Chief Probation Officer  
C. Mark Hofe

Deputy Chief Probation Officer  
Delaine Miller

Probation Officers  
Richard Ashworth  
William Brooks  
Rick Futrell  
Sahana Mills  
Carolyn Williams  
Laura Winkler

June 6, 2012

Jefferson County Commission  
Charles Town, WV

Dear Ladies & Gentlemen:

Thank you for agreeing to host the Juvenile Drug Court, which is set to begin operations in Jefferson County in the immediate future. Referrals are now being accepted. We hope to identify & curtail drug use among youth before their issues become life altering (and county budget draining) concerns as adults. To fully facilitate Drug Court operations, we will be holding classes for the parents of the involved juveniles. To do this, it will be necessary to set up seating for the participants, which will involve some moderate expenditures. Specifically, we are requesting sixteen padded folding chairs and four folding tables. The cost and description of these items are as follows. Please note that the quoted prices are state rates, which the commission hopefully will qualify for.

The items are as follows:

(2) 96" X 30" folding tables at \$143.91 ea.  
(Office Max #EB55234)

(2) 72" X 30" folding tables at \$110.91 ea.  
(Office Max #E8FT727230WA)

(16) folding chairs with padded seats at \$140.84 per carton of 4  
(Office Max #E4FC94VY10B)

Thank You for your commitment to the Juvenile Drug Court, and for your kind attention to this matter. Please contact the undersigned with any questions or concerns.

**RECEIVED**

JUN 06 2012

Jefferson County Commission

Respectfully,

C. Mark Hofe  
Chief Probation Officer  
23<sup>rd</sup> Judicial Circuit

Commission Office Use Only

Date on Agenda:

Appt Time or New Business:

7

### AGENDA REQUEST FORM

Name: Debbie Keyser

Department or Entity: County Commission

Estimation of amount of time needed for appointment: 5 minutes

Date Requested – 1<sup>st</sup> Choice: May 31, 2012

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

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

Subject: ~~Set time and date for~~ **work session to discuss County Commission priorities and projects**

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:

**\*\*\*DRAFT #2\*\*\***

**Commission Projects**

| <u>Project</u>                                                                                                                                                                                           | <u>Team Leader/Members</u>                                                     | <u>Deadline</u>      | <u>Comm Mtg</u>   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|----------------------|-------------------|
| <b>GIS Content Management System:</b><br>--Presentation to Commission to present project, costs, and benefit analysis in preparation for next year's budget.                                             | Leader: Todd Fagan                                                             | May 30, 2012         | June, 2012        |
| <b>Hire a County Administrator:</b>                                                                                                                                                                      | Leader: Patsy Noland<br>Member: Commission Members, <u>Keyser and McDonald</u> | June 30, 2012        | On-going          |
| <b>IT Needs:</b><br>Determine IT needs within the County. Provide recommendation for in-house or contract services, associated costs and plan of action.                                                 | Leader: <u>Keyser and Shroyer</u>                                              | June 30, 2012        | July, 2012        |
| <b>Impact Fees – <u>Affordable Housing</u></b>                                                                                                                                                           | Leader: Roger Goodwin                                                          | June 30, 2012        | July 1, 2012      |
| <b>OPEB Actuarial Study:</b><br>RFP to be completed and bids returned for Commission consideration.                                                                                                      | Leader: Paul Shroyer                                                           | July 30, 2012        | Aug., 2012        |
| <b>Impact Fees:</b><br>--Ensure a plan is in place to protect Impact Fees<br>--Determine how to collect<br>--How to charge<br>--Potential income<br>--Proposal due to Commission Oct, 2012               | Leader: Roger Goodwin<br>Member:<br>Resources: <u>Grove</u>                    | Sept. 30, 2012       | Oct., 2012        |
| <u>CIP Presentation</u>                                                                                                                                                                                  | Leader: <u>Paul Shroyer</u>                                                    | <u>June 30, 2012</u> | <u>July, 2012</u> |
| <b>Income Replacement:</b><br>Review County's options to provide employees with short term disability and long term disability options, the costs, vendor comparison and date to implement, if approved. | Leader: Debbie Keyser<br>Team Members: Sally Gran                              | Sept. 30, 2012       | Oct., 2012        |

| Project                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Team Leader/Members                                                     | Deadline         | Comm Mtg   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|------------------|------------|
| <b>Move AS400:</b><br>Move AS400 from Hunter Building to Mason Building to protect equipment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Team Leader: Bill Polk<br>Members: Charlotte Hernandez and Paul Shroyer | Sept. 30, 2012   | Oct, 2012  |
| <b>CAD System:</b><br>Develop RFP for a Computer Aided Dispatch System to provide complete data to those responding to 911 calls. RFP should include estimated costs for budget planning.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Leader: Jeff Polczynski<br>Members: Chris Cross, Craig Simpson          | Oct. 30, 2012    | Nov., 2012 |
| <b>Space Needs Study:</b><br>Provide inventory of all square footage of office space owned/leased/occupied by County gov't and affiliated agencies; Include:<br>--Purchase of the Briel Building<br>--Renovation of Animal Control<br>--Cost Estimates for Judicial Center for Circuit Clerk; Bond or No Bond?<br>--Court House space needs<br>--Tax Office Work Stations & Storage<br>--Utilize other outside resources as needed<br>--Allow for privacy of citizens to discuss personal issues<br>--Central heat and air condition unit for Hunter bldg.<br>--Meeting Hall for citizens/Commission<br>--Avoid damage to historical buildings<br>Ensure all space is being utilized, and-<br><u>Provide a 3 year plan for the use, renovation, sale and upkeep of all buildings to ensure the County is fully utilizing its spaces and dollars for County employment.</u> | Leader: Paul Shroyer and Bill Polk<br>Team Members:                     | Oct. 30, 2012    | Nov., 2012 |
| <b>Grant Policy:</b><br>Develop a policy to establish a standard process to ensure each grant is documented, checks are applied to the appropriate fund, expenditures go to the proper fund, and the County is currently meeting or can meet the Grant requirements.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Team Leader: Vivian Fields<br>Members: Teresa Hendricks, Sandy McDonald |                  |            |
| <b>Polling Assignment/Budget:</b><br>Determine needs and costs of machines to show polling assignment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Leader: Jennifer Maghan                                                 | October 30, 2012 | Nov., 2012 |
| Research, determine needs analysis, costs and make recommendation for new                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Leader: Bill Polk<br>Resources: Noland                                  |                  |            |

|                                 |  |  |  |
|---------------------------------|--|--|--|
| telephone system for the County |  |  |  |
|---------------------------------|--|--|--|

| <u>Commissioner Projects:</u>                                                           | <u>Team Leader/Members</u> | <u>Deadline</u> | <u>Comm Mtg</u> |
|-----------------------------------------------------------------------------------------|----------------------------|-----------------|-----------------|
| <u>Tennis Bubble</u>                                                                    | <u>TBD</u>                 | <u>TBD</u>      | <u>TBD</u>      |
| <u>Public Indoor Swimming Facility</u>                                                  | <u>TBD</u>                 | <u>TBD</u>      | <u>TBD</u>      |
| <u>Public Transportation for Community to get to work without cars; MARC Train, etc</u> | <u>TBD</u>                 | <u>TBD</u>      | <u>TBD</u>      |
| <u>Local Drug Treatment Center</u>                                                      | <u>TBD</u>                 | <u>TBD</u>      | <u>TBD</u>      |
|                                                                                         |                            |                 |                 |

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Debbie Keyser is responsible for meeting with each team member to review their assignment and be the liaison between the team leader and the Commission to establish dates for the presentation to the Commissioners.

# **RECRUITMENT ANNOUNCEMENT**

## **County Administrator Jefferson County Commission Office**

**\$97,375  
FULL-TIME w/BENEFITS**

**QUALIFIED APPLICANTS SHOULD RESPOND TO:**

**JEFFERSON COUNTY COMMISSION,  
PO BOX 250, 124 E. WASHINGTON STREET,  
CHARLES TOWN, WV, 25414  
Attn: Sandy McDonald, Deputy County Administrator**

**APPLICATIONS AND RESUMES WILL BE ACCEPTED UNTIL THE POSITION IS FILLED.**

### **GENERAL DEFINITION OF WORK:**

Serves as Chief Administrative Officer (CAO) of Jefferson County, West Virginia. Position is responsible for managing the day-to-day operations and administration of those departments under the jurisdiction of the County Commission. Direction is provided by the Jefferson County Commission.

### **ESSENTIAL FUNCTIONS/TYPICAL TASKS:**

(These are intended only as illustrations of the various types of work performed. The omission of specific duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.)

- Responsible for administrative oversight over all operations of the County government under the jurisdiction of the County Commission.
- Administer, implement and enforce administrative policies and procedures to meet Commission goals and objectives.
- Responsible for all aspects of the supervision of the department heads of those departments under the jurisdiction of the County Commission, including but not limited to the selection, direction and evaluation of department heads and other staff and the development of staff to enhance their capabilities and improve the delivery of services.
- Oversee the activities of the various County Commission departments to ensure timely, efficient and effective delivery of programs and services and the implementation of the County Commission's programs and directive.
- Responsible for financial oversight of the County government, including but not limited to: developing operating and capital budget estimates and targets to guide departments; recommending budgets and staffing levels to the County Commission based on proposed goals, objectives, work programs and projects developed by the various department heads; estimating budget needs; reviewing and advising on justifications for funding requests; establishing budget control systems; monitoring expenditures to assure compliance with budgets; accounting for variances between projected and actual expenditures.
- Negotiate and/or supervises the negotiation of all County contractual agreements subject to the limitations of law and Commission direction and administers and enforces such agreements.
- Analyze proposals and develops recommendations to the County Commission regarding policies and programs; analyze information pertaining to County services and operations, including policies, programs, methods, budgets, staffing, organization and capital needs.

- Serve as the County Commission as its agent in administrative matters, including but not limited to administering the preparation of County Commission meeting minutes and agendas and County Commission correspondence.
- Represent the County with other government agencies and in meetings with the public.
- Ensure compliance with state and federal regulations.
- Provide direction and support to staff including investigation and resolution of complaints and concerns regarding county programs, services and facilities.
- Develop and maintain working relationships with the County Commission, employees, members of the public, local and state legislators, representatives of other government agencies, board and commissions, and industry.
- Act as liaison with other Jefferson County and municipal elected officials, with other counties and with regional, state and federal agencies on a broad range of matters.
- Oversee the process of appointments to the County's Boards, Commission and Authorities.
- Serve as the head of the County Commission's management team.
- Prepare, secure and administer grants.
- Investigate and resolve complaints and concerns regarding county programs, services and facilities.
- Responsible for procurement and oversees the purchasing of commodities, services, supplies, materials, equipment on behalf of the County Commission.
- Serve in an advisory role to the County Commissioners.
- All other duties as assigned by the County Commission.

**KNOWLEDGE, SKILLS AND ABILITIES:**

Knowledge: Common policies, practices and procedures of all county department operations; laws and regulations pertinent to county operations; finance and budget administration; human resources management; writing and administering grants; and procurement.

Abilities: Ability effectively and efficiently direct the overall operation of the county; establish and maintain effective working relationships with county officials, outside organizations, the public and other personnel; resolve problems or conflicts; perform multiple tasks under tight deadlines; maintain confidential information.

Skills: Outstanding interpersonal skills, presentation skills, oral and written communication skills, negotiation skills, management skills, and attention to detail required.

**EDUCATION AND EXPERIENCE:**

Master's Degree in business or related field preferred and 3 years county or other public agency administrative experience preferred, including responsibility for management of staff and programs, or any equivalent combination of education, training and experience which provides the required knowledge skills and abilities to perform the essential function of the job.

**PHYSICAL REQUIREMENTS:**

*The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the position's essential functions.*

**Physical Demands:** Little or no physical demands are required to perform the work. Work effort principally involves sitting to perform work tasks, with intermittent periods of stooping, walking, and standing. There may also be some occasional lifting of objects such as books, office equipment and computer paper (up to 30 lbs.)

**Motor Skills:** Duties are largely mental rather than physical, but the job may occasionally require minimal motor skills for activities such as moving objects, operating a telephone system, computer and/or most other office equipment, typing and/or word processing.

**Visual Demands:** Visual demands include constantly reading documents for general understanding and for analytical purposes.

**SPECIAL REQUIREMENTS:**

Possession of an appropriate driver's license valid.

**ADDITIONAL INFORMATION FOR APPLICANTS**

**APPLICATION FOR THIS RECRUITMENT:**

All applications for vacancies with the Jefferson County Government must be submitted to PO Box 250, 124 E. Washington Street, Charles Town, WV, 25414 on or before the date specified on the front of this announcement. An application may be rejected if it is not complete or is received after the specified closing date (we do honor post-mark date on applications submitted by postal mail). Each applicant will be notified by mail regarding the selection process. Jefferson County may or may not reimburse travel expenses incurred to attend a scheduled interview.

**EXAMINATION PROCEDURE:**

The kind of examination/screening for positions announced will vary with each position and may include:

- an evaluation of training and experience
- personal and/or group interview
- written and/or spoken examination(s)
- performance test(s)
- a background investigation
- a physical examination\*and
- a drug test\*.

\*These examinations are administered after offer of employment.

**PROBATIONARY PERIOD:**

Jefferson County is an "At-Will" employer. However, new employees normally serve a probationary period of six (6) months before attaining regular status. The length of the probationary period may vary depending on the position and may be extended depending on performance. The probationary period is considered part of the examination process to determine the employees fitness for the position in which he/she was placed.

**COMPENSATION:**

Jefferson County employees are paid every two (2) weeks. A new employee ordinarily starts work at the rate specified in this announcement. The Jefferson County Commission reviews compensation increases as part of the normal budget preparation process and makes the appropriate compensation adjustments at the beginning of the fiscal year (July 1).

**ANNUAL LEAVE, SICK LEAVE AND HOLIDAYS:**

(the following is unavailable for part-time and temporary positions)

- Employees earn 1.00 days of sick leave per month/12 days annually with unlimited accumulation.
- Jefferson County observes 12 paid holidays per year and Primary and General Election Days as they occur.
- Employees accumulate annual leave according to the following schedule:

**Years of Service**  
0 – 2 years

**Days Per Month**  
.83 days

|              |           |
|--------------|-----------|
| 2 – 5 years  | 1.00 days |
| 5 – 10 years | 1.25 days |
| 10 -15 years | 1.50 days |
| 15 -20 years | 1.75 days |
| 20+          | 2.00 days |

**HEALTH, RETIREMENT & MISCELLANEOUS BENEFITS:**

(some of the benefits may be available to regular part-time employees)

- Regular employees are required to participate in the West Virginia Public Employee Retirement Plan
- Life Insurance is provided to full-time employees, their spouse and eligible dependents.
- Regular full-time employees may elect to join the County sponsored health plan which includes medical, hospitalization, major medical, dental, vision, and prescription drug coverage. The County may pay up to 100% of the employee costs (depending on election) and the employee pays for any dependent coverage elected.
- A deferred compensation program is available.
- Mandatory direct deposit is available to any banking institution designated by the employee.

**JEFFERSON COUNTY IS AN EQUAL OPPORTUNITY EMPLOYER**

Commission Office Use Only

Date on Agenda:

Appt Time or New Business:

### AGENDA REQUEST FORM

Name: Sandy Slusher McDonald, Deputy County Administrator

Department or Entity: County Commission

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

Date Requested – 1<sup>st</sup> Choice: June 14, 2012

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

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

Subject: **Approval of Grant Contract Agreement - Victims of Crime Act - \$59,381.00**

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 the grant contract agreement for the Victims of Crime Act (VOCA) Grant in the amount of \$59,381.00 and to authorize the President of the Commission to affix her signature to the appropriate documents**

**Attachments:**

## **GRANT CONTRACT AGREEMENT**

**BETWEEN**

**DIVISION OF JUSTICE AND COMMUNITY SERVICES**

**AND**

**Jefferson County Commission**

**12-VA-023**

This **AGREEMENT**, entered into this **15<sup>th</sup>** day of **May, 2012** by the Director of the Division of Justice and Community Services, hereinafter referred to as "DJCS", and the Jefferson County Commission hereinafter referred to as "Grantee."

**WHEREAS**, DJCS is the recipient of a Victims of Crime Act (VOCA) Program Grant from the United States Department of Justice, and

**WHEREAS**, the Grantee is an eligible applicant who is desirous of receiving funds for **These funds will provide for the salaries of two full-time Victim Advocates in the Jefferson County Prosecuting Attorney's Office to provide direct services to crime victims in Jefferson County..**

**NOW, THEREFORE**, the parties hereto mutually agree as follows:

1. The Grantee agrees to comply with all applicable federal and state laws and rules, regulations and policies promulgated thereunder.
2. DJCS agrees to assist the Grantee to perform such tasks and functions as set forth in the application which is attached hereto and made part hereof, hereinafter referred to as Attachment A.
3. The Grantee shall do, perform, and carry out in a satisfactory and proper manner as determined by DJCS all duties, tasks and functions necessary to implement the application which is hereto attached as Attachment A.
4. The Grantee will commence its duties under the Agreement on **July 1, 2012**, and shall continue those services/activities until **June 30, 2013**. The terms of this Agreement may only be extended or modified by the mutual written agreement of the parties hereto.

5. In consideration of the services rendered by the Grantee, the sum of up to \$59,381.00 shall be obligated by DJCS and said amount shall be deemed to be the maximum compensation to be received for this Agreement unless a written modification is entered into between the parties amending this Agreement.
6. It is the understanding of all parties to this Agreement that DJCS by joining in the Agreement does not pledge, or promise to pledge, the credit of the State of West Virginia, nor does it promise to pay all of the compensation hereunder from monies of the Treasury of the State of West Virginia.
7. To be eligible for any and all payments of the grant amount, the Grantee shall submit a Request for Funds once per month to DJCS. Upon receipt of said request, DJCS shall review the same for reasonableness and appropriateness; and if approved, will cause a warrant to be requested on that sum considered reasonable and appropriate. It is expressly understood that the total compensation shall not exceed the amount set forth in Paragraph Five hereinbefore cited and said compensation will be expended only as outlined in the budget sections of Attachment A, unless written approval of modification of the budget is signed by the parties hereto. Grantee shall submit a fiscal report detailing expenditures to DJCS by the twentieth (20th) day of each month.
8. Grantee hereby represents that it possesses the legal authority to contract for this Agreement and that attached hereto and made a part hereof as Attachment B is a certified copy of the resolution, motion or similar action which was clearly adopted or passed by the Grantee's governing body; and further, that it has directed and authorized an official representative to act in connection with this Agreement. If the Grantee is a State agency, the completed application signed by the agency head is sufficient.
9. Grantee agrees to abide by the grant conditions, terms, assurances and certifications which are a part of Attachment A and such other special terms and conditions that DJCS has set forth in Attachment C which is incorporated herein and made part hereof, if said Special Conditions are appropriate to this Agreement.
10. If, through any cause, the Grantee shall fail to fulfill in a necessary and proper manner, obligations under this Agreement, the DJCS may withhold payments to the Grantee upon notice in writing, suspend, or cancel this Agreement and Attachments. The notice of withholding payments, suspension, or cancellation should set forth the DJCS reasons for taking said action.
11. DJCS and Grantee may from time to time require changes in the scope of services performed hereunder. Grantee agrees to submit a written request for modification prior to changing any budget line item. All such changes, including any increase or decrease in the amount of compensation hereunder or work to be performed, which are mutually agreed upon between the parties shall be in writing.
12. If for any reason funds received by DJCS are suspended or terminated, in whole or in part, funding for this Agreement shall cease.

13. Grantee shall within the time period prescribed by grant conditions upon the termination of the Agreement, submit to DJCS a final report on forms provided by DJCS. Said reports shall reflect actual costs incurred during the terms of this Agreement.
14. The parties hereto agree that notice shall be given by personal service or served when mailed certified U.S. Mail, postage prepaid, return receipt requested to the following addresses:
  - a. Division of Justice and Community Services  
1204 Kanawha Boulevard, East  
Charleston, West Virginia 25301
  - b. **Grantee Mailing Address:**  
  
Jefferson County Commission  
Post Office Box 250  
Charles Town, West Virginia 25414
15. The Grantee shall hold and save DJCS and its officers, agents and employees harmless from liability of any nature, including cost and expense, for or on account of any suits or damages of any character whatsoever resulting from injuries or damages sustained by any persons or property resulting in whole or in part from the negligent performance or omission of any employee, agent or representative of the Grantee.

**IN WITNESS WHEREOF**, the parties hereto attach their signatures representing that each is acting with full authority.

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The Honorable Patsy Noland  
President  
Jefferson County Commission

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**J. Norbert Federspiel, Director**  
**Division of Justice and Community Services**

**RESOLUTION**

The **County Commission** of **Jefferson County** met on \_\_\_\_\_ (date) with a quorum present and passed the following resolution.

Be it resolved that the **County Commission** hereby authorizes **Patsy Noland, President** of **Jefferson County Commission** to act on its behalf to enter into a contractual agreement with the Division of Justice and Community Services to receive and administer grant funds pursuant to provisions of the Victims of Crime Act (VOCA) grant program.

Signed: \_\_\_\_\_

County Clerk



U.S. Department of Justice  
Office of Justice Programs  
Office of the Comptroller

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

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 28 CFR Part 69, "New Restrictions on Lobbying" and 28 CFR Part 67, "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 Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

**I. LOBBYING**

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, 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 funds other than Federal appropriated funds have been paid or will be paid 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 this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard 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 sub-recipients shall certify and disclose accordingly.

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

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510--

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 or had a civil judgment rendered against them for commission of fraud or a criminal offense in connec-

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 or 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 or 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  
(GRANTEES OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67 Sections 67.615 and 67.620--

A. The applicant certifies that it will or 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 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,

- (1) Abide by the terms of the statement; and
- (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (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: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 810 7<sup>th</sup> Street, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;
- (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 so convicted--

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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

Section 67, 630 of the regulations provides 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 Department of Justice funding. States and State agencies may elect to use OJP Form 4061/7.

Check  if the State has elected to complete OJP Form 4061/7.

- (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 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).

**DRUG-FREE WORKPLACE  
(GRANTEES WHO ARE INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67; Sections 67.615 and 67.620--

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Department of Justice, Office of Justice

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)

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

1. Grantee Name and Address: Jefferson County Commission PO Box 250  
Charlottesville VA 22904

2. Application Number and/or Project Name: 12-VA - 023 Victims of Crime Act  
 3. Grantee IRS/Vendor Number: 55-6000333

4. Typed Name and Title of Authorized Representative: Patricia Noland President

5. Signature \_\_\_\_\_ 6. Date \_\_\_\_\_

**CERTIFICATION FORM**

Recipient Name and Address: Jefferson County Commission

Grant Title: Victims of Crime Act Grant Number: 12-VA-008 Award Amount: \$ 59,381.00

Contact Person Name and Title: Patricia Nolan, President Phone Number: (34) 728-3284

Federal regulations require recipients of financial assistance from the Office of Justice Programs (OJP), its component agencies, and the Office of Community Oriented Policing Services (COPS) to prepare, maintain on file, submit to OJP for review, and implement an Equal Employment Opportunity Plan (EEOP) in accordance with 28 C.F.R §§ 42.301-.308. The regulations exempt some recipients from all of the EEOP requirements. Other recipients, according to the regulations, must prepare, maintain on file and implement an EEOP, but they do not need to submit the EEOP to OJP for review. Recipients that claim a complete exemption from the EEOP requirement must complete Section A below. Recipients that claim the limited exemption from the submission requirement, must complete Section B below. A recipient should complete either Section A or Section B, not both. If a recipient receives multiple OJP or COPS grants, please complete a form for each grant, ensuring that any EEOP recipient certifies as completed and on file (if applicable) has been prepared within two years of the latest grant. Please send the completed form(s) to the Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice, 810 7<sup>th</sup> Street, N.W., Washington, D.C. 20531. For assistance in completing this form, please call (202)307-0690 or TTY (202) 307-2027.

**Section A- Declaration Claiming Complete Exemption from the EEOP Requirement. Please check all the boxes that apply.**

- Recipient has less than 50 employees,
- Recipient is a non-profit organization,
- Recipient is a medical institution,
- Recipient is an Indian tribe,
- Recipient is an educational institution, or
- Recipient is receiving an award less than \$25,000

I, \_\_\_\_\_ [responsible official], certify that \_\_\_\_\_ [recipient] is not required to prepare an EEOP for the reason(s) checked above, pursuant to 28 C.F.R §42.302. I further certify that \_\_\_\_\_ [recipient] will comply with applicable Federal civil rights laws that prohibit discrimination in employment and in the delivery of services.

|                              |           |      |
|------------------------------|-----------|------|
| Print or type Name and Title | Signature | Date |
|------------------------------|-----------|------|

**Section B- Declaration Claiming Exemption from the EEOP Submission Requirement and Certifying That an EEOP Is on File for Review.**

If a recipient agency has 50 or more employees and is receiving a single award or subaward for \$25,000 or more, but less than \$500,000, then the recipient agency does not have to submit an EEOP to OJP for review as long as it certifies the following (42 C.F.R. § 42.305):

I, Patricia Nolan, President [responsible official], certify that the Jefferson County Commission [recipient], which has 50 or more employees and is receiving a single award or subaward for \$25,000 or more, but less than \$500,000, has formulated an EEOP in accordance with 28 CFR §42.301, et seq., subpart E. I further certify that the EEOP has been formulated and signed into effect within the past two years by the proper authority and that it is available for review. The EEOP is on file in the office of: Jefferson County Commission [organization], at 124 E. Washington Street, Charles Town WV [address], for review by the public and employees or for review or audit by officials of the relevant state planning agency or the Office for Civil Rights, Office of Justice Programs, U. S. Department of Justice, as required by relevant laws and regulations.

|                                  |           |      |
|----------------------------------|-----------|------|
| <u>Patricia Nolan, President</u> | Signature | Date |
|----------------------------------|-----------|------|

**CERTIFICATION FORM**

Recipient Name and Address: Jefferson County Commission  
Grant Title: Victims of Crime Act Grant Number: 12-VA-023 Award Amount: \$ 59,381.00  
Contact Person Name and Title: Patricia Nolan, President Phone Number: (304) 728-3284

Federal regulations require recipients of financial assistance from the Office of Justice Programs (OJP), its component agencies, and the Office of Community Oriented Policing Services (COPS) to prepare, maintain on file, submit to OJP for review, and implement an Equal Employment Opportunity Plan (EEO) in accordance with 28 C.F.R §§ 42.301-.308. The regulations exempt some recipients from all of the EEO requirements. Other recipients, according to the regulations, must prepare, maintain on file and implement an EEO, but they do not need to submit the EEO to OJP for review. Recipients that claim a complete exemption from the EEO requirement must complete Section A below. Recipients that claim the limited exemption from the submission requirement, must complete Section B below. A recipient should complete either Section A or Section B, not both. If a recipient receives multiple OJP or COPS grants, please complete a form for each grant, ensuring that any EEO recipient certifies as completed and on file (if applicable) has been prepared within two years of the latest grant. Please send the completed form(s) to the Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice, 810 7<sup>th</sup> Street, N.W., Washington, D.C. 20531. For assistance in completing this form, please call (202)307-0690 or TTY (202) 307-2027.

**Section A- Declaration Claiming Complete Exemption from the EEO Requirement. Please check all the boxes that apply.**

- Recipient has less than 50 employees,
- Recipient is a non-profit organization,
- Recipient is a medical institution,
- Recipient is an Indian tribe,
- Recipient is an educational institution, or
- Recipient is receiving an award less than \$25,000

I, \_\_\_\_\_ [responsible official], certify that \_\_\_\_\_ [recipient] is not required to prepare an EEO for the reason(s) checked above, pursuant to 28 C.F.R §42.302. I further certify that \_\_\_\_\_ [recipient] will comply with applicable Federal civil rights laws that prohibit discrimination in employment and in the delivery of services.

|                              |           |      |
|------------------------------|-----------|------|
|                              | Signature | Date |
| Print or type Name and Title |           |      |

**Section B- Declaration Claiming Exemption from the EEO Submission Requirement and Certifying That an EEO Is on File for Review.**

If a recipient agency has 50 or more employees and is receiving a single award or subaward for \$25,000 or more, but less than \$500,000, then the recipient agency does not have to submit an EEO to OJP for review as long as it certifies the following (42 C.F.R. § 42.305):

I, Patricia Nolan, President [responsible official], certify that the Jefferson County Commission [recipient], which has 50 or more employees and is receiving a single award or subaward for \$25,000 or more, but less than \$500,000, has formulated an EEO in accordance with 28 CFR §42.301, et seq., subpart E. I further certify that the EEO has been formulated and signed into effect within the past two years by the proper authority and that it is available for review. The EEO is on file in the office of: Jefferson County Commission [organization], at 124 E. Washington Street Charles Town WV [address], for review by the public and employees or for review or audit by officials of the relevant state planning agency or the Office for Civil Rights, Office of Justice Programs, U. S. Department of Justice, as required by relevant laws and regulations.

|                              |           |      |
|------------------------------|-----------|------|
|                              | Signature | Date |
| Print or type Name and Title |           |      |

**WEST VIRGINIA  
DIVISION OF JUSTICE & COMMUNITY  
SERVICES**

**STANDARD CONDITIONS AND ASSURANCES**

All correspondence to DJCS, 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 DJCS grant program, should be mailed to the following address:

West Virginia Division of Justice & Community Services  
1204 Kanawha Boulevard, East  
Charleston, West Virginia 25301

**1. LAWS OF WEST VIRGINIA:**

This grant 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 DJCS, regardless of the original funding source. This grant is on a "REIMBURSEMENT ONLY" mechanism.

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

**4. COMMENCEMENT WITHIN 60 DAYS:**

This project must be operational within 60 days of the project starting date, as specified in the grant contract agreement. If the project is not operational within 60 days of the specified project starting date, the grantee must report by letter to DJCS, the steps taken to initiate the project, the reasons for delay, and the expected starting date.

**5. OPERATIONAL WITHIN 90 DAYS:**

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

**6. WRITTEN APPROVAL OF CHANGES:**

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

**WEST VIRGINIA  
DIVISION OF JUSTICE & COMMUNITY  
SERVICES**

**STANDARD CONDITIONS AND ASSURANCES**

**7. CIVIL RIGHTS COMPLIANCE:**

Grantee will comply with any applicable federal nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d); the Victims of Crime Act (42 U.S.C. § 10604(e)); the Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b)); the Civil Rights Act of 1964 (42 U.S.C. § 2000d); the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Americans with Disabilities Act of 1990 (42 U.S.C. § § 12131-34); the Education Amendments of 1972 (20 U.S.C. § § 1681, 1683, 1685-86); the Age Discrimination Act of 1975 (42 U.S.C. § § 6101-07); 28 C.F.R. pt. 31 (U.S. Department of Justice Regulations-OJJDP Grant Programs); 28 C.F.R. pt. 42 (U.S. Department of Justice Regulations-Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); Exec. Order No. 13279 (equal protection of the laws for faith-based and community organizations); Exec. Order No. 13559 (fundamental principles and policymaking criteria for partnerships with faith-based and neighborhood organizations); and 28 C.F.R. pt.38 (U.S. Department of Justice Regulations-Equal Treatment for Faith-Based Organizations).

In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, or sex against a recipient of funds, the grantee will forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs and the West Virginia Division of Justice and Community Services.

**8. PRESS RELEASE:**

Pursuant to the Stevens Amendment, any release of information pertaining to this grant must include the following information:

1. grant amount;
2. State involvement (name of state entity responsible for administering the grant); and,
3. Federal involvement if applicable (name of federal entity responsible for administering the grant).

**9. LOBBYING:**

Grantee will comply with any and all lobbying provisions and/or restrictions as outlined in OMB circular A-122, and/or relevant State laws.

**10. ACCESS TO RECORDS:**

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

**11. CONFLICT OF INTEREST:**

No public official or employee of the 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 reasonably be expected to result in any benefit or remuneration to that individual or that individual's immediate family.

**12. POLITICAL ACTIVITY:**

The Hatch Act restricts the political activity of executive branch employees of the federal government, District of Columbia government and some state and local employees who work in connection with federally funded programs. In 1993, Congress passed legislation that significantly amended the Hatch Act as it applies to federal and D.C. employees (5 U.S.C. §§ 7321-7326). (These amendments did not change the provisions that apply to state and local employees. 5 U.S.C. §§ 1501- 1508.)

**WEST VIRGINIA  
DIVISION OF JUSTICE & COMMUNITY  
SERVICES**

**STANDARD CONDITIONS AND ASSURANCES**

**13. RELEASE OF INFORMATION:**

All records, papers and other documents kept by recipients of grant funds are required to be made available to DJCS. These records and other documents submitted to DJCS and its grantees, including plans and application for funds, reports, etc., may be subsequently required to be made available to entities under Federal Freedom of Information Act, 5. U.S.C. §552, or Chapter 29B, Article 1 (West Virginia Freedom of Information) of the West Virginia Code.

DJCS 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, personnel or juvenile 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 state control is subject to requests made pursuant to the Chapter 29B, Article 1 of the West Virginia Code, all determinations concerning the release of information of this nature are made on a case-by-case basis by DJCS, and may fall within one or more of the available exemptions under the Act.

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 DJCS regarding concerns or questions about the release of potentially sensitive information under state and local laws.

**14. NATIONAL AND STATE EVALUATION EFFORTS:**

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

**15. OBLIGATION OF PROJECT FUNDS:**

Funds may not, without prior written approval from DJCS, be obligated prior to the effective start date or subsequent to the termination date of the project period. Obligations outstanding as of the project termination date shall be liquidated within thirty (30) days.

**16. USE OF FUNDS:**

Funds awarded through DJCS may be expended **ONLY** for the purposes and activities specifically covered by the grantee's approved project description and budget. By attaching their signature, the grantee recognizes that any deviations from the original grant budget are unallowable.

**17. ALLOWABLE AND UNALLOWABLE COSTS:**

Allowable and unallowable costs incurred under this grant shall be determined in accordance with General Accounting Office principles and standards.

**18. PEER REVIEW SUB GRANTEE EVALUATION PROCESS:**

The applicant agrees to discharge if necessary - at the request of DJCS - knowledgeable, competent personnel (preferably a Project Director) to participate in a contemplated "peer review" process/advisory council. The purpose of this process would be to assist DJCS in making grant funding recommendations and furthered policy development regarding individual grant programs throughout the State. This would be no more than 2-3 days per annum.

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**19. NON-SUPLANTING:**

Grant funds must be used to supplement existing funds for program activities and may not replace (supplant) 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 state grants, recoupment of monies provided under this grant, and civil and/or criminal penalties. The grantee hereby certifies that funds made available under this grant will not be used to supplant other funding sources.

**20. MATCHING CONTRIBUTION:**

The grantee will have available, and will expend as needed, adequate resources to defray that portion of the total costs as set forth in this application as "match" and as approved by the West Virginia Division of Justice & Community Services. The applicant assures that the matching funds required to pay the grant portion of the cost of each program and project, for which funds are made available, 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. Matching contributions are subject to the same expenditure guidelines established by the West Virginia Division of Justice & Community Services for this program. All grantees must maintain records that clearly show the source, the amount and the timing of all matching contributions. Please be reminded that if match is not "required" by the grant program for which you are making application, but committed and indicated on the budget pages of this application, then this special condition shall be affected.

**21. PROJECT INCOME:**

All income earned by the 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 DJCS as are established for granted funds. All 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.

**22. CONSULTANT FEES:**

Approval of this grant does not indicate an approval of consultant rates in excess of \$450 per day. Specific and detailed justification must be submitted to, and approved by DJCS prior to obligation or expenditure of such funds.

**23. SUSPENSION OF FUNDING:**

DJCS may suspend, in whole or in part, terminate, or impose other sanctions on any 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 cause shown.

**24. SANCTIONS FOR NONCOMPLIANCE:**

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

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

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**25. SUBMISSION/RELEASE OF PUBLICATIONS/PRESS RELEASES**

The grantee shall submit one copy of all reports and proposed publications resulting from this agreement to DJCS 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 West Virginia Division of Justice & Community Services (or simply "DJCS"). 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 State of West Virginia or the Division of Justice & Community Services."

"This project supported by Grant No. \_\_\_\_\_ awarded by the West Virginia Division of Justice & Community Services and the U.S. Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also included the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the United State Department of Justice."

**26. PROPERTY ACCOUNTABILITY:**

The 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 grant by DJCS. This obligation continues as long as the property is retained by the grantee, notwithstanding the expiration of this agreement. Prior to sale, trade in or disposal of property, disposition instructions will be obtained from DJCS. Grantee assures inventory checks will be performed annually or pursuant to guidance promulgated in the Administrative Manual for this program (if applicable), with copies provided to DJCS. Property must be used for the intended grant purposes, if not being used in accordance with terms of the grant property will revert back to DJCS.

**27. CRIMINAL PENALTIES:**

Whoever embezzles or endeavors to embezzle, willfully misapplies, steals or obtains by fraud any funds, assets, or property which are the subject of grant or contractor or other form of assistance pursuant to this title, whether received directly or indirectly from the administration; or whether receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property to have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

Whoever knowingly and willfully falsifies, conceals, or covers up by trick, scheme, or device, any material fact in any application for assistance submitted pursuant to the Act shall be subject to prosecution under the provisions of Section 1011 of Title 18, United States Code. Any law enforcement and criminal justice program or project underwritten, in whole or in part, by any grant, or contract or other form of assistance pursuant to the Act, whether received directly or indirectly from the administration, shall be subject to the provisions of Section 871 of Title 18, United States Code.

**28. REPORTS:**

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

**29. PURCHASING:**

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

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**30. COLLABORATION W/OTHER FED. AND STATE GRANTS:**

Where warranted, this initiative/grantee shall make every effort to support or assist other federally funded or State grant programs in any manner, including but not limited to, providing personnel, supplies, equipment and any other resources deemed necessary by DJCS.

**31. INFORMATION SYSTEMS:**

With respect to programs related to criminal justice information systems, the grantee agrees to comply with the provisions of 28 CFR, Part 20 governing the protection of the individual privacy and the insurance of integrity and accuracy of data collection. The grantee further agrees:

- a. That all computer programs (software produced under this grant) will be made available to DJCS for transfer to authorized users in the criminal justice community without cost other than that directly associated with the transfer. The software will be documented in sufficient detail to enable potential users to adapt the system, or portions thereof, to usage on a computer of similar size and configuration.
- b. To provide a complete copy of the computer programs and documentation, upon requests, to DJCS. The documentation will include, but not be limited to, system description, operating instruction, program maintenance instructions, input forms, file descriptions, report formats, program listings, and flow charts for the system and programs.
- c. That whenever possible all application programs will be written in standardized programming languages (i.e. Cobol, Fortran, C, C++, XML, etc.) or will adhere to Open Database Connectivity format for use on general operating systems that can be utilized on at least three different manufacturers of computer hardware with similar size and configuration capabilities.
- d. To avail itself, to the maximum extent possible, of computer software already produced and available without charge. The Criminal Justice Systems Clearinghouse (916/392-2550) should be contacted to determine availability of software prior to any development effort.

**32. INCIDENT BASED REPORTING COMPLIANCY:**

Grant applicants (cities & county commissions) will not be considered for funding if the applicant is not current with submitting Incident Based Reporting (IBR) information to the West Virginia State Police (if applicable). Grantees must remain current with submitting IBR information to the West Virginia State Police or grant funding will be withheld until such time as that grantee becomes IBR compliant.

**33. TIME EXTENSIONS:**

In general, time extensions for this program will not be granted. Unexpended grant funds remaining at the close of the grant period shall be deobligated.

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

Grantee understands and agrees that it cannot use any 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.

**35. LIMITED ENGLISH PROFICIENCY:**

Grantee must take reasonable steps to provide meaningful access to their programs and activities for persons with limited English proficiency. For more information on the civil rights responsibilities that grantees have in providing language services to limited English proficiency individuals, please see the website [www.lep.gov](http://www.lep.gov).

**36. COMPUTER EQUIPMENT:**

Grantees purchasing computer equipment (hardware, software, or peripherals) with grant funds are required to adhere to the established bidding procedures for their respective units of government or agency. To ensure reputable vendors are obtained, grantees may consider utilizing the current applicable State computer contract. The following are minimum hardware requirements, as well as software requirements, established by DJCS for this grant program, which must be recognized when purchasing computer equipment, in whole or in part, utilizing grant funds:

**Minimum Hardware Requirements:**

- Intel Pentium III 733 MHz Processor; 133MHz front side bus
- 512K L2 Cache
- 128 MB SDRAM 100 MHz expandable to at least 384 MB
- 10 Gig. EIDE Ultra ATA 7200RPM Hard Drive
- 3.5" 1.44 MB Floppy Diskette Drive
- 48X Max Internal CD-ROM drive or 8X DVD-ROM drive
- 3 PCI, 1 16-bit ISA slot, 1 PCI/ISA (shared), 1 AGP slot
- ATI 8 MB AGP 2X Rage Pro Video Card
- 1 Parallel, 2 Serial, 2 USB
- 101/104-Key Keyboard (PS/2)
- PS/2 Port Compatible Mouse

**Recommended Hardware Components:**

- Mid-tower case
- 16-Bit 3D Sound Blaster Compatible w/ 64 voice wavetable and speakers (may be integrated)
- 3Com 10/100 PCI Ethernet Network Card
- APC UPS Backup power protection (adequate size to handle power load)
- Iomega Internal Zip Disk Drive

**Software Requirements:**

Whenever possible, software should operate within open industry standards. For example, Windows 2000 Operating System, Microsoft Office 2000 Professional, etc.

**Warranty Requirements:**

3 Year on-site warranty

**37. PUBLIC SAFETY AND JUSTICE INFORMATION SHARING:**

Grantees must support public safety and justice information sharing. The grantee is required to use the Global Justice Data Model specifications and guidelines for this particular grant. Grantee shall publish and make available without restriction all schemas (extensions, constraint, proxy) generated as a result of this grant to the component registry as specified in the guidelines. This information is available at [www.it.ojp.gov/gjxdm](http://www.it.ojp.gov/gjxdm).

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**38. 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. If applicable, 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 DJCS 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

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

- I.) Sub grantee assures that it has read, understands, and is in full compliance with all requirements as set forth in §12-4-14., Code of West Virginia, or as amended, and is not currently debarred from receiving state grant funds as a result of non-compliance with §12-4-14. Sub grantee further understands that if it is currently debarred or is not in compliance with §12-4-14., it is ineligible to receive funding from the West Virginia Division of Justice Community Services.

**40. CONFIDENTIALITY OF RESEARCH INFORMATION:**

Pursuant to Section 229 of the Act, research information identifiable to an individual, which was obtained through a project funded wholly or in part with United States Department of Justice program funds, shall remain confidential and copies of such information shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding (28 CFR Part 22).

**41. LEASE AGREEMENTS:**

Grantee agrees to provide DJCS with a description of proposals to use grant funds to enter into lease arrangements with private entities for the purpose of fulfilling the goals and objectives of this project.

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**42. EQUAL EMPLOYMENT OPPORTUNITY PLAN:**

The grantee will provide an Equal Employment Opportunity Plan (EEO) to the Office for Civil Rights, Office of Justice Programs (OCR) and the West Virginia Division of Justice and Community Services, if it has received a single award of \$500,000 or more. If the grantee receives \$25,000 or more and has 50 or more employees, it will maintain a current EEO on file and submit an EEO Certification Form to the OCR, certifying that its EEO is on file. For public grantee agencies receiving less than \$25,000, or public grantee agencies with fewer than 50 employees, regardless of the amount of the award, the grantee will provide an EEO Certification Form to the OCR certifying it is not required to submit or maintain an EEO. EEO Certification Forms are available at: <http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf>.

**43. VETERANS PREFERENCE:**

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

**44. IMMIGRATION AND NATURALIZATION VERIFICATION:**

The 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 state funds to verify that employees are eligible to work in the United States.

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

It is the sense of DJCS that to the greatest extent practicable, all equipment and products purchased with state funds made available under this grant should be American-made.

**46. PERSONNEL TRAINING:**

For projects involving payment of personnel or overtime pay, DJCS reserves the right to require training as a condition of the grant before or at any time during the project period.

**47. ACCOUNTING REQUIREMENTS:**

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 grantee's other or general expenditures. Adequate documentation for all project costs and income must be maintained. Adequate documentation of financial and supporting material, must be retained and be available for audit purposes.

**48. OFFICE OF JUSTICE PROGRAMS (OJP) FINANCIAL GUIDE:**

Grantee agrees to comply with the financial and administrative requirements as set forth in the current edition of the OJP Financial Guide.

**49. TRANSFER OF FUNDS PROHIBITION:**

The grantee is expressly prohibited from transferring funds between any DJCS programs.

**50. MARKING OF EQUIPMENT:**

Grantee will ensure that, when practicable, any equipment purchased with grant funding shall be prominently marked as follows: "Purchased with funds provided by the West Virginia Division of Justice & Community Services."

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

Grantee acknowledges that DJCS 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.

Grantee agrees to consult with DJCS re the allocation of any patent rights that arise from, or are purchased with, this funding.

**52. CENTRAL CONTRACTOR REGISTRATION:**

Grantee agrees to register with the Central Contractor Registration (CCR), [www.ccr.gov](http://www.ccr.gov) and provide documentation to DJCS within 30 days of award notification that they have done so.

**53. DATA UNIVERSAL NUMBERING SYSTEM:**

Grantee agrees to acquire a Data Universal Numbering System (DUNS) number, [www.dnb.com](http://www.dnb.com) and provide documentation to DJCS within 30 days of award notification that they have done so.

**54. JUVENILE JUSTICE & DELINQUENCY PREVENTION ACT:**

Grantee agrees to comply with the four core protections under the Juvenile Justice & Delinquency Prevention (JJDP) Act of 1974, reauthorized 2002.

- Deinstitutionalization of status offenders (DSO).
- Separation of juveniles from adults in institutions (separation).
- Removal of juveniles from adult jails and lockups (jail removal).
- Reduction of disproportionate minority contact (DMC), where it exists.

This includes, but is not limited to, completing the annual the WV Certification of Non-Secure Facilities and submitting to DJCS, if applicable, and submitting a monthly Secure Holding Log, if applicable.

**55. BIDDING PROCEDURES:**

Funds for renovation, expansion or construction awarded to grantees or subgrantees, which require the letting of any single contract amounting to \$100,000 or more to a private company or individual shall require: a bid guarantee equivalent to 5% (five percent) of the bid price; the bid guarantee must consist of a firm commitment such as a bid bond, certified check, or negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified after forms are presented to the successful bidder; a performance bond on the part of the 100% (one hundred percent) of the contract price ("Performance bond" means a bond executed in connection with a contract to ensure payments required by all persons supplying labor and materials in the execution of the work provided for in the contract.); a payment bond on the part of the contractor for 100% (one hundred percent) of the contract price. ("Payment bond" is one executed in connection with a contract to ensure payment as required by law, of all persons supplying labor or materials in the execution of the work provided for in the contract.) Recipient/subgrantee is expected to follow the competitive bid process in the award of contracts involving Federal grant funds.

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**56. COMPLIANCE WITH FEDERAL PROCEDURES:**

The applicant assures that it will comply with the provisions of 28 Code of Federal Regulation (CFR) applicable to grants and cooperative agreements, including:

- a. Part 11, Applicability of Office of Management and Budget Circulars.
- b. Part 18, Administrative Review Procedures.
- c. Part 20, Criminal Justice Information Systems.
- d. Part 22, Confidentiality of Identifiable Research and Statistical Information.
- e. Part 23, Criminal Intelligence Systems Operating Policies.
- f. Part 30, Intergovernmental Review of Department of Justice Programs and Activities
- g. Part 42, Nondiscrimination Equal Employment Opportunity Policies and Procedures

**57. ADDITIONAL REGULATIONS AND PROCEDURES:**

In addition, all grantees must comply with the following applicable federal regulations and/or the United States Department of Justice, Office of Justice Programs - M 7100.1D manual, OMB Circulars No. A-21, A-110, A-122, A-128, A-87, E.O. 12372, Uniform Administrative Requirements for Grants and Cooperative Agreements 28 CFR, Part 66, Common Rule, and all other applicable Federal regulations, policies, acts and guidelines.

- a. National Environmental Policy Act of 1969 (NEPA).
- b. National Historic Preservation Act of 1966.
- c. Flood Disaster Protection Act of 1973.
- d. Clean Air Act and Federal Water Pollution Control Act Amendments of 1972.
- e. Control Act Amendments of 1972.
- f. Safe Drinking Water Act.
- g. Endangered Species Act of 1973.
- h. Wild and Scenic Rivers Act.
- i. Fish and Wildlife Coordination Act.
- j. Historical and Archaeological Data Preservation.
- k. Coastal Zone Management Act of 1979.
- l. Animal Welfare Act of 1970.
- m. Impoundment Control Act of 1974.
- n. Uniform Relation Assistance and Real Property Acquisitions Policies Act of 1970.
- o. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended
- p. Death in Custody Act of 2000.

**58. RELIGIOUS ACTIVITIES**

Grantees must ensure that services are offered without regard to religious affiliation and that receipt of services is not contingent upon participation in a religious activity or event. Furthermore, all religious activities must be separate in time or place from the funded project. Participation in such activities by individuals receiving services must be voluntary.

To the best of my knowledge the applicant has and will comply with all of the attached Standard Conditions and Assurances.

Authorized Official:

Patricia Noland

Title:

President

Signature:

\_\_\_\_\_

Date:

\_\_\_\_\_

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**VICTIM OF CRIME ACT (VOCA) GRANT**  
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**59. ADMINISTRATIVE CHANGES:**

The applicant must advise DJCS immediately in writing if there are any changes in the: (1) Project Director, (2) Fiscal Officer, (3) Authorized Official, or (4) VOCA Grant-funded staff position(s). Please also submit to DJCS a new membership list if there are any changes in the members of a governing board, such as County Commission or City Council, or changes in members of the Advisory Board/Committee.

**60. LATE REPORTING:**

Applicant understands that projects which become 60 days delinquent in the submission of reporting requirements will forfeit one month of reimbursable expenses for the entire project. Each additional 30 days past the initial 60-day delinquency period shall result in an additional forfeiture of a month's reimbursable expenses.

**61. CLIENT FILES:**

Applicant must maintain client files for all victims served to document type of crime and services provided throughout the grant period. Sub-grantee also agrees to collect and maintain Civil Rights information, where such information is voluntarily furnished by those receiving service, on race, sex, national origin, age and disability. These records are to be available at any time for review by DJCS.

**62. CLIENT SURVEYS/EVALUATIONS:**

The applicant is required to implement client surveys for evaluation purposes. DJCS may require a copy of these surveys/evaluations or request proof survey is being implemented. All surveys/evaluations must ensure client confidentiality. All surveys/evaluations will include the two following outcome measures: (1) **Victim safety**, (2) **Public awareness**, results will be required on the VOCA Annual Performance Report.

**63. CLIENT CONFIDENTIALITY:**

Applicant must maintain a written confidentiality policy that prohibits the disclosure of victim's name, address, phone number, any contact information, or any other personally identifying information without prior voluntary written consent of the victim (or legal guardian). Client information should only be accessible to authorized direct service staff of the funded program. All programs who also receive funds under the STOP Violence Against Women Act (VAWA) must adhere to all confidentiality requirements under the Violence Against Women Reorganization Act of 2005.

**64. NOTIFICATION OF VICTIM COMPENSATION PROGRAM:**

Applicant is required to assist crime victims in seeking available and eligible crime victim compensation benefits. Such assistance may include identifying and notifying crime victims of the availability of the victim compensation fund, assisting with the application forms and procedures, obtaining necessary documents, and/or checking on claim status.

**65. GRANT FILE:**

Applicant must maintain a grant file containing all grant-related documents, such as the grant agreement, monthly financial reports, monthly progress reports, and any grant-related correspondence. In some situations, the project site maybe at a different location than the official sub-grantee. Therefore, an official grant file should be maintained by both the official sub-grantee and the project site. These records are to be available at any time for review by DJCS.

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**66. ADMINISTRATIVE MANUAL:**

All pertinent information in regard to the Victim of Crime Act and amendments and all applicable federal and state laws, orders, circulars and regulations are updated and maintained in the appropriate administrative manual by sub-grantees

**67. TRAVEL/TRAINING:**

Any applicant receiving VOCA Grant funding for training must submit in writing to DJCS a training plan, and must also request in writing any adjustments to a training plan. Also, any VOCA grant-funded staff position who attends any training workshop or conference must submit a written narrative identifying the training, its purpose, what specific workshops were attended, and the useful information obtained that will assist in implementing the VOCA grant project. **All training must be approved in advance by DJCS** by submitting a written request (from project director) identifying the staff person who will be attending, the name of the conference and purpose, and attaching a brochure outlining the costs and the agenda.

**Please note** – sub-grantee representatives (project director and VOCA-funded staff positions/volunteers) may be required to attend training workshops deemed critical by DJCS.

**68. VOCA FUNDED TRAINING EVENTS:**

All agenda topics and trainers must be pre-approved by DJCS for any training events (conferences, workshops, symposiums, etc.) paid for with VOCA funds. A written request must be submitted to DJCS prior to entering into any agreements for agenda topics, speakers, and/or trainers. The request must include workshop descriptions and speaker biographies.

**Please note** – all VOCA funded training events must include an evaluation component and the results of the evaluations must be submitted to DJCS with the corresponding monthly report.

**69. INTERAGENCY AGREEMENTS:**

Where applicable, sub-grantee must develop a formal referral and inter agency agreements in a Memorandum of Understanding (MOU); copies of interagency agreements and referral Memorandum of Understanding are to be submitted with the application.

**70. HIRING PROCEDURES:**

Hiring procedures outlined in the grant application should be followed in hiring VOCA grant-funded staff positions. Staff hired must meet the qualifications outlined in the job description for the position. DJCS is to be advised in writing if there are any difficulties in filling VOCA grant-funded staff positions.

**71. EQUAL TREATMENT FOR FAITH-BASED ORGANIZATIONS:**

Such organizations receiving VOCA funds must ensure that services are offered to all victims without regard to religious affiliation and that the receipt of services is not contingent upon participation in a religious activity or event. Furthermore, all religious activities must be separate in time or place from the VAWA funded project. Further, participation in such activities by individuals receiving services must be voluntary.

**72. VOLUNTEERS:**

The applicant must utilize at least one volunteer during the grant period, as well as VOCA-funded staff to implement the grant project

**73. ACTIVITIES THAT MAY COMPROMISE VICTIM SERVICES:**

Applicants are strongly discouraged from proposing projects or supporting programs that include any activities that may compromise victim safety as outlined in the Victim of Crime Act.

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**74. AUDITS:**

All programs will submit a copy of an audit to DJCS each fiscal year. Additionally, programs who are not required to submit an audit under §12-4-14 are still required to submit a copy of an audit or an annual internal financial review to the Program Administrator at DJCS, showing the total budget expenditures and revenues from all sources for the prior year, along with a systematic method for timely and appropriate resolution of findings and/or recommendations

**75. BOARD OF DIRECTORS:**

Non-profit agencies are required to maintain a Board of Directors that will meet at least quarterly to review the status of grant objectives, to develop strategies for resolving any problems or barriers, and to perform periodic evaluations. Board Meeting minutes must be submitted with corresponding monthly reports. All state and local government agencies must submit any county commission minutes (which discuss the sub-grant or VOCA staff) or advisory board meeting minutes with the corresponding monthly reports

**76. Printed Materials:**

Any brochures or materials printed with VOCA funds must be submitted to DJCS 30 days for approval prior to printing.

**77. Debarment:**

Any funded agency that is debarred with the State of West Virginia or Federally must inform DJCS in writing within 30 days of becoming debarred and have a plan of action stating the steps to address this issue. Funds will be frozen and the sub-grantee has 30 days to address this issue and then funds may be deobligated.

**I certify that I have read the entire Standard and Special Conditions and Assurances of this grant program and agree to comply with these requirements.**

\_\_\_\_\_  
**Authorized Official Signature (Original)**

|                                |                                  |
|--------------------------------|----------------------------------|
| <b>VOCA<br/>Grants Program</b> | <b>Budget Summary<br/>Page 3</b> |
|--------------------------------|----------------------------------|

|                                                  |                                                  |
|--------------------------------------------------|--------------------------------------------------|
| <b>Applicant:</b><br>Jefferson County Commission | <b>FEIN: 55-6000333</b><br><br>DUNS#: 0774114548 |
|--------------------------------------------------|--------------------------------------------------|

| Category                  | VOCA Grant Funds (A) | Matching Funds (B) | Total Funds (A + B) |
|---------------------------|----------------------|--------------------|---------------------|
| Personnel and Contractual | \$58,881             | \$14,845           | \$73,726            |
| Travel and Training       | \$500                | \$0                | \$500               |
| Equipment                 | \$0                  | \$0                | \$0                 |
| Space                     | \$0                  | \$0                | \$0                 |
| Other                     | \$0                  | \$0                | \$0                 |
| <b>Total Budget</b>       | <b>\$59,381</b>      | <b>\$14,845</b>    | <b>\$74,226</b>     |

|                         |
|-------------------------|
| <b>FUNDING STRATEGY</b> |
|-------------------------|

| Funding Source(s) | Amount          | Status |
|-------------------|-----------------|--------|
| VOCA Grant Funds  | \$59,381        | (A)    |
| Match             | \$14,845        |        |
|                   |                 |        |
| <b>Total</b>      | <b>\$74,226</b> |        |

\* TOTAL FOR COLUMN A SHALL BE PLACED IN THE SPACE PROVIDED ON PAGE ONE FOR GRANT FUNDS REQUESTED.

| <b>VOCA<br/>Grants Program</b>                                        | <b>Itemization of Funds By Category<br/>Page 4</b> |                                           |                                                |
|-----------------------------------------------------------------------|----------------------------------------------------|-------------------------------------------|------------------------------------------------|
| <b>Applicant: Jefferson County Commission</b>                         | <b>Local Matching<br/>Funds</b>                    | <b>Requested<br/>VOCA Grant<br/>Funds</b> | <b>Approved<br/>VOCA Funds<br/>(DJCS ONLY)</b> |
| <b><u>Personnel and Contractual:</u></b>                              |                                                    |                                           |                                                |
| F/T Victim Advocate salary - Debra Young                              |                                                    | \$25,680                                  | \$25,680                                       |
| Benefits                                                              |                                                    |                                           |                                                |
| FICA 7.65%                                                            |                                                    | \$1,965                                   | \$1,965                                        |
| Retirement 11%                                                        |                                                    | \$2,824                                   | \$2,824                                        |
| Match                                                                 | \$6,923                                            |                                           |                                                |
| F/T Advocate Jennifer May-Sanner salary                               |                                                    | \$23,946                                  | \$23,946                                       |
| Benefits                                                              |                                                    |                                           |                                                |
| FICA 7.65%                                                            |                                                    | \$1,832                                   | \$1,832                                        |
| Retirement 11%                                                        |                                                    | \$2,634                                   | \$2,634                                        |
| Match                                                                 | \$6,922                                            |                                           |                                                |
| Volunteer hours                                                       | \$1,000                                            |                                           |                                                |
| <b><u>Travel and Training:</u></b>                                    |                                                    |                                           |                                                |
| Direct Service mileage and Travel/Training to be pre-approved by DJCS |                                                    | \$500                                     | \$500                                          |
| <br>                                                                  |                                                    |                                           |                                                |
| <b><u>Equipment (\$5,000 or more "per unit"):</u></b>                 |                                                    |                                           |                                                |
| <br>                                                                  |                                                    |                                           |                                                |
| <b><u>Space (includes telephone):</u></b>                             |                                                    |                                           |                                                |
| <br>                                                                  |                                                    |                                           |                                                |
| <b><u>Other:</u></b>                                                  |                                                    |                                           |                                                |
| <br>                                                                  |                                                    |                                           |                                                |
| <br>                                                                  |                                                    |                                           |                                                |
| <br>                                                                  |                                                    |                                           |                                                |
| <br>                                                                  |                                                    |                                           |                                                |
| <br>                                                                  |                                                    |                                           |                                                |
| <br>                                                                  |                                                    |                                           |                                                |
| <b>Total Local Matching Funds</b>                                     | \$14,845                                           |                                           | \$14,845                                       |
| <b>Total Federal Funds</b>                                            |                                                    | \$59,381                                  | \$59,381                                       |
| <b>Total Approved Project (DJCS ONLY)</b>                             |                                                    |                                           | \$74,226                                       |

Jefferson County GIS/Addressing Office  
DEPARTMENTAL MEMORANDUM

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**TO:** Jefferson County Commission  
Debbie Keyser, County Administrator

**FROM:** Todd Fagan, GIS Director

**DATE:** June 14<sup>th</sup>, 2012

**SUBJECT:** GIS Department Quarterly Update Report- 2012, 2<sup>nd</sup> Quarter

---

1. PROJECTS COMPLETED

- a. US Census Bureau's Boundary Annexation Survey – annual corrections to federal data via local GIS input.
- b. 2012 Aerial Photography – Spring imagery flown and data received. Project was financed collaboratively among County, all municipalities and several other agencies.

2. PROJECTS IN PROGRESS

- a. Address Compliance Project Status – (Please see attached map for further details)
  - i. project overall 28% complete in unincorporated areas
  - ii. 60-75% compliant on 1<sup>st</sup> field check
  - iii. raised to 95% or more after letters, communication and violation notices
  - iv. 879 homes and business newly posted
  - v. Less than 10 properties have gone to violation or criminal complaint stage
  - vi. **Project overall 99% effective in getting addresses posted**
- b. Internet Mapping Service –
  - i. Cooperative effort between County Assessor's Office and GIS Department.
  - ii. Many thanks to Tori Myers, our Tax Mapper, for help in administration of web mapping project.
  - iii. Online Mapping software and hardware purchased.
  - iv. Installation later this month. Training next, web implementation later this year.

3. COMMISSION SHOULD BE AWARE OF:

- a. Capital Outlay Request for Document Management System
  - i. GIS Director's presentation to County Commission later this month will detail project overview, value to multiple departments and citizens, estimated costs.
  - ii. Seeking approval to move forward with RFP by end of Summer
- b. Eastern Panhandle GIS Users Group Forum, August 21<sup>st</sup>, 2012 – Martinsburg
  - i. Jefferson County GIS co-hosting with Region 9 and Berkeley County IT

# Address Compliance Program Status

**Before**  
**77%**

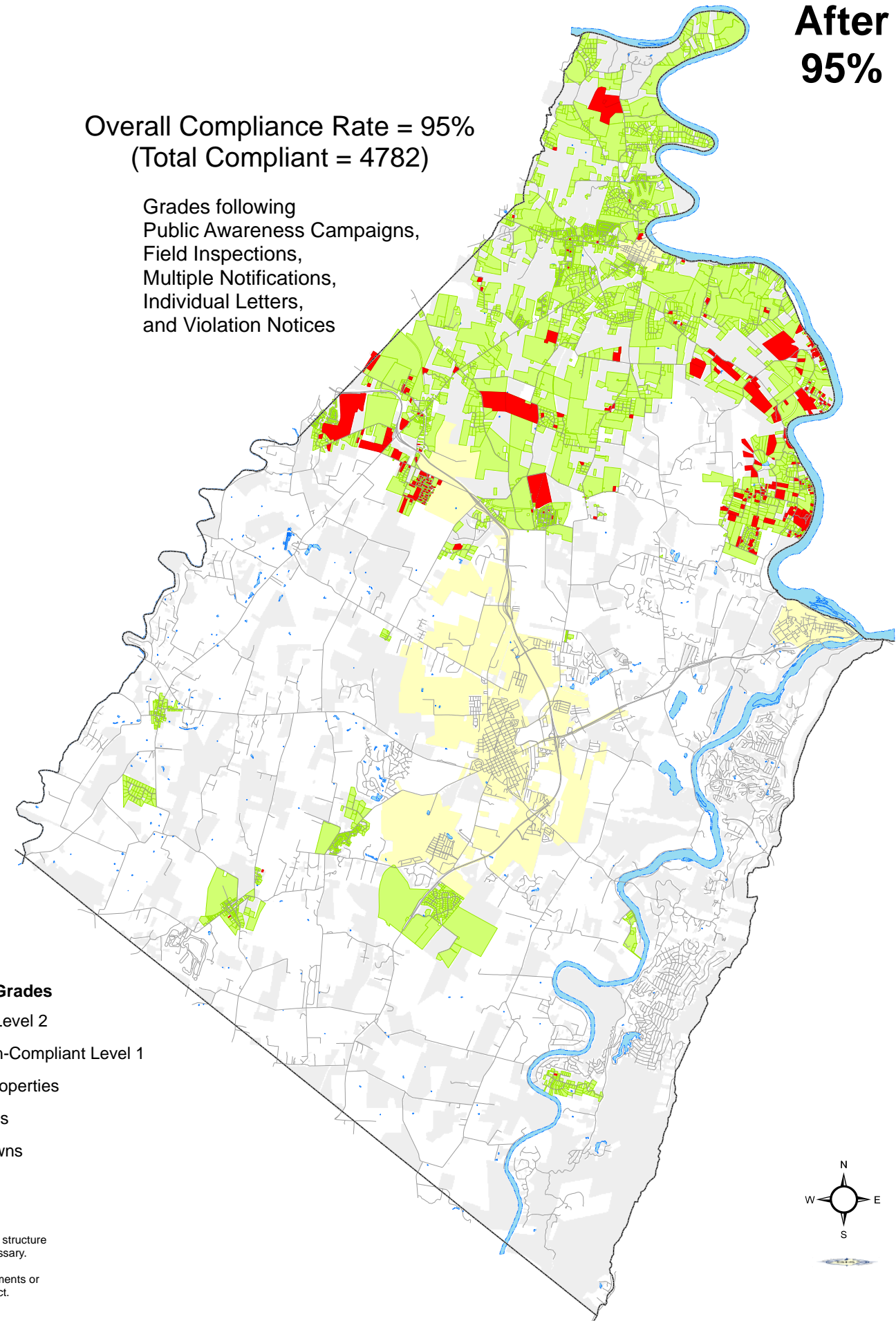
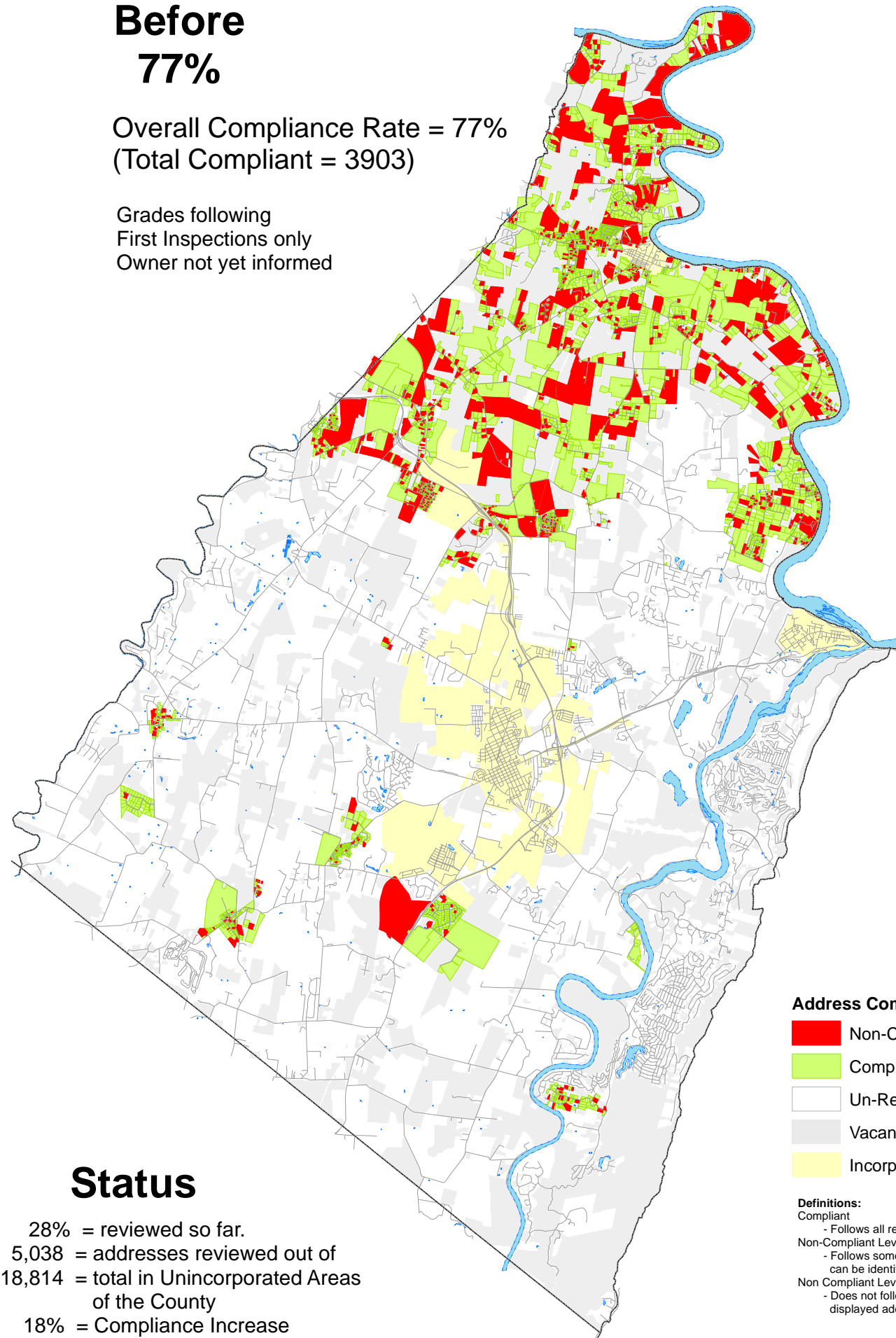
Overall Compliance Rate = 77%  
(Total Compliant = 3903)

Grades following  
First Inspections only  
Owner not yet informed

**After**  
**95%**

Overall Compliance Rate = 95%  
(Total Compliant = 4782)

Grades following  
Public Awareness Campaigns,  
Field Inspections,  
Multiple Notifications,  
Individual Letters,  
and Violation Notices



## Address Compliance Grades

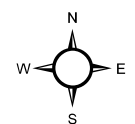
- Non-Compliant Level 2
- Compliant & Non-Compliant Level 1
- Un-Reviewed Properties
- Vacant Properties
- Incorporated Towns

## Definitions:

- Compliant
  - Follows all requirements.
- Non-Compliant Level 1
  - Follows some requirements; structure can be identified when necessary.
- Non-Compliant Level 2
  - Does not follow any requirements or displayed address is incorrect.

## Status

- 28% = reviewed so far.
- 5,038 = addresses reviewed out of
- 18,814 = total in Unincorporated Areas of the County
- 18% = Compliance Increase (879 addresses)



11

JEFFERSON COUNTY COMMISSION  
PUBLIC HEARING NOTICE

The Jefferson County Commission has scheduled a public hearing on a Zoning Map Amendment (Rezoning) for property designated as Tax District: Harpers Ferry, Map: 9-2, Parcel: 58. This property is located on the south side of Route 340 (William L. Wilson Freeway) and to the east side of Route 27/2 (Alstadt's Hill Road) and is a total of 8.98 acres. This property is currently zoned Residential Growth and a request has been made by the owner, Gene Capriotti to change the zoning to Residential/Light Industrial/Commercial.

You may provide oral or written comments at the hearing, **7:00 p.m., Thursday, June 14, 2012, in the County Commission meeting room located in the Old Charles Town Library lower level at 200 East Washington Street**, at the side entrance on Samuel Street. In addition, you may also provide written comments to [info@jeffersoncountywv.org](mailto:info@jeffersoncountywv.org) or mail to P.O. Box 250, Charles Town, WV 25414, or fax (304) 725-7916.

By Order of the Jefferson County Commission  
Patsy Noland, President

MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
APRIL 24, 2012

The Jefferson County Planning Commission met on Tuesday, April 24, 2012 with the following Commission members present: Paul Taylor, President; Ed Burns, Gene Taylor, Steve Stolipher and Walt Pellish. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Steve Barney, Zoning Administrator; Jonathon Saunders, County Engineer; Stephan Groh, Prosecuting Attorney; and Amy Puetz, Planning Clerk.

Mr. Daniel Hayes, Mr. Kelly Baty, Mr. Eric Smith, and Ms. Morgan Eppers were absent with notification.

Mr. P. Taylor called the meeting to order at 7:00 PM.

**1. Approval of the minutes for the April 10, 2012 meeting.**

Mr. Stolipher moved to approve the minutes of the April 10, 2012 Planning Commission meeting. Mr. Pellish seconded the motion which carried unanimously.

**2. Citizens Communication. None.**

**3. Request for postponement. None.**

**4. Continued from the 04/10/2012 PC Meeting: Public Hearing regarding Proposed Additional Commercial and Industrial Zoning Categories and related amendments to the Jefferson County Zoning and Land Development Ordinance.**

Ms. Brockman reminded the Planning Commission of written comments by W.H. Gordon Associates that were submitted at the April 10, 2012 meeting. She explained that staff had met with representatives of the company to clarify those comments.

Mr. Barney reviewed the purpose of the amendments and gave a brief overview of the proposed zoning categories. He commented that custom manufacturing would be added as a commercial use based on comments received on April 10<sup>th</sup>. He stated that grammatical and formatting edits would be made by staff.

Mr. Pellish requested that staff provide a written response to the comments given by W.H. Gordon Associates. Mr. Burns requested that staff verbally specify the comments in the Gordon memo that would be incorporated into the amendments. Mr. Barney briefly reviewed those general comments.

Mr. Burns suggested that the Light Industrial category needed a sub-category specifically for assembly type manufacturing. He asked that Section 3.2(K), paragraph 2, be clarified to state which uses are being discussed. He commented that in Section 4.6(A), it was unclear which buildings were being discussed. Ms. Brockman explained that 4.6(A) relates to industrial uses. She stated that moving that section to a more appropriate place in the ordinance would

MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
APRIL 24, 2012  
PAGE 2 of 8

help clarify the regulation. Mr. Burns stated that he would like to see all suggestions incorporated into the document before the Planning Commission takes any action.

Mr. Stolipher stated that all the comments should be taken into consideration and that existing text should be clarified to simplify the document.

Mr. P. Taylor opened the floor to public comment.

Mr. J. Michael Cassell, representing the Jefferson County Shorekeepers, stated that his clients' largest concern was the Potomac River between Harpers Ferry and Shepherdstown due to its historic and environmental significance. He commented that the Pack Horse Ford Study, as mentioned in the 2004 Comprehensive Plan, should be completed before the amendments are approved. He suggested that Section 5.16(B) should be changed to specify the growth area as defined in the 2004 Comprehensive Plan. Ms. Brockman added that she would suggest that it state the 2004 Comprehensive Plan or the most current Comprehensive Plan in case there would be a change in the growth area. Mr. Cassell rebutted that the language should specify just the 2004 Comprehensive Plan since the adoption of a new comprehensive plan could not change the Zoning Ordinance. He requested that the tables throughout the document be simplified and graphically easier to read. He commented that the amendment to change the notification days to not less than 20 and not more than 28 should be eliminated and that the requirement of notification should remain 30 days. He also suggested while Section 3.2 allows discretion of the Zoning Administrator to allow similar uses not listed in the ordinance, that adjoining property owners merit some form of notification.

Mr. Chip Dorman, Harpers Ferry resident, raised concern over the discretion allowed by Section 3.2 to the Zoning Administrator and asked what process the Zoning Administrator would have for determining a use. He voiced his opposition to amending the 30 day notices to a shorter time frame. He also requested clarification on what penalties the applicant endures when there is an appeal to the Board of Zoning Appeals. He suggested researching other area governments' regulations and incorporating some of those ideas into the amendments.

Mr. Ted Schiltz, resident of Potomac Terrace, stated that the Comprehensive Plan recommends that lands east of the Shenandoah and all lands and natural conditions within 1,000 feet of the Shenandoah and Potomac Rivers and Opequon Creek remain in their natural state, not to be developed. He recommends distance requirements for each proposed district. He suggested that the proposed Planned Neighborhood Development have a larger minimum lot size to facilitate the Scenic Area Protection. He commented that he feels the Planned Neighborhood Development could be eliminated completely from the amendments.

Mr. Burns moved to close the public hearing. Mr. Pellish seconded the motion which carried unanimously.

Mr. Burns moved to table discussion until the June 12<sup>th</sup> Planning Commission meeting with the understanding that members of the Planning Commission are to receive an updated draft

MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
APRIL 24, 2012  
PAGE 3 of 8

3 weeks prior to the meeting. There was unanimous consent to table the discussion until June 12, 2012.

5. **Public Hearing for Zoning Map Amendment (Rezoning) for property designated as Tax District: Harpers Ferry, Map: 9-2, Parcel: 58. This property is currently zoned Residential Growth and Residential/Light Industrial/Commercial zoning is being requested. This property is located south of Route 340 (William L. Wilson Freeway) and to the east side of Route 27/2 (Alstadt's Hill Road) just passed its intersection with Route 27 (Millville Road) and is a total of 8.98 acres. The owner of record is Gene Capriotti.**

Mr. Rivard reviewed the location of the property.

Ms. Annette Van Hilst, representing Mr. Gene Capriotti, gave a presentation of the project including location, purpose of the request, and compliance with the draft US 340 Gateway Plan. She distributed her power point presentation in paper form to the Planning Commissioners and staff. She explained that there was no specific use being proposed and that the request is due to the reduction of land available for commercial or mixed use development. She cited many major changes to the area. She rebutted the staff report stating that concerns regarding traffic, landscaping, and view sheds should be discussed at the site plan stage, not during a rezoning request. She commented that, while the 2004 Comprehensive Plan does not state a need for rezoning along the 340 Corridor, two of the subject parcels neighboring properties have been granted a rezoning by the County Commission within the past year. She addressed staff's concern on the impact of light industrial uses by stating that current regulations would not permit those uses on the property. She stated that the rezoning should not have to wait 6 months until the US 340 Gateway Plan is adopted as recommended by staff since there is no guarantee that the document will be approved or that approval will only take 6 months. She defended the request reminding the Planning Commission that the subject property was surrounded on three sides with properties zoned Residential/Light Industrial/Commercial.

Mr. Rivard presented his staff report and suggested that the Planning Commission forward the request onto the County Commission with a recommendation of denial with the reasoning that the request was not in compliance with the 2004 Comprehensive Plan. He stated that staff recommends that the applicant wait 6 months to allow for the US 340 East Gateway Corridor Study to be finalized which would provide recommendations regarding land use and traffic impacts. He commented that waiting would also allow the possibility of new zoning categories which would provide for a better planning tool for this area.

Mr. Rivard read from a letter provided by Rebecca Harriett of the National Park Service opposing the rezoning request. The letter stated that the request was overly broad and allowed uses that could be out of context with the character of the area creating a negative impact on the area's historic values and uniqueness.

Mr. P. Taylor opened the public hearing.

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JEFFERSON COUNTY PLANNING COMMISSION  
APRIL 24, 2012  
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Ms. Beth Marrone, adjoining property owner, spoke in opposition of the rezoning stating she believed that area would stay residential when she purchased her home 16 years ago. She raised concern that traffic could potentially become much worse depending on the use that would be placed on the property. She described the easement running through the subject property and explained that easement is used as an access to her home. She also commented that additional traffic could exacerbate already hazardous traffic situations.

Dr. James Gibson, owner of Alstadt property, spoke in support of the rezoning. He stated that the area had been used commercially for many years and that commercial uses are appropriate for that area. He raised concern that the staff referenced the US 340 East Gateway Study in the staff report when that document had not been approved.

Mr. Eric Sokol, area resident, spoke in support of the rezoning request. He stated that the area should be rezoned as an opportunity to allow for outdoor tourism. However, he did confirm traffic issues in the area.

Ms. Mary McGreevy, adjoining property owner, spoke in opposition of the rezoning request. She raised concern that there was no specific use for that property being proposed and that she did not want River Riders to use that property to expand their business. She spoke of existing traffic issues. She commented on the aesthetics of the area and stated that the viewshed should be protected.

Mr. Stolipher moved to close the public hearing. Mr. G. Taylor seconded the motion which carried unanimously.

Ms. Van Hilst addressed public comments. She reiterated that Light Industrial uses would be limited by regulations and standards and would be discussed when a Site Plan is submitted. She commented, in regards to the National Park Service (NPS) letter, that the property is not within the approved park boundaries and should not be a concern to the NPS. She referenced the Alstadt property stating that parcel contains a home on the historic registry and yet had been recently rezoned to the same zoning category her client was requesting. Ms. Van Hilst stated that the easement that runs through the property that Ms. Marrone uses to access her home would remain in place. She commented that traffic was an existing issue and that a change in zoning would not have significant impact on traffic. She stated that current zoning would allow for more than 50 townhomes which would significantly impact the traffic issues whereas the requested zoning would carry a much more limited use.

Mr. Pellish voiced disagreement with the staff report and stated that the rezoning request is in conformance with the Comprehensive Plan. He also voiced his opposition to the US 340 Gateway Plan. He addressed traffic issues and stated that roads need to be widened. He stated that this parcel is ideal to support efforts in the tourist industry. He reported that this request is an excellent opportunity to increase tax revenue. He stated he strongly supported the request.

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JEFFERSON COUNTY PLANNING COMMISSION  
APRIL 24, 2012  
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Mr. Stolipher moved to forward the request to the County Commission recommending approval since the request is consistent with the 2004 Comprehensive Plan. Mr. Pellish seconded the motion.

Mr. Burns commented that the Capriotti family, the owners of the subject property, had a vested interest in the community and for that reason, he believed nothing detrimental to the area would be placed on that property. He voiced support of the rezoning request and felt that the request was consistent with the 2004 Comprehensive Plan.

Mr. G. Taylor commented on the commercial history of that area and stated that area will continue to grow. He voiced support of the request.

Mr. P. Taylor questioned what control the County had regarding what use is allowed there if the rezoning request is approved. Ms. Brockman explained that the zoning category permits a variety of uses. She stated that the County would require a review of the site plan which would ensure that regulations and requirements are met for any use proposed. She reported that the County would not be able to deny a use that is considered a permitted use for that zoning category although regulations, such as setback and distance requirements, may prevent a use from occurring on a particular property.

Mr. Pellish voiced sympathy of Ms. Marrone's concerns and requested that Ms. Van Hilst speak with her client to recommend an agreement from Mr. Capriotti to the Marrones allowing for some sort of compensation such as shielding of the property or improvement of the access.

The motion on the floor passed unanimously.

Mr. P. Taylor called for a break at 8:45 PM. Mr. P. Taylor called the meeting back to order at 8:53 PM.

- 6. Final Plat Public Hearing for the Harvest Hills Subdivision (PC File #12-02). The property is to consist of 22 single-family lots on 8.84 acres. The property is located on the east side of Route 17 (Flowing Springs Road) and the south side of the CSX Railroad where the two intersect. The owner of the property is Arcadia Development Co. This property is designated as Tax District: Shepherdstown, Map: 24, Parcels: 12 and 13.**

Mr. Rivard read from his staff report. He explained that the access to the section being reviewed is through a portion of the subdivision that was currently carried a tolled bond. He reported that staff had met with Ms. Carla Coffey, of Arcadia Development, who agreed to several conditions to approval. Mr. Rivard recommended approval of the Final Plat with the following conditions:

- a. No construction would commence and no sale of lots platted in this phase to any outside entities will be allowed until the tolled bond for Phase II, Section 1 and also for this phase has been posted.

MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
APRIL 24, 2012  
PAGE 6 of 8

- b. A merger deed will be submitted to the Engineering Department for the lots being final platted to allow for the lots of this phase to be merged and for this phase and the previous phase to be merged if the applicant defaults on the tolling agreement.
- c. A Department of Highways (DOH) entrance permit is obtained.
- d. The Conditional Use Permit (CUP) conditions and how and when those conditions are to be met will be required with each phase upon Final Plat submission.

Mr. Barney explained the responsibility of staff to address how and when the CUP conditions will be met. He stated that, for Harvest Hills, a letter from the DOH stating that improvements to the curve on Flowing Springs Road and a traffic light at the entrance of the subdivision are not necessary at this time would be sufficient.

Mr. Randy Keppler, of Greenway Engineering, confirmed that his client, Arcadia Development, had agreed to the conditions regarding the tolled phase. He stated that he could provide a copy of the DOH entrance permit that was submitted during the Preliminary Plat review. He addressed the conditions of the CUP. He stated that the Highway Department had not yet notified the developer that any improvement to the curve on Flowing Springs Road or that a traffic light was presently necessary and that the DOH had been monitoring the traffic situation. He reported that one of the conditions of the CUP included a fence which would be included in the bonding agreement. He requested that the final plat not be stalled due to these conditions.

Mr. Peter Chakmakian, representing Arcadia Development, explained why the developer was submitting another phase of the subdivision when the previous phase is tolled. He reported that a final plat needed to be submitted to keep the project from expiring due to Jefferson County timeframes.

Ms. Carla Coffey, of Arcadia Development, confirmed that Arcadia intended to toll the bond for this phase also.

Mr. Barney stated that an email or letter would be required from the DOH stating that improvement of the curve on Flowing Springs Road and that a traffic light are not necessary at this time. Ms. Coffey asked that this not be a condition of approval. She stated that she has requested a letter from the DOH and that she would provide staff a copy upon her receipt of that letter. However, she raised concern that there would only be 90 days to bond and record the Final Plat and she could not force the DOH to provide a letter within that timeframe.

Mr. P. Taylor opened the public hearing. There was no public comment. Mr. Stolipher moved to close the public hearing. Mr. Burns seconded the motion which carried unanimously.

Mr. Stolipher moved to approve the final plat with two of the conditions: 1) No construction would commence and no sale of lots platted in this phase to any outside entities will be allowed until the tolled bond for Phase II, Section 1 and also for this phase has been posted. 2) A merger deed will be submitted to the Engineering Department for the lots being final

platted to allow for the lots of this phase to be merged and for this phase and the previous phase to be merged if the applicant defaults on the tolling agreement. Mr. Pellish seconded the motion which carried unanimously.

7. **Final Plat Public Hearing for the Cambridge Manufactured Home Development Subdivision (PC File #12-03). The property is to consist of 2 mobile home lots on 27.0671 acres. The property is located on the south side of Route 17/5 (Flowing Acres Road) and 0.31 miles east of its junction with Route 17 (Flowing Springs Road). This property is designated as Tax District: Charles Town, Map: 8, Parcel: 32.13.**

Mr. Rivard read from his staff report and recommended approval.

Mr. Dirk Stansbury, project engineer, gave a short presentation of the project. He requested that a bond tolling system be created for Cambridge. Ms. Brockman explained the tolling system and recommended that Mr. Stansbury speak with Ms. Becky Burns, Engineering Department Office Manager.

Mr. P. Taylor opened the public hearing. There was no public comment. Mr. Burns moved to close the public hearing. Mr. G. Taylor seconded the motion which carried unanimously.

Mr. Burns moved to approve the Final Plat. Mr. Stolipher seconded the motion which carried unanimously.

8. **Reports from Legal Counsel and legal advice to PC.**

**Active Litigation:**

- **Far Away Farms**
- **Cedar Meadows Airpark**

Mr. Groh presented the Planning Commission's Opposition to Summary Judgment and Cross Motion (11-C-325, 326, 327, and 328) in the Far Away Farms case. He explained the case would be heard on May 7, 2012. He stated there were no other issues.

9. **Director's Report.**

Ms. Brockman presented two articles regarding the planning of road improvements to US 340 between the Shenandoah and Potomac River bridges. She stated that a tri-state (WV, VA, and MD) committee had been formed to begin discussions.

Ms. Brockman reported that she would be presenting the quarterly report to the County Commission and requesting clarification on the priorities of staff regarding the 2014 Comprehensive Plan and the suggested US 340 South Corridor Study. She stated that a summer intern had been hired to assist in research for the 2014 Comprehensive Plan.

Ms. Brockman presented a letter from the Jefferson County Citizens for Economic Preservation (JCCEP) which proposed an amendment to the Subdivision Regulations to extend Senate Bill 595 to July 1, 2015. She stated that this amendment would be submitted to the County Commission by a JCCEP representative soon.

10. **County Commission Liaison Report.** None.

11. **Planning Commission Exchange.**

- **Report from the Health Department Meeting Liaison.** None.
- **Report from the Public Service District Meeting Liaison.** None.
- **Report from the Parks and Recreation Meeting Liaison.**  
Mr. G. Taylor stated that Parks and Receptions have been discussing the possibility of purchasing the old 3M property in Middleway for park area.
- **Report from the Jefferson County Development Authority Meeting Liaison.**  
Mr. Burns reported that there had been a meeting with Representative, Shelly Capito that was productive.
- **Report from the Water Advisory Committee Meeting Liaison.** None.

12. **President's Report.** None.

13. **Actionable Correspondence.** None.

14. **Non-Actionable Correspondence.** None.

Mr. G. Taylor moved to adjourn the meeting at 9:45 PM. Mr. Burns seconded the motion which carried unanimously. An audio recording and/or a video recording of the meeting may be found on our website. These minutes were prepared by Amy Puetz, Planning Clerk.

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: May 3, 2012 June 14, 2012

Date Requested – 2<sup>nd</sup> Choice: May 10, 2012

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

Subject: **Recommendation of Planning Commission to the County Commission on the landowner-initiated petition to amend the County Zoning Map for a 8.98 acre property owned by Gene Capriotti, designated as Tax District: Harpers Ferry, Map: 9-2, Parcel: 58, located south of Route 340 (William L. Wilson Freeway) and east of Route 27/2 (Allstadt's Hill Road) for the purpose of setting a public hearing to be held by the County Commission**

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

On April 24, 2012, the Jefferson County Planning Commission held a Public Hearing for the purpose of receiving public input regarding a landowner-initiated petition to rezone a 8.98 acre property owned by Gene Capriotti, designated as Tax District: Harpers Ferry, Map: 9-2, Parcel: 58, located south of Route 340 (William L. Wilson Freeway) and east of Route 27/2 (Allstadt's Hill Road) currently occupied an access easement for lots to the east of the property. The rezoning request is from the Residential-Growth zoning classification to the Residential-Light Industrial-Commercial zoning classification. Pursuant to state law, WV Code 8A-7-9(c), the County Commission must receive the advice of the Planning Commission regarding whether such a request is consistent with the County's adopted Comprehensive Plan.

To this end, the Planning Commission held a Public Hearing, reviewed the applicant's application (attached), the staff's report on the consistency with the Comprehensive Plan (attached), received public input (attached), and attempted to make a determination regarding consistency with the Comprehensive Plan. Based on a review of the 2004 Comprehensive Plan and consideration of the facts and opinions presented, the Planning Commission moved to forward the petition to the County Commission with a finding that the application was consistent with the Comprehensive Plan. This motion passed with a vote of 5-0.

In accordance with Section 12.2(C) of the Jefferson County Zoning Ordinance, subsequent to the recommendation received from the Planning Commission, all recommended map amendments require a Public Hearing before the County Commission prior to a final determination.

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

I move to schedule a Public Hearing on the Proposed Zoning Map Amendment for 8.98 acre property owned by Gene Capriotti, designated as Tax District: Harpers Ferry, Map: 9-2, Parcel: 58, located south of Route 340 (William L. Wilson Freeway) and east of Route 27/2 (Allstadt's Hill Road) on

\_\_\_\_\_, 2012 at \_\_\_\_ pm.

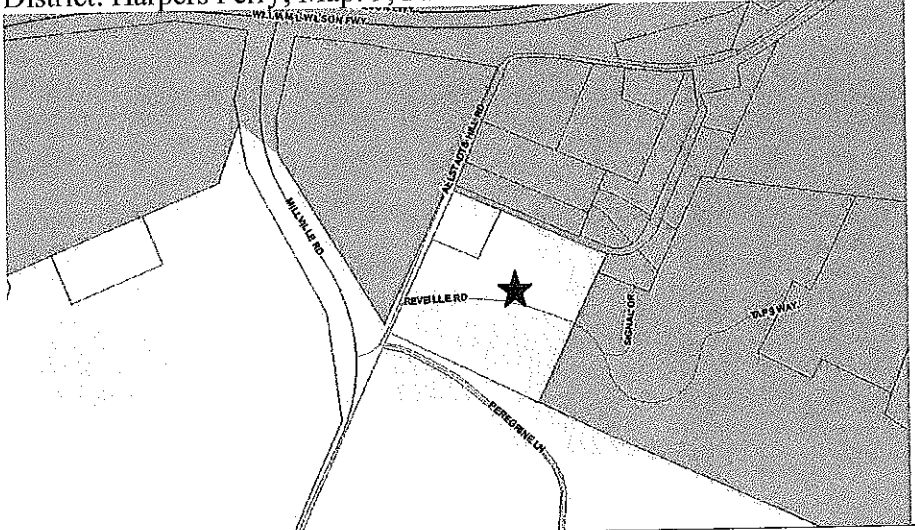
Attachments:

- **Staff Report regarding the Capriotti Rezoning Application to Planning Commission/County Commission (by Seth Rivard date April 24, 2012)**
- **Summary of Public Testimony Received at the April 24, 2012 Planning Commission Hearing and Public Comments received in writing**
- **Rezoning Application**

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**Capriotti Rezoning PC File # Z12-01**

Item #5: Request by Gene Capriotti for a zoning map amendment for property designated as Tax District: Harpers Ferry, Map: 9; Parcel, 58. Requested zoning map amendment from Residential-Growth to Residential-Light Industrial-Commercial.

|                                     |                                                                                                                                      |
|-------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| APPLICANT:                          | Gene Caprotti                                                                                                                        |
| OWNER:                              | Same as above                                                                                                                        |
| DEVELOPER:                          | Same as above                                                                                                                        |
| SURVEYOR/ENGINEER:                  | N/A                                                                                                                                  |
| PROPERTY LOCATION:                  | The property is located on the east side of Route 27/2 (Allstadt's Hill Road), near the intersection with Route 27 (Millville Road). |
| LEGAL DESCRIPTION:                  | District: Harpers Ferry; Map: 9; Parcel: 58<br>   |
| ZONING DISTRICT:                    | 2011 Zoning Map Designation: Residential Growth                                                                                      |
| SURROUNDING PROPERTIES:             | 2011 Zoning Map:<br>North: R/LI/C and Rural      East: R/LI/C<br>South: RG                      West: R/LI/C                         |
| LOT AREA:                           | 8.98 acres                                                                                                                           |
| PROPOSED ACTIVITY:                  | To rezone this Residential Growth property to a designation of Residential/Light Industrial/Commercial                               |
| Planning Commission Responsibility: | To advise the County Commission as to whether the requested Zoning Map Amendment is consistent with the 2004 Comprehensive Plan      |

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|                |                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Staff Finding: | In this report Staff presents the various factors related to this property based on the Comprehensive Plan. Staff does not find the plan to be consistent with the 2004 Comprehensive Plan and also finds there have been changes of major changes of an economic, physical or social nature that do not support the request. The recommendation section of this report is critical in understanding the Staff recommendation. |
|----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## Background

The property on Alstadts Hill Road, Harpers Ferry, WV, is a vacant parcel located near the intersection of Alstadts Hill Road and Millville Road and north of Old Standard Quarry. Image 1, is a location map showing the parcel requested for rezoning.

Image 1



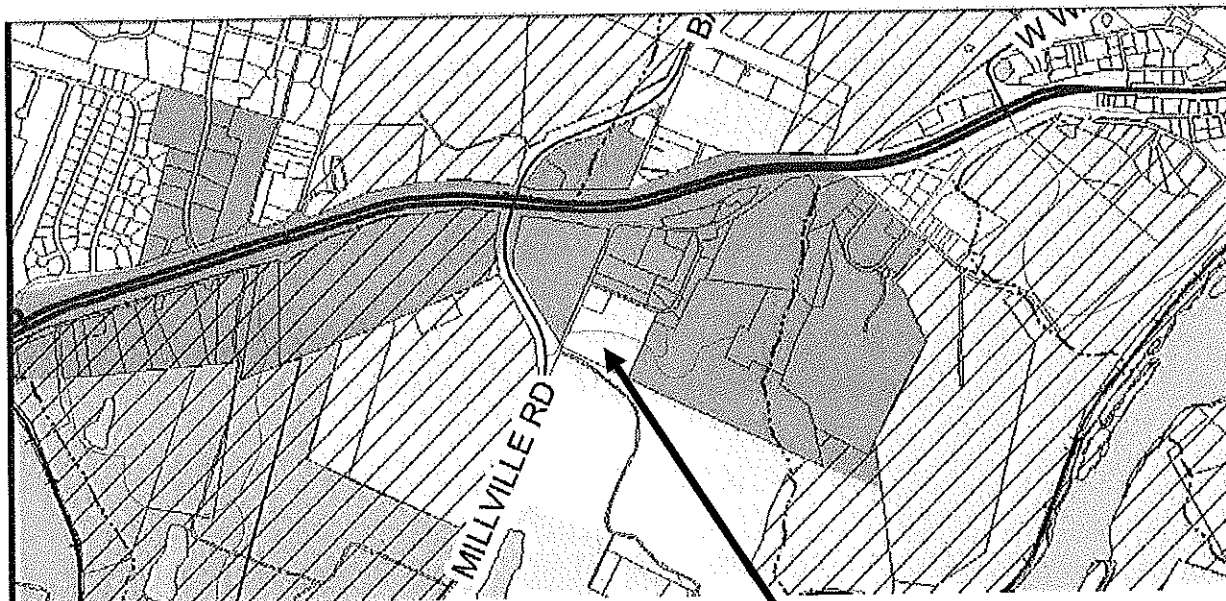
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**Introduction and Purpose**

The applicant has requested rezoning the 8.98 acre property from Residential-Growth to Residential-Light Industrial-Commercial. Access to the property is from Alstadts Hill Road. Surrounding the subject parcel, the properties to the east and west are zoned Residential-Light Industrial-Commercial, properties to the north are zoned both Residential Growth and Residential-Light Industrial-Commercial, and the property to the south is zoned Residential Growth. Image 2 below shows the current zoning for surrounding parcels and Image 3 and 4 shows the National Park Service Property (Images 3 and 4 are at end of document).


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Image 2




**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

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The applicant has requested rezoning of the entire subject parcel from Residential Growth to Residential-Light Industrial-Commercial. The following report has been prepared to assist the Jefferson County Planning Commission and Jefferson County Commission in making findings regarding the consistency of the proposed rezoning with the 2004 Jefferson County Comprehensive Plan, in accordance with West Virginia State Code requirements.

### **Statutory Authority and Requirements**

The West Virginia State Code, Section 12.1(a) provides that the boundaries of zoning districts may be amended by the County Commission with the advice of the Planning Commission. The County Zoning Ordinance also requires that the *“procedure for amendment [by petition] shall be as dictated in Section 8A-1-1 et seq of the West Virginia State Code as amended.”* As concerns amendments by petition, State statute provides that, *“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.”* [See WVC 8A-7-9(c)] This subsection of the State Code also states that, *“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.”*

### **Scope of this Assessment**

This report focuses on whether or not the rezoning application is consistent with the Comprehensive Plan. It concludes that the request is not consistent with Comprehensive Plan and notes that while there are major changes of an economic, physical or social nature, within the area involved, have occurred that were not anticipated when the comprehensive plan was adopted, such that they would “substantially” alter the basic characteristics of the area, these changes do not support the rezoning request. This assumption is also limited to the proposal to rezone the subject site. Additionally, there has been a detailed study of the US 340 east corridor that has an impact on this request. This will be addressed in the recommendation.

The format for this assessment includes quotes from specific provisions of the Comprehensive Plan, which are identified by page number citation at the end of the sentence where it is quoted. Staff has used these notations and quotations in order to address sections of the Comprehensive Plan as it relates to the proposed rezoning. Identification of the specific page numbers where these provisions can be found in the Plan permits the Planning Commission and/or County Commission to easily locate the particular provision and personally evaluate the

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provision in the context of the larger Plan document. When available or appropriate, map references are provided with maps located in the Appendix to this report.

It should also be noted that the Comprehensive Plan states, *"Its recommendations are (by their nature and intent) general and, as such, sometimes conflicting. It will not be difficult to find two that individually justify and conflict with many land use proposals."* In that sense, there are many plan references that are identified in this report that can or may appear to support or fail to support a finding of consistency between the proposed rezoning and the Comprehensive Plan. In the final analysis, each member of the Planning Commission and the County Commission will need to weigh the degree to which various plan provisions are of greater or less importance, in establishing their respective findings regarding the application.

Finally, this report provides a recommendation concerning the proposed rezoning based on review of the various plan sections and elements. The recommendations should be considered the professional opinion of staff; no more and no less. Since the Planning and Zoning staff has no statutory authority to make decisions in this regard, we defer to the Planning Commission and subsequently the County Commission for any final recommendation or decision that may be forthcoming with respect to the subject application.

## **Relevant Comprehensive Plan Elements and Commentary**

### Existing Zoning District:

The Comprehensive Plan notes that *"This district (Residential Growth) and the 'Residential-Light-Industrial-Commercial' Zoning District, are co-mingled and comprise a strong majority of the 'Designated Growth Area.'"* This statement acknowledges that the Residential Growth district is a growth oriented district. In addition to a broad range of urban density residential uses, the district permits day care centers, hospital, nursing home, and churches. This zoning district should not be considered a limited use district.

### Proposed Zoning District:

The Comprehensive Plan provides the following perspective on Residential-Light Industrial-Commercial zoning district, which the applicant is requesting, is:

- *"...commonly referred to as the "mixed use" zone, permits uses of a light industrial and commercial nature, as well as a spectrum of residential and institutional uses ranging from single-family dwelling units to multi-family apartments and group homes. Residential uses must conform to the standards set forth in the Residential Growth*

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*District, but industrial and commercial uses are required to conform to a set of specific performance criteria, which include numerical measurements of several factors for uses that may have nuisance effects on adjacent uses.*

- *There are two issues regarding this district that should be studied as part of planned amendments to the Zoning Ordinance. First, most ordinances that have "mixed use" zones require certain minimum percentages of land usage in residential, commercial and dedicated open space. Jefferson County's Ordinance doesn't. Land in this district can be developed entirely for commercial or residential use or any combination thereof.*

The Plan does detail some of the potential benefits of the Residential-Light Industrial-Commercial District and a number of concerns with the district. While this district is defined as mixed used, it does not require any mixing of uses, it merely allows for the possibility. The district allows two vague uses as permitted by right, "Commercial Uses" or "Uses of light industrial." "Uses of light industrial" is essentially defined by uses that are not defined as heavy industrial and commercial uses. There is wide latitude for the ability to interpret what qualifies as light industrial use. These two terms allow for some interpretation of what they mean and what is permitted. As such, there are a variety of uses that could be proposed on the subject property, each of which could have very different impacts.

It should be noted that the broadness of this zoning category often raises concerns and is one of the primary reasons that new commercial zoning categories are currently under consideration.

### Natural Resources:

As a broad outline the Comprehensive Plan notes that:

- *"Ironically, the natural beauty and rural setting of Jefferson County, the qualities that are so attractive to new residents, are the very qualities that are most threatened by a rapid pace of growth. With houses coming at a far faster pace than jobs, Jefferson County is facing a future as just another bedroom community in the larger metropolitan area. The intent of this plan is not to recreate or recapture the past but to shape future growth in a manner that preserves the most important features of Jefferson County: the rural landscape, the natural beauty of the rivers, the rolling terrain and the strong sense of community (pg. 8)."*

This vision for the document illustrates that the historic and scenic viewsheds of Jefferson County are threatened by the rate of growth occurring within the County. The intent is to shape growth in a manner that preserves these important features, while allowing for growth

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where appropriate. Outlined on page 14 is the US 340 Corridor East Gateway Plan which provides methods to achieved the balance between development and natural resources.

Historic Resources:

The Comprehensive Plan discusses the natural, environmental and historical resources along the US 340 Corridor and this analysis would not be whole if this important component is not addressed.

- *“In terms of environmental resources, Jefferson County suffers from an embarrassment of riches. If we are not careful, we could squander these resources. Effective planning is essential to preserving these resources for use and enjoyment of future generations (pg. 48).”* Additionally the plan notes *“Caves, scenic vistas, wildlife corridors and cliff areas are just several examples of additional forms of natural resources that contribute to the environmental and cultural mix that is Jefferson County. The topography, geology, hydrology, and biological diversity of the environment is one of the hallmarks that makes Jefferson County the beautiful environment that it is. Unfortunately, not every form of natural resource can be discussed in detail within the context of a Comprehensive Plan. The protection of scenic vistas has been the subject of public comment during this process. The County should identify the protection of scenic vistas as an issue to address, this is best done through the adoption of standards within the ordinances, so that all parties are aware of their rights and responsibilities in this regard (pg. 52).”*

In addition to the natural resources of the community, the 2004 Plan discusses the County’s historic resources in depth. It is summarized here but is of importance to this rezoning request in the total evaluation:

- *Jefferson County is an area rich in historical and archaeological interest. It has arguably been referred to as the most historic rural county in America. As part of our country's first western frontier, it was settled by Europeans before 1720 and was inhabited by Native Americans for several thousand years before.*
- *Surveyed by a young George Washington and host to seven Washington family homes*
- *The site of the John Brown Insurrection*
- *County's place at one of the crossroads of the Civil War forever links it to many of the important events that occurred during our Nation's greatest test of endurance.*

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- *Given its size and population, Jefferson County has been fortunate in the amount of historic preservation projects that have been implemented around the County. From Harpers Ferry National Historical Park to the historic districts of Shepherdstown and Middleway, Jefferson Countians can be proud of the number of historic resources that have been preserved here.*
- *History tourism is a significant element of Jefferson County's economy. Harpers Ferry, the Appalachian Trail, Shepherdstown, Antietam and the C&O Canal all serve to draw visitors to the County and surrounding area.*
- *Regardless of the successes of the past, as an increasing number of tracts are developed for residential, commercial or industrial uses, existing unprotected historic resources become endangered. Existing processes should be evaluated for their ability to address this growing issue (pgs. 55-56)."*

Historic and natural features are given a significant priority in the 2004 Comprehensive Plan. This section of the Plan underscores the importance of heritage tourism to the economy and notes the cultural and scenic features that drive locally based tourism's economic engine. The text substantially supports the need to protect the "scenic vistas" both in this plan and in the 1994 Comprehensive Plan.

It is important to note that recreational tourism, heritage tourism, scenic tourism, and eco-tourism are part of Jefferson County's pro-business and pro-economic development ventures. Potentially impacting that significant, valuable and irreplaceable part of the county and the affected economic generators is unsystematic.

Staff notes that care should be taken when reviewing rezonings that might jeopardize the efforts to nurture the tourism economy or reduce interest in visitation to tourist offerings. The subject property is an element of a historic battlefield as shown on Image 5.

Transportation Impacts:

The Comprehensive Plan discusses the critical role of the transportation routes, noting:

- *"With the increase in population in the last three decades, Jefferson County's roads have had to bear the combined burden of increased traffic volume and heavier commercial vehicles. As a result, the deficiencies of the highway and road systems have become more critical. Inadequate funding and increases in transportation demand are*

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*conditions which probably will be facing the people of Jefferson County indefinitely (pg. 26)."*

As many people are aware, the fact that inadequate funding and increased transportation demands are conditions the County is likely to continue to face indefinitely is ominous. The staff acknowledges that there is an existing bottleneck along US 340, which is a major transportation route through the County.

Rezoning this parcel of land to Residential-Light Industrial-Commercial use may aggravate this condition. While this development by itself may or may not generate a lot of traffic, without a coordinated transportation planning tool, the cumulative effect will hinder the transportation grid beyond its current condition. It is certainly possible that the intersection of Bakerton/Millville and US 340 would see an increase in traffic pressure from this rezoning, other rezoning's and accumulated development pressures. In this instance, the unsignalized intersection has significant safety issues.

Without a coordinated traffic analysis for this property and surrounding parcels, the dangers of this intersection are difficult to anticipate. Without adequate review and implementation of required improvements, the increased activity in this area will result in a negative decline in safe and convenient access at this intersection.

The Comprehensive Plan reflects the growth in traffic volumes, along the Route 340 Corridor, from 1996 to 2002. It is clearly the most heavily travelled route in the County. The 2008 West Virginia Department of Transportation traffic counts show 38,000 average daily trips (ADT) at WV 26 (Keys Ferry Road) and 29,400 near Bakerton Rd.

The Comprehensive Plan states that:

- *"A comprehensive and systematic approach to transportation planning is needed to meet the future transportation of the County (pg. 26)."* The plan further delineates the following general goals:
  1. *Reduce the occurrence and severity of roadway traffic accidents by encouraging the West Virginia Department of Transportation, Division of Highways to reduce or eliminate conditions which cause them.*
  2. *Encourage the West Virginia Department of Transportation, Division of Highways to take measures to provide for and maintain efficient roadway traffic flow.*
  3. *Find creative solutions to both funding and legislative limitations, in order to solve transportation problems.*

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4. *Seek a coordinated transportation plan among all levels of government that provides for coordinated transportation planning and funding of highways, streets, commuter rail service, public transit, car/van pooling, park & ride facilities, bike paths, pedestrian access, and technological improvements to the transportation system in the County.*
  5. *Encourage alternate forms of transportation within the County, such as pedestrian trails and bike paths, provided they are feasible and prove beneficial.*
  6. *Encourage the State and Federal government to increase public transit service to the County, provided it is feasible and proves beneficial.*
- *“During the Comprehensive Plan process, citizens have expressed concerns with some of the roads in the County. The County has reached a critical turning point as undeveloped land is becoming committed to new subdivision and development. As more and more land is developed future transportation improvements may become more difficult and more costly. Therefore, it is prudent for the State and County to plan for the future needs now, while the land is available and the improvements can be more easily made, or at least the land can be reserved during the development process for future improvements (pg. 27).”*

In the past year Staff has undertaken a detailed study of the US 340 East Gateway corridor and the study is addressing the 6 points listed above and providing long term options to address the concerns raised in the Comprehensive Plan. The US 340 study has been done in collaboration with the West Virginia Department of Highways and Hagerstown Eastern Panhandle Metropolitan Planning Organization. Both organizations have the jurisdiction to address these elements and funding mechanisms. More recently, the State of West Virginia has announced a plan to study the traffic movements along the corridor from Charles Town, WV to Frederick, MD. Again, while road improvements may not be in the near future, a study of the traffic is a positive move in the right direction and will begin a priority for future funding.

The new Route 9 is not expected to solve the traffic concerns on Route 340, as the traffic on Rt. 9 has a different commuting pattern and direction than that of Route 340. Again, while the proposed development alone may or may not have a significant negative effect on Route 340, the County needs to consider the potential accumulation of these effects. Without a detailed site plan for a specific use, the impact is hard to predict.

Water and Sewer Proximity:

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Water and sewer is located near this property. The Comprehensive Plan encourages urban level developments, such as the current zoning of this property, to be on a central water and sewer system, whether public or privately owned.

Implications of National Park Service Property:

Since 2004, there have been substantial acquisitions by the National Park Service surrounding this property that were not anticipated in 2004. If the Commission determines the proposed rezoning is not consistent with the 2004 Comprehensive Plan, it 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."* in order to recommend approval of the request. There have been major changes to the US Route 340 Corridor area that were not anticipated when the Comprehensive Plan was written. The acquisitions by the National Park Service have had major economic, physical or social change in this specific corridor. The amount of property purchased has limited the size of physical development in the area and by extension the amount of traditional economic activity at this intersection. The social change is from development to preservation and a community expectation of historic and open space preservation.

As the Planning Commission determines the merits of this rezoning, the amount of land protected by the NPS in this area, which was not anticipated in the Plan when it was written in 2004 is a factor for consideration, but does not support the rezoning request.

Changes elsewhere on US 340:

Any discussion about new development that has occurred along the US 340 corridor toward Charles Town needs to acknowledge that the existing zoning was in place when those areas developed. There were no rezonings along the corridor. As this zoning existed for those properties, the Comprehensive Plan recognized the potential development in those locations and made no recommendations for change in the corridor. On the other hand, the Comprehensive Plan discussed the area surrounding the battlefield as an important County and State resource worthy of protection. Navigating these conflicting values, the US 340 corridor study provided a path from which to provide a balance. If adopted as an amendment to the 2004 Plan, the draft document provides a planning process that would permit the rezoning based on future land use map and along with other considerations in the plan.

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Development Implications:

The "...plan encourages new development patterns that foster mixed-use neighborhoods, so that a sense of community begins at the subdivision level (pg. 8)." The plan further "...recommends that Jefferson County's natural features, particularly stream valleys, be conserved as green space and that significant natural features be afforded protection as development proceeds (pg. 8)."

Staff concurs with the need for mixed development to provide for a variety of uses when possible. The Comprehensive Plan emphasizes that employment centers can be provided in a number of alternative County locations, where it is appropriate for more intense uses. While providing economic opportunities, the plan recognizes the importance to protect natural resources. There are a variety of permitted uses in the proposed zoning category which allows for more intense uses. The draft US 340 Plan addresses these two elements, economic growth and the natural features that should be retained. The US 340 plan outlines ways to achieve both features when balanced and provide some picturesque vistas that attract people to Jefferson County.

It is possible to view the requested rezoning as an extension of the existing zoning in the area. Without standards in the current ordinances or regulations for building design standards, there is no assurance that the rezoning will result in structures that appropriately designed for the area and protection of existing natural and historic features on the property. The study undertaken along the corridor in the past year has provided mechanisms for balancing scenic views and economic development. While typically viewed as only able to promote one feature and lose the other feature, there are ways to blend the two and result in a positive development. These goals have been unchanged for over 20 years; there is a common held vision that these elements are important to the County.

Below is a partial "...list of general goals was adopted as guidelines for the preparation of the 1986 Comprehensive Plan. These goals were readopted, unchanged and incorporated into the 1994 Comprehensive Plan (pg. 19)." These goals have been adopted in the 2004 Comprehensive Plan as well.

- *Promote growth and development that are both economically and environmentally sound.*
- *Encourage and support commercial, industrial, and agriculture activities to provide a diversified and sound local economy.*

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- *Promote the conservation of the natural, cultural, and historical resources and the preservation of its scenic beauty.*
- *Advocate the maintenance and improvements of transportation systems so that people and goods can move safely and efficiently throughout the County.*
- *Promote pedestrian friendly, livable communities.*

One of the goals mentioned above is to *“Encourage and support commercial, industrial, and agriculture activities to provide a diversified and sound local economy.”* It is important to remember that tourism is a real and vital component of Jefferson County’s economy which brings in real revenues just as other businesses do in the County. Jefferson County is number one in tourist dollars captured by any county in the State of West Virginia, capturing in \$729,000,000 for the 2008 year (Source 1). The proposed rezoning is within the area that visitors to the State and County acquire their first impression of the scenic views. Visitors do not enter the state to see suburban sprawl, rather the open vistas that welcome vacationers to Jefferson County and the State of West Virginia. Protecting our resources is pro-economic development that provides *“...a diversified and sound local economy.”*

A well-developed site could fit into the goals of the Comprehensive Plan, particularly for this location. A development that addresses natural features, such as adding concentrated landscaping, would result in some protection of the scenic as well as providing economic opportunities in the County.

#### US 340 Corridor East Gateway Plan:

This segment of US 340 is undergoing a comprehensive and systematic study to address the current and future transportation and land use needs of the corridor. This study is near completion and should be allowed to finalize in the process before land use decisions are pre-determined. There are real implications to land use decisions, such as this rezoning, that affects the transportation network. In this analysis, it is not only the rezoning and the possible uses that could be built that could cause a negative impact upon the traffic conditions, but the potential for transportation improvements or right of way dedication to be set aside on the parcel to improve the Corridor. Such transportation improvements are difficult if buildings are being constructed or are built. The West Virginia Department of Highways noted this concern to staff in another area of the County. With a detailed traffic analysis, each development that occurs in the area could assist in improving the intersection without a disproportionate burden

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to anyone applicant or project. The goal is to develop a unified solution to the transportation problems, not limit land use decisions.

The current East US 340 Corridor Plan recommends necessary corridor improvements and land use (zoning districts) changes along the corridor. The corridor study is discussed here and in the recommendation below. There is significant land mass along US 340 that could potentially be developed. There are a number of large parcels, totaling approximately 894 acres that are potentially developable (Image 6). That acreage does not include the numerous lots that are 7 to 20 acres in size that could be assembled for development, adding presumably an additional 100 to 200 acres of conceivable development. For reference, a square mile is 640 acres of land.

While a single more intense non-residential development may not have a significant negative impact on US 340, setting a precedent for allowing this type of development without a comprehensive corridor management plan in this area, sets the stage for an accumulation of minor negative effects that could result in a major problem. The goal of this Plan is not to predetermine what is going to occur along the corridor, so much as to plan how components of corridor mesh as a unit. Based on the draft future land use for the study, the rezoning is in keeping with the 340 Plan. It is important to remember the goal of the Plan is more than just allow an increase in zoning, but to plan for transportation improvements and possible design standards for structures. If the US 340 Corridor East Gateway Plan were to be adopted as an amendment to the 2004 Plan, it could play a role in this analysis.

When the US 340 plan was initiated, there were no predetermined findings. As the planning process has unfolded, the future land use map shows support for the requested rezoning. In an area where agreement is often difficult, the planning process shown positive results. This process has shown agreement for property owners to exercise their rights with less controversy that would not benefit anyone. A project built on mutual agreement is more productive than one on disagreement.

Summary:

Finally, the Comprehensive Plan accurately and clearly describes the 340 corridor that this rezoning could affect, as noted below:

- *"The US 340 corridor from the Shenandoah River bridge to the Charles Town bypass serves many purposes. It is the major transportation spine in the eastern part of the County. It is from this road that one views the panorama of the rest of the County from Alstadt's Hill. It serves as a collector for several secondary State highways which serve*

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*significant numbers of houses and businesses, and it serves as the eastern gateway to West Virginia. Traffic is ever increasing on this road, as are development pressures.*

- *This segment of US 340 is the most identifiable and visible artery in the County. Without effective study and management, this corridor could deteriorate into a strip of housing developments indistinguishable in character, and commercial development rivaling "strips" in nearby larger cities.*
- *US 340 is the main transportation spine through the County. As such, the purpose of this study is not to turn US 340 into an undeveloped parkway. Rather, it is stated here that the purpose of this study is to identify ways to ensure that the residential and commercial development that occurs along this corridor is designed and constructed in such a way where the development does not cause visual blight and major traffic problems along the eastern entrance corridor to the State. Buffers, landscaping requirements, traffic and access design, sign regulation and aesthetic highway improvements are all examples of issues that could be discussed as part of this study (pg. 72)."*

Again, while this rezoning is for 8.98 acres of property, the expansion and potential for traffic and visual blight is possible without careful consideration of the Corridor as a whole. It is imperative that the activity on this Corridor be reviewed very closely due it being the "most identifiable and visible artery in the County."

### ***Staff Recommendation***

Staff does not find the proposed rezoning to be consistent with the 2004 Comprehensive Plan. It also finds there have been changes of major changes of an economic, physical or social nature; however these changes do not support the rezoning. The major changes as it pertains to this request is delineated in greater detail on page 12 (Implications of the National Parks Service Property).

### **Non-conformance with the 2004 Comprehensive Plan:**

Since the 2004 Comprehensive Plan is the only adopted document permitted by state law to assess the requested rezoning, a review of policies, objectives and recommendations provided in the plan, when taken together, provide a compelling argument for denial of this rezoning application. They include:

- The existing zoning, Residential Growth, for the property is growth oriented. This land use designation for the property is in keeping with the Comprehensive Plan. The

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Comprehensive Plan for the 340 corridor does not discuss any need for additional zoning changes along the corridor. The Plan does go into detail that the growth in the corridor should not be "...indistinguishable in character..." from other communities (pg. 73).

- The Comprehensive Plan acknowledges the problems of the transportation network and the possible efforts to amend those problem areas. This intersection is a location that has a high number of traffic counts, is dangerous and there is no coordinated Plan for this to be improved. Each development may only add a limited amount of vehicle trips as a single development, but as a collective of all the developments possible at this intersection, it is a significant impact. If this site were used for light industrial uses, the associated truck traffic would probably overload the capacity of the roads in that location.
- The Comprehensive Plan does discuss that while the Residential-Light Industrial-Commercial District is considered mixed use, it does not require an appropriate mix of uses. The light industrial use is not compatible with residential uses and as such makes it difficult to classify the district as mixed use. While it allows for the option of mixed use, it is generally developed as a single use. There is no assurance that the permitted zoning district will not be used for light industrial uses. Since this eastern most section of 340 is described in detail in the Plan for its natural, historic, and cultural resources, the possibility of light industrial uses, fast food, strip centers or franchise businesses are not in conformance with those elements of the Comprehensive Plan or that specific area of the corridor.
- Page 72 of the Comprehensive Plan identifies the Route 340 Corridor as an area that should be targeted for special study. The Comprehensive Plan notes that the corridor serves as a collector for several secondary state highways which serve significant numbers of houses and businesses and it serves as the eastern gateway to West Virginia. Traffic is ever increasing on this route. This segment of US 340 is the most identifiable and visible artery in the County. Without effective study and management, this corridor could deteriorate into a strip of housing developments indistinguishable in character and commercial development rivaling "strips" in nearby larger cities. The Plan recommends study of the US 340 corridor, including land use, viewsapes, economic development, traffic design and management in order to create an effective strategy for a long term plan of this important Corridor. The Plan notes that buffers, landscaping requirements, traffic and access design, sign regulation and aesthetic highway

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improvements are all examples of issues that could be discussed as part of the study. Staff agrees with the Comprehensive Plan recommendations, and believes such a study should precede any rezoning with the corridor.

Unanticipated Changes:

As noted above, State statute provides that “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.” [See WVC 8A-7-9(c)] This subsection of the State Code goes onto state that, “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.”

There have been major changes of an economic, physical or social nature within the area that were not anticipated when the current Comprehensive Plan was written in 2004. However, these changes do not support the rezoning. Since 2004 the area has experienced a significant shift toward acquisition of historic properties by the National Parks Service. The acquisition has resulted in an economic change in that location where more land will be preserved than developed. While these properties have long been a place of historical significance, the land was not open to the public. With this fundamental change, property that is now near lands that are in public holdings should be reviewed in a different fashion.

US 340 Corridor East Gateway Study:

In March 2011, the Jefferson County Planning Commission and County Commission undertook the 340 corridor plan as recommended in the Comprehensive Plan. As this study nears completion, a community social shift has occurred that has resulted in a proactive development plan for the corridor and growth in this specific area with the guidelines for development standards.

The US 340 East Gateway Study is the result of a highly involved and detailed review of that particular area, whereas the Comprehensive Plan is a broader plan that is now dated. The methodical review of the corridor in the study has resulted in a draft land use map that creates a unified corridor plan and a level of buy in from the community.

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In this specific are the corridor study has provided an opportunity to promote growth in a location that finds itself conflicted by the goals of the Comprehensive Plan. Those goals are to both promote economic opportunities and protect the natural, historic and cultural resources of County.

The US 340 study has addressed this corridor with meticulousness and will allow for land use decisions based on an overall plan, not an ad hoc basis. It is a possibility that the corridor study may have an overlay zone, in this area that allows the applicant more flexibility in uses. In this case it would allow the applicant to garner staffs support. Additionally, the requested land use change may further garner public support and allow the applicant a less contentious path.

The new opportunities on the horizon provide Staff, the applicant, the decision makers and the public with an ability for a better decision. Currently planning in the corridor is ad hoc. In the past year, this has been Staff's position on the requests in this area, and this request is similar in that respect and with the right mechanism in place, could provide for better planning in this area.

**New Zoning Categories:**

Historically, in Jefferson County, the lack of assurance has been a limiting factor in rezoning requests. Unfortunately, that is not productive and quality planning that a community should strive for in developing a predictable land use system. While the Residential-Light-Industrial-Commercial District has been referred to in the past as the "mixed use" district, Staff has always added a caution to this statement. The caution is that the district does not require any mixing of uses, only the possibility of mixing uses. Further, the uses are so broad as to be incompatible if the least and most intense uses of the district were to be mixed. Currently, the County is developing new commercial zoning districts that will provide and facilitate a better planning process.

**Final Recommendation:**

Staff recommends that the applicant wait 6 months. This would allow for the US 340 East Gateway Corridor study to be finalized and provide at a minimum recommendations regarding land use (possible rezoning options) and traffic impacts. Additionally, the new zoning categories currently under underway will provide another option for a more precise and predictable planning tool. This recommendation is not unreasonable. At best, the applicant is able to market the property in a manner that the

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end user can be assured less intense scrutiny and assure a smoother process or approval. At worse, the applicant is in the same position that they are in currently.

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April 24, 2012

Image 3

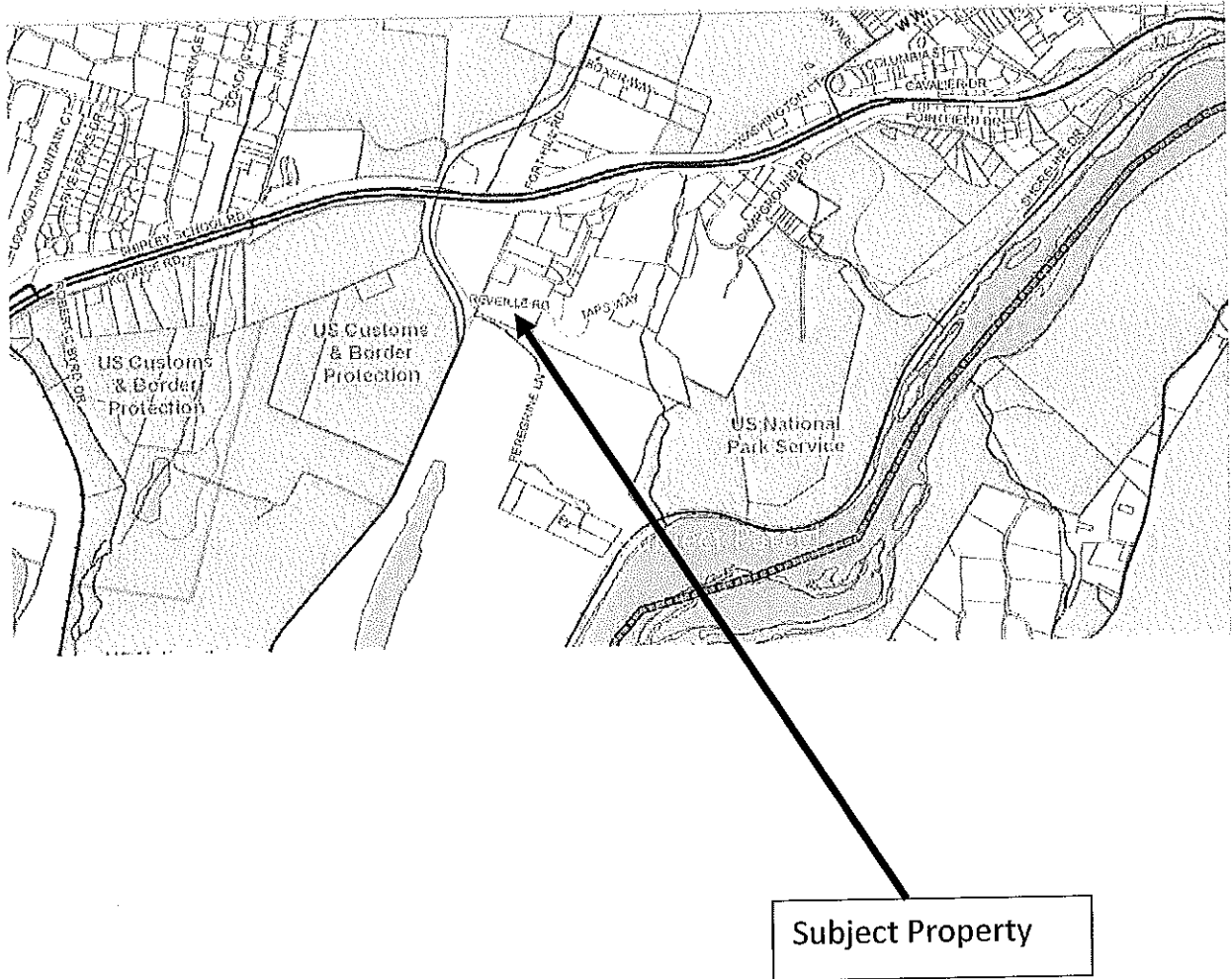
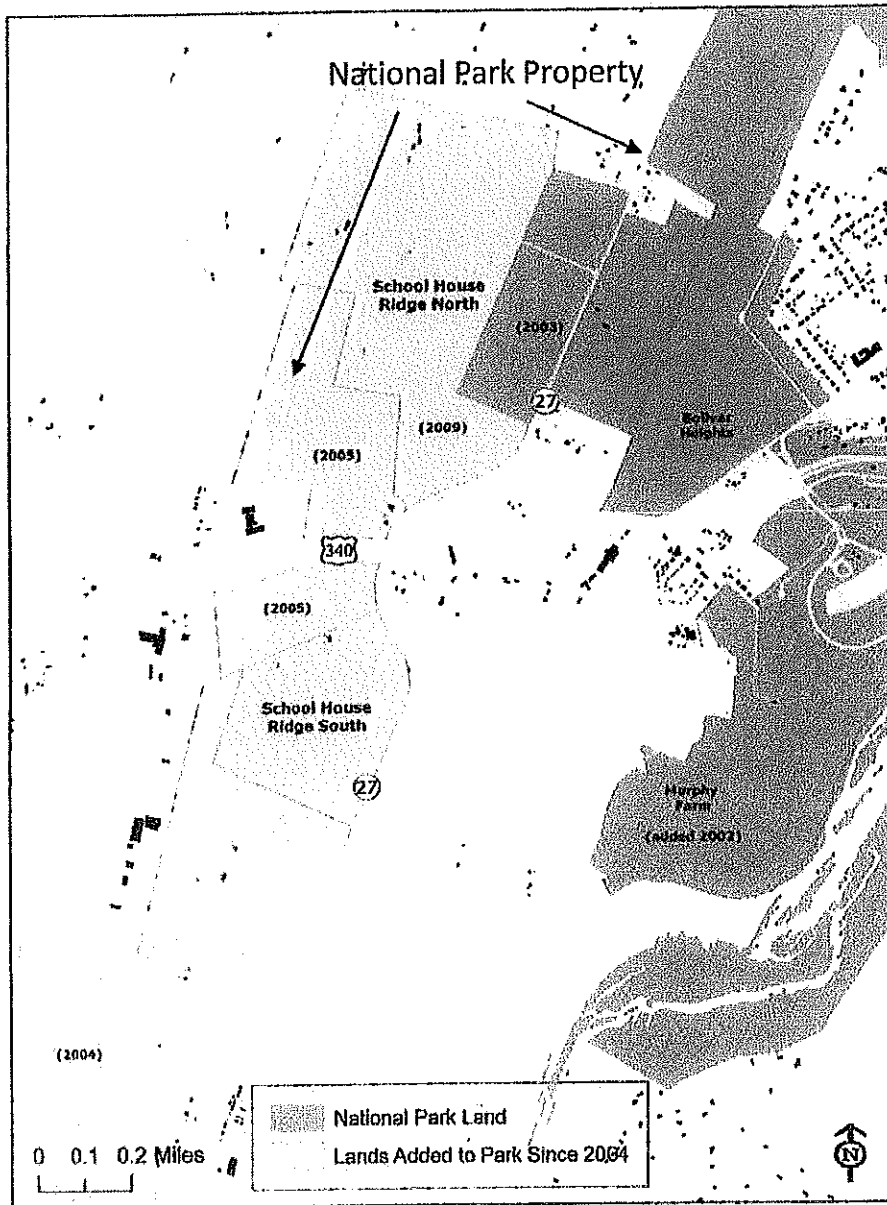


Image 4

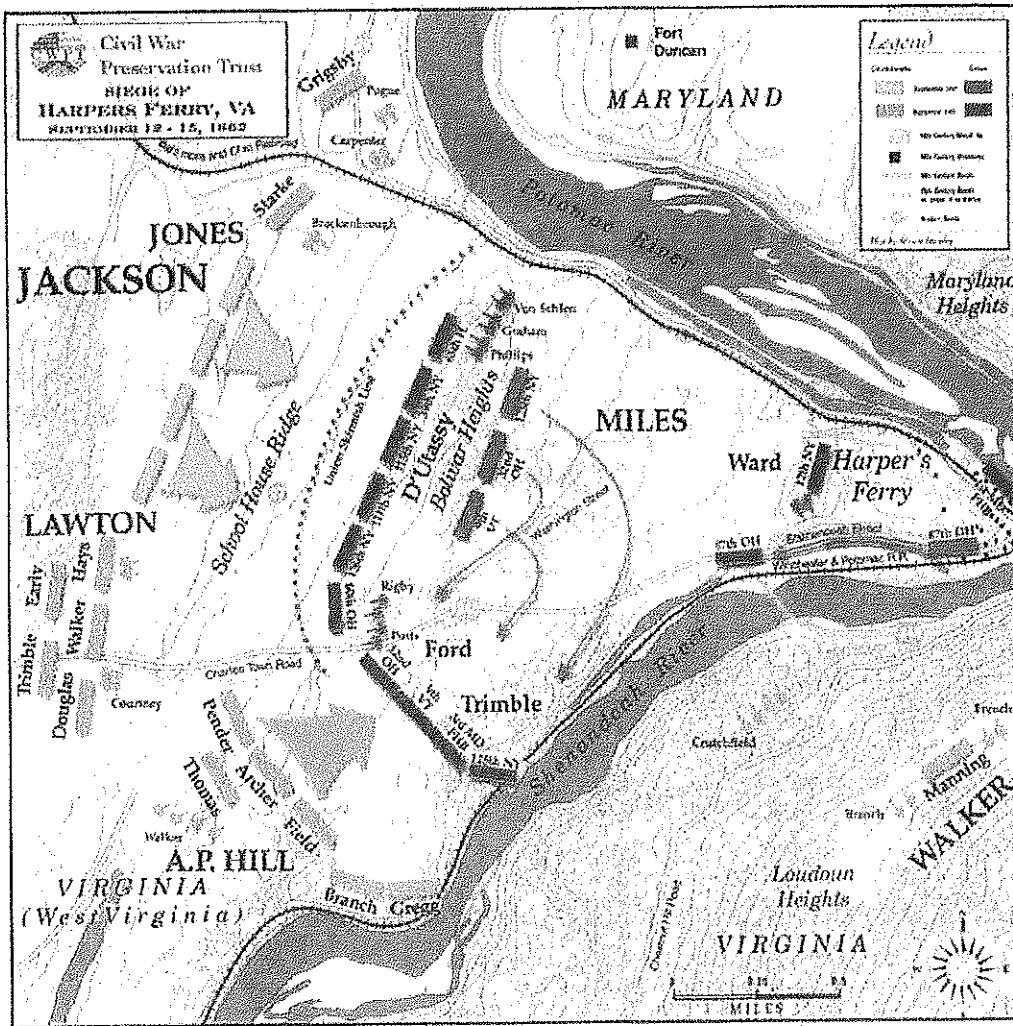
### Growth of Harpers Ferry NHP Since 2004



Staff Report  
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April 24, 2012

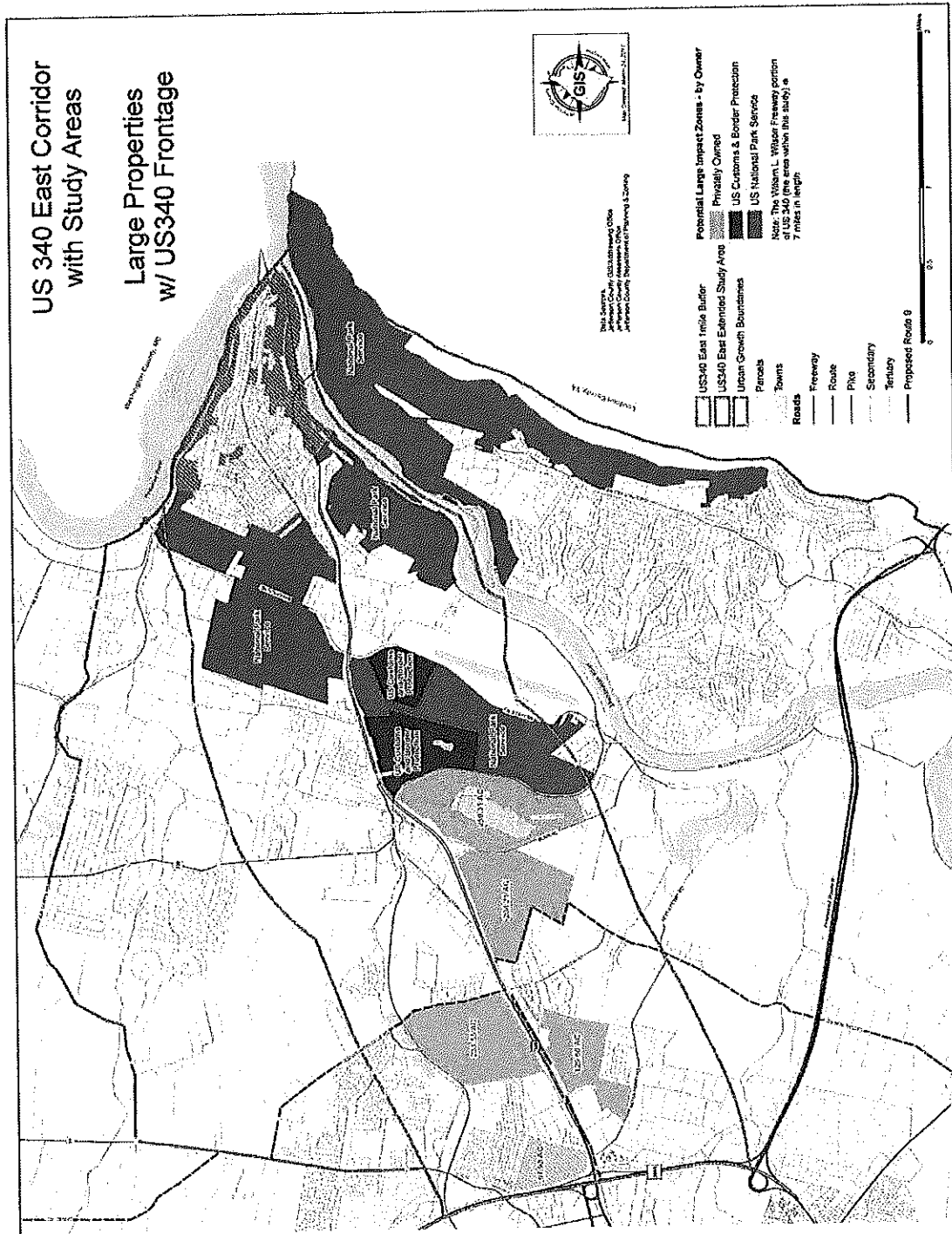
Image 5

School House Ridge and Bolivar Heights



Staff Report  
 Jefferson County Planning Commission Meeting  
 April 24, 2012

Image 6



Staff Report  
Jefferson County Planning Commission Meeting  
April 24, 2012

**Source 1**

Economic Impact of Travel on West Virginia 2000-2008 Detailed State and County Estimates  
Prepared for West Virginia Division of Tourism South Charleston, West Virginia

**Public Comments Received at April 24, 2012 Planning Commission Public Hearing  
Regarding the Rezoning Request for the Capriotti Property**

| Name                                                           | Concerns                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Developer's Representative's Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | PC Comments                                                                                                                      |
|----------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| Beth Marrone, adjoining property owner                         | <ul style="list-style-type: none"> <li>- Spoke in opposition of rezoning the property.</li> <li>- Believed that area would stay residential when she purchased her home 16 years ago.</li> <li>- Concerned that traffic would potentially become much worse dependent upon the use that would be placed on the property. This is especially important to her since the access to her home is an easement through the Capriotti property.</li> <li>- Concerned that additional traffic could exacerbate already hazardous traffic situations.</li> </ul> | <p>Annette Van Hilst, Consultant, responded that any Light Industrial uses would be limited by regulations and standards. She commented that the area is not within the park boundaries. She assured Ms. Marrone that the easement to her home would remain in place. She informed the Planning Commission that traffic will continue to be a problem even if the property is not rezoned. She explained that, even under the current zoning, the property could consist of many housing units which would lead to more traffic than a business.</p> | Mr. Pellish asked Ms. Van Hilst to confer with her client and draw up a proposal to compensate for Ms. Marrone's inconveniences. |
| Dr. James Gibson, owner of Alstadt property                    | <ul style="list-style-type: none"> <li>- Spoke in support of rezoning the property.</li> <li>- Believes the area had been used for many years for commercial uses and that commercial uses make sense for that area.</li> </ul>                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                  |
| Eric Sokol, adjoining property owner                           | <ul style="list-style-type: none"> <li>- Spoke in support of rezoning the property.</li> <li>- Confirmed the traffic issues in the area.</li> <li>- Believes the area should be rezoned as an opportunity to allow for outdoor tourism.</li> </ul>                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                  |
| Mary McGreevy, adjoining property owner                        | <ul style="list-style-type: none"> <li>- Spoke in opposition of rezoning the property.</li> <li>- Concerned that there is no specific plan for the use that will be on the property. She stated she would like to know what is going in next to her house.</li> <li>- Stated that traffic is a concern.</li> <li>- Does not want River Riders to use the property to expand the business.</li> <li>- Concerned of the aesthetics of the area to visitors and protection of the viewshed.</li> </ul>                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                  |
| Matt Knott, area property owner<br>(Via email)                 | <ul style="list-style-type: none"> <li>- Wrote in support of rezoning the property.</li> <li>- Commented that the mixed use request is a common zoning category to the surrounding properties.</li> </ul>                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                  |
| Rebecca L. Harriett, Superintendent of the NPS<br>(Via letter) | <ul style="list-style-type: none"> <li>- Wrote in opposition of rezoning the property.</li> <li>- Believes the request is overly broad and would allow uses that may be out of context with the character of the area and that there will be a negative impact on historic values and uniqueness.</li> <li>- Believes that the request is not in conformance with the Comprehensive Plan.</li> </ul>                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                  |

712-01

PETITION FOR MAP AMENDMENT

Gene P. Capriotti

January 10, 2012

Owner/Applicant:

Gene P. Capriotti  
P.O. Box 335  
Harpers Ferry, WV 25425

Ordinance Citation:

Article 12 of the Jefferson County Zoning and Development Review Ordinance as amended on November 10, 2011. Also, the newly adopted amendment to the definitions in Article 2, Section 2.2 defines a map amendment as:

“An amendment to the Zoning Map which is adopted by reference in the Zoning Ordinance that consists of a change that only applies to a specific property, changing from one existing zoning designation to another existing zoning designation. A map amendment does not permit changes, conditions or alterations to uses permitted within an existing zoning designation as all zoning designations must be uniformly applied to all property which are subject to said designation.”

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. The Applicant believes that this change is consistent and compatible with the 2004 Jefferson County Comprehensive Plan, as illustrated in this application; and,
2. There has been a significant change in the neighborhood, since the Jefferson County Zoning Ordinance was adopted in 1988 (most notably in the past 4 years), as explained in this application.

Tax District, Map and Parcel Number:

Harpers Ferry Tax District, Map 9, Parcel 58

Deed Book Reference:

Deed Book 584 at Page 587

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JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

Sketch Plat:

Attached

Tract Size:

8.98 Acres

Discussion on:

Comprehensive Plan compatibility of the proposed change: Included.

Any Change of transportation characteristics and neighborhood from when the original ordinance was adopted: Included.

A. Comprehensive Plan Compatibility

The 2004 Comprehensive Plan includes many recommendations. However, only a few address items that can be helpful when dealing with a rezoning.

These recommendations include the following:

**Recommendation 3.18 on Page 64:**

“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.”

Commentary:

Currently this property is zoned Residential Growth. As such the applicant could design a project that included many apartments, townhouses and condominiums without a commercial component to offset what is raised in this recommendation. If the property were rezoned to the ‘mixed-use’ zone, then it could develop a commercial component that would lessen the residential impact and provide services to the residential traffic created by only a housing development.

Also, due to the recent expansion of River Riders, this property would be a natural expansion to River Riders, or an opportunity to provide commercial services to the patrons of the successful business. This property contains the access to a good portion of the property owned by River Riders.

**Recommendation 3.25 on Page 73:**

“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”.

**Commentary:**

This study is underway with its original attempt to address economic development and traffic characteristics as the Comprehensive Plan suggests. In the implementation section of the Plan (page 106, attached), to implement Recommendation 3.25, it mandates a ‘cooperative planning effort with the WV DOT to improve the US 340 corridor.’ As the study progressed several interesting findings were presented by the Hagerstown Eastern Panhandle Metropolitan Planning Organization (HEPMPO) and the consultant working on the Route 340 East Corridor Study. First, this study did not address where the traffic on Route 340 originated or where the traffic was going. So, the question remains how much of the traffic on Route 340 is ‘pass through’ traffic versus local traffic. It should be estimated that quite a bit of the Route 340 traffic is pass through traffic, since Route 340 is a major east/west connection to Interstate 81 from the Baltimore/Washington metropolitan area. If so, there may be other alternatives to address the traffic on Route 340 in Jefferson County. These alternatives could include bypasses and improved routes outside the 340 corridor. The second remarkable item was that the Bakerton/Route 340 intersection didn’t appear to be included in HEPMPO’s prioritization of needed improvements in the Eastern Panhandle.

The applicant believes that the 340 study should identify a large portion of the 340 Corridor as key to economic development by proposing to rezone the area to as much commercial, industrial and mixed-use land as possible. This would maximize the land use in an already defined mixed-use area. This area is already indicated as the major ‘growth area’ of Jefferson County in the 2004 Comprehensive Plan. The Federal Government certainly recognized the value of the location with the ongoing construction of the massive U.S. Customs and Border Patrol operation.

Finally, this property is already surrounded by River Riders, the Old Standard Quarry and the Flea Market. All three of these properties are either zoned Residential/Light Industrial/Commercial or already approved by the State for a large commercial and office development. The Route 340 East Corridor Study should recognize this location, as the County Commission has in its recent rezoning actions.

Based on the above, the Applicant believes that this rezoning is consistent with Recommendation 3.25 in the Comprehensive Plan as it relates to the study contemplated by the County Commission in its desire to enhance economic development along this corridor.

**Recommendation 4.01 on Page 78:**

“It is the vision of this Comprehensive Plan that development will be concentrated within the designated growth areas”.

**Commentary:**

The map that shows the designated growth area is found on page 75 of the Comprehensive Plan. This map is included with this petition. The subject parcel is shown within the designated growth area on that map. On page 70 of the Comprehensive Plan, it states that the strong majority of this area is designated as the Residential Growth District and the Residential/Light Industrial/Commercial District. Page 71 goes on to say that there is a need to maximize the ‘potential for commercial development to offset the demands of residential development’ because every property developed entirely for residential use is a lost opportunity for much needed commercial development.

Since the subject property is already zoned Residential Growth and it is located within the designated growth area, the rezoning of this property to mixed use is a perfect opportunity to realize this need for commercial development. As such, this rezoning application is in perfect conformity with the 2004 Comprehensive Plan.

The applicant believes that this rezoning is very much consistent and compatible with the 2004 Jefferson County Comprehensive Plan based on the above recommendations.

**B. Change of Neighborhood**

The zoning designations and changes in use and intensity of uses have significantly changed the neighborhood in the very recent past. Furthermore, the availability of water and wastewater infrastructure has also changed since the original zoning ordinance was adopted in 1988.

The zoning changes and the changes in uses that have recently occurred in the area include:

1. The County Commission rezoned several properties in the immediate area of the subject property. Last year, the County rezoned the property on the north side of Route 340 in this area (Shenandoah Development) from Residential Growth to Residential/Light Industrial/Commercial for most of the same reasons found in this petition. Also, in January 2012, the County Commission rezoned the Gibson Property, which is directly across the road from this property to the 'mixed-use' zone, as well. The Gibson property almost entirely fronts the property in this petition.
2. River Riders has expanded considerably in the recent years and most recently purchased the property that shares most of the eastern property line and some of the northern property line with the Applicant's property. These properties are also already zoned Residential/Light Industrial/Commercial.
3. The Old Standard Quarry shares the entire southern boundary with the subject property. This land has recently been subdivided and effectively rezoned by the State for approximately 40 commercial/office/institutional/industrial lots.

These recent changes almost completely surround this property, which would certainly make it an appropriate candidate to share the zoning designation requested.

Another significant change of use in the neighborhood includes the ongoing development of the U.S. Customs and Border Patrol property along Route 340. The development is not only good for the County, but it is huge and there appears to be no limit to what all will be developed on that site.

There have been other changes in the neighborhood, since the adoption of the zoning ordinance, which would support the requested change from Residential Growth to the Residential/Light Industrial/Commercial District. These include the following:

1. Availability of Public Utilities:

Public Water and Wastewater facilities are now available in this neighborhood. In fact, both central utilities are already available to this subject parcel. One of the major goals of the Comprehensive Plan states 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'.**

**Also, since the property is already zoned Residential Growth, any added commercial portion to the development would lessen any school impact. Plus, since the property already has public water and sewer services, the public would have no costs regarding these utilities.**

**2. Growth in the Corridor:**

**There have been many commercial additions to this neighborhood, and the Route 340 Corridor in general, since the adoption of the zoning ordinance. These include: the addition of the Casino and table games; the Customs and Border Patrol Development; the funeral home; several landscaping business; the expansion of River Riders; the redevelopment of the Quality Inn; the Shenandoah Professional Building; Windmill Crossing including the Sheetz, Aldi and Tractor Supply Company; and the Sears Professional Building to name a few. This is proof that the Route 340 Corridor is destined to continue to provide economic growth for the County. These commercial projects, along with the also approved residential developments along this corridor is evidence that the corridor's mixed use is consistent with the Comprehensive Plan, since they have been developed under the current Plan. The subject property is a perfect fit to 'square-off' the already zoned adjacent properties for commercial or mixed-use development.**

**C. Change of Transportation Characteristics:**

**There have been significant changes in the transportation and traffic characteristics since the original zoning ordinance was adopted. The Route 340 Bridge was replaced and widened. New signals were added and lane adjustments were made at the Route 230 and Route 24 intersections with Route 340. The school bus improvements were also made at the Shipley School intersection. Also, an entire new intersection with a signal is planned for the U.S. Customs and Border Patrol access to Route 340. All of these intersection improvements have made a significant positive change to the transportation patterns for the betterment of the area:**

**The Harpers Ferry National Park also contributed to the improvements to traffic in the area by constructing their Parking and Bus Transportation Center near Bolivar. This facility has eliminated a lot of conflicting vehicle movements by providing a centralized mass transit operation.**

The Planning Staff also announced during the Route 340 Corridor Study that a new cooperative effort between Maryland, Virginia and West Virginia has begun to address the bottleneck 'between the bridges'. Furthermore, some of the commuter traffic was already addressed when the commuter rail station and parking lot at Duffields were built sometime after the original zoning ordinance was adopted.

These improvements to the transportation network have had a positive effect on the traffic flow in the Route 340 Corridor. More needs to be done, but a traffic signal at the Bakerton/340 intersection would help the situation. It is important that the Comprehensive Plan and the HEPMPO prioritize the upgrade of this intersection.

Please note that this property is already zoned Residential Growth. As such, there should be little significant difference in traffic from this property if it is rezoned to mixed-use. A mixed-use development would have a more favorable outcome regarding traffic since some of the local residents could utilize the commercial services available if the property is rezoned.

#### D. Policy and Goal Statement in the Comprehensive Plan

The Comprehensive Plan contains narrative that supports the rezoning request, but it is most evident in the following policies and goals found in the Plan:

'This Plan encourages new development patterns that foster mixed-use neighborhoods so that a sense of community begins at the subdivision level';

'This Plan encourages economic development so that residents can live and work in the County';

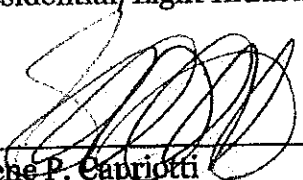
(The Plan should) 'Encourage growth and development in areas where sewer, water, schools, and other public facilities are available or can be provided without unreasonable costs to the community'; and,

(The Plan should) 'Encourage and support commercial, industrial, and agricultural activities to provide a diversified and sound local economy'.

Regarding land use policy, the Growth Area Map appears to be the only land use policy map in the Comprehensive Plan. Therefore, this map should be the biggest key in making the decision to rezone the subject property.

E. Conclusion:

The Applicant is requesting that the County Commission approve a map amendment to the Jefferson County Zoning Map. The 2004 Comprehensive Plan; the recent actions of the County Commission regarding rezoning in this area and adjacent to the site; and, the changes in the neighborhood from when the original zoning ordinance was adopted, all support the requested map amendment. 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.

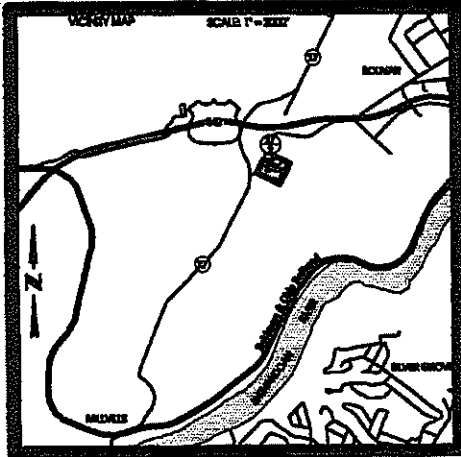


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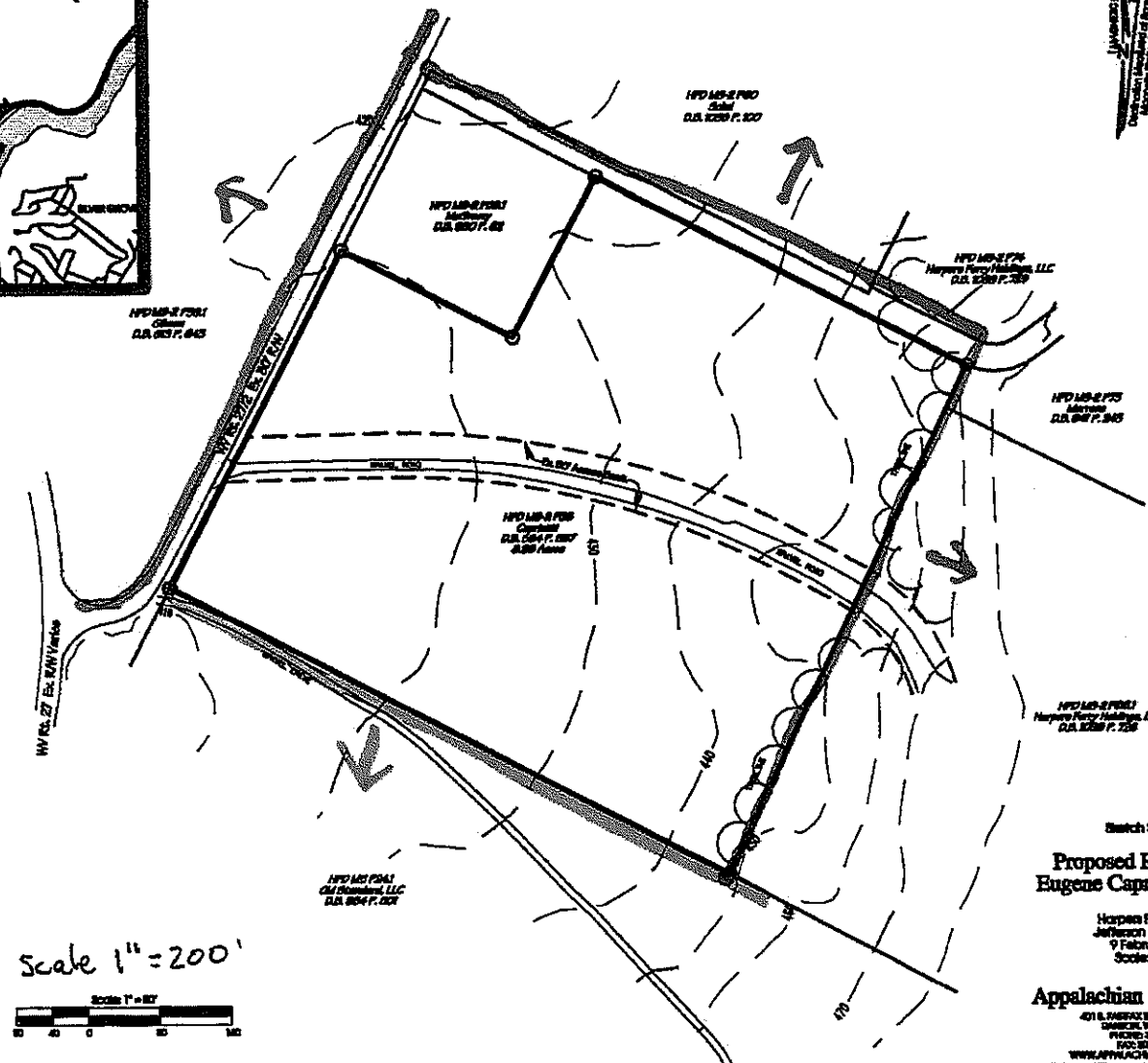
Gene P. Capriotti

18 Feb 2012  
Date

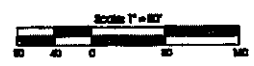
# Z12-01



UNDESIGNED SURVEY  
 CONDUCTED IN ACCORDANCE WITH THE  
 SURVEYING ACT OF 1962  
 AND THE SURVEYING ACT OF 1976



(Reduced) Scale 1" = 200'



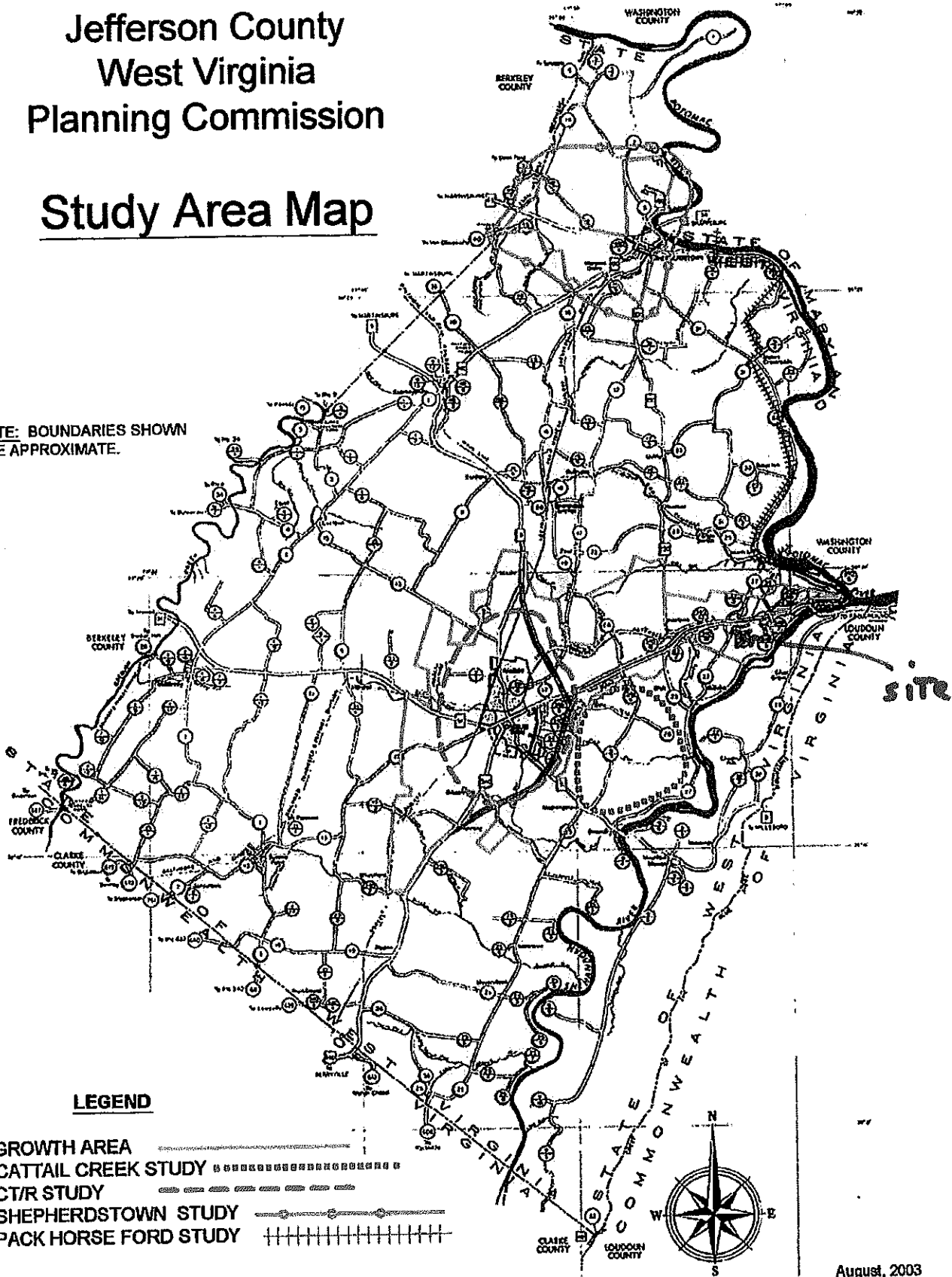
Sketch Showing  
**Proposed Rezoning of  
 Eugene Capriotti Property**  
 Harpers Ferry District  
 Jefferson County, WV  
 9 February 2012  
 Scale: 1" = 80'  
**Appalachian Surveys, PLLC**  
 401 S. SHEPARD BOULEVARD, SUITE 8  
 CHARLOTTE, NORTH CAROLINA 28203  
 PHONE: 704.366.8800  
 FAX: 704.366.8800  
 WWW.APPALACHIANSURVEYSPLLC.COM

————— Residential / Light Industrial / Commercial District  
 ————— OLD STANDARD QUARRY (Approved (STATE) Commercial (Industrial))

# Jefferson County West Virginia Planning Commission

## Study Area Map

NOTE: BOUNDARIES SHOWN  
ARE APPROXIMATE.



### LEGEND

1. GROWTH AREA
2. CATTAIL CREEK STUDY
3. CT/R STUDY
4. SHEPHERDSTOWN STUDY
5. PACK HORSE FORD STUDY

August, 2003  
NOT TO SCALE

# 712-01



**the crossroads group**.....

22 van Clevesville Rd. Kearneysville WV, 25430

April 24, 2012

Jefferson County Planning Commission  
124 East Washington Street  
Charles Town WV 25414

Dear Chairperson Taylor, Members Hayes, Stolipher, Taylor, Burns, Baty, Eppers, Smith & Pellish:

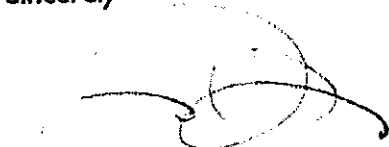
Let me introduce myself, I am Annette van Hilst, an almost life long resident of Kearneysville, having moved to Walper's Crossroads in 1955. I am a registered architect in the State of West Virginia & have worked as a Community Development Director, Planner & Zoning Administrator in Washington & Montgomery County, Maryland & Jefferson County WV. Until early this year, I worked part time as a Senior Land Planner for Dewberry, first out of our Ranson office & then from my home. I previously worked for Appalachian Surveys of WV & for 5 years as the Planner & Zoning Administrator for the City of Charles Town.

Tonight, I am representing Eugene Capriotti in his request for a rezoning of a property he owns in the Harper's Ferry District. Attached to this letter are the following:

- A 14 page presentation that I will be using tonight.
- A 2 page comment on the staff report with additional information for your consideration
- 2 letters submitted by neighbors of the property
  - Jeffrey Carpenter
  - Matt Knott

I ask you to carefully consider all the material presented in making your recommendation to the County Commission regarding the requested rezoning.

Sincerely



Annette G. van Hilst R.A.  
Principal, the crossroads group

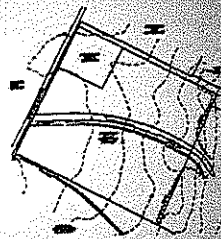
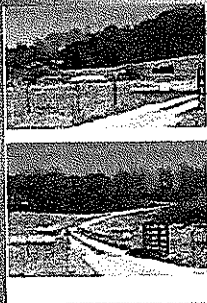
# REZONING REQUEST

Parcel 58 Map 9:2 Harpers Ferry  
District  
April 24, 2012

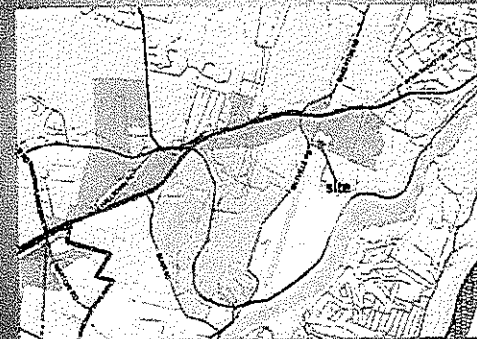
## LOCATION



## CURRENT STATUS

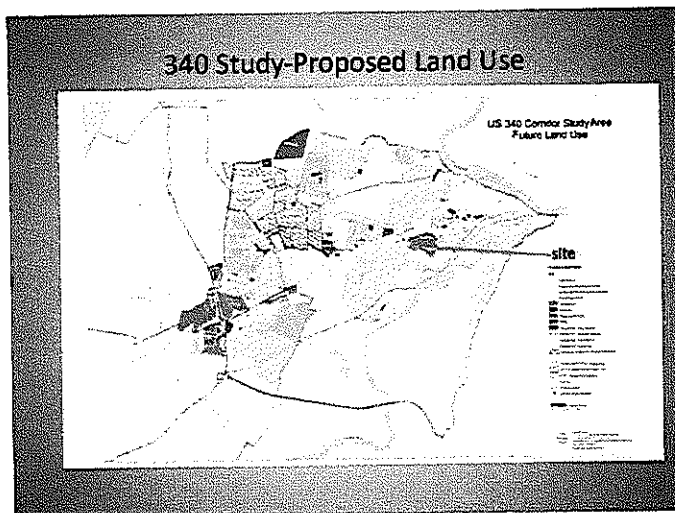
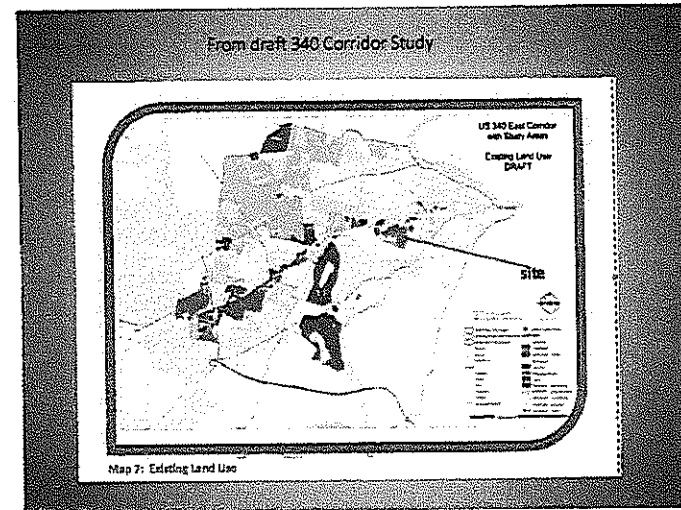


## CURRENT ZONING



**REQUEST**

REZONE FROM RESIDENTIAL GROWTH  
TO  
RESIDENTIAL / LIGHT INDUSTRIAL / COMMERCIAL



**Why Rezone?**

Major change in uses & character along the 340 Corridor since the original zoning was done in 1984

- Original zoning showed most of the area within the 340 Corridor as residential/light industrial/commercial & residential growth.
- The land within the corridor was in private hands
- 340 Corridor was & is the major growth area for the county. Businesses in the Corridor included River Riders, two concrete plants, shopping centers, nurseries, etc
- The Homeland Security Facility & purchase of land by NPS has sharply reduced the amount of land available for mixed use & commercial development.

## Major changes

- Creation of Charles Town Casino & Slots
- Expansion of Harper's Ferry NHP to include land on either side of 340
- New Homeland Security Campus displaced two existing businesses forcing one to relocate to Berkeley County & the other to relocate just above the property being considered for rezoning.
- Improvements to 340 including service roads, stop lights & bridge improvements
- Effective rezoning by the State of the Old Standard Quarry adjacent to the site into a commercial office park development containing 41 lots
- A sewage treatment plant, water & sewer lines have been constructed that serve the property
- Two properties have been rezoned to Residential/Light Industrial/Commercial, one adjacent to the property within the last year
- Land available for commercial or mixed use development has been significantly reduced.

## Proposal is for a rezoning

- Proposal is not for a specific use, but for a zoning category
- Concerns with regards to traffic, landscaping, view sheds etc. are addressed at site plan or at subdivision, not at this stage
- The property meets the requirements for the rezoning

## Response to Staff Concerns

- Non-conformance with 2004 Plan: Because the plan does not state the need for rezoning in the 340 Corridor does not mean that rezoning is not possible due to unanticipated changes within the area. Two rezonings have been approved by the County Commission in the Corridor within the last year.
- Staff is concerned about the impact of a light Industrial use, a practical impossibility on this site (except for small craft type uses) on the intersection at 340. No use has been determined & the time to consider traffic impact is when a use has been determined & a site plan is being submitted.
- Staff discusses the requested zoning category & provides an opinion that certain types of development such as fast food (not allowed under the proposed zoning) or strip malls are not suitable for this area. The site is located between an existing river rafting business & a proposed business park. Across the street is the existing flea market that was recently rezoned. Staff admits in the draft 340 Study that the site is proposed for mixed use, but then staff recommends that the rezoning not be approved when the zoning category being requested allows mixed use, while the present zoning does not.

## Continued response to staff concerns

- Though the Comprehensive Plan recommends a special study of the 340 Corridor the plan was not started until 2011, though the recommendation was made in 2004. If the study was so important, it should have been started soon after adoption of the Comprehensive Plan, not almost 6 years later. The concerns raised can be addressed when a use is known and a site plan has been submitted & should not be a reason to not recommend the rezoning. No moratorium has been put in place to stop development in the corridor.
- When the Comprehensive Plan was adopted in 2004, the Federal Government had not acquired most of the land on the east side of 340 from Millville Road to Halltown Road, land that is zoned for Residential/Light Industrial/Commercial. The expansion of Charles Town along the 340 Corridor had not occurred & water & sewer lines as well as a sewage treatment plant had not been constructed to serve the area in question.
- Staff states that the major change is from development of land to preservation of land. No mention is made of the major decrease in land available for development or of a further decrease the taxable base of the County.

### Continued response to staff concerns

- Staff then proceeds to state that staff support for the requested change might be possible once the 340 Study is adopted. However, changes may occur to the draft study & the date of its adoption is uncertain.
- We note that the study does recommend mixed use for this site.
- Staff appears to want to replace the existing zoning categories with new commercial or mixed use categories prior to revision of the Comprehensive Plan. New zoning categories normally are based on changes in a comprehensive plan. Since our existing plan dates from 2004 & work has not started on updating or revising the Comprehensive Plan, it appears that the cart is being put before the horse!
- FINALLY, the staff recommendation is to wait six months and then resubmit because more information on traffic impacts, land use etc. might be available.

### CONCLUSION

- As stated previously, this is a rezoning request for a broad category, with use to be determined for the site, though in our original presentation, we suggested several possible uses including expansion of River Riders.
- The site is practically surrounded by land that is already zoned Residential/Light Industrial/Commercial. It is a prime location for uses that serve the tourist industry, being located just down the hill from the Harper's Ferry NHP & near the one major motel complex in the area.
- Staff concerns with regards to type of use, traffic impact, screening, landscaping etc. are typically handled at site plan, not during a rezoning request.
- If staff believes as stated in the 340 Study that this site should be mixed use, what harm is done by zoning it as requested at this time. We respectfully disagree with staff and urge you to recommend the rezoning to the County Commission.

**Eugene Capriotti Rezoning Request  
Comments on Staff Report  
April 24, 2012**

As the staff points out in the staff report, the Comprehensive Plan contains a lot of narrative that can be interpreted differently by different people. However, there are some statements that deserve consideration. The staff report discusses the Mixed-Use District but leaves out an important paragraph regarding commercial and industrial uses found on page 71:

“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. With needing to maximize its potential for commercial development to offset the demands of residential development, every mixed use property developed entirely for residential use is a lost opportunity for much needed commercial development.”

First, it is remarkable that only 5% of the County is zoned for commercial and industrial. Second, the above statement reflects the need to add commercially zoned land in Jefferson County. Since the subject property is already zoned residential, this map amendment can only benefit the need for additional commercial land.

The staff report also points out that the mixed use zone allows unknown industrial uses that may develop on this site. In fact, it would be virtually impossible to put an industrial use on this 9 acre site due to its size. In addition to the small size, the site is bisected by a road and access easement. An industrial use would also need to provide a 200 ft. setback along the north and west property lines. Finally, the mixed use zone requires additional strict standards including: a very restrictive noise limitation; smoke, vibration, ambient air quality and odor limits; fire safety standards: glare and heat standards; and, toxic matter controls. In this location, it is not realistic, as the staff report suggests, that strip malls, fast food restaurants and franchise business could develop on this property. As discussed, it is improbable for industrial and it isn't practical for strip malls. Fast food restaurants shouldn't be an issue since fast food restaurants and convenience stores aren't principal permitted uses in the mixed use zone. And finally, 'franchise business' is a broad category, but the staff report doesn't explain why they would be a bad use.

On page 12, the Staff Report states that the Comprehensive Plan encourages “urban level developments” on this site because of the existing water and sewer service. The applicant would prefer not to turn the entire property into an ‘urban level’ housing development as is permitted by the existing Residential Growth District on this property. The County should not lose sight of the fact that this property can develop residentially, but a map amendment would also allow commercial uses on this property.

Regarding the National Park Service, the County was well aware of the park's expansion plans in 2004 when the Comprehensive Plan was written. Even so, the County didn't make any special allowances for it in the Plan at the time. In the staff report, there also seems to be a lot of emphasis on the concerns of the NPS in this corridor. However, everyone seems to ignore the massive development of the Customs and Border Patrol Complex in the corridor. Whereas the subject 9 acre parcel seems to be a major interest, the hundreds of acres being developed 'down the street' at the Customs Center, doesn't seem to be such a problem. It would seem that much more traffic, etc. would be generated at the Customs development than on the subject 9 acres. As indicated on the map provided on page 21 of the staff report, this property, in fact, does not adjoin the NPS land.

Finally, the staff report suggests that the applicant should wait 6 months to go forward with the map amendment so that the 340 Corridor Study can be completed. This is the same suggestion made for the Shenandoah Professional Building and Gibson rezonings (both approved by the County Commission). However, in this case the Draft 340 Corridor Study is complete. This is a study that has taken the County over a year and a half to complete. It is a Study that carries the full recommendation of the Staff that completed the Staff Report on this map amendment. On page 82 of this staff recommended 340 Corridor Study it states:

"It should be noted that the Future Land Use Map represents an advisory document to be used by Jefferson County's staff, boards, commissions and elected officials in making land use recommendations."

In this case, the subject property is shown as Mixed Use – Residential/Commercial on that map. It is further supported on Page 81 of that staff recommended study where it states:

"The node at Bakerton/Millville is proposed as a Residential/Commercial Mixed Use area and is buffered by existing residential uses. This future land use category is also shown on northern section of the Old Standard Quarry property."

Even if the Study is not adopted by the County Commission, it still represents what the staff believes that this site should be mixed use.

In conclusion, the County should approve the map amendment for this property, because the Comprehensive Plan supports it just as much as the Plan supported the rezonings of the Shenandoah Professional Building Property and the Gibson property. Both of these map amendments were approved by the County Commission as being consistent and compatible with the Comprehensive Plan. This property is adjacent to the Gibson property and is nearly surrounded by the Residential/Light Industrial/Commercial District and the Old Standard Quarry.

Jeffrey Carpenter  
PO Box 672  
Harpers Ferry, WV 25425

April 16, 2012

Paul G. Taylor, President  
Jefferson County Planning and Zoning Commission  
124 East Washington Street  
Charles Town, WV 25414

Dear Mr. Taylor:

I am a neighbor and owner of a tract of land next to the property owned by Gene Capriotti. It is my understanding that he has requested a rezoning of this property from Residential to Residential/Commercial/Light Industrial.

The purpose of my letter is to express my support for this request and to ask the commission to approve it.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jeffrey A. Carpenter".

Jeffrey Carpenter

Cc: Patsy Noland, President, Jefferson County Commission

Jefferson County Commission  
Department of Planning  
P.O. Box 338  
Charles Town, WV 25414

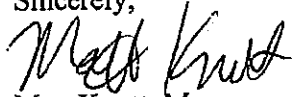
RE: Gene Capriotti Re-zoning Map 9-2 Parcel 58

April 18, 2012

As an adjoining landowner, we support the rezoning of Gene Capriotti's property on Alstadts Hill Road to mixed use residential/commercial/light industrial zoning. Mixed Use Zoning is similar to the zoning category of adjacent properties.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "Matt Knott". The signature is written in a cursive, flowing style.

Matt Knott, Manager  
Harpers Ferry Holdings



# United States Department of the Interior

NATIONAL PARK SERVICE  
Harpers Ferry National Historical Park  
P.O. Box 65  
Harpers Ferry, West Virginia 25425

IN REPLY REFER TO:

L1425 (HAFE)

April 23, 2012

Mr. Paul G. Taylor, President  
Jefferson County Planning Commission  
116 E. Washington St., 2nd floor  
P.O. Box 338  
Charles Town, WV 25414

Dear Mr. Taylor:

This is in response to the petition to rezone the property designated as Harpers Ferry Tax District, Map 9, Parcel 58. The 8.55-acre property is currently zoned Residential Growth and is located south of Rt. 340 on the east side of Allstadt's Hill Road. The owner has requested a change in the zoning to Residential/Light Industrial/Commercial. Due to the overly broad nature of this zoning designation and the potential significant adverse impact on the historic values of this and adjoining properties, the National Park Service (NPS) opposes the rezoning.

It is imperative that the County's zoning categories provide a level of predictability for current and future property owners, business owners, and investors. Equally important is the need to make land-use decisions on a systematic rather than piecemeal basis. Unfortunately, the Residential-Light-Industrial-Commercial category of zoning sought under this petition is poorly construed. If approved, it would allow any number of uses that would be out of scale and context with the character of the historical setting. The NPS urges you to continue your investigation into additional zoning categories that will allow more predictability and result in more thoughtful land use decisions.

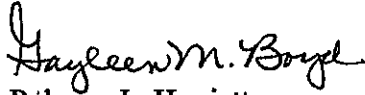
The NPS believes that the subject property and much of the immediate surrounding area are historically and scenically unique. The property is located in the heart of the 1862 School House Ridge Battlefield, site of Major General Thomas J. "Stonewall" Jackson's greatest victory, and a landscape that the NPS and other preservation-minded groups have spent millions of dollars to transform into a premier tourist destination. A recent report estimates that in 2010, Harpers Ferry National Historical Park generated more than \$10 million for the local economy. Inappropriate development at this historical and scenic gateway to Jefferson County will have a negative impact on the local tourism industry with long-lasting implications.

The County's Comprehensive Plan strives to ensure that future development is designed and constructed in such a way that discourages visual blight and does not exacerbate major traffic and transportation problems. The NPS considers this landscape a county, state and national resource, one that deserves careful review and wise judgment. Rezoning this property would run

counter to the Plan's goal to promote growth and development that does not compromise the historic resources and scenic beauty.

Thank you for the opportunity to comment on this important matter.

Sincerely,



for

Rebecca L. Harriett  
Superintendent

cc: Jefferson County Planning Commission Members:

Daniel Hayes

Stephen Stolipher

Clifford Taylor

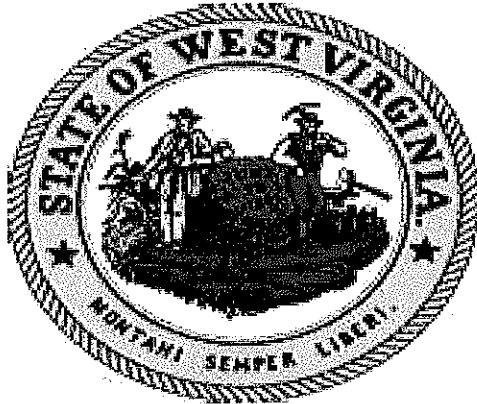
Ed Burns

Wm. Kelly Baty

Morgan Etters

Eric Smith

Walt Pellish



**JEFFERSON COUNTY  
OFFICES WILL BE  
CLOSED ON  
WEDNESDAY, JUNE 20,  
2012 IN OBSERVANCE  
OF WEST VIRGINIA DAY**

**NOTICE OF PUBLIC HEARING  
COUNTY COMMISSION OF JEFFERSON COUNTY  
DRAFT AMENDMENT TO THE IMPACT FEE ORDINANCE**

The County Commission of Jefferson County will hold a public hearing concerning the Draft Impact Fee Ordinance on Thursday, June 21, 2012 at 7:00 p.m. in County Commission meeting room located at the Old Charles Town Library Meeting Room on the ground floor of the Library, 200 East Washington Street, Charles Town, WV 25414.

The purpose of this public hearing is to gather public input on the Draft Amendment to the Impact Fee Ordinance that addresses the affordable house component required to be implemented by July 1, 2012.

Review of the documents are available at the following website:  
[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)

Anyone wishing to provide comment may do so at this meeting or by email at [info@jeffersoncountywv.org](mailto:info@jeffersoncountywv.org).

The public is invited to attend.

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

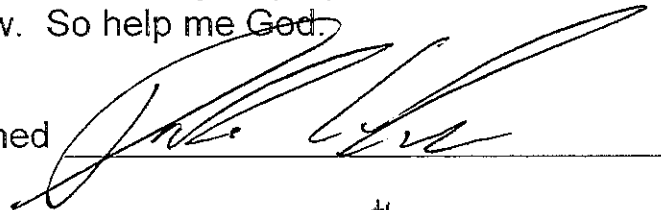
# State of West Virginia,

## COUNTY OF JEFFERSON

I, **Dakota White**, do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the State of West Virginia.

I, **Dakota White**, do solemnly swear or affirm that I will faithfully discharge and perform the duties of a member of the Jefferson County Deputy Sheriff Reserves to the best of my skill and judgment, and according to law. So help me God.

Signed



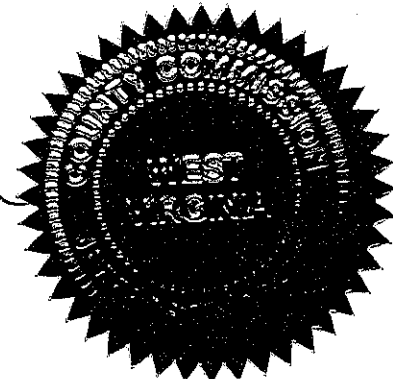
The above oath was taken and subscribed on this 26<sup>th</sup> day of May, 2012 at the Jefferson County Sheriff's Department, Kearneysville, West Virginia.

### WV Constitution Article IV, Section 5. Oath or affirmation to support the constitution.

Every person elected or appointed to any office, before proceeding to exercise the authority, or discharge the duties thereof, shall make oath or affirmation that he will support the constitution of the United States and the constitution of this state, and that he will faithfully discharge the duties of his said office to the best of his skill and judgment; and no other oath, declaration, or test shall be required as a qualification, unless herein otherwise provided.

Oath administered by Jennifer S. Maghan  
Clerk of the County Commission

Signed




# State of West Virginia,

## COUNTY OF JEFFERSON

I, **Paul Hale**, do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the State of West Virginia.

I, **Paul Hale**, do solemnly swear or affirm that I will faithfully discharge and perform the duties of a member of the Jefferson County Deputy Sheriff Reserves to the best of my skill and judgment, and according to law. So help me God.

Signed



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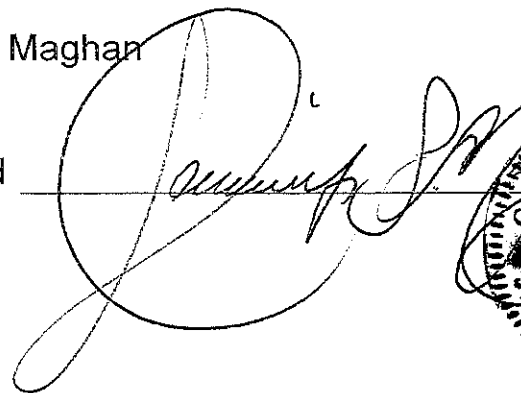
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Oath administered by Jennifer S. Maghan  
Clerk of the County Commission

Signed



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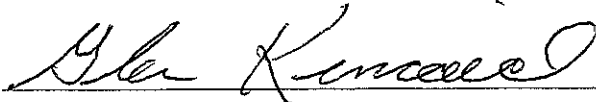


# State of West Virginia,

COUNTY OF JEFFERSON

I, **Glen Kincaid**, do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the State of West Virginia.

I, **Glen Kincaid**, do solemnly swear or affirm that I will faithfully discharge and perform the duties of a member of the Jefferson County Deputy Sheriff Reserves to the best of my skill and judgment, and according to law. So help me God.

Signed 

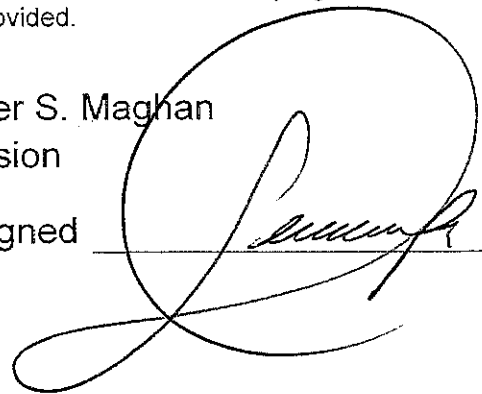
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Oath administered by Jennifer S. Maghan  
Clerk of the County Commission

Signed

# State of West Virginia,

## COUNTY OF JEFFERSON

I, **Wayne Gambrell**, do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the State of West Virginia.

I, **Wayne Gambrell**, do solemnly swear or affirm that I will faithfully discharge and perform the duties of a member of the Jefferson County Deputy Sheriff Reserves to the best of my skill and judgment, and according to law. So help me God.

Signed Wayne Gambrell

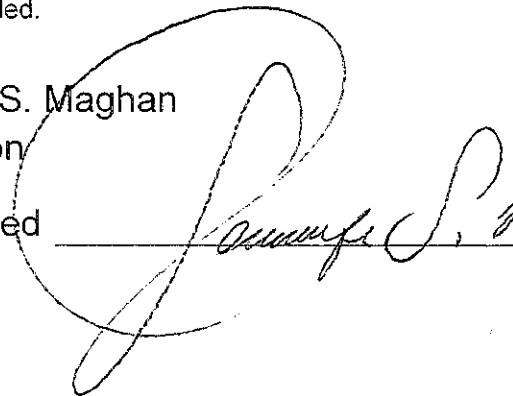
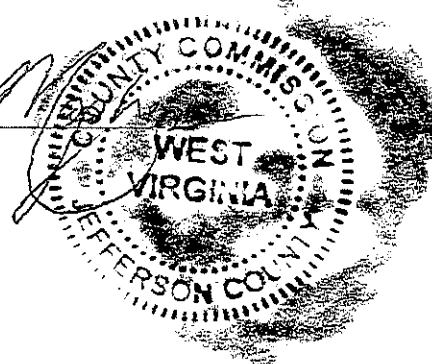
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Oath administered by Jennifer S. Maghan  
Clerk of the County Commission

Signed \_\_\_\_\_

# State of West Virginia,

## COUNTY OF JEFFERSON

I, **Allen Frazee**, do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the State of West Virginia.

I, **Allen Frazee**, do solemnly swear or affirm that I will faithfully discharge and perform the duties of a member of the Jefferson County Deputy Sheriff Reserves to the best of my skill and judgment, and according to law. So help me God.

Signed

  
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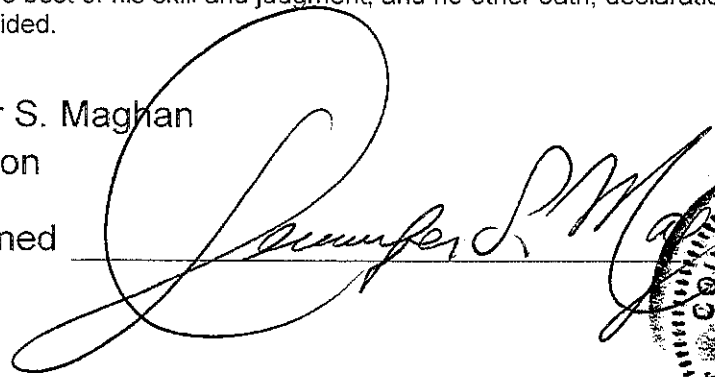
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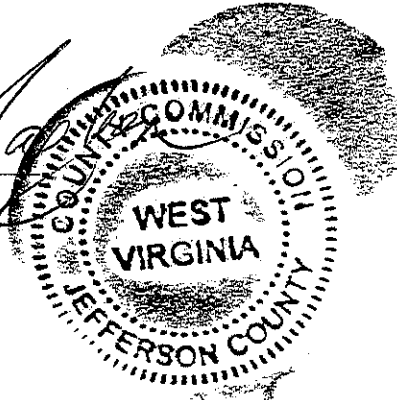
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Oath administered by Jennifer S. Maghan  
Clerk of the County Commission

Signed

  
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# JEFFERSON COUNTY COMMISSION

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

Phone: (304) 728-3284 - Fax: (304) 725-7916

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

PRESIDENT  
*Patsy Noland*

VICE PRESIDENT  
*Dale Manuel*

COMMISSIONER  
*Frances Morgan*

COMMISSIONER  
*Walt Pellish*

COMMISSIONER  
*Lyn Widmyer*

May 21, 2012

*For agenda  
into few  
Commissioners*

Mr. Glen Litsinger, Deputy Director  
Maryland Transit Administration  
Office of Service Quality  
6 St. Paul Street  
Baltimore, MD 21202

Re: MARC Train Proposed Schedule Changes

Dear Mr. Litsinger:

On behalf of the residents of Jefferson County the Commissioners oppose the proposed changes to the MARC train schedule and the elimination of the late train to Martinsburg (Train No. 883).

A large number of the County's residents depend on the train to get them to work and get them home to their families every evening. The idea that the late train would end at Brunswick, Maryland and riders would be bused to their destinations in West Virginia is unacceptable. That mode of transportation would put the West Virginia riders home much later than if the train had continued to Martinsburg, West Virginia. West Virginia riders pay an additional surcharge of \$80.00 per month over the amount paid by Maryland riders in order to retain this evening service to Martinsburg. In fact, the City of Charles Town, West Virginia in partnership with the City of Ranson, West Virginia has applied and received federal grant assistance to develop a regional commuter center in downtown Charles Town to promote MARC ridership.

Jefferson County residents view the MARC train service as invaluable. Stopping the last train at Brunswick would have a negative impact on hundreds of current Eastern Panhandle commuters. The Jefferson County Development Authority as well as other organizations is attempting to attract individuals and businesses to the Eastern Panhandle and it is the Jefferson County Commission's concern that this action by the MTA will hinder that very important endeavor. This would be extremely detrimental to the Panhandle's economic welfare.

Acting County Administrator  
*Debbie Keyser*

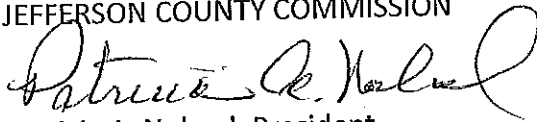
Deputy County Administrator  
*Sandy Slusher McDonald*

Mr. Glen Litsinger, MTA  
May 21, 2012  
Page two

Please seriously consider our request to keep the current schedule of the late MARC train to Martinsburg, West Virginia (Train No. 883) as it is currently.

Sincerely,

JEFFERSON COUNTY COMMISSION



Patricia A. Noland, President

PAN:ds

cc: Legislators  
Governor Earl Ray Tomblin  
Senator Joe Manchin  
Senator Herb Snyder  
Congresswoman Shelley Moore Capito

# Jefferson County Public Service District

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## Jefferson County Public Service District Regular Board Meeting May 7, 2012

The monthly meeting of the Jefferson County Public Service District was held at 7:00PM on Monday, May 7, 2012 in the meeting room at the Districts office in Kearneysville. Those in attendance included: Chairman, Jim Cummins; Secretary, Peter Appignani; Treasurer, Bill Strider; General Manager, Susanne Lawton; Administrative Assistant, Ashley Stottlemeyer; Finance Manager, April Williams; and Operations Manager, Joe Freeze.

### CALL TO ORDER

Chairman Cummins called the meeting to order at 7:00PM.

### PUBLIC COMMENTS

None.

### OLD BUSINESS

#### Review Minutes of April 2 Regular Board Meeting

The minutes of the April 2, 2012 regular Board meeting were approved as presented.

**Action: Motion made by Mr. Appignani and seconded by Mr. Strider to accept the April 2, 2012 minutes as presented. Unanimously approved.**

#### Update on Status of Acceptance of Land for "Test Well A" from Westridge Hills Homeowners Association

Mr. Kelsh sent the deed approved by the Board to the Westridge Hills HOA for review and execution. Representatives from the HOA, Mr. John Maxey and Mr. Scott Tatina, were in the audience for comments. Mr. Maxey informed the Board that the HOA met and discussed the deed and suggested one minor change regarding the term of selling the property. Mr. Kelsh would like to review their suggested change and bring back to the Board next month.

**Action: This item was tabled until next month.**

#### Update on the Water Systems Improvement Project for Glen Haven and Cavaland

The completed application was submitted to the West Virginia Infrastructure and Jobs Development Council (IJDC) on March 20<sup>th</sup>. IJDC has suggested a change to the funding for the project to get a 50% IJDC grant and the remainder be paid with an IJDC loan for 30 years at 2%. Chuck Young, from Cox Hollida Price, completed another Rule 42 incorporating this option which has increased the customer rates by \$2/1000 gallons. This project will be discussed at the IJDC funding committee meeting in Charleston on May 29<sup>th</sup>.

Ms. Lawton will be meeting with Kate Hatfield from the Bureau of Public Health on May 24<sup>th</sup> to discuss grant options for this project.

**Action: No action.**

#### Consider Approval of Resolution for Cavaland Easement for Water System Project

Ms. Lawton has been working with Mr. Jim Crawford and the Cavaland Homeowners Association attorney on the Cavaland well house easement. The existing easement is a hand drawn sketch that doesn't give dimensions or access to the driveway and parking lot in front of the well house. The attorney's have not been able to get a response from the HOA representative so Ms. Lawton would like the Board to execute the resolution to condemn the easement if necessary. This issue must be resolved before the upgrades to Cavaland begin.

**Action:** Motion made by Mr. Appignani and seconded by Mr. Strider to adopt the Cavaland easement resolution as presented.

After a brief discussion, the Board amended the original motion. The Board would like Mr. Kelsh to review the document before the Board executes.

**Action:** Motion made by Mr. Appignani and seconded by Mr. Strider to amend the original motion to approve the resolution contingent upon Mr. Kelsh's review of the document. Unanimously approved.

**Action:** The original motion was unanimously approved.

### NEW BUSINESS

Paul Raco, Developer Representative, to Request an Agreement for Briar Run Apartments & Townhomes  
Mr. Paul Raco, the representative for the developer of Briar Run, presented to the Board a request for a payment arrangement to cover the Capital Improvement Fees (CIF) for most of the remaining lots at Briar Run. The request includes 108 apartments (9 per building with 12 buildings) and 36 townhomes within 4 clusters. The developer would like to enter into a payment plan agreement to pay the initial \$1,127 (which goes to Charles Town) of the \$7,500 CIF per unit before the Certificate of Use and Occupancy is issued and pay the balance (\$6,373) over a ten year period. Mr. Ron Marcus was in the audience and stated they plan to have all apartment buildings built within one year. The Board would like Mr. Kelsh to draft a payment plan agreement with the help of Mr. Raco, Mr. Marcus, and District staff to present to the Board for consideration and present at a possible special meeting before the next Board meeting.

**Action:** Motion made by Mr. Strider and seconded by Mr. Appignani to direct Mr. Kelsh to draft a payment agreement with Briar Run within the next two weeks for discussion at a possible special meeting. Unanimously approved.

### Discussion on Middleway Water and Sewer Issues

The Board has had previous discussions on sewer and water issues in the Middleway area and they have now come up again. Ms. Lawton has been working with Mr. Peter Fricke, the West Virginia Department of Environmental Protection, the local Health Department, and others gathering information on the water and sewer issues in the community and contamination problems of the area. It has been found the area has water contamination problems from bacteria from onsite wastewater systems, the old Kodak site, which is up for sale, and an old gas station that has since been closed. Mr. Fricke from the Conservancy Association of Middleway was in the audience to discuss this issue. Ms. Lawton is going to draft the next possible steps to take to possibly get funds to have an evaluation study conducted on the area and to gain feedback from the residents. The Board would like Ms. Lawton to continue her investigation.

**Action:** No action taken by the Board.

### Discuss and Consider Approval of Preliminary Engineering Report Preparation by Pentree for Sewer Collection Project

Since the denial of the Flowing Springs wastewater treatment plant, Mr. Summerfield has updated the Preliminary Engineering Report with new alternatives. Mr. Summerfield suggested the District define its relationship with Ranson and the financial obligations for the use of their Flowing Springs pump station. He would also like to get a direction from the Board on possible alternatives. Mr. Appignani suggested Ms. Lawton and Mr. Summerfield discuss this issue over the next month and develop options with a list of pros and cons of each and corresponding maps for the Board to examine next month.

**Action:** This item was tabled until next month.

### Discuss Possible Permit Modification for the District's NPDES Permit

Ms. Lawton informed the Board that Mike Kanehl from West Virginia Department of Environmental Protection suggested the District submit a permit modification application to remove the Flowing Springs wastewater treatment plant from the District's NPDES permit. The Board would not like to remove the

plant from the permit at this time and will wait to take action until they receive something in writing from DEP.

**Action:** No action taken by the Board.

Consider Budget Revision

Ms. Lawton and April Williams, Finance Manager discussed the FY2012 budget revisions. This revised budget shows 126% coverage.

**Action:** Motion made by Mr. Strider and seconded Mr. Appignani to accept the FY 2012 budget revision as presented. Unanimously approved.

Consider Approval of FY 2013 Sewer Operating Budget

Ms. Lawton and April Williams, Finance Manager discussed the FY2013 sewer operating budget. This budget shows 115% coverage.

**Action:** Motion made by Mr. Strider and seconded Mr. Appignani to accept the FY 2013 sewer operating budget as presented. Unanimously approved.

Consider Approval of FY 2013 Water Operating Budget

Ms. Lawton and April Williams, Finance Manager discussed the FY2013 water operating budget.

**Action:** Motion made by Mr. Appignani and seconded Mr. Strider to accept the FY 2013 water operating budget as presented. Unanimously approved.

Discussion of any Expenses over Budget

There were no items over budget this month.

**Action:** No action taken by the Board.

Disbursements

**Action:** Motion made by Mr. Strider and seconded by Mr. Appignani to approve disbursements for water expenses in the amount of \$23,288.96. Unanimously approved.

**Action:** Motion made by Mr. Strider and seconded by Mr. Appignani to approve disbursements for the Public Service District expenses in the amount of \$145,051.67. Unanimously approved.

Approve Transfer of \$2,960.74 from Sewer Security Deposit Account to Sewer Operating Account for Security Deposit Refunds

**Action:** Motion made by Mr. Strider and seconded by Mr. Appignani to approve the transfer of \$2,960.74 from Sewer Security Deposit Account into Sewer Operating Account for Security Deposit Refunds. Unanimously approved.

Approve Transfer of \$128.78 from Water Security Deposit Account to Water Operating Account for Security Deposit Refunds

**Action:** Motion made by Mr. Strider and seconded by Mr. Appignani to approve the transfer of \$128.78 from Water Security Deposit Account into Water Operating Account for Security Deposit Refunds. Unanimously approved.

Approve Transfer of \$1,494.32 from Renewal & Replacement Account to Sewer Operating Account for Pump Repair at 4-7

**Action:** Motion made by Mr. Strider and seconded by Mr. Appignani to approve the transfer of \$1,494.32 from Renewal & Replacement Account into Sewer Operating Account for Pump Repair at 4-7. Unanimously approved.

General Manager's Report

Ms. Lawton updated the Board on activities since last month's meeting.

SWAP Program – District staff met with DEP and the States Health Department to start a new Source Water Protection Plan for the Cavaland and Glen Haven water systems.

Monthly reports – In addition to the monthly operations and engineering reports, the Board will be receiving a monthly billing report as well.

**Action:** **No action taken by the Board.**

Public Comment

None.

Correspondence

None.

**Action:** **Motion made by Mr. Appignani and seconded by Mr. Strider to convene in executive session for the purpose of discussing litigation and contract negotiations. Unanimously approved.**

Mr. Appignani excused himself from the discussions on the Jefferson Utilities, Inc General Investigation case currently at the Public Service Commission.

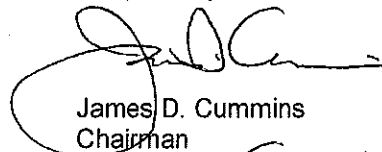
**Action:** **Motion made by Mr. Strider and seconded by Mr. Appignani to return to public session. Unanimously approved.**

**Action:** **Motion made by Mr. Appignani and seconded by Mr. Strider to adjourn. Unanimously approved.**

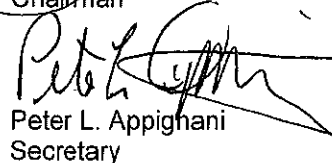
There being no further business at this time, the meeting was adjourned at 9:55PM

The next regular meeting is scheduled for Monday, June 4, 2012 at 7:00pm at 340 Edmond Road, Suite A at the Districts office in Kearneysville.

Respectfully Submitted,



James D. Cummins  
Chairman



Peter L. Appignani  
Secretary

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

| Week Ending Date                                  | Week Ending<br>June 2, 2012 |
|---------------------------------------------------|-----------------------------|
| To be Deposited on:                               | June 8, 2012                |
| Amount Played                                     | 89,848,659.88               |
| Amount Won                                        | 80,653,076.54               |
| Amount Promo                                      | 282,573.00                  |
| MWAP Contribution                                 | <u>5,667.91</u>             |
| Adjusted Gross Terminal Revenue                   | <u>8,907,342.43</u>         |
| Administrative Costs @ 4%                         | 0.00                        |
| Excess Lottery Fund @ 4%                          | 356,293.70                  |
| Net Terminal Revenue                              | <u>8,551,048.73</u>         |
| Surcharge @ 10%                                   | 855,104.87                  |
| State Share Excess @ 58%                          | 495,960.82                  |
| Track Share of Capital Reinvestment @ 42%         | 359,144.05                  |
| Track Share of Capital Reinvestment @ 42% - 96%   | \$ 344,778.29               |
| Track Share of Capital Reinvestment @ 42% - 4%    | \$ 14,365.76                |
| Adjusted Net Terminal Revenue                     | <u>7,695,943.86</u>         |
| Racetrack @ 46.50% / 42%                          | 3,232,296.42                |
| Lottery Fund @ 30% / 0%                           | 0.00                        |
| Excess Lottery Fund @ 0% / 41%                    | 3,155,336.98                |
| Race Track Purses @ 7% / 14% / 8%                 | 615,675.51                  |
| Workers' Compensation Debt Reduction @ 7% / 0%    | 0.00                        |
| Employee Pension Fund @ 1% / .5%                  | 38,479.72                   |
| Greyhound Development @ .75%                      | 57,719.58                   |
| Thoroughbred Development @ .75%                   | 57,719.58                   |
| Racing Commission @ 1%                            | 76,959.44                   |
| County/Municipality @ 2%                          | 153,918.88                  |
| 3% Funds:                                         |                             |
| Tourism Promotion Fund @ 1.375%                   | 105,819.23                  |
| Development Office Promotion Fund @ .375%         | 28,859.79                   |
| Research Challenge Fund @ .5%                     | 38,479.72                   |
| Capitol Renovation and Improvement Fund @ .6875%  | 52,909.61                   |
| 2004 Capitol Complex Parking Garage Fund @ .0625% | 4,809.96                    |
| 1% Funds:                                         |                             |
| State Capitol Complex Parking Garage @ 1%         | 0.00                        |
| Cultural Facilities and Capitol Resources @ .5%   | 0.00                        |
| Capitol Dome and Capitol Improvements @ .5% / 1%  | <u>76,959.44</u>            |
|                                                   | <u>7,695,943.86</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           | \$ 5,865.20          | \$ 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           | \$ 6,620.61          | \$ 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                              | \$ 137,859.60                | \$ 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                 |
| 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                 |
| 12/31/11                              | \$ 189,322.00                | \$ 94,661.00              | \$ 94,661.00           | \$ 7,752.74          | \$ 39,000.32              | \$ 2,120.41               | \$ 32,923.10           | \$ 12,864.43                |
| 01/07/12                              | \$ 149,726.80                | \$ 74,863.40              | \$ 74,863.40           | \$ 6,131.31          | \$ 30,843.72              | \$ 1,676.94               | \$ 26,037.49           | \$ 10,173.94                |
| 01/14/12                              | \$ 117,803.84                | \$ 58,901.92              | \$ 58,901.92           | \$ 4,824.07          | \$ 24,267.59              | \$ 1,319.40               | \$ 20,486.09           | \$ 8,004.77                 |
| 01/21/12                              | \$ 123,639.84                | \$ 61,819.92              | \$ 61,819.92           | \$ 5,063.05          | \$ 25,469.80              | \$ 1,384.77               | \$ 21,500.97           | \$ 8,401.33                 |
| 01/28/12                              | \$ 125,797.56                | \$ 62,898.78              | \$ 62,898.78           | \$ 5,151.41          | \$ 25,914.30              | \$ 1,408.93               | \$ 21,876.20           | \$ 8,547.94                 |
| 02/04/12                              | \$ 144,309.32                | \$ 72,154.66              | \$ 72,154.66           | \$ 5,909.47          | \$ 29,727.72              | \$ 1,616.26               | \$ 25,095.39           | \$ 9,805.82                 |
| 02/11/12                              | \$ 132,858.08                | \$ 66,429.04              | \$ 66,429.04           | \$ 5,440.54          | \$ 27,368.76              | \$ 1,488.01               | \$ 23,104.02           | \$ 9,027.71                 |
| 02/18/12                              | \$ 154,911.76                | \$ 77,455.88              | \$ 77,455.88           | \$ 6,343.64          | \$ 31,911.82              | \$ 1,735.01               | \$ 26,939.16           | \$ 10,526.25                |
| 02/25/12                              | \$ 155,223.56                | \$ 77,611.78              | \$ 77,611.78           | \$ 6,356.40          | \$ 31,976.05              | \$ 1,738.51               | \$ 26,993.38           | \$ 10,547.44                |
| 03/03/12                              | \$ 151,927.72                | \$ 75,963.86              | \$ 75,963.86           | \$ 6,221.44          | \$ 31,297.10              | \$ 1,701.60               | \$ 26,420.23           | \$ 10,323.49                |
| 03/10/12                              | \$ 153,617.24                | \$ 76,808.62              | \$ 76,808.62           | \$ 6,290.63          | \$ 31,645.15              | \$ 1,720.51               | \$ 26,714.04           | \$ 10,438.29                |
| 03/17/12                              | \$ 153,767.84                | \$ 76,883.92              | \$ 76,883.92           | \$ 6,296.79          | \$ 31,676.18              | \$ 1,722.20               | \$ 26,740.23           | \$ 10,448.52                |
| 03/24/12                              | \$ 144,216.72                | \$ 72,108.36              | \$ 72,108.36           | \$ 5,905.67          | \$ 29,708.64              | \$ 1,615.23               | \$ 25,079.29           | \$ 9,799.53                 |
| 03/31/12                              | \$ 148,488.44                | \$ 74,244.22              | \$ 74,244.22           | \$ 6,080.60          | \$ 30,588.62              | \$ 1,663.07               | \$ 25,822.14           | \$ 10,089.79                |
| 04/07/12                              | \$ 150,765.96                | \$ 75,382.98              | \$ 75,382.98           | \$ 6,173.88          | \$ 31,057.79              | \$ 1,688.58               | \$ 26,218.20           | \$ 10,244.55                |
| 04/14/12                              | \$ 142,130.68                | \$ 71,065.34              | \$ 71,065.34           | \$ 5,820.25          | \$ 29,278.92              | \$ 1,591.86               | \$ 24,716.53           | \$ 9,657.78                 |
| 04/21/12                              | \$ 136,110.16                | \$ 68,055.08              | \$ 68,055.08           | \$ 5,573.71          | \$ 28,038.69              | \$ 1,524.43               | \$ 23,669.56           | \$ 9,248.69                 |
| 04/28/12                              | \$ 145,761.32                | \$ 72,880.66              | \$ 72,880.66           | \$ 5,968.93          | \$ 30,026.83              | \$ 1,632.53               | \$ 25,347.89           | \$ 9,904.48                 |
| 05/05/12                              | \$ 143,164.60                | \$ 71,582.30              | \$ 71,582.30           | \$ 5,862.59          | \$ 29,491.91              | \$ 1,603.44               | \$ 24,896.32           | \$ 9,728.04                 |
| 05/12/12                              | \$ 126,715.84                | \$ 63,357.92              | \$ 63,357.92           | \$ 5,189.01          | \$ 26,103.46              | \$ 1,419.22               | \$ 22,035.89           | \$ 8,610.34                 |
| 05/19/12                              | \$ 157,968.72                | \$ 78,984.36              | \$ 78,984.36           | \$ 6,468.82          | \$ 32,541.56              | \$ 1,769.25               | \$ 27,470.76           | \$ 10,733.97                |
| 05/26/12                              | \$ 134,792.48                | \$ 67,396.24              | \$ 67,396.24           | \$ 5,519.75          | \$ 27,767.25              | \$ 1,509.68               | \$ 23,440.41           | \$ 9,159.15                 |
| 06/02/12                              | \$ 153,918.88                | \$ 76,959.44              | \$ 76,959.44           | \$ 6,302.98          | \$ 31,707.29              | \$ 1,723.89               | \$ 26,766.49           | \$ 10,458.79                |
| <b>Subtotal</b>                       | <b>\$ 6,863,450.80</b>       | <b>\$ 3,867,767.12</b>    | <b>\$ 2,975,693.68</b> | <b>\$ 243,709.30</b> | <b>\$ 1,225,985.76</b>    | <b>\$ 66,655.56</b>       | <b>\$ 1,034,946.28</b> | <b>\$ 404,396.78</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  | 12/31/2011 | 94,661.00  |
| 1/10/2009  | 53,286.62  | 1/9/2010   | 55,020.46  | 1/8/2011   | 54,301.30  | 1/7/2012   | 74,863.40  |

|               |           |           |           |           |           |           |           |
|---------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| 1/17/2009     | 56,068.87 | 1/16/2010 | 60,551.28 | 1/15/2011 | 54,005.90 | 1/14/2012 | 58,901.92 |
| 1/24/2009     | 71,474.63 | 1/23/2010 | 69,943.53 | 1/22/2011 | 60,924.74 | 1/21/2012 | 61,819.92 |
| 1/31/2009     | 61,089.80 | 1/30/2010 | 48,527.75 | 1/29/2011 | 48,036.94 | 1/28/2012 | 62,898.78 |
| 2/7/2009      | 83,539.63 | 2/6/2010  | 37,155.14 | 2/5/2011  | 60,777.44 | 2/4/2012  | 72,154.66 |
| 2/14/2009     | 76,054.44 | 2/13/2010 | 44,334.00 | 2/12/2011 | 67,471.84 | 2/11/2012 | 66,429.04 |
| 2/21/2009     | 91,838.41 | 2/20/2010 | 76,946.12 | 2/19/2011 | 72,018.54 | 2/18/2012 | 77,455.88 |
| 2/28/2009     | 80,806.88 | 2/27/2010 | 72,024.40 | 2/26/2011 | 75,544.02 | 2/25/2012 | 77,611.78 |
| 3/7/2009      | 48,837.13 | 3/6/2010  | 76,936.85 | 3/5/2011  | 74,535.34 | 3/3/2012  | 75,963.86 |
| 3/14/2009     | 96,025.39 | 3/13/2010 | 71,007.37 | 3/12/2011 | 66,979.48 | 3/10/2012 | 76,808.62 |
| 3/21/2009     | 79,002.82 | 3/20/2010 | 74,335.38 | 3/19/2011 | 73,113.26 | 3/17/2012 | 76,883.92 |
| 3/28/2009     | 79,250.83 | 3/27/2010 | 69,941.88 | 3/26/2011 | 68,490.80 | 3/24/2012 | 72,108.36 |
| 4/4/2009      | 75,968.30 | 4/3/2010  | 70,636.28 | 4/2/2011  | 70,846.58 | 3/31/2012 | 74,244.22 |
| 4/11/2009     | 75,964.94 | 4/10/2010 | 69,692.79 | 4/9/2011  | 67,076.78 | 4/7/2012  | 75,382.98 |
| 4/18/2009     | 80,598.22 | 4/17/2010 | 69,335.92 | 4/16/2011 | 64,698.56 | 4/14/2012 | 71,065.34 |
| 4/25/2009     | 75,571.46 | 4/24/2010 | 68,714.11 | 4/23/2011 | 67,674.14 | 4/21/2012 | 68,055.08 |
| 5/2/2009      | 73,957.05 | 5/1/2010  | 68,799.06 | 4/30/2011 | 66,807.50 | 4/28/2012 | 72,880.66 |
| 5/9/2009      | 76,697.22 | 5/8/2010  | 67,403.54 | 5/7/2011  | 66,379.74 | 5/5/2012  | 71,582.30 |
| 5/16/2009     | 71,925.70 | 5/15/2010 | 70,186.32 | 5/14/2011 | 66,699.76 | 5/12/2012 | 63,357.92 |
| 5/23/2009     | 81,395.43 | 5/22/2010 | 64,695.71 | 5/21/2011 | 63,210.44 | 5/19/2012 | 78,984.36 |
| 5/30/2009     | 82,161.55 | 5/29/2010 | 67,157.40 | 5/28/2011 | 64,724.06 | 5/26/2012 | 67,396.24 |
| 6/6/2009      | 74,895.74 | 6/5/2010  | 77,371.80 | 6/4/2011  | 74,952.34 | 6/2/2012  | 76,959.44 |
| 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**

---

**3887757.12**

Table Game Revenue

| <b>Date</b>            | <b>Amount</b>    |
|------------------------|------------------|
| 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       |
| <b>Total 2010-2011</b> | <b>1297391.7</b> |

| <b>Date</b>            | <b>Amount</b>     |
|------------------------|-------------------|
| 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        |
| December, 2011         | 140,509.93        |
| January, 2012          | 137,812.68        |
| February, 2012         | 142,770.01        |
| March, 2012            | 151,845.46        |
| April, 2012            | 127,862.26        |
| <b>Total 2011-2012</b> | <b>1335760.33</b> |

# Counties get coal methane

By Phil Kabler  
Staff writer

With the final allocation of \$1.2 million in payments, county economic development authorities picked up windfalls totaling \$4.08 million from the first payments from the state's coal-bed methane severance tax.

Eight counties received the lion's share of the tax, based on coal-bed methane production in those counties for the 2009, 2010 and 2011 budget years, topped by McDowell County at \$1,313,106.

Under the law, enacted in 2000 and clarified with addi-

tional legislation passed during the 2011 and 2012 sessions, the 47 nonproducing counties divided a 25 percent share of the tax, for payments of \$15,188 per county.

That includes Kanawha and Putnam counties.

"In those counties, either you don't have coal-bed methane, or they just haven't gotten to it to drill it yet," Sen. Richard Browning, D-Wyoming, said of counties receiving the minimum payment.

Browning, the lead sponsor of the 2012 legislation, said that unlike traditional natural gas wells, extracting methane from a coal-

bed is essentially a one-time opportunity.

"Just because you've got a windfall this year, doesn't mean you'll get it next year," he said of the larger severance tax payments to counties.

Under the new legislation, the state treasurer disburses the funds, and recently distributed \$1.2 million in payments, including minimum payments to 26 counties of \$15,188 each.

Other payments included \$543,542 to Raleigh County, \$246,542 to Marshall County and \$42,465 to Wetzel County.

Prior to the new law going

into effect, the state Department of Revenue distributed \$2.88 million of payments, with the \$1.3 million payment to McDowell County, \$662,654 to Wyoming County, \$325,207 to Monongalia County, \$184,975 to Barbour County and \$50,789 to Marion County.

Browning said the legislation this session also further clarifies how county economic development authorities may use the funds, primarily for water or sewer projects or for site preparation for business or industrial parks or other economic development sites.

## payments

While coal-bed severance tax payments aren't sufficient to fully fund projects, they should help development authorities by providing a funding source at crucial times in development of the projects, Browning said.

"When you put in a water system or a sewer system, or an industrial park, there's always costs up front that you don't get reimbursed for through development grants for a long time," he said. "You may not get state funding until two years after a project is started."

Legislation imposing a 5 percent tax on coal-bed methane

production went on the books in 2000, but with a moratorium on collecting the tax until the start of the 2008-09 budget year.

"It's really allowed some counties to do some constructive things," Browning said of the disbursements.

Likewise, Treasurer John Perdue said of the payments, "We are happy to pass this revenue on to counties which have been waiting. Now these counties can count on receiving revenue each year."

Reach Phil Kabler at  
philk@wvgazette.com  
or 304-348-1220.

To: COMMISSIONERS  
ARTICLE OF  
INTEREST  
CHARLESTON GAZETTE  
6-6-12  
From: WVACO

# Impact Fee Status Report

## May 2012

### Office of Impact Fees

### Summary

Date Range: Tuesday 1 through Thursday 31 May 2012

Report Date: 4 June 2012

Process Number Range: 1200051 - 1200054

Total Applications: 4

Total Non-Exempt: 4

*Of which:*

Commercial: 0

Residential: 4

*Of which:*

County: 1

Municipal: 3

Total Exempt: 0

*Of which:*

Commercial: 0

Residential: 0

*Of which:*

County: 0

Municipal: 0

Tables 1 through 7 summarize impact fee processing for the month of May 2012:

**Table 1. Form 100 Tallies**

|                        | Exempt | Commercial | Residential | Total       |
|------------------------|--------|------------|-------------|-------------|
| 1 – 31 May 2012        | 0      | 0          | 4           | 4           |
| Fees collected         |        | \$0.00     | \$51,494.00 | \$51,494.00 |
| <i>Of which</i>        |        |            |             |             |
| School Impact Fee      |        |            | \$45,432.00 | \$45,432.00 |
| Law Enforcement Fee    |        | \$0.00     | \$262.00    | \$262.00    |
| Parks & Recreation Fee |        |            | \$3,008.00  | \$3,008.00  |
| Fire & EMS Fee         |        | \$0.00     | \$2,792.00  | \$2,792.00  |

**Table 2. Financial Data – Office of Impact Fees General Account (3111776)**

| Description                                                            | Amount             |
|------------------------------------------------------------------------|--------------------|
| Opening Statement Balance (1 May 2012)                                 | \$137,185.02       |
| May Deposits (1 – 31 May 2012)                                         | \$51,539.03        |
| Interest Earned (31 May 2012)                                          | \$31.31            |
| School April Transactions (withdraws via transfer on 17 May 2012)      | (\$119,370.75)     |
| Law April Transactions (withdraws via transfer on 17 May 2012)         | (\$1,332.34)       |
| Parks & Rec April Transactions (withdraws via transfer on 17 May 2012) | (\$7,919.98)       |
| Fire & EMS April Transactions (withdraws via transfer on 17 May 2012)  | (\$8,606.98)       |
| Ending Statement Balance (31 May 2012)                                 | <b>\$51,525.31</b> |

/1 In addition to Impact Fee Collection, \$45.03 was deposited into the Impact Fees General Account (3111776), which represents the reimbursement of deposit slips ordered for purposes of depositing of Impact Fee monies. This total was then subsequently reimbursed through a P.O. from Department 404 - Materials and Supplies Line Item.

**Table 3. Financial Data – School Impact Fee Account (3107582)**

| Description                                               | Amount                |
|-----------------------------------------------------------|-----------------------|
| Opening Balance (1 May 2012)                              | \$1,200,372.22        |
| Interest Earned (31 May 2012)                             | \$534.27              |
| April Transactions (deposits via transfer on 17 May 2012) | \$119,370.75          |
| Ending Balance (31 May 2012)                              | <b>\$1,320,277.24</b> |

**Table 4. Financial Data – Law Enforcement Impact Fee Account (3120120)**

| Description                                               | Amount             |
|-----------------------------------------------------------|--------------------|
| Opening Balance (1 May 2012)                              | \$63,269.30        |
| Interest Earned (31 May 2012)                             | \$27.14            |
| April Transactions (deposits via transfer on 17 May 2012) | \$1,332.34         |
| Ending Balance (31 May 2012)                              | <b>\$64,628.78</b> |

**Table 5. Financial Data – Parks & Recreation Impact Fee Account (3122808)**

| Description                                               | Amount              |
|-----------------------------------------------------------|---------------------|
| Opening Balance (1 May 2012)                              | \$244,419.58        |
| Interest Earned (31 May 2012)                             | \$105.42            |
| April Transactions (deposits via transfer on 17 May 2012) | \$7,919.98          |
| Ending Balance (31 May 2012)                              | <b>\$252,444.98</b> |

**Table 6. Financial Data – Fire & EMS Impact Fee Account (3122816)**

| Description                                               | Amount             |
|-----------------------------------------------------------|--------------------|
| Opening Balance (1 May 2012)                              | \$87,536.36        |
| Interest Earned (31 May 2012)                             | \$38.94            |
| April Transactions (deposits via transfer on 17 May 2012) | \$8,606.98         |
| Ending Balance (31 May 2012)                              | <b>\$96,182.28</b> |

**Table 7. Total Impact Fees as of 1 May 2012/1**

| Description                           | Amount                |
|---------------------------------------|-----------------------|
| Office of Impact Fees General Account | \$51,525.31           |
| School Impact Fee Account             | \$1,320,277.24        |
| Law Enforcement Fee Account           | \$64,628.78           |
| Parks & Recreation Impact Fee Account | \$252,444.98          |
| Fire & EMS Impact Fee Account         | \$96,182.28           |
| <b>Total</b>                          | <b>\$1,785,058.59</b> |

Notes:

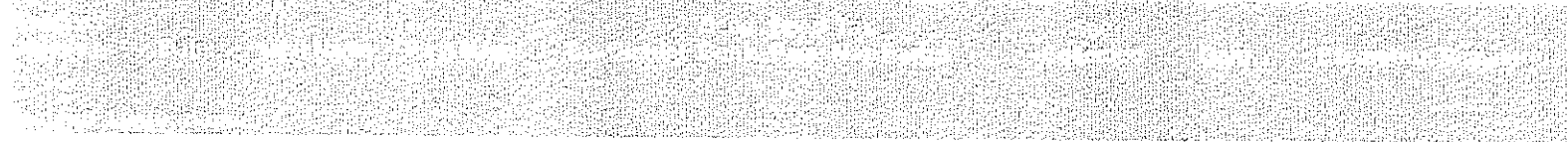
/1 These values represent both impact fees collected and interest earned. The general account includes the outstanding credits listed in table 2 and outstanding debits, if any, listed in tables 3-6.



# Form 100 Transaction Summary

Jefferson County Government – Office of Impact Fees

Applications with IFC Signature Dates/Form 190 Processing Dates between Tuesday, May 01, 2012 and Thursday, May 31, 2012



**Category Count: 0**

**Category Total                    \$0.00**



|         |            |          |                                      |     |    |     |             |            |     |
|---------|------------|----------|--------------------------------------|-----|----|-----|-------------|------------|-----|
| 1200051 | 05/25/2012 | Dan Ryan | 03 Charles Town 1016                 | 363 | 5A | 23  | \$12,808.00 | 05/25/2012 | N/A |
| 1200052 | 05/25/2012 | Dan Ryan | 03 Charles Town 1016                 | 363 | 5A | 31  | \$12,808.00 | 05/25/2012 | N/A |
| 1200053 | 05/25/2012 | Dan Ryan | 03 Charles Town 1016                 | 363 | 5A | 37  | \$12,808.00 | 05/25/2012 | N/A |
| 1200054 | 05/30/2012 | IC Smith | Stephanie Smith 02 Charles Town 1108 | 456 | 16 | 127 | \$13,070.00 | 05/30/2012 | N/A |

**Category Count: 4**

**TOTAL APPLICATIONS: 4**

**Category Total                    \$51,494.00**  
**Grand Total                        \$51,494.00**



**1ST FRIDAY CONCERTS**

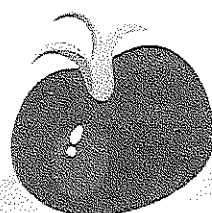
- ★ June 1—The Fox Hunt
- ★ July 6—Revolution
- ★ August 3—Cazmiere

All concerts at Evitts Run Park  
7-9 pm

**3rd Thursdays**


North Charles Street—5-9 pm


- Food and Drink Specials
- Store Promotions
- Activities for the kids
- Live entertainment



**Charles Town  
Farmer's Market**

South Samuel Street  
Saturdays, 8 am—12 pm  
Through October 13



 Look up Charles Town Farmers Market, WV on facebook!

**Mark Your Calendar  
for Saturday, September 22!**

[www.ctheritagefestival.com](http://www.ctheritagefestival.com)  
Now accepting vendor applications!



Charles Town, WV  
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festival

 Check us out on facebook at [www.facebook.com/charlestownwv](http://www.facebook.com/charlestownwv)

City of Charles Town  
101 East Washington Street  
Charles Town, WV 25414

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25404  
Permit #125

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*City of  
Charles  
Town*

[www.charlestownwv.us](http://www.charlestownwv.us)  
[www.facebook.com/charlestownwv](https://www.facebook.com/charlestownwv)

(304) 725-2311  
101 East Washington Street  
Charles Town, WV 25414

# Ethics Reporter

## Since the Last Reporter

NOTE: The April 2012 edition of the REPORTER was mistakenly labeled as the "May" edition, but all information pertained to actions taken by the Ethics Commission in April. We apologize for any confusion.

Since the April edition of the *REPORTER*, the West Virginia Ethics Commission published four Advisory Opinion interpreting provisions of the West Virginia Governmental Ethics Act and the laws governing Boards of Education.

At its May 3 meeting, the West Virginia Ethics Commission approved opinions relating to the permissibility of a county commission purchasing property from an appointed member of

the county building commission, the permissibility of a presiding officer of a house of the Legislature providing private legal services to an organization that employs a lobbyist and lobbies legislators, the applicability of lobbying registration requirements to a situation involving providing assistance in bidding on a state contract and, the permissibility of a legislator providing consulting services to a public university during and after his term in office.

### ADVISORY OPINION REPORT

**Advisory Opinion 2012-16** concerned the permissibility of a county commission purchasing property from an appointed member of a county building commission.

In this case, the county commission wants to build a new 911 center and its staff has only

discovered two viable properties for consideration. After a comparative analysis, the preferred location is a site owned by a member of the county building commission. The building commission is envisioned as the financing source for the project.

The Ethics Commission examined the provisions of 6B-2-5(b) prohibiting a public official from using their position to produce a private gain for themselves or for another, of 6B-2-5(d)(3) prohibiting public officials with limited interests in contracts under their control or authority from participating in any decision-making regarding that contract, and the provisions of Chapter 61-10-15 prohibiting county officers from having direct or indirect pecuniary interests in matters over which they exercise voice, influence or control.

May, 2012  
Page Two

The Commission ruled in this instance that the proposed purchase of property from a member of the county building commission was violative of the Chapter 61-10-15 standards because the member of the building commission has a direct pecuniary interest at stake and he also has voice, influence and control over the overall financing of the 911 center project through the building commission.

The county commission cannot bypass using the building commission to mitigate the conflict and the potential violation of 61-10-15. However, the Commission did indicate that if the county commission truly judges that only the property owned by the building commission member is viable for the project, it may seek a contract exemption.

**Advisory Opinion 2012-17** concerned the permissibility of a presiding officer of a house of the Legislature to provide private legal services to an organization that

employs a lobbyist and lobbies legislators.

In this instance, Richard Thompson, Speaker of the House of Delegates, proposes to be an independently contracted attorney for an association. The association employs lobbyists and seeks to advance its interests through the public policy realm, and it gaining passage of favorable legislation as well as preventing the passage of legislation it deems as objectionable. The Speaker would provide legal services through the law office he maintains in his legislative district and he would not accept any fringe benefits from the association.

The specific range of duties to be performed as an independent contractor was detailed to the Commission and the proposed contract contained language permitting the Speaker to recuse himself from any matter in conflict with his duties as a legislator and as the presiding officer of the House. The Speaker presented the rules of the Legislature on voting and conflicts as the

standard for his contemplated actions as an independent contractor and a citizen legislator.

In this case, the Ethics Commission analyzed many provisions of the Ethics Act, including 6B-2-5, which contains language prohibiting a public official from using their office for private gain, as well as a prohibition against the use of confidential information gained during public service and specific language giving the presiding officer of the House of Delegates the ability to rule on members' request to be excused from voting.

The Commission also examined 6B-3-1 governing the definition of a lobbyist and related matters.

The Ethics Commission ruled in this instance that notwithstanding previous opinions on legislative service and potential conflicts, the Speaker of the House should be held to a higher ethical standing than regular legislators. As such, the Commission found that there was an

May, 2012  
Page Three

inescapable conflict present wherein the prestige of the Speaker's office would provide a prohibited benefit for the association he would serve.

The Commission also recognized the position of presiding officer was the unique factor guiding its judgment in this matter and, as such, limited the scope of the opinion to affect only the Speaker and the President of the Senate.

**Advisory Opinion 2012-15** addressed the applicability of the lobbyist registration requirements to a situation where assistance in being provided in bidding on a state contract.

While the individual requesting this opinion is registered as a lobbyist for clients, in this instance, the activities being performed on behalf of the client seeking a state contract does not rise to the level of advocating the passage or defeat of any legislation or regulation.

The Ethics Commission reviewed the 6B-3-1 language pertaining to lobbying.

In this case, the Commission ruled that the individual at issue would not be required to register as a lobbyist to participate in the procurement process or to assist a client in the management of a contract with a governmental body. The consulting services to be performed would not trigger the registration requirement because no activities are being undertaken to influence the course of a legislative act or a regulation.

**Advisory Opinion 2012-19** concerned the permissibility of a legislator performing private consulting services for a public university during and after his term in office.

The requester in this case disclosed himself as Delegate John Doyle, who is not running for reelection this year and will be leaving legislative service. The delegate requested that his committee assignments be adjusted this year to

reflect his desire for post-legislative employment in higher education. He will be accepting contractual employment with Shepherd University and seeks guidance on continuing to serve out the remaining six months of his legislative term, while also maintaining a posture where he is not serving on any committees affecting the interests of higher education. Doyle has indicated that he is willing to resign his seat should that be necessary to pursue this employment.

The Commission analyzed the provisions of 6B-2-5(b) prohibiting a public official from using their office to produce a private gain for themselves or another and a related provision in the same section requiring legislators to vote when so ordered by the presiding officer.

The Ethics Commission reviewed a wide variety of precedential opinions concerning legislative service and employment before rendering a decision that the proposed contractual consulting relationship

May, 2012  
Page Four

between Delegate Doyle and Shepherd University would not be in violation of the Ethics Act. The Commission took particular note of the fact that the delegate had already configured his committee service to avoid potential conflicts, and this appeared to be a deciding factor in how the Commission ruled.

### TOPICAL INDEX UPDATE WEST VIRGINIA ETHICS COMMISSION ADVISORY OPINIONS

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

#### BOARDS AND COMMISSIONS

NONE PUBLISHED

#### BOARDS OF EDUCATION

NONE PUBLISHED

#### COUNTY GOVERNMENT

**2012-16:**  
Permissibility of a county commission

purchasing property from an appointed member of the county building commission

#### LEGISLATURE

**2012-17:**  
Permissibility of a presiding officer of a house of the Legislature performing private legal services for an organization that employs a lobbyist and lobbies legislators

**2012-19:**  
Permissibility of a legislator providing consulting services to a public university during and after his term of office.

#### MUNICIPAL GOVERNMENT

NONE PUBLISHED

#### STATE GOVERNMENT

NONE PUBLISHED

#### TRADE ASSOCIATIONS AND LOBBYISTS

**2012-18:**  
Applicability of lobbyist registration requirements to a situation where assistance is provided in preparing a bid on a state contract

### MISCELLANEOUS

NONE PUBLISHED

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**WEST VIRGINIA ETHICS COMMISSION  
2012 ADVISORY OPINIONS  
INDEXED BY TOPICAL SECTOR  
(Includes opinions published through May 3, 2012)**

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**BOARDS AND COMMISSIONS**

**2011-17:**  
Permissibility of an executive director of a state regulatory board or its members serving as a member or officer of a professional association comprised of licensees regulated by the board

**2012-04:**  
Permissibility of a municipal water board employing the board's chairperson (See also MUNICIPAL GOVERNMENT)

**2012-12:**  
Permissibility of a part-time health officer accepting patient referrals from the Health Department.

**BOARDS OF EDUCATION**

**2012-13:**  
Permissibility of a member of a board of education contracting with a public university to supervise students during their placement in public schools in the county where the member serves on the board

**COUNTY GOVERNMENT**

**2012-02:**  
Permissibility of a county commission purchasing property from a real estate business with which a member of the commission is associated

**2012-03:**  
Permissibility of a county agency employing a relative of one of its supervisors

**2012-03: [CORRECTED ADMINISTRATIVELY]**  
Permissibility of a county agency employing a relative of one of its supervisors

**2012-05:**  
Permissibility of a county commissioner voting on matters affecting his public employer

**2012-11:**  
Permissibility of a county commissioner cohabitating with a county employee without violating the Ethics Act or Chapter 61-10-15 standards

COUNTY GOVERNMENT (continued)  
Page Two

**2012-15:**  
Permissibility of a sheriff endorsing a candidate for sheriff and whether the sheriff may pay for advertising to announce his endorsement

**2012-16:**  
Permissibility of a county commission purchasing property from an appointed member of the county building commission

**LEGISLATURE**

**2012-17:**  
Permissibility of the presiding officer of a house of the Legislature providing private legal services to an organization that employs a lobbyist and lobbies legislators

**2012-19:**  
Permissibility of a legislator being retained to provide consulting services to a public university during and after his term of office

**MUNICIPAL GOVERNMENT**

**2011-21:**  
Permissibility of a town adopting an ordinance to compensate the mayor for performing additional job duties

**2012-01:**  
Permissibility of a city council member being employed by the city

**2012-07:**  
Permissibility of a mayor participating in city council meetings when a private customer of his has a matter before the council

**2012-08:**  
Permissibility of a municipal police department soliciting donations for the purchase of a police dog and other equipment

**2012-04:**  
Permissibility of a municipal water board employing the board's chairperson (See also BOARDS AND COMMISSIONS)

**STATE GOVERNMENT**

**2011-22:**  
Permissibility of a state employee whose agency funds a non-profit organization serving on the board of directors for that organization

STATE GOVERNMENT (continued)  
Page Three

**2012-06:**

Permissibility of a statewide elected official accepting travel expenses from a state vendor to attend and speak at an international conference

**2012-09:**

Permissibility of a retiring state employee pursuing private employment and the limitations placed on the individual

**TRADE ASSOCIATIONS AND LOBBYISTS**

**2012-18:**

Applicability of lobbyist registration requirement to circumstances involved with assisting a client with bidding on a state contract

**MISCELLANEOUS**

NONE PUBLISHED

ADVISORY OPINION NO. 2012-16

Issued On May 3, 2012 By The

WEST VIRGINIA ETHICS COMMISSION

FILED  
2012 MAY 10 AM 10:26  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

OPINION SOUGHT

A County Commission asks whether it may purchase private property from an appointed member of the County Building Commission in order to build a new 911 center.

FACTS RELIED UPON BY THE COMMISSION

The Requester desires to build a new Office of Emergency Services/ 911 Center (hereinafter "911 Center"). In furtherance thereof, the County Commission directed the County OES/911 Director and Assistant Director to seek out potential sites to build the new 911 Center.

According to the Requester, only two viable locations were found. The first location was a business/industrial park that is owned and operated by the County Building Commission. The second site was private property which is owned by a Management company. The Management company is owned and operated by an appointed board member of the County Building Commission.

The Requester states that it performed a comparative analysis of the two locations, concluded that the private property was the best location, and entered into an Option Agreement to purchase the private property owned and operated by the Building Commission Board Member. In light of such, the Requester asks the following questions:

1. Is it a conflict of interest for the County Commission to purchase property that is privately owned by a member of the County Building Commission, and
2. May the County Commission bypass the Building Commission and purchase the property in its own name?

The Requester, however, states that when it comes time to build the 911 Center the County will use the Building Commission to finance the project.

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.

Further, W.Va. Code § 6B-2-5(d)(3) states:

If a public official or employee has an interest in the profits or benefits of a contract, then he or she may not make, participate in making, or in any way attempt to use his office or employment to influence a government decision affecting his or her financial or limited financial interest. Public officials shall also comply with the voting rules prescribed in subsection (j) of this section.

Finally, W.Va. Code § 61-10-15(a) reads, in pertinent part:

It is unlawful for any member of a county commission, . . . or any member of any other county or district board or any county or district officer 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

In establishing the Ethics Act, the Legislature sought to create a code of ethics to guide public officials and employees in their public employment. The expressed goal was to assist public servants in avoiding conflicts between their public service and any outside personal interests. W.Va. Code § 6B-1-2(d). The Requester's proposed purchase of property from a member of the County's Building Commission presents one such potential conflict.

Both the Ethics Act and W.Va. Code § 61-10-15 prohibit county public officials from having an interest in public contracts. Specifically, W.Va. Code § 6B-2-5(d)(3) states that "if a public official or employee has an interest in the profits or benefits of a contract, then he or she may not make, participate in making, or in any way attempt to use his office or employment to influence a government decision affecting his or her financial or limited financial interest." W. Va. Code § 61-10-15, a separate criminal statute, imposes criminal penalties against County officials who are pecuniarily interested, either directly or indirectly, in the proceeds of a public contract over which those officials exercise "voice, influence, or control." (emphasis supplied).

Since the proposed purchase involves the County Commission and an individual who is also a county official, the Ethics Commission must first analyze the application of W.Va. Code § 61-10-15 to the proposed sale.

Here, the County Commission seeks to purchase property for public use. In accordance with W.Va. Code § 8-33-1, the County Commission has established a County Building Commission to manage and control the properties of the County.<sup>1</sup> The Requester states that following the purchase of the property, the County Building Commission will be responsible for the financing of the construction of a 911 Center.

According to the Requester, the County Commission considered two potential properties. One property is owned by a private landowner and the other property is owned by the County through its Building Commission. Notwithstanding the availability of the County-owned property, the County Commission has entered into an option to purchase property from the private landowner.<sup>2</sup>

The private landowner is an appointed member of the County Building Commission. Appointed Board Members of a County Building Commission are subject to the restrictions of W.Va. Code § 61-10-15 ("any member of any other county or district board"). As the seller of the property, the member of the County Building Commission will have a financial interest in the County's purchase of his property. Further, as a member of the County Building Commission, the board member will have "voice, influence, and/or control" over the purchase and/or financing of the project. Therefore, the board member, who is selling the property, will have a prohibited interest in the County's purchase and financing of the project in violation of W.Va. Code § 61-10-15.

Accordingly, based upon the information which has been provided by the Requester, the Commission hereby finds that the County Commission's proposed purchase of property from a board member of the County Building Commission is prohibited under W.Va. Code § 61-10-15.<sup>3</sup>

Additionally, with respect to the Requester's second question, the Commission hereby finds that bypassing the County Building Commission in the purchase of the property does not alleviate the potential conflict or the prohibited interest in the contract. Indeed, as the Requester notes, the County still intends to use the County Building Commission to finance the project. Further, the Requester should consult with the county prosecuting attorney and/or its legal counsel to determine whether it is legally authorized to bypass a building commission that it established for this very purpose.

<sup>1</sup> The County Commission appoints the members of the Building Commission, W.Va. Code § 8-33-3.

<sup>2</sup> Although the Ethics Commission need not evaluate the merits of the County Commission's decision to purchase the private property instead of the County-owned property to answer the questions posed, it does have some questions. In particular, the Requester has not provided information relating to the involvement of the Building Commission, if any, in the process. Additionally, the Request letter is silent as to the number of properties evaluated, and did not include a copy of the Option Agreement. The Requester, however, did provide the Commission a graph showing a comparison of the County's property and the private property.

<sup>3</sup> Due to the applicability of the stricter provisions of W.Va. Code § 61-10-15, the Commission need not analyze or discuss the Ethics Act and/or its exception for part-time appointed board members. See W.Va. Code § 6B-2-5(d)(1).

Finally, the Commission has reached this conclusion based upon the limited information which has been provided by the requester. If the County Commission has further information in support of this purchase, and/or believes the property is truly the only viable location/property in which to build the new 911 Center, then the County Commission may seek a Contract Exemption from the Commission.

The decision to seek a contract exemption is the County Commission's to make, not the Building Commission board member. As a result, the board member is prohibited from participating in any way in the decision. The Requester must decide whether it is in the County's best interest to pursue a contract exemption, and make its decision during a properly noticed public meeting. Therefore, the issue has to be placed on the agenda in a manner in compliance with the Open Governmental Proceedings Act, i.e. it needs to be specific enough to allow the public to know what is being considered. For example, it may read, "Consider requesting contract exemption from WV Ethics Commission to purchase property from Acme Company, owned by Building Commission Member Doe".

As with all Contract Exemptions, if the County Commission votes to seek an exemption, then the County must demonstrate to the Ethics Commission that it will experience undue hardship, excessive cost, or substantial interference with the operation of government if it is unable to purchase the private property of the Building Commission board member. See W.Va. Code § 61-10-15. At a minimum, any contract exemption request should include information reflecting the totality of properties considered; the basis for its conclusion that the other property locations are unacceptable; the agenda/minutes of the County Commission meeting in which this purchase was discussed and approved; and a copy of the proposed agreement.

#### Conclusion

Based upon the foregoing, the Commission hereby concludes that the County Commission's proposed purchase of property from a board member of the County Building Commission creates an impermissible conflict as well as a prohibited interest in a public contract. See W.Va. Code § 61-10-15. Further, the Commission finds that the Requester's proposed approach to bypass the Building Commission in the purchase of the property does not alleviate the conflict or financial interest.

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, Chairperson

**UNOFFICIAL**  
**WEST VIRGINIA**  
**HOUSE OF DELEGATES**  
LIST OF 2012 GENERAL ELECTION CANDIDATES  
Gregory M. Gray, Clerk

**FIRST DISTRICT (2)**

Hancock County and a Portion of Brooke County

Ronnie D. Jones (D)\* ..... 141 June Street, Weirton 26062  
Randy Swartzmiller (D)\* ..... 216 Heartwood Drive, Chester 26034  
  
Justin Bull (R) ..... 3808 Bright Way, Weirton 26062  
Carl Thompson (R) ..... 107 Boley Street, Weirton 26062

**SECOND DISTRICT (1)**

Portions of Brooke and Ohio Counties

Phillip W. Diserio (D)\* ..... 623 Wabash Drive, Follansbee 26037  
Lynn Davis (R) ..... 444 Woodland Drive, Wellsburg 26070

**THIRD DISTRICT (2)**

A Portion of Ohio County

Ryan Fems (D)\* ..... 37 Jenna Way, Wheeling 26003  
Shawn Lucas Fluharty (D) ..... 2518 Warwood Avenue, Wheeling 26003  
  
Erikka Storch (R)\* ..... P.O. Box 911, Wheeling 26003  
Larry Tighe (R) ..... 98 15<sup>th</sup> Street, Wheeling 26003

**FOURTH DISTRICT (2)**

Marshall County and a Portion of Ohio County

Michael T. Ferro (D)\* ..... 32 Ninth Street, McMechen 26040  
David Sidiropolis (D) ..... 506 Marshall Street, McMechen 26040  
  
David A. Evans (R) ..... 15 Pleasant Drive, Cameron 26033

**FIFTH DISTRICT (1)**

Wetzel County and a Portion of Monongalia County

Dave Fethtel (D)\* ..... P. O. Box 990, Hundred 26575  
Raymond V. Davis, III (M) ..... 410 Maple Ave., Apt 2, New Martinsville 26155

**SIXTH DISTRICT (1)**

Doddridge and Tyler Counties, and a Portion of Pleasants County

Charlie DeLauder (D) ..... P.O. Box 132, Middlebourne 26149  
Wm. Roger Romine (R)\* ..... 161 Baker Lane, Sistersville 26175

**SEVENTH DISTRICT (1)**

Ritchie County and a Portion of Pleasants County

Lynwood "Woody" Ireland (R)\* ..... 342 Ireland Road, Pullman 26421

**EIGHTH DISTRICT (1)**

A Portion of Wood County

Denzil "Buddy" Malone (D) ..... 424 Columbia Avenue, Williamstown 26187  
K. Robert "Bob" Buchanan (I) ..... 2091 Oakgrove Road, Walker 26180  
E. W. "Bill" Anderson Jr. (R)\* ..... 1011 Highland Avenue, Williamstown 26187

**NINTH DISTRICT (1)**

Wirt County and a Portion of Wood County

Jim Marion (D) ..... 601 Society Hill Road, Mineral Wells 26150  
Anna Bolder (R)\* ..... 39 Highland Meadows Dr., Davisville 26142

**TENTH DISTRICT (3)**

A Portion of Wood County

Dan Poling (D)\* ..... 1007 Star Avenue, Parkersburg 26101  
Tom Azinger (R)\* ..... 1310 7<sup>th</sup> Street, Vienna 26105  
John M. Ellem (R)\* ..... P.O. Box 322, Parkersburg 26101  
Fred Gillespie (R) ..... 1205 Market Street, Parkersburg 26101

**ELEVENTH DISTRICT (1)**

Roane County and a Portion of Jackson County

- Mark Myers (M) ..... 205 5<sup>th</sup> Street, Spencer 25276
- Bob Ashley (R)\* ..... P.O. Box 823, Spencer 25276

**TWELFTH DISTRICT (1)**

A Portion of Jackson County

- Jo Boggess Phillips (D) ..... 346 Crown Drive, Ripley 25271
- Justin Johnson (M) ..... 110 Charleston Drive, Ripley 25271
- Steve Westfall (R) ..... 450 S Church Street, Ripley 25271

**THIRTEENTH DISTRICT (2)**

Portions of Jackson, Mason and Putnam Counties

- Helen Martin (D)\* ..... P.O. Box 513, Poca 25159
- Brady R. Paxton (D)\* ..... P.O. Box 106, Poca 25159
- Scott Cadle (R) ..... 5558 Graham Station Road, Letart 25253
- Brian "Scotty" Scott (R) ..... P.O. Box 133, Hometown 25109

**FOURTEENTH DISTRICT (1)**

Portions of Mason and Putnam Counties

- Jimmie Wood, Jr. (D) ..... 115 English Court, Point Pleasant 25550
- Jim Butler (R) ..... P.O. Box 296 Henderson 25106

**Fifteenth District (1)**

A Portion of Putnam County

- Troy Andes (R)\* ..... 15 Deer Valley Drive, Hurricane 25526

**Sixteenth District (3)**

Portions of Cabell and Lincoln Counties

- Kevin J. Craig (D)\* ..... 34 Chestnut Drive, Huntington 25705
- Sean Hornbuckle (D) ..... 1802 Doulton Avenue, Huntington 25701
- Jim Morgan (D)\* ..... P.O. Box 117, Huntington 25706
- Mike Davis (R) ..... 3913 Crane Avenue, Huntington 25705
- Carol Miller (R)\* ..... 1316 12<sup>th</sup> Street, Huntington 25701

**SEVENTEENTH DISTRICT (2)**

Portions of Cabell and Wayne Counties

- Doug Reynolds (D)\* ..... 219 Brierciff Drive, Huntington 25704
- Dale Stephens (D)\* ..... P.O. Box 9006, Huntington 25704
- Michael Ankrom (R) ..... 13 Pinecrest Lane, Huntington 25705
- Joyce Holland (R) ..... 1611 Campbell Drive, Huntington 25705

**EIGHTEENTH DISTRICT (1)**

A Portion of Cabell County

- Billy J. Chaffin, II (D) ..... P. O. Box 851, Barboursville 25504
- Kelli Sobonya (R)\* ..... P. O. Box 367, Barboursville 25504

**NINETEENTH DISTRICT (2)**

A Portion of Wayne County

- Don Perdue (D)\* ..... 635 White's Creek Road, Prichard 25555
- Rick Thompson (D)\* ..... 4625 Rt. 152, Lavelette 25535
- Randy Tomblin (R) ..... 963 Buffalo Creek Road, Huntington 25704

**TWENTIETH DISTRICT (1)**

Portions of Logan and Mingo Counties

- Justin J. Marcum (D)\* ..... 179 Buffalo Mt., Williamson 25661
- Mike Baisden (R) ..... 1 West 5<sup>th</sup> Avenue, Williamson 25661

**TWENTY-FIRST DISTRICT (1)**

Portions of McDowell, Mingo and Wyoming Counties

- Harry Keith White (D)\* ..... P.O. Box 1985, Gilbert 25621
- Roger Stacy (R) ..... 161 Estep Ridge, Jolo 24850

**TWENTY-SECOND DISTRICT (2)**

Portions of Boone, Lincoln, Logan and Putnam Counties

Jeff Elcridge (D) ..... 4754 Coal River Road, Alum Creek 25003  
Josh Stowers (D)\* ..... 4293 Coal River Road, Alum Creek 25003  
  
Gary L. Johngrass (R) ..... 152 Central Drive, West Hamlin 25571  
Michael Moffatt (R) ..... 156 Jamestown Way, Hurricane 25526

**TWENTY-THIRD DISTRICT (1)**

A Portion of Boone County

Larry W. Barker (D)\* ..... 252 Madison Avenue, Madison 25130.  
Joshua Nelson (R) ..... 3712 Lick Creek Road, Danville 25053

**TWENTY-FOURTH DISTRICT (2)**

Portions of Boone, Logan and Wyoming Counties

Rupert "Rupie" Phillips (D)\* ..... P. O. Box 194, Lorado 25630  
Teddy "Ted" Tomblin (D) ..... P. O. Box 191, Logan 25601

**TWENTY-FIFTH DISTRICT (1)**

Portions of McDowell, Mercer and Wyoming Counties

Linda Goode Phillips (D)\* ..... Box 505, Pineville 24874

**TWENTY-SIXTH DISTRICT (1)**

Portions of McDowell and Mercer Counties

Cliff Moore (D)\* ..... P. O. Box 67, Thorpe 24888

**TWENTY-SEVENTH DISTRICT (3)**

Portions of Mercer and Raleigh Counties

Greg Eiall (D) ..... P. O. Box 732, Athens 24712  
Ryan J. Flanigan (D) ..... 229 Undercliff Terrace, Princeton 24740  
Billy Morefield (D) ..... 240 Rainbow Road, Princeton 24740  
  
Joe Ellington (R)\* ..... 613 Pigeon Roost Trail, Princeton 24740  
Marty Gearheart (R)\* ..... 131 Henderson Drive, Bluefield 24701  
John H. Shoff (R) ..... 422 Oakhurst Avenue, Bluefield 24701

**TWENTY-EIGHTH DISTRICT (2, NOT MORE THAN 1 FROM A SINGLE COUNTY)**

Portions of Monroe, Raleigh and Summers Counties

Al Martine (D) (Raleigh) ..... 283 Far Country Drive, Daniels 25832  
Jeffrey A. Pritt (D) (Monroe) ..... Rt. 2, Box 207, Pickaway 24951  
  
Roy G. Cooper (R) (Summers) ..... HC 65 Box 112, Wayside 24985  
John D. O'Neal IV (R)\* (Raleigh) ... 8 Oriole Place, Beckley 25801

**TWENTY-NINTH DISTRICT (1)**

A Portion of Raleigh County

Ricky Moyer (D)\* ..... 350 Cedar Road, Crab Orchard 25827  
Ron Hadrick (R) ..... 332 Boyd Crawford Drive, Cool Ridge 25825

**THIRTIETH DISTRICT (1)**

A Portion of Raleigh County

William "Bill" Wooton (D) ..... 210 Main Street, Beckley 25801  
Linda Sumner (R)\* ..... 155 Oak Run Road, Beckley 25801

**THIRTY-FIRST DISTRICT (1)**

Portions of Raleigh and Wyoming Counties

Clyde D. McKnight, Jr. (D) ..... P. O. Box 171, Rock Creek 25174  
Karen "Lynne" Arvon (R) ..... 101 Triangle Lane, Beckley 25801

**THIRTY-SECOND DISTRICT (3)**

Fayette County and Portions of Clay, Kanawha, Nicholas and Raleigh Counties

Dave Perry (D)\* ..... 330 East Martin Avenue, Oak Hill 25901  
John Fino (D)\* ..... 300 Oyer Avenue, Oak Hill 25901  
Margaret Anne Staggers (D)\* ..... 36 Barrington Hill Road, Fayetteville 25840  
  
Tighe C. Bullock (M) ..... 112 Thurmond Street, Thurmond 25936

**THIRTY-THIRD DISTRICT (1)**

Calhoun County and Portions of Clay and Gilmer Counties

David A. Walker (D)\* ..... 1056 Elk River Road North, Clendenin 25045

**THIRTY-FOURTH DISTRICT (1)**

Braxton County and a Portion of Gilmer County

Brent Boggs (D)\* ..... 151 Park Street, Gassaway 26624

**THIRTY-FIFTH DISTRICT (4)**  
A Portion of Kanawha County

Bonnie Brown (D)\* ..... 2328 Woodland Ave., South Charleston 25303  
Barbara "Bobbie" Hatfield (D)\* ..... 3 Wilbur Drive, South Charleston 25303  
Christopher "Chris" Morris (D) ..... 619 Churchill Drive, Charleston 25314  
Doug Skaff, Jr. (D)\* ..... 3 Joplin Place, South Charleston 25303  
  
Fred Joseph (R) ..... 827 Chestnut Road, Charleston 25314  
John B. McCuskey (R) ..... P. O. Box 11359, Charleston 25339  
Eric Nelson (R)\* ..... P. O. Box 186 Charleston 25321  
Suzette Raines (R) ..... 850 Jonash Lane, St. Albans 25177

**THIRTY-SIXTH DISTRICT (3)**  
A Portion of Kanawha County

Nancy Peoples Guthrie (D)\* ..... 5300 Kanawha Avenue, Charleston 25304  
Mark Hunt (D)\* ..... 901 Edgewood Drive, Charleston 25302  
Danny Wells (D)\* ..... 34 Bridlewood Road, Charleston 25314  
  
Robin Holstein (R) ..... P. O. Box 395, Belle 25015  
Steve Sweeney (R) ..... 372 Ranger Lane, South Charleston 25309  
Steve Thaxton (R) ..... 220 Newbridge Road, South Charleston 25309

**THIRTY-SEVENTH DISTRICT (1)**  
A Portion of Kanawha County

Meshea L. Poore (D)\* ..... P. O. Box 75134, Charleston 25375  
Derrick Westly Shaffer (M) ..... 723 Brawley Walkway, Charleston 25301

**THIRTY-EIGHTH DISTRICT (1)**  
A Portion of Kanawha County

Virginia "Ginny" Molas (D) ..... 502 Silver Oaks Drive, Nitro 25143  
Patrick Lane (R)\* ..... 5113 Briar Meadow Drive, Cross Lanes 25356

**THIRTY-NINTH DISTRICT (1)**  
A Portion of Kanawha County

Clint Casto (D) ..... 913 Amherst Drive, Charleston 25302  
Ron Walters (R)\* ..... P. O. Box 3665, Charleston 25336

**FORTIETH DISTRICT (1)**  
A Portion of Kanawha County

Tim Armstead (R)\* ..... 5012 Elk River Road, Elkview 25071

**FORTY-FIRST DISTRICT (1)**  
Portions of Greenbrier and Nicolas Counties

Adam R. Young (D) ..... 207 Main Street, Summersville 26651  
Jordan C. Mill (R) ..... 40 Weeping Willow Lane, Mt. Nebo 26679

**FORTY-SECOND DISTRICT (2)**  
Portions of Greenbrier, Monroe and Summers Counties

Steve Hunter (D) ..... 653 E. Washington Street, Lewisburg 24901  
Glenn Singer (D) ..... 208 Feamster Road, Lewisburg 24901  
  
George "Boogie" Ambler (R) ..... Rt. 1, Box 315, Fort Springs 24970  
Ray Canterbury (R)\* ..... Rt. 2, Box 288, Roncercerte 24970

**FORTY-THIRD DISTRICT (2)**  
Pocahontas County and a Portion of Randolph County

Denise L. Campbell (D)\* ..... Rt. 1, Box 330-36, Elkins 26241  
Bill Hartman (D)\* ..... P. O. Box 243, Elkins 26241  
  
Donna Auvil (R) ..... P. O. Box 2674, Elkins 26241

**FORTY-FOURTH DISTRICT (1)**  
Webster County and Portions of Nicholas, Randolph and Upshur Counties

Dana L. Lynch (D) ..... 176 Woodplant Road, Webster Springs 26288  
Robert Kames (R) ..... P. O. Box 97, Tallmansville 26237

**FORTY-FIFTH DISTRICT (1)**  
A Portion of Upshur County

Bill Hamilton (R)\* ..... P. O. Box 1192, Buckhannon 26201

**FORTY-SIXTH DISTRICT (1)**  
Lewis County and a Portion of Upshur County

Peggy Donaldson Smith (D)\* ..... 518 Center Avenue, Weston 26452

**FORTY-SEVENTH DISTRICT (1)**

Barbour County and a Portion of Tucker County

Mary M. Poling (D)\* ..... Rt. 1, Box 331, Moatsville 26405  
John R. Rose, Sr. (R) ..... Rt. 4, Box 266, Phillippi 26416

**FORTY-EIGHTH DISTRICT (4)**

Harrison County and a Portion of Taylor County

Samuel J. "Sam" Cann (D)\* ..... 21 Maple Lake Road, Bridgeport 26330  
Ron Fragale (D)\* ..... 503 East Main Street, Clarksburg 26301  
Richard Iaquina (D)\* ..... 139 Vermont Avenue, Clarksburg 26301  
Tim Mihey (D)\* ..... 23 Valley View Road, Bridgeport 26330

Diana Bartley (R) ..... P. O. Box 224, Lumberport 26386  
Danny Hamrick (R) ..... P. O. Box 4386, Clarksburg 26302  
Ed "Buddy" Randolph (R) ..... 500 Lawman Avenue, Bridgeport 26330  
Terry J. Woodside, Sr. (R) ..... RR3, Box 196-A, Shinnston 26431

**FORTY-NINTH DISTRICT (1)**

Portions of Marion, Monongalia and Taylor Counties

Mike Manypenny (D)\* ..... RR3, Box 202, Grafton 26354  
Jeff Tansil (R) ..... 1037 West Main Street, Grafton 26354

**FIFTIETH DISTRICT (3)**

A Portion of Marion County

Mike Caputo (D)\* ..... 310 Gaston Avenue, Fairmont 26554  
Linda Longstreth (D)\* ..... 804 Ohio Avenue, Fairmont 26554  
Tim Manchin (D)\* ..... 1543 Fairmont Avenue, Fairmont 26554

Barry Bledsoe (R) ..... 171 Bailey Circle, Fairmont 26554  
Lynette Kennedy McQuain (R) ..... P. O. Box 543, Rivesville 26560

**FIFTY-FIRST DISTRICT (5)**

A Portion of Monongalia County

Anthony P. "Tony" Barill (D)\* ..... 937 Garrison Avenue, Morgantown 26505  
Barbara Evans Fieleschauer (D)\* ..... 851 Bakers Ridge Road, Morgantown 26508  
Nancy Jamison (D) ..... 1031 Fort Martin Road, Madsville 26541  
Charlene Marshall (D)\* ..... 1010 Ashton Drive, Morgantown 26508  
Billy Smerka, Jr. (D) ..... 655 Poling Avenue, Westover 26501

Cindy Frich (R) ..... 1248 Bakers Ridge Road, Morgantown 26505  
Amanda Pasdon (R)\* ..... P. O. Box 106, Morgantown 26507  
Kevin Scott Poe (R) ..... 3016 Fairmont Road, Morgantown 26501  
Jay Redmond (R) ..... 941 Southpoint Circle, Morgantown 26501  
John P. Woods (R) ..... 5 Bayberry Terrace, Morgantown 26508

**FIFTY-SECOND DISTRICT (1)**

A Portion of Preston County

Larry A. Williams (D)\* ..... 6163 S. Preston Hwy., Tunnelton 26444

**FIFTY-THIRD DISTRICT (1)**

Portions of Preston and Tucker Counties

Stan Snaver (D)\* ..... 3612 Birch Root Road, Tunnelton 26444  
Randy E. Smith (R) ..... 442 Freeland Crosscut Road, Terra Alta 26764

**FIFTY-FOURTH DISTRICT (1)**

Grant County and Portions of Mineral and Pendleton Counties

Allen V. Evans (R)\* ..... HC33, Box 3025, Dorcas 26835

**FIFTY-FIFTH DISTRICT (1)**

Hardy County and a Portion of Pendleton County

Isaac Sponaule (D) ..... P. O. Box 578, Franklin 26807  
Stephen G. Smith (R) ..... P. O. Box 281, Old Fields 26845

**FIFTY-SIXTH DISTRICT (1)**

A Portion of Mineral County

Jim Maybury (D) ..... 288 Poplar Drive, Keyser 26726  
Gary G. Howell (R)\* ..... P. O. Box 39, Keyser 26726

**FIFTY-SEVENTH DISTRICT (1)**  
Portions of Hampshire and Mineral Counties

Joe Moreland, Jr. (D) ..... HC 78 Box 85M, Augusta 26704  
Ruth Rowan (R)\* ..... HC60, Box 113-A, Points 25437

**FIFTY-EIGHTH DISTRICT (1)**  
Portions of Hampshire and Morgan Counties

Daryl E. Cowles (R)\* ..... 2612 Martinsburg Road, Berkeley Springs 25411

**FIFTY-NINTH DISTRICT (1)**  
Portions of Berkeley and Morgan Counties

Larry E. Kump (R)\* ..... P. O. Box 1131, Falling Waters 25419

**SIXTIETH DISTRICT (1)**  
A Portion of Berkeley County

Larry W. Faircloth (R) ..... 186 Diamante Drive, Inwood 25428

**SIXTY-FIRST DISTRICT (1)**  
A Portion of Berkeley County

Jason Barrett (D) ..... 1125 West King Street, Martinsburg 25401

Walter E. Duke (R)\* ..... 112 Tavern Road, Martinsburg 26401

**SIXTY-SECOND DISTRICT (1)**  
A Portion of Berkeley County

John Overington (R)\* ..... 491 Hoffman Road, Martinsburg 25404

**SIXTY-THIRD DISTRICT (1)**  
A Portion of Berkeley County

Donn Marshall (D) ..... P. O. Box 2675, Martinsburg 25402

Michael "Mike" Folk (R) ..... 1346 Swan Pond Road, Martinsburg 25405

**SIXTY-FOURTH DISTRICT (1)**  
A Portion of Berkeley County

Eric L. Householder (R)\* ..... 212 Snooks Lane, Martinsburg 25405

**SIXTY-FIFTH DISTRICT (1)**  
A Portion of Jefferson County

Tiffany Lawrence (D)\* ..... 652 Sawgrass Drive, Charles Town 25414

Jill Upson (R) ..... 336 Pebble Beach Drive, Charles Town 25414

**SIXTY-SIXTH DISTRICT (1)**  
A Portion of Jefferson County

John Reese Maxey (D) ..... 335 Old Shenandoah Trail, Harpers Ferry 25425

Paul Espinosa (R) ..... 107 Hancock Court, Charles Town 25414

**SIXTY-SEVENTH DISTRICT (1)**  
A Portion of Jefferson County

Stephen Skinner (D) ..... P. O. Box 366, Shepherdstown 25443

Elliot Simon (R) ..... P. O. Box 1320, Harpers Ferry 25425

**DELEGATES NOT RUNNING FOR REELECTION**

Greg Blotcher (D)  
Tom Campbell (D)  
Mitch Carmichael (R)  
Gerald Crosier (D)  
John Doyle (D)  
John Frazier (D)  
Roy Givens (D)  
Daniel Hall (D)  
Virginia Mahan (D)  
Harold Michael (D)  
Jonathan Miller (R)  
Ralph Rodighiero (D)  
Brian Savilla (R)  
Harold "Pete" Sigler (R)  
Rick Snuffer (R)  
Scott Varner (D)

**DELEGATES LOSING IN PRIMARY ELECTION**

Joe Talbott (D)

**WEST VIRGINIA  
SENATE**  
LIST OF 2012 GENERAL ELECTION CANDIDATES

**FIRST DISTRICT**

Brook, Hancock and Ohio Counties and a Portion of Marshall County

- Jack Yast (D)\* ..... 1413 Pleasant Avenue, Wellsburg 26070  
Pat McGeehan (R) ..... 616 Florida Avenue, Chester 26034

**SECOND DISTRICT**

Calhoun, Doddridge, Ritchie, Tyler and Wetzel Counties and  
Portions of Gilmer, Marion, Marshall and Monongalia Counties

- Jeffrey V. Kessler (D)\* ..... 607 Wheeling Avenue, Glen Dale 26038

**THIRD DISTRICT**

Pleasant, Wirt and Wood Counties and a Portion of Roane County

- Donna J. Boley (R)\* ..... 2332 Greens Run Road, St. Marys 26170

**FOURTH DISTRICT**

Jackson and Mason Counties and a Portion of Roane County

- Michael "Mike" Bright (D) ..... 475 West View Drive, Ripley 25271  
Mitch B. Carmichael (R) ..... 2 Colonial Drive, Ripley 25271

**FIFTH DISTRICT**

Cabell County and a Portion of Wayne County

- Robert H. "Bob" Plymale (D) ..... 206 Cliffview Drive, Huntington 25704

**SIXTH DISTRICT**

Mercer County and Portions of McDowell, Mingo and Wayne Counties

- Mark Willis (D)\* ..... 218 Hale Avenue, Princeton 24740  
Bill Cole (R) ..... 404 Oakhurst Avenue, Bluefield 24701

**SEVENTH DISTRICT**

Boone, Lincoln and Logan Counties and Portions of Mingo and Wayne Counties

- Art Kirkendoll (D)\* ..... P. O. Box 1227, Chapmanville 25508

**EIGHTH DISTRICT**

Portions of Kanawha and Putnam Counties

- Joshua R. Martin (D) ..... P. O. Box 513, Poca 25159  
Chris Walters (R) ..... P. O. Box 1131, Poca 25159

**NINTH DISTRICT**

Raleigh and Wyoming Counties and a Portion of McDowell County

- Daniel Hall (D) ..... P. O. Box 339, Oceana 24870  
Epp E. Cline (R) ..... P. O. Box 201, Oceana 24870

**TENTH DISTRICT**

Fayette, Greenbrier, Monroe and Summers Counties

- William R. Laird IV (D)\* ..... 225 Highland Ave, Oak Hill 25901

**ELEVENTH DISTRICT**

Nicholas, Pendleton, Pocahontas, Randolph, Upshur and Webster Counties  
and a Portion of Grant County

- Margaret Kerr Beckwith (D) ..... 136 Vector Avenue, Elkins 26241  
Clark Barnes (R)\* ..... Rt. 2, Box 12-C, Beverly 26253

**TWELFTH DISTRICT**

Braxton, Clay, Harrison and Lewis Counties and a Portion of Gilmer County

- Doug Macemire (D)\* ..... P. O. Box 215, Sutton 26601

**THIRTEENTH DISTRICT**

Portions of Marion and Monongalia Counties

- Roman W. Prezioso, Jr. (D)\* ..... 1806 Dogwood Drive, Fairmont 26554  
Casey Mayer (R) ..... 1010 East Brookside Drive, Fairmont 26554

**FOURTEENTH DISTRICT**

Barbour, Hardy, Preston, Taylor and Tucker Counties  
and Portions of Grant, Mineral and Monongalia Counties

- Bob Williams (D)\* ..... P. O. Box 562, Grafton 26354

**FIFTEENTH DISTRICT**

Hampshire and Morgan Counties and a Portion of Berkeley and Mineral Counties

- Craig P. Blair (R) ..... 47 Wasser Drive, Martinsburg 25403

**SIXTEENTH DISTRICT**

Jefferson County and a Portion of Berkeley County

Herb Snyder (D)\* ..... P. O. Box 400, Shenandoah Junction 25442  
Jim Ru and (R) ..... P. O. Box 790, Charles Town 25414

**SEVENTEENTH DISTRICT**

A Portion of Kanawha County

Corey Palumbo (D)\* ..... 1206 Williamsburg Way, Charleston 25314

**SENATORS NOT RUNNING FOR REELECTION**

Karen Facemyer (R)  
John Pat Fanning (D)  
Dan Foster (D)

**SENATORS LOSING IN PRIMARY ELECTION**

Richard Browning (D)

## ADVISORY OPINION NO. 2012-17

Issued On May 3, 2012 By The

WEST VIRGINIA ETHICS COMMISSION

FILED  
2012 MAY 10 AM 10:26  
COPYOFFICE WEST VIRGINIA  
SECRETARY OF STATEOPINION SOUGHT

The Presiding Officer of a house of the West Virginia Legislature asks whether he may be retained to provide legal services to an Association which is actively engaged in lobbying on behalf of its members, and employs a lobbyist, when the legal services he will provide are unrelated to the Association's lobbying activities.

FACTS RELIED UPON BY THE COMMISSION

The Requester is the Presiding Officer of a house of the West Virginia Legislature. He is also a licensed attorney. He seeks to enter into a private contract with an Association whose membership consists of public employees in a profession. The members pay membership dues through payroll deductions.

In addition to providing professional development and networking opportunities to its members, the Association also engages in lobbying. It retains a registered lobbyist to promote its legislative agenda, including laws affecting the profession, and laws which affect the salaries or benefits of the Association's members.

The Requester would be hired as an independent contractor. Upon information and belief, he would maintain his office and headquarters in his Legislative District and would continue his private practice, albeit on a more limited basis. He will receive no fringe benefits such as health insurance, paid vacation, or any other employee benefits. Instead, he will be an independent contractor, not an employee.

He would be paid a flat-rate fee to provide the following legal services:

- (1) Advise which member defense cases are appropriate for funding consistent with the Association's legal service program;
- (2) Contact outside counsel to be retained by the Client and, where necessary, review their work and billing;
- (3) In certain cases to be determined by the Client and the Requester, advise and determine legal strategy with such retained outside counsel;
- (4) Prepare and sign briefs in member defense cases;
- (5) Provide training in legal research and strategy;

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(6) Modeling and reviewing hearing and written arguments prepared by the Association's staff; and

(7) Advising and representing the Association and its Director and their local Governing Bodies regarding:

- a. Corporate legal matters, reporting requirements, tax, zoning, staff negotiations and contract maintenance,
- b. Personnel matters such as policies, employment, discipline, grievances and arbitration, and
- c. The laws governing political action committees and election law.

The contract also contains a clause which in relevant part reads:

Provided that Consultant shall not lobby for said Client and hereby reserves the right to remove himself from any matter and not participate in any matter that conflicts with his duties as a Member of the West Virginia Legislature.

The Requester asks the Commission to recognize:

[T]hat as a citizen legislator, [the Requester] obviously has the right and need to hold additional employment, as do nearly all of other 133 legislative members. Finally, we would ask that you give consideration that throughout the legislature, various members' occupations constantly overlap into issues being handled before the body. It is an issue consistent with being a citizen legislator. For these reasons, the legislative body has Joint Rule 49 to govern any conflict of interest related to voting.

West Virginia Senate Rule 43 is entitled "Excused from voting". It reads:

Every member within the Senate Chamber, when a question is put, shall vote unless he or she is immediately and particularly interested therein, meaning an interest that affects the member directly and not as one of a class, or the Senate excuses him or her. All motions to excuse a member from voting must be made by the member requesting to be excused before the Senate divides, or before the call of the yeas and nays is commenced, and it shall be decided without debate, except that the member making the motion to be excused from voting may briefly state the reason why it ought to be adopted.

West Virginia House of Delegates Rule 49, "When Members Not to Vote", reads:

When a question is put, any member having a direct personal or pecuniary interest therein should announce this fact and request to be excused from voting. The disqualifying interest must be such as affects the member directly and not as one of a class.

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## CODE PROVISIONS RELIED UPON BY THE COMMISSION

W. Va. Code § 6B-1-2, "Legislative findings, purpose, declaration and intent" reads:

(c) The Legislature finds that the state government and its many public bodies and local governments have many part-time public officials and public employees serving in elected and appointed capacities; and that certain conflicts of interest are inherent in part-time service and do not, in every instance, disqualify a public official or public employee from the responsibility of voting or deciding a matter; however, when such conflict becomes personal to a particular public official or public employee, such person should seek to be excused from voting, recused from deciding, or otherwise relieved from the obligation of acting as a public representative charged with deciding or acting on a matter.

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

(b) Use of public office for private gain. -- (1) 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(e), *Confidential information*, provides:

No present or former public official or employee may knowingly and improperly disclose any confidential information acquired by him or her in the course of his or her official duties nor use such information to further his or her personal interests or the interests of another person.

W. Va. Code § 6B-2-5 reads:

(i) Members of the Legislature required to vote. -- Members of the Legislature who have asked to be excused from voting or who have made inquiry as to whether they should be excused from voting on a particular matter and who are required by the Presiding Officer of the House of Delegates or Senate of West Virginia to vote under the rules of the particular house shall not be guilty of any violation of ethics under the provisions of this section for a vote so cast.

W. Va. Code § 6B-3-1 reads in relevant part:

(8)(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  
A.O. 2012-17 (Page 3 of 6)

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...legislation....

## ADVISORY OPINION

Although the West Virginia Constitution prohibits a Member of the Legislature from being employed by the State of West Virginia, no provision in the Ethics Act prohibits a Member of the Legislature, a part-time elected official, from accepting any particular employment position. While this Commission recognizes that it does not have unfettered authority to dictate the affairs of the Legislature, the Commission is empowered to interpret the Ethics Act and would be remiss in performing its statutory duty if it did not address inescapable conflicts. The Ethics Commission believes the guidance in this opinion is within its statutory authority.

As early as 1996, the Ethics Commission recognized the potential for an inescapable conflict to arise between the public responsibilities of a part-time public servant and the demands of a second position. In Advisory Opinion 96-55 the Commission wrote:

Cases arise in which an inescapable conflict exists between the public responsibilities of a part-time public servant and the demands of a second position, public or private. In such a situation, where the public servant cannot be expected to perform both positions without creating either substantial problems or the appearance of impropriety, both positions may not be held.

More recently, in Advisory Opinion 2008-03, a non-precedential opinion, the Commission ruled that a candidate for the West Virginia Legislature, if elected, may **not** continue to operate a business which provided lobbying services finding that such dual service presented an inescapable conflict. See also Advisory Opinion 2006-06. (Member of Legislature should not use her position to influence the appropriation of public funds to a non-profit by which she is employed.)

The Ethics Commission is mindful of the Legislative finding that certain conflicts of interest are inherent in part-time service by elected officials in state government. Recognizing that the usual and customary duties of Members of the Legislature include sponsoring legislation, particularly legislation which is sought by constituents, the Commission has issued opinions authorizing certain outside employment for various Members of the Legislature. See generally Advisory Opinions 93-02, 96-55, 99-23, 2001-20, 2003-14, and 2006-06. In these opinions, the Commission cautioned the Members to follow the relevant legislative voting rules, and, in certain instances, recommended public disclosure of the conflict of interest. This opinion does not adversely impact or overrule any of the foregoing opinions.

The Commission is equally mindful, however, that the chief obligation of a Member of the Legislature is to represent the interests of the people in her or his district.

Indeed, the Presiding Officer of a house of the West Virginia Legislature has an even higher  
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duty to all citizens of the State, and to the efficient operation of the house. The duties of the Presiding Officer are legion and include, without limitation, presiding over the house during its proceedings, appointing standing committees, designating committee chairpersons, referring bills to committees, and certifying (with the Clerk) the official record or journal of the house. Additionally, the Presiding Officers, as chairs of their respective Rules Committee, wield more power than chairs of most other legislative committees. By virtue of his position as Presiding Officer, the Requester has far more power than all but one other Member of the Legislature. As a consequence of his additional duties and responsibilities, he earns more compensation than the other Members of the Legislature. See W. Va. Code § 4-2A-4.

Thus, the situation presented here is different from the previously cited opinions because the Requester is not just a part-time Member of the Legislature, but a Presiding Officer thereof. As a result, he is not similarly situated to other Members of the Legislature, and must, therefore, be held to a higher standard to preserve the integrity of the legislative process. Neither strict compliance with the voting rules, nor advance disclosure of conflicts of interest minimize the conflict that arises from the Requester's situation, given the position that he holds.

The Requester seeks to serve as Legal Counsel to an Association which actively engages in lobbying on behalf of its members and has a registered lobbyist. Although the Requester has no ownership interest in the Association nor do his job duties under the proposed contract include advising the Association on legislative matters or its lobbying strategy, concerns remain. For example, the proposed contract requires the Requester to advise and represent the Association and its Director and their local Governing Bodies regarding the laws governing political action committees and election law. The Commission finds that this position is similar to a General Counsel position. See Advisory Opinion 2008-08 (City Attorney, whose responsibilities cover every conceivable legal matter in which the City is interested, functions more as general counsel to the governing body.)

As a legislator, the Requester has access to confidential information not otherwise available to non-legislators, such as the positions taken or proposed in a closed party caucus. Permitting a Presiding Officer to accept the equivalent of a General Counsel position with the Association may have a chilling effect on free and full discussion in legislative sessions.

Additionally, the public may perceive that the Association has hired the Requester because of his unique ability to influence legislation. Further, other Associations that do not employ a high ranking member of the Legislature may believe that they are at a disadvantage in the legislative process. As the Ethics Commission stated in Advisory Opinion 2006-06, one of the main purposes of the Ethics Act is to uphold the integrity and impartiality of the government decision-making process.

The Ethics Act prohibits public officials from knowingly and intentionally using their public offices or the **prestige** of their offices for their own private gain or that of another person. W. Va. Code § 6B-2-5(b). (emphasis supplied) Admittedly, at times this provision is a challenge to interpret, particularly when attempting to balance the right of a part-time public official to hold gainful employment while ensuring that neither the official nor private employer gains an

unfair advantage. In most cases, part-time legislators are able to separate their public interests from their private interests.

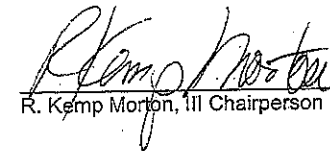
While, the private gain prohibition provides an exception for "the performance of usual and customary duties associated with the office ... or [performance of] constituent services", the Ethics Act expressly limits the exception to those duties performed **without compensation**. Here, the Commission finds that in applying this provision to the facts presented, it is impracticable, if not impossible, to craft limitations that clearly and fairly demarcate his public job duties, the interests of the Association, and the interests of his constituents. Hence, an "inescapable conflict".

Indeed, the Requester's public role is too inextricably intertwined and presents an impossible impediment to impartiality. As a result, this is one of the cases anticipated in Advisory Opinion 96-55 and justifies an imposition of an outright ban due to the inescapable conflict. The Commission hereby finds that the Requester cannot be expected to perform both positions without creating an unavoidable conflict of interest or the appearance of impropriety, or both and therefore he may not hold both positions.

The Commission commends the Requester for seeking this opinion on such a complicated issue. The Commission is cognizant of its duty to balance the competing needs to maintain the integrity of the legislative process and the employment rights of part-time public servants. Further, the Commission does not want to discourage or deter qualified and committed individuals from seeking public office by imposing unduly burdensome requirements.

Thus, this opinion is limited to the Presiding Officers of the houses of the West Virginia Legislature.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.* and does not purport to interpret other laws or rules.

  
R. Kemp Morton, III Chairperson

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(ii) The adoption or rejection of any rule, legislative rule, standard, rate, fee or other delegated legislative or quasilegislative action to be taken or withheld by any executive department.

OPINION SOUGHT

A **Registered Lobbyist** asks whether she must register as a lobbyist on behalf of a client who has retained her to assist with bidding on a State contract.

FACTS RELIED UPON BY THE COMMISSION

A private business is seeking to bid on a State contract. It has hired the Requester to provide assistance to it during this process. Her assistance includes, in part, communicating with the State Agency Officials about the procurement process and the contract in question. Additionally, if her client is the successful bidder, then the Requester will continue to consult with the business for purposes of assisting it in fulfilling its responsibilities under the contract.

For this client, the Requester does not communicate with State Officials or Members of the Legislature on its behalf for purposes of attempting to influence the passage or defeat of any legislation, rule or regulation. She states that if she was ever asked by the client to perform these functions, then she would immediately register as a lobbyist on behalf of the client.

The Requester has other clients for whom she lobbies. She is currently registered as a lobbyist on behalf of these clients.

CODE PROVISIONS AND LEGISLATIVE RULE RELIED UPON BY THE COMMISSION

W. Va. Code § 6B-3-1(8)(A) 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; or

(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:

ADVISORY OPINION

Pursuant to the Ethics Act, persons who are compensated to communicate with State Officials or Members of the Legislature for the purpose of attempting to influence the passage or defeat of legislation or legislative rules are required to register as a lobbyist.<sup>1</sup> Here, the Requester has a client who has retained her to advise it on the State procurement process and to serve as its liaison to a State Agency during its efforts to be the successful bidder on a State contract.

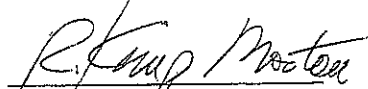
The Commission finds that pursuant to the plain language of the Ethics Act, the purposes for which the Requester has been hired by this particular client do not constitute "lobbying" as defined in the Ethics Act. Specifically, the purposes for which she is communicating with State Officials do not relate to the passage or defeat of legislation or rules, but the procurement process. While both the Requester and the client must follow all applicable State procurement laws, she is not required to register as a lobbyist on the client's behalf. Of course, as the Requester is aware, if her client requests that she communicate with State Officials or Members of the Legislature in regard to the passage or defeat of Legislation or Rules, then she must register as a lobbyist on behalf of this client.

The fact that she is registered as a lobbyist on behalf of other clients does not change this analysis. Persons with consulting businesses may offer a variety of services to private or public clients. The fact that they lobby for some clients does not trigger the lobbyist registration requirement in regard to their other clients so long as they clearly are not lobbying on their behalf. In contrast, in A.O. 2010-07, the Commission ruled that a registered lobbyist was required to register on behalf of a non-profit for which she communicated with Members of the Legislature. Hence, even if she was lobbying for

<sup>1</sup> There are various exceptions in the Ethics Act governing who must register as a lobbyist. For example, a person who only renders assistance in drafting legislation does not have to register as a lobbyist so long as he or she does not directly communicate with members of the legislature. W.Va. Code § 6B-3-1(8)(A)(ix). Nevertheless, all the laws governing who must register as a lobbyist and the exceptions therein are not addressed in this opinion as they are not relevant to the question before the Commission.

the non-profit for free, still she had to register on its behalf because she was already a registered lobbyist. W.Va. Code § 6B-3-1(8)(B). Here, the analysis is different as the Requester is not lobbying on behalf of the client who has hired her to assist it in bidding on a State contract, i.e. she is not promoting the passage or defeat of legislation for the client in question.

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. 2012-19

Issued On May 3, 2012 By The

WEST VIRGINIA ETHICS COMMISSION

FILED  
COPY  
2012 MAY 10 AM 10:25  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

OPINION SOUGHT

A Member of the Legislature asks whether he may be retained to provide consulting services to a Public University during and after his term of office.

FACTS RELIED UPON BY THE COMMISSION

The Requester is a long-term Member of the Legislature whose term expires in December 2012. He is not seeking re-election.

Although he had earlier been a member of the Finance Committee, the Requester asked the Presiding Officer to transfer him to the Judiciary Committee so as to avoid any conflict of interest related to pursuing opportunities in Higher Education. For the same reasons, he will no longer serve on the following Interim Committees: Education Accountability, and Outcomes-Based-Funding Models in Higher Education.

The University has entered into a sole source one year contract with the Requester to provide consulting services as "Planning Officer", beginning June 1, 2012. The contract requires the Requester to work closely with the University President to develop foundational research, a prospectus, and identification of the necessary application processes for an off-campus center to be established for the University. According to a press release the University issued, the proposed center will offer courses for adult undergraduate and graduate students at a more convenient times and locations.

The Requester has made it clear that although he is willing to resign from the Legislature before taking the position, he is cognizant of the challenges presented in filling a vacant seat for such a short time.

CODE PROVISIONS RELIED UPON BY COMMISSION

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

(b) *Use of public office for private gain.* -- (1) 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.

A.O. 2012-19 (Page 1 of 4)

W. Va. Code §6B-2-5(i) reads:

(i) *Members of the Legislature required to vote.* -- Members of the Legislature who have asked to be excused from voting or who have made inquiry as to whether they should be excused from voting on a particular matter and who are required by the presiding officer of the House of Delegates or Senate of West Virginia to vote under the rules of the particular house shall not be guilty of any violation of ethics under the provisions of this section for a vote so cast.

ADVISORY OPINION

In Advisory Opinion 2012-17, the Commission imposed strict limitations regarding secondary employment of a presiding officer of a house of the West Virginia Legislature. In doing so, however, the Commission recognized its prior opinions authorizing certain outside employment for various Members of the Legislature. That opinion, like its predecessors, recognized that there is no provision in the Ethics Act that prohibits part-time public servants from accepting any particular employment position. While the Ethics Act places employment limitations on full-time public servants, a different standard applies to part-time public servants, most of whom must balance their public responsibilities with the need to make a living and support their families. For example, although required for full-time public servants, part-time public servants are not required to seek an employment exemption before seeking employment with persons and businesses subject to their regulatory authority. W. Va. Code § 6B-2-5(h).

The Ethics Act acknowledges the potential for conflict involved in balancing public and private responsibilities and directs that part-time public servants avoid such conflict by not taking official action on matters in which they have a personal interest. This concept is supported by the Act's prohibition against public servants using their public positions for their own private financial gain, or that of another. Together they serve to limit the potential for conflicts of interest inherent in governments which rely heavily on part-time public servants.

In Advisory Opinion 2001-20, a State Legislator asked if he could be employed as the Director of a federally funded State University Institute. Although the Commission ruled that the Ethics Act did not prohibit the proposed employment, it cautioned:

It is clearly a problem for public servants to use the influence of their public positions for their own private financial gain. It would be a problem if the Legislator used the influence of his Legislative position in an attempt to affect the actions of University personnel in regard to his candidacy for the Director's position or to enhance his benefits if he were to be hired.

The Ethics Act provides that performance of usual and customary duties associated with a public office **without compensation** does not constitute use of office for private

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gain. W. Va. Code §6B-2-5(b)(1) (emphasis supplied) The usual and customary duties of a Member of the Legislature include introducing legislation, advocating for its passage, and voting thereon. In Advisory Opinion 91-90, the Commission stated: "It would be a violation of the Ethics Act for the Legislator to enter into an employment contract which provided payment in exchange for introducing and advocating legislation in the legislature or for requesting recorded votes." See also Advisory Opinion 99-23 ("The introduction and advocacy of legislation is a vital constituent service which is to be provided without additional pay from interested parties. A legislator may not sell services which are a part of the official responsibilities of office.")

Here, the Requester has executed an agreement with the University to begin work on June 1, 2012. Before assuming the position, he worked with the leadership of his particular house to take steps to remove any potential conflicts related to finance and to higher education; the Commission finds this action commendable. He recognizes that he is prohibited from using his legislative position to influence either the State's distribution of federal grant money or State funds to the University for any purpose, not just those related to his consulting contract. As a result of these actions, he has removed the possibility of an inescapable conflict that may otherwise have arisen had he remained a member of the Finance Committee and those committees related to higher education and/or funding for education.

In Advisory Opinion 2003-14 a State Legislator asked if it would violate the Ethics Act for him to sponsor legislation authorizing a county referendum on an issue which would benefit the company by which he was employed. The Commission ruled:

The usual and customary duties of members of the Legislature include sponsoring legislation, particularly legislation which is sought by constituents. However, in this situation the Legislator is employed full-time by a business which is among the principal beneficiaries of the legislation proposed. The Legislator shares a common financial interest with his employer in the proposed legislation and he should not, therefore, sponsor the legislation.

Similarly, in Advisory Opinion 2006-06 a Legislator inquired whether she could request or influence legislative appropriations for a nonprofit which was considering employing her. The Commission held that a Legislator should not use his or her position to influence the appropriation of public funds to a nonprofit by which she is employed. The Commission ruled:

[A] Legislator should not use his or her position to "work behind the scenes" to influence the appropriation of funds to his or her private employer. However, the Ethics Commission does not have jurisdiction to determine whether voting on approving a budget which contains a line item appropriation for a nonprofit by which a Legislator is employed constitutes a conflict of interest. Instead, the decision regarding whether

A.O. 2012-19 (Page 3 of 4)

members of the Legislature are required to vote is governed by the rules of the particular house...

Thus, the Ethics Commission finds that the Ethics Act permits the Member of the Legislature to provide consulting services to a Public University and continue to serve in the Legislature. He must, however, consult with the Presiding Officer of his house and abide by the appropriate legislative voting rule. He may not use the influence of his Legislative position to engage in any of the following activities:

- attempt to affect the actions of University personnel to enhance his contractual benefits;
- introduce, sponsor or advocate legislation to benefit the University in any way;
- influence either the State's distribution of federal grant money or State funds to the University for any purpose, not just those related to his consulting contract; or
- to influence the appropriation of public funds to benefit the University in any way.

The Commission finds that the limitations outlined above are consistent with the plain language in the Ethics Act and its stated purpose, i.e. to prevent not only actual impropriety, but also situations that give the appearance of impropriety. Nonetheless, the Legislature is free to impose stricter standards on its Members than those contained in the Ethics Act.

This advisory opinion is rendered on the unique facts and circumstances presented herein and 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, III Chairperson

402 South Mildred Street  
Charles Town, WV 25414  
4 June 2012  
304 725-9057

Jefferson County Commission  
124 E. Wahington Street  
Charles Town, WV 25414

Dear Ladies and Gentlemen:

On 29 May 2012 the County Planning Commission, by a vote of 8 for and 1 opposed, voted to recommend approval of the amendment to allow an extension of 2010 Senate Bill 595 (SB 595) to 1 July 2015.

I attended the "so-called public hearing", by the County Commission at 7:00 p.m. on Thursday 31 May 2012 to consider the 12 April 2012 request by a local special interest group, Jefferson County Citizen's for Economic Preservation (JCCEP), to the County Commission asking them to consider amending the Vested Rights section of the Subdivision Regulations to allow for an extension of time for any development to which the 2010 SB 595 provisions applied.

I characterize that hearing as a "so-called public hearing" because at its outset the Chairperson of the County Commission allowed the representative of JCCEP to speak first wither any time limit. Although, I formally objected to the Chairperson ruling that the representative of the JCCEP being granted unlimited time to lead off the "so-called public meeting," he was allowed to proceed without any time limit.

But in sharp contrast, the Commission imposed a four minute time limit on all others who wished to speak. With few exceptions, including myself, those who spoke against had their testimony stifled when we exceeding the Commission's artificial time limit.

Several times I objected to the artificially imposed time limit and stated that I felt that the artificially imposed four minute limit at this "so-called public hearing" was a clear violation of the requirements of WV Code Chapter 6, Article 9A. "Sunshine Law.", but the Chairperson held firm.

NOTE (To quote from the legislative policy section of the "Sunshine Law"): "It is the intent of the Legislature... to allow government to function and the public to participate in a meaningful manner in public agency decision making."

A gentleman from Harpers Ferry, who had previously served on the County Planning Commission, raised a serious concern about which I was totally unaware. As you are probably aware, the Potomac has been named by American Rivers as "America's Most Endangered River in 2012." The Potomac, which flows 380 miles from West Virginia down through Washington DC and provides 5 million people with drinking water and countless others with outdoor recreation opportunities, is at the top of the list due to increasing threats from agricultural and urban pollution.

Jefferson County Commission

The Clean Water Act of 1972 (CWA), subsequent legislation, and implementing Federal regulations over the last 40 years are working to protect and preserve such rivers. In his opinion, should the County Commission grant the exemption requested by the JCCEP, they would also be effectively exempting that special interest group from those Federal laws and regulations. He also stated that the Commission has no such authority and was possibly inviting drastic action by Federal government.


He further stated that, should the Commission grant the JCCEP such an exemption, the mandatory water quality standards (WQS) for pollution abatement would have to be borne by the rest of us. Berkeley and Jefferson counties are blessed with almost half of the all the best quality soil in WV. So now we will have yet another serious threat to the continued viability of agriculture as an industry in Jefferson County.

It is my impression that only one of the Commissioners, Lyn Widmyer, is presently on the side of those of us who oppose this travesty. Any and all of you, who are opposed to granting this local special interest group an exemption so that they can evade any and all requirements to build anything but "retro-shacks", had better get busy voicing your concerns if we are to forestall the Commissions clear intent, thus far, to approve the JCCEP's requested exemption.

Another day, and the Commission staged another display of the disfunction's of American capitalism. In 1871 the US Supreme Court , by a vote of 4 to 3, rejected Jefferson County's plea to be returned to Virginia. Today and immediately we should ask to be annexed by Wisconsin. Those citizens, unlike us, have to right to recall elected public officials who so blatantly engage in "crony capitalism"!

Henceforth until the Commission acts on the JCCEP request, every Thursday from 9:00-945 A.M. I shall be outside the Commission meeting with my protest sign, "NO JCCEP RETRO-SHACKS." I shall apply to the Charles Town Police Department to block off four parking places in front of the Commission meeting room at the Charles Town Library during that time frame. Hope to see you there.

Some suggestions for your protest signs: "STOP CRONY CAPITALISM; STOP RETRO SHACKS; ROBIN HOOD WAS RIGHT; WAKE UP!; GIVE A DAMN; NO MORE CORRUPTION; I CAN'T AFFORD A LOBBYIST; THE TIMES THEY'RE CHANGING; THIS IS NOT OVER; NO JCCEP RETRO SHACKS."

Sincerely,  
  
Earl L. Jackson, Jr.

cc:

Honorable David H. Sanders, 23rd Judicial Circuit  
Mr. James T. Kratovil, ESQ.