

AGENDA
JEFFERSON COUNTY COMMISSION
THURSDAY, July 18, 2013
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

- Regular Meeting - July 11, 2013

APPROVAL OF PURCHASE ORDERS

- July 18, 2013

APPROVAL OF ACCOUNTS PAYABLE

- July 18, 2013

PUBLIC COMMENT

PRESENTATIONS:

1. 9:45 a.m. Angie Banks, Assessor
- Exonerations - Discussion/Action
2. 10:00 a.m. Joe Yates, Resident
- Requesting to use the Courthouse for the play *The Anvil* and requesting donation of Bailiffs time for opening and securing the building during the play - Discussion/Action
3. 10:15 a.m. Barbara Miller, Director Homeland Security and Emergency Management
- Memorandum of Agreement between Jefferson County and the Federal Emergency Management Agency Integrated Public Alert and Warning System (IPAWS) Program Management Office - Discussion/Action
4. 10:30 a.m. Pete Dougherty, Sheriff
- Requesting reconsideration of hiring of an Animal Control Officer
-Discussion/Action

5. 11:00 a.m. Lynn Fields, Deputy Probate Clerk
- Quarterly Probate Review and Petition to Probate Will in Solemn Form
- William C. Perry - Discussion/Action

COUNTY ADMINISTRATOR REPORTS

- Policies and Procedures - Discussion/Action

COUNTY COMMISSION REPORTS

6. ADJOURN

~~~~~ Evening SESSION ~~~~~

- 7:00 p.m. Jennifer Brockman, Director of Planning & Zoning
- Second Joint Meeting with Envision Jefferson 2035 Steering Committee Members
and the County Commission.

CORRESPONDENCE:

Notice from the Jefferson County Planning Department & Commission regarding waivers received by ARC-FD JV, LIC C/O Arcland Property (US Coast Guard) from the requirements of the Jefferson County Subdivision and Land Development Regulations. File Numbers PCW 13-04, PCW 13-05 and PCW - 13-06

Memorandum from Roger Goodwin, Chief Engineer regarding construction bond(s) and security for projects.

Letter from the State Auditor regarding Training Seminar for County Commissioners and Staff.

Email from Ramona Wesling regarding Jefferson County Emergency Service Agency proposed Fee Ordinance.

Acknowledgment and thank you Letter from the Shenandoah Valley Chapter #313 Korean War Veterans Association for donation.

News article from the West Virginia Association of Counties regarding jail costs reductions.

Jefferson County Public Service District Regular Board Meeting Minutes of June 3, 2013.

Jefferson County Public Service District Regular Board Meeting Minutes of June 11, 2013.

West Virginia Association of Counties information about SB 527, Filling Vacancies.

West Virginia Association of Counties, Presentation to Spring Board Meeting & Examples of Try This! Project.

West Virginia Association of Counties, County Line June 2012, Number 203.

West Virginia Ethics Reporter June 2013.

West Virginia Lottery Weekly Settlement for Charles Town, Week ending July 6, 2013.

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, July 11, 2013

A meeting of the Jefferson County Commission was held on Thursday, July 11, 2013 in the County Commission meeting room in the Old Charles Town Library located at 200 E. Washington Street, Charles Town, WV 25414. Present were Commissioners Dale Manuel, Patsy Noland, Walter Pellish, Jane Tabb and Lyn Widmyer. Also present were Debbie Keyser, County Administrator, Cynthia Schott, Executive Administrative Assistant and Jimmy Eddie, Bailiff. (An audio tape of the July 11, 2013 meeting is available through the Jefferson County Commission Office.)

PLEDGE OF ALLEGIANCE

Commissioner Pellish led the Pledge of Allegiance.

APPROVAL OF MINUTES

Motion by Ms. Noland to approve the Minutes of the June 13, 2013 County Commission Meeting with noted correction. Motion seconded and unanimously approved.

Motion by Ms. Noland to approve the Minutes of the June 27, 2013 County Commission Meeting with noted correction. Motion seconded and unanimously approved.

APPROVAL OF PURCHASE ORDERS

Motion by Ms. Widmyer to approve Purchase Orders in the amount of \$89,355.49 to include P.O. Nos. 51403, 51404, 51590, 51742, 51750, 51438, 51439, 51629, 51743, 51666, 51668, 50009, 50010, 51286, 51331, 51743, 51745, 51746, 51747, 51751, 50339, 50340, 51638, 51639, 51640, 49836, and 49831.

APPROVAL OF ACCOUNTS PAYABLE

| CHCKNO | DEPT | VENDOR | PONUM | POAMT | NOAMT | CHECK AMOUNT |
|--------|---------|--------------------------|-------|-----------|--------------|--------------|
| 070202 | 425 | ALLIANCE ELECTRIC LLC | 51591 | \$ 315.00 | \$ - | \$ 315.00 |
| 070203 | 412 | BARDANE PUBLIC HEALTH CT | | \$ - | \$ 383.00 | \$ 383.00 |
| 070204 | ALLOC | BOLIVAR/HARPERS FERRY | | \$ - | \$ 16,250.00 | \$ 16,250.00 |
| 070205 | 439 | B-K OFFICE SUPPLY INC | 50335 | \$ 20.25 | \$ - | \$ 20.25 |
| 070206 | PAYROLL | BUREAU F/CHILD SUPPORT | | \$ - | \$ 49.85 | \$ 49.85 |
| 070207 | PAYROLL | BUREAU F/CHILD SPprt ENF | | \$ - | \$ 212.31 | \$ 212.31 |

| | | | | | | |
|--------|---------|--------------------------|-------|--------------|---------------|---------------|
| 070208 | PAYROLL | BUREAU OF CHILD SUPPORT | | \$ - | \$ 461.54 | \$ 461.54 |
| 070209 | 401 | 201 N. GEORGE ST LLC | | \$ - | \$ 9,638.92 | \$ 9,638.92 |
| 070210 | PAYROLL | BUREAU OF CHILD SUPPORT | | \$ - | \$ 23.08 | \$ 23.08 |
| 070211 | PAYROLL | BUREAU OF CHILD SUPPORT | | \$ - | \$ 290.31 | \$ 290.31 |
| 070212 | 425 | CITY OF CHARLES TOWN | 51740 | \$ 20.00 | \$ - | \$ 20.00 |
| 070213 | 425 | OLD CHARLES TOWN LIBRARY | | \$ - | \$ 1,500.00 | \$ 1,500.00 |
| 070213 | ALLOC | OLD CHARLES TOWN LIBRARY | | \$ - | \$ 16,250.00 | \$ 16,250.00 |
| 070214 | PAYROLL | CHILD SUPPORT ENFORCE AG | | \$ - | \$ 27.69 | \$ 27.69 |
| 070215 | 700 | BRANDON CONWAY | | \$ - | \$ 335.50 | \$ 335.50 |
| 070216 | PAYROLL | DIVERSIFIED COLLECTION | | \$ - | \$ 154.83 | \$ 154.83 |
| 070217 | PAYROLL | DELTA DENTAL OF WV | | \$ - | \$ 5,842.42 | \$ 5,842.42 |
| 070218 | ALLOC | EASTERN PANHANDLE TRANSI | | \$ - | \$ 3,425.00 | \$ 3,425.00 |
| 070219 | PAYROLL | GUARDIAN - APPLETON | | \$ - | \$ 1,922.57 | \$ 1,922.57 |
| 070219 | PAYROLL | GUARDIAN - APPLETON | | \$ - | \$ 1,652.40 | \$ 1,652.40 |
| 070220 | 425 | GRAINGER, INC | 51578 | \$ 142.81 | \$ - | \$ 142.81 |
| 070221 | 412 | MICHAEL HARMAN | | \$ - | \$ 336.15 | \$ 336.15 |
| 070222 | 700 | ALBERT HOCKMAN | | \$ - | \$ 335.50 | \$ 335.50 |
| 070223 | 700 | INTERNATIONAL POLYGRAPH | 51493 | \$ 200.00 | \$ - | \$ 200.00 |
| 070224 | PAYROLL | ING NATIONAL TRUST | | \$ - | \$ 2,910.00 | \$ 2,910.00 |
| 070225 | ALLOC | JEFF CO DEVELOPMENT AUTH | | \$ - | \$ 31,964.75 | \$ 31,964.75 |
| 070226 | ALLOC | JEFFERSON CO EMERGENCY | | \$ - | \$ 452,363.25 | \$ 452,363.25 |
| 070227 | 402 | JEFFERSON PUBLISH CO INC | 51628 | \$ 164.94 | \$ - | \$ 164.94 |
| 070227 | 439 | JEFFERSON PUBLISH CO INC | 50337 | \$ 72.96 | \$ - | \$ 72.96 |
| 070227 | 440 | JEFFERSON PUBLISH CO INC | 50234 | \$ 33.74 | \$ - | \$ 33.74 |
| 070228 | 439 | THE JOURNAL | 50338 | \$ 34.68 | \$ - | \$ 34.68 |
| 070229 | PAYROLL | JEFFERSON SECURITY BANK | | \$ - | \$ 4,843.00 | \$ 4,843.00 |
| 070229 | PAYROLL | JEFFERSON SECURITY BANK | | \$ - | \$ 40.00 | \$ 40.00 |
| 070230 | 405 | RALPH A LORENZETTI JR | | \$ - | \$ 213.00 | \$ 213.00 |
| 070231 | 412 | JUDITH A MATLICK | | \$ - | \$ 685.31 | \$ 685.31 |
| 070232 | PAYROLL | HIGHMARK WV | | \$ - | \$ 183,309.45 | \$ 183,309.45 |
| 070233 | 412 | SHAY MCNEIL | | \$ - | \$ 942.13 | \$ 942.13 |
| 070234 | PAYROLL | HELEN M. MORRIS, TRUSTEE | | \$ - | \$ 150.00 | \$ 150.00 |
| 070235 | PAYROLL | NATIONWIDE RETIREMENT | | \$ - | \$ 749.00 | \$ 749.00 |
| 070236 | ALLOC | JEFF CO PARKS & | | \$ - | \$ 72,229.00 | \$ 72,229.00 |
| 070237 | ALLOC | SHEPHERDSTOWN PUB LIBRAR | | \$ - | \$ 16,250.00 | \$ 16,250.00 |
| 070238 | 401 | SOFTWARE SYSTEMS, INC | | \$ - | \$ 16,349.00 | \$ 16,349.00 |
| 070238 | 986 | SOFTWARE SYSTEMS, INC | | \$ - | \$ 26,572.00 | \$ 26,572.00 |
| 070239 | 405 | SPECIALTY BUS SUPPLIES | 51637 | \$ 510.08 | \$ - | \$ 510.08 |
| 070239 | 700 | SPECIALTY BUS SUPPLIES | 51496 | \$ 153.15 | \$ - | \$ 153.15 |
| 070240 | 704 | ST/WV REGIONAL JAIL & | 51720 | \$ 82,276.80 | \$ - | \$ 82,276.80 |

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|--------------|---------|-------------------------|-------|---------------------|----------------------|------------------------|
| 070241 | ALLOC | SOUTH JEFFERSON PUBLIC | | \$ - | \$ 16,250.00 | \$ 16,250.00 |
| 070242 | PAYROLL | SHERIFF OF JEFFERSON CO | | \$ - | \$ 44,746.26 | \$ 44,746.26 |
| 070242 | PAYROLL | SHERIFF OF JEFFERSON CO | | \$ - | \$ 10,464.88 | \$ 10,464.88 |
| 070242 | PAYROLL | SHERIFF OF JEFFERSON CO | | \$ - | \$ 25.98 | \$ 25.98 |
| 070242 | PAYROLL | SHERIFF OF JEFFERSON CO | | \$ - | \$ 111.10 | \$ 111.10 |
| 070242 | PAYROLL | SHERIFF OF JEFFERSON CO | | \$ - | \$ 44,552.64 | \$ 44,552.64 |
| 070242 | PAYROLL | SHERIFF OF JEFFERSON CO | | \$ - | \$ 129.54 | \$ 129.54 |
| 070243 | 975 | SUMMIT COMMUNITY BANK | | \$ - | \$ 2,441.41 | \$ 2,441.41 |
| 070244 | 712 | TELTRONIC | 51711 | \$ 405.00 | \$ - | \$ 405.00 |
| 070245 | 717 | TRI STATE TIRES | 51741 | \$ 68.00 | \$ - | \$ 68.00 |
| 070246 | 424 | TRENARY SERVICE CO | 51581 | \$ 1,495.48 | \$ - | \$ 1,495.48 |
| 070247 | 716 | VALLEY PET CEMETERY | 50366 | \$ 402.00 | \$ - | \$ 402.00 |
| | | | | | | |
| TOTAL | | | | | | \$ 1,073,697.66 |
| TOTAL | | | | \$ 86,314.89 | \$ 987,382.77 | \$ 1,073,697.66 |

Motion by Mr. Manuel to approve the accounts payable for July 3, 2013 in the amount of \$1,073,697.66. Motion seconded and unanimously approved.

| CHCKNO | DEPT | VENDOR | PONUM | POAMT | NOAMT | CHECK AMOUNT |
|--------|------|--------------------------|-------|----------|--------------|--------------|
| 070249 | 405 | MYOSHIA BRIGHT | | \$ - | \$ 287.02 | \$ 287.02 |
| 070250 | 401 | CO COMMISSIONERS ASSOC | | \$ - | \$ 3,900.00 | \$ 3,900.00 |
| 070251 | 405 | LAURENCE R CROFFORD | | \$ - | \$ 248.03 | \$ 248.03 |
| 070252 | 424 | CHARLES TOWN UTILITIES | | \$ - | \$ 93.71 | \$ 93.71 |
| 070252 | 425 | CHARLES TOWN UTILITIES | | \$ - | \$ 1,900.32 | \$ 1,900.32 |
| 070253 | 428 | CDW-GOVERNMENT INC | | \$ - | \$ 3,082.25 | \$ 3,082.25 |
| 070254 | 405 | JAMES CASIMIRO III | | \$ - | \$ 275.72 | \$ 275.72 |
| 070255 | 401 | CHOICE STAFFING, INC. | | \$ - | \$ 187.00 | \$ 187.00 |
| 070256 | 405 | KIMBERLEY CROCKETT | | \$ - | \$ 287.02 | \$ 287.02 |
| 070257 | 425 | COVENANT BUILDING MAINT | | \$ - | \$ 11,827.43 | \$ 11,827.43 |
| 070258 | 425 | DEHAVEN BERKELEY SPRINGS | | \$ - | \$ 105.55 | \$ 105.55 |
| 070259 | 424 | J.C.EHRLICH | | \$ - | \$ 34.00 | \$ 34.00 |
| 070259 | 425 | J.C.EHRLICH | | \$ - | \$ 604.00 | \$ 604.00 |
| 070260 | 424 | 84 LUMBER | | \$ - | \$ 32.49 | \$ 32.49 |
| 070260 | 425 | 84 LUMBER | | \$ - | \$ 252.91 | \$ 252.91 |
| 070261 | 717 | FISHER AUTO PARTS | | \$ - | \$ 850.99 | \$ 850.99 |
| 070262 | 425 | GRAINGER, INC | 51744 | \$ 55.98 | \$ - | \$ 55.98 |
| 070263 | 405 | STEPHEN V GROH | | \$ - | \$ 233.91 | \$ 233.91 |
| 070264 | 405 | CHARLES B HOWARD | | \$ - | \$ 273.46 | \$ 273.46 |
| 070265 | 428 | CHARLOTTE HERNANDEZ | | \$ - | \$ 149.99 | \$ 149.99 |

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|--------|---------|---------------------------|-------|----------|--------------|--------------|
| 070266 | 700 | KATHY HERTELENDY | | \$ - | \$ 203.72 | \$ 203.72 |
| 070267 | 425 | IDVILLE, INC | | \$ - | \$ 338.16 | \$ 338.16 |
| 070268 | 401 | RICOH USA, INC | | \$ - | \$ 29.06 | \$ 29.06 |
| 070268 | 403 | RICOH USA, INC | | \$ - | \$ 58.14 | \$ 58.14 |
| 070268 | 404 | RICOH USA, INC | | \$ - | \$ 29.07 | \$ 29.07 |
| 070268 | 405 | RICOH USA, INC | | \$ - | \$ 87.21 | \$ 87.21 |
| 070268 | 406 | RICOH USA, INC | | \$ - | \$ 29.07 | \$ 29.07 |
| 070268 | 425 | RICOH USA, INC | | \$ - | \$ 29.07 | \$ 29.07 |
| 070268 | 433 | RICOH USA, INC | | \$ - | \$ 29.07 | \$ 29.07 |
| 070268 | 440 | RICOH USA, INC | | \$ - | \$ 29.07 | \$ 29.07 |
| 070268 | 700 | RICOH USA, INC | | \$ - | \$ 58.14 | \$ 58.14 |
| 070268 | 712 | RICOH USA, INC | | \$ - | \$ 29.07 | \$ 29.07 |
| 070269 | 401 | THE JOURNAL | | \$ - | \$ 248.03 | \$ 248.03 |
| 070270 | 425 | JEFFERSON COUNTY SOLID | 53045 | \$ 7.04 | \$ - | \$ 7.04 |
| 070271 | 425 | JEFFERSON UTILITIES INC | | \$ - | \$ 559.76 | \$ 559.76 |
| 070272 | 717 | J & K PRECISION AUTO CAR | 51748 | \$ 54.95 | \$ - | \$ 54.95 |
| 070273 | 405 | RALPH A LORENZETTI JR | | \$ - | \$ 124.30 | \$ 124.30 |
| 070274 | 405 | GAIL MCMILLION | | \$ - | \$ 245.21 | \$ 245.21 |
| 070275 | 405 | JENNIFER E. MAY-SANNER | | \$ - | \$ 242.95 | \$ 242.95 |
| 070276 | 405 | JONELLE MAY | | \$ - | \$ 242.95 | \$ 242.95 |
| 070277 | 424 | POTOMAC EDISON/OH | | \$ - | \$ 1,876.73 | \$ 1,876.73 |
| 070277 | 425 | POTOMAC EDISON/OH | | \$ - | \$ 2,174.67 | \$ 2,174.67 |
| 070277 | 425 | POTOMAC EDISON/OH | | \$ - | \$ 12,298.25 | \$ 12,298.25 |
| 070278 | ALLOC | EASTERN PANHANDLE REGION | | \$ - | \$ 19,794.26 | \$ 19,794.26 |
| 070279 | 425 | RCS SECURITY | | \$ - | \$ 510.00 | \$ 510.00 |
| 070280 | 402 | RECORD MANAGEMENT SOLUTN | 49696 | \$ 35.00 | \$ - | \$ 35.00 |
| 070281 | 405 | HASSAN RASHEED | | \$ - | \$ 248.03 | \$ 248.03 |
| 070282 | 424 | SHERWIN-WILLIAMS | | \$ - | \$ 57.32 | \$ 57.32 |
| 070283 | 425 | SHENANDOAH VALLEY WATER | | \$ - | \$ 678.25 | \$ 678.25 |
| 070284 | PAYROLL | SHERIFF OF JEFFERSON CO | | \$ - | \$ 11,932.37 | \$ 11,932.37 |
| 070285 | 405 | ADAM STRIDER | | \$ - | \$ 242.95 | \$ 242.95 |
| 070286 | 425 | CAPITAL TRISTATE | | \$ - | \$ 873.14 | \$ 873.14 |
| 070287 | 403 | UNITED SYSTEMS & SOFTWARE | | \$ - | \$ 199.00 | \$ 199.00 |
| 070288 | PAYROLL | UNICARE EAP | | \$ - | \$ 322.20 | \$ 322.20 |
| 070289 | 425 | VALLEY HARDWARE COMPANY | | \$ - | \$ 11.82 | \$ 11.82 |
| 070289 | 700 | VALLEY HARDWARE COMPANY | | \$ - | \$ 215.64 | \$ 215.64 |
| 070290 | 424 | VERIZON | | \$ - | \$ 1,131.32 | \$ 1,131.32 |
| 070291 | 425 | WM OF WEST VIRGINIA, INC | | \$ - | \$ 671.47 | \$ 671.47 |
| 070291 | 425 | WM OF WEST VIRGINIA, INC | | \$ - | \$ 204.54 | \$ 204.54 |
| 070291 | 716 | WM OF WEST VIRGINIA, INC | | \$ - | \$ 95.75 | \$ 95.75 |

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|--------------|---------|-------------------------|-------|------------------|---------------------|---------------------|
| 070292 | PAYROLL | WV BUREAU OF EMPLOYMENT | | \$ - | \$ 10,080.10 | \$ 10,080.10 |
| 070293 | 717 | WHOLESALE TIRES, INC. | 51749 | \$ 53.25 | \$ - | \$ 53.25 |
| 070294 | 405 | DEBRA A. YOUNG | | \$ - | \$ 248.03 | \$ 248.03 |
| | | | | | | |
| TOTAL | | | | | | \$ 91,309.91 |
| TOTAL | | | | \$ 206.22 | \$ 91,103.69 | \$ 91,309.91 |

Motion by Ms. Tabb to approve the accounts payable for July 11, 2013 in the amount of \$91,309.91. Motion seconded and unanimously approved.

PUBLIC COMMENT:

Mr. David Tabb, resident – Informed the County Commission about a law suit he has filed against the County.

Mr. George Rutherford, NAACP – Spoke in support of the Resolution opposing the Harrison Plant Intra-Company sale.

Ms. Newman, resident – Spoke in support of the Resolution opposing the Harrison Plant Intra-Company sale.

Ms. Patience Wait, resident – Spoke in support of the Resolution opposing the Harrison Plant Intra-Company sale.

Mr. Charles H. Friddle, IV, Director of External Affairs, FirstEnergy – Addressed the Resolution opposing the Intra-Company sale of the Harrison Plant paragraph by paragraph identifying his issues with the Resolution.

Mr. Robert Atcheson resident – Stated his opinion regarding the Jefferson County Emergency Services Agency – Emergency Fee Ordinance and the language regarding Ambulance Fees.

PRESENTATIONS:

1. Angie Banks, Assessor - Exonerations

| NAME | DISTRICT | TYPE | TICKET NO. | AMOUNT |
|-------------------------|--------------|-------------|------------|----------|
| Deborah & Derwin Layton | Charles Town | Real Estate | 8659 | \$130.40 |

- **Motion by Ms. Noland to approve the Exoneration for Deborah & Derwin Layton as presented by the Assessor. Motion seconded and unanimously approved.**

| NAME | DISTRICT | TYPE | TICKET NO. | AMOUNT |
|--------------------------------|-----------|-------------|------------|----------|
| Verdine O Jr. & Deborah Palmer | Kabletown | Real Estate | 18593 | \$338.04 |

- **Motion by Ms. Tabb to approve the Exoneration for Verdine O. Jr. & Deborah Palmer as presented by the Assessor. Motion seconded and unanimously approved.**

| NAME | DISTRICT | TYPE | TICKET NO. | AMOUNT |
|--------------|-----------|-------------------|------------|------------|
| Lyle C. Tabb | Middleway | Personal Property | 20785 | \$5,425.12 |

- **Motion by Mr. Manuel to approve the Exoneration for Lyle C. Tabb as presented by the Assessor. Motion seconded and approved on a vote of four Commissioners, Ms. Noland, Ms. Widmyer, Mr. Manuel and Mr. Pellish. Ms. Tabb abstained.**

| NAME | DISTRICT | TYPE | TICKET NO. | AMOUNT |
|-------------------------|-----------|-------------|------------|----------|
| James M. & Angela Joynt | Kabletown | Real Estate | 17603 | \$176.36 |

- **Motion by Mr. Manuel to approve the Exoneration for James M. & Angela Joynt, ticket number 16603 in the amount of \$176.36. Motion seconded and unanimously approved.**

| NAME | DISTRICT | TYPE | TICKET NO. | AMOUNT |
|-------------------------|-----------|-------------|------------|--------|
| James M. & Angela Joynt | Kabletown | Real Estate | 17598 | 149.42 |
| James M. & Angela Joynt | Kabletown | Real Estate | 17596 | 144.52 |
| James M. & Angela Joynt | Kabletown | Real Estate | 17605 | 186.16 |

- **Motion by Ms. Widmyer to approve the Exoneration for James M. & Angela Joynt, ticket number 17598 in the amount of \$149.42. Motion seconded and unanimously approved.**
- **Motion by Ms. Tabb to approve the Exoneration for James M. & Angela Joynt, ticket number 17596 in the amount of \$144.52. Motion seconded and unanimously approved.**
- **Motion by Ms. Widmyer to approve the Exoneration for James M. & Angela Joynt, ticket number 17605 in the amount of \$186.16. Motion seconded and unanimously approved.**

2. William Madert, Director Jefferson County Solid Waste Authority, gave an update on the Transfer Station. Mr. Madert expressed concern the of the economic viability of the Transfer

Station due to a certificate of need to proceed with permitting and construction of the Resource Recovery Facility in Martinsburg.

3. Mr. Matthew Piepenburg, Public Service District Engineering Technician requested the transfer of approximately ¼ acre of TP02000200010004 to the Jefferson County Public Service District to be used to upgrade an existing pump station in the Burr Industrial Park, Industrial Blvd.
 - **Motion by Ms. Tabb to approve the transfer of ¼ acre of TP 02000200010004 to the Jefferson County Public Service District for \$1.00. Motion seconded and unanimously approved.**
4. Stephanie Grove, Assistant Prosecuting Attorney informed the Commissioners, should they receive a request for Discovery during the October Tax Appeals; the Commission may hire a Discovery Commissioner. Ms. Grove inquired if it is the desire of the Commission to take this under consideration. It was the consensus of the Commission to move forward with Ms. Grove researching a Discovery Commissioner.
5. FirstEnergy Resolution for possible adoption as edited by legal counsel.
 - **Motion by Ms. Widmyer to adopt the resolution opposing FirstEnergy's proposed intra-company sale of the Harrison Power Plant as edited and direct the President to affix his signature to the document. Motion seconded and approved on a vote of 3-2 with Ms. Noland and Mr. Pellish opposing.**
6. **The Commission recessed for break at 10:39
The Commission reconvened from break at 10:50**
7. Pete Dougherty, Jefferson County Sheriff, requested permission to hire an Animal Control Officer for a vacant position. It was the consensus of the Commission to wait until after the budget workshop to address this matter.
Due to a unanimous vote, later in the day to freeze hiring until October, request to hire an Animal Control Officer was denied.
Sheriff Dougherty stated he would like to come before the Commission to give an update on the activities of the Sheriff Department. Mr. Manuel stated he would like to work with the Sheriff's Department on reducing jail costs by looking at the possibility of an ankle bracelet program in place of incarceration.

COUNTY ADMINISTRATOR REPORT

Ms. Keyser informed the Commission the State Auditor's office is conducting a Purchasing Card audit at this time. Ms. Keyser has requested the auditors review our internal controls.

Ms. Keyser reminded the Commission July 25th is the Meet Your Commissioner evening at Morgan's Grove Park.

Ms. Keyser reminded the Commission the Governor's Blue Ribbon Highway meeting is this evening from 4-7pm in Martinsburg.

It was the unanimous consent of the Commission to hold the IT discussion until the budget workshop.

**The Commission broke for lunch at 12:00 p.m.
The Commission reconvened from lunch at 1:30 p.m.**

8. John Reisenweber, Director of Development Authority – The Jefferson County Commission held a Public Hearing on May 30, 2013 regarding the proposed revised Commercial Impact Fee Ordinance. The record was held open for two weeks to allow the public to comment. No comments have been received and the two week period has expired. The Development Authority is coming before the Commission for possible adoption of the revised Commercial Impact Fee Ordinance.
 - **Motion by Ms. Tabb to adopt the revised Commercial Impact Fee Ordinance reducing Commercial Impact Fees by 99.5% as of July 11, 2013. Motion seconded and approved on a vote of 4-1 with Ms. Widmyer opposing.**
9. Jefferson County Emergency Service Agency Proposed Fee Ordinance – 2nd reading of proposed Fee Ordinance allowing for review and edits. Mr. Manuel stated he would like to propose three (3) amendments.
 - **Motion by Mr. Manuel to reinstate the word “ambulance” throughout the ordinance and strike the word “emergency” as it is used in reference to the proposed fee. Motion fails for lack of second.**
 - **Mr. Manuel stated he is withdrawing all three (3) proposed amendments.**
 - **Ms. Widmyer requested the ordinance be left open for another 30 days to adjust the ordinance to reflect strictly an ambulance fee.**
 - **Motion by Mr. Manuel to reinstate the word ambulance throughout the ordinance and strike the word emergency as it is used in reference to the proposed fee. Motion seconded and approved on a vote of 4-1 with Mr. Pellish opposing. It was the decision of the Commission to leave the ordinance open for another 30 days to leave open for amendments and review the fee structure.**
 - **Ms. Widmyer requested the JCESA staff edit the ordinance to reflect this is only an ambulance fee.**
 - **Motion by Ms. Tabb to amend page two (2) to reflect agricultural buildings are exempt from the fee. Motion seconded and unanimously approved.**

FINANCE DIRECTOR

Approval of Internal Budget Revision #124 – Circuit Clerk – to move \$3,759 of available funds as follows: \$499 from Material/Supplies, \$2,000 from Part-time/extra help and \$1,260 from Maintenance/Repair to increase Contracted Services to \$3,260 and Computer Services to \$499.

- **Motion by Ms. Noland to approve Internal Budget Revision #124 budget as presented. Motion seconded and unanimously approved.**

Ms. Brockman, Director of Planning and Zoning requested a budget amendment to allow the development of an Access Management study and Draft Ordinance for US 340 South. In December 2012, the County Commission transferred \$13,661 to the Department of Planning budget for the purpose of a focused effort on US 340 South. One goal for this corridor with input from the HEPMPO staff and the WV DOH planning staff is how to minimize the access points and potential future traffic lights along this stretch of road when the widening occurs. There is a provision in state law which allows a local government to draft an access management ordinance for adoption locally that would be a tool for DOH to use during its design and permitting processes. The planning Commission was advised the County could chose to

utilize the HEPMPO consultants through a contract with the HEPMPO, but that \$13,661 was not likely to be sufficient. At that point money was set aside from the Department of Planning Professional Services FY 13 budget to allow a total of \$20,000 to be dedicated to such a study; however, at the time the FY 14 budget was being prepared the plan was to encumber those funds prior to the end of the Fiscal Year and the \$20,000 was therefore not put in the FY 14 budget. Based on the input received from HEPMPO and WV DOH, a request was made to the HEPMPO consultants to draft a scope of work that would address these access management issues. A draft scope of work is estimated to cost approximately \$20,000. These funds were not encumbered prior to the end of June. Therefore, the Department of Planning is requesting the County Commission reinstate the \$13,661 US 340 South fund, plus \$6,339 out of the remaining budgeted amount in the Professional services line for a total of \$20,000 additional fund in the Department of Planning FY 14 Budget dedicated solely to this project. If the funding is approved, staff will pursue this proposed Scope of Work and bring it back to the County Commission for their approval when it is finalized.

- **It was the consensus of the Commission to wait on this until the Comprehensive Plan is further along in the process before addressing this issue.**

Budget Workshop:

Ms. Keyser presented the Commission with the state of the County financially as they enter into the new fiscal year. Ms. Keyser passed out an analysis for year end for 2013, showing what departments were budgeted and what was actually used. Teresa Hendricks stated, from the cash stand point, the County is showing carrying over \$3,255,487. We are spending approximately a million more than what we are bringing in. Until the revenue is realized, the County needs to be very careful with spending. There are five payrolls and six bill runs. There is approximately only 1.8 million to get the County through till October 2013.

- **Motion by Mr. Manuel to put a hiring freeze into effect until October, 1, 2013. Motion seconded and unanimously approved.**
- **Motion by Ms. Noland to institute a freeze on spending for any non-critical items and expenses until October 2013. Any expenditure of a cost of \$5,000 or greater must come before the Commission for approval. All purchase orders, regardless of amount must be approved before purchase is made. Motion seconded and unanimously approved.**

COUNTY COMMISSIONERS REPORTS

Jane Tabb:

- Attended the meeting with Commissioner of Agriculture Walt Helmick.
- Participated in the 4th of July Parade in Shepherdstown.
- Traveled to Washington D.C. for a lobbying event.

Patsy Noland:

- Attended the meeting with Commissioner of Agriculture Walt Helmick.
- Attended the Affordable Housing Partnership meeting.
- Attended her granddaughters Softball tournament in Stanford VA.
-

Lyn Widmyer:

- Participated in the 4th of July Parade in Shepherdstown.
- Have been traveling with her son and daughter-in-law who are visiting from Chili.

Walt Pellish:

- Attended the meeting with Commissioner of Agriculture Walt Helmick.
- Attended a Development Authority Executive Committee meeting.
- Attended a Planning Commission meeting.

Dale Manuel:

- Attended the meeting with Commissioner of Agriculture Walt Helmick.
- Visited the Leetown playground and also surveyed the Hite Road project.
- Attended Teen Court.
- Attended the Affordable Housing Partnership meeting.

Space Needs- Executive Session

- **Motion by Mr. Manuel to enter into Executive Session to consider matters involving the purchase, sale or lease of real property, as permitted by §6-9A-4-9. Motion seconded and unanimously approved.**
- **Motion by Mr. Manuel to come out of Executive Session. Motion seconded and unanimously approved.**

- The Commission meeting was adjourned at 4:00 p.m. on a motion by Ms. Noland. Motion was seconded and unanimously approved.

DALE MANUEL, PRESIDENT

Respectively submitted
Cynthia C. Schott
Administrative Assistant

PURCHASE ORDERS TO BE APPROVED

July 18, 2013

| DEPARTMENT | PURCHASE ORDER | AMOUNT | VENDOR | DESCRIPTION |
|-------------------|----------------|--------------|-------------------------|---------------------------------|
| ASSESSOR | 51408 | \$ 510.75 | Pifer Office Supply | Material/Supplies |
| | 51409 | \$ 432.00 | Spirit of Jefferson | Assessment Ad |
| | 51410 | \$ 162.09 | The Journal | Assesment Ad |
| CENTRAL GARAGE | 51756 | \$ 405.32 | Donald B. Rice | Tires |
| COUNTY CLERK | 51630 | \$ 1,000.00 | Apple Valley Office | Annual Contract |
| | 51631 | \$ 420.00 | Record Management | Annual Contract |
| | 51632 | \$ 18,000.00 | Xerox | Annual Contract |
| | 51635 | \$ 108.99 | Lexis Nexis | WV Code Service |
| | 51788 | \$ 660.00 | Secretary of State | Elections Training |
| COURTHOUSE | 51757 | \$ 432.50 | Trenary Service Company | Service - Heat Pumps |
| | 51759 | \$ 626.79 | Winchester Equipment | Repair - Ford Tractor |
| | 51762 | \$ 1,600.00 | Neopost | Postage Machine - yearly |
| | 51763 | \$ 3,240.00 | Boland | Annual Service Contract |
| | 51764 | \$ 11,892.00 | Boland | Yearly Service Contract |
| | 51765 | \$ 925.00 | TML | Copier Maintenance - Public Ser |
| COUNTY COMMISSION | 51828 | \$ 88,376.80 | WV Regional Jail | Inmate Maintenance |
| JCECC | 49832 | \$ 5,686.24 | Teltronic | Labor |
| | 49835 | \$ 168.93 | ITSAVVY | Indoor Adapter |
| | 51602 | \$ 100.00 | IAED | EMD Recertification |
| | 51669 | \$ 758.00 | APCO International | Comm. Training Office Course |

| | | | | |
|--|-------|----------------------|------------------------|----------------------------|
| | 51670 | \$ 1,180.00 | Priority Dispatch Corp | EMD Certification |
| | 51705 | \$ 800.00 | Psychological Health | Pre-Employment Evaluation |
| OTHER BUILDINGS | 51752 | \$ 292.50 | Alliance Electric | Repair exhaust Fans |
| | 51753 | \$ 1,012.00 | BK Office Supplies | Material/Supplies |
| | 51754 | \$ 225.00 | Vital Signs | Door Lettering/Signs |
| | 51758 | \$ 150.00 | WV Division of Labor | Elevator Certificates |
| | 51760 | \$ 1,217.73 | TNT Hauling | Drain Stone/Crushed Stone |
| | 51761 | \$ 1,800.00 | Solid Waste Authority | Yearly Service - Recycling |
| | 51767 | \$ 515.25 | BK Office Supplies | Copy Paper |
| | 51769 | \$ 1,121.40 | Dell | Laptop for Security System |
| | 51770 | \$ 300.50 | Control Systems, Inc | Service Call 911 |
| SHERIFF'S DEPARTMENT - TAX OFFICE | 52108 | \$ 135.12 | Pifer | Material/Supplies |
| VARIOUS | 51755 | \$ 2,245.38 | RCS Security | Courthouse/other buildings |
| | 51766 | \$ 6,722.47 | Accurate Systems Inc. | Courthouse/other buildings |
| GRAND TOTAL | | \$ 144,119.79 | | |

AGENDA REQUEST FORM

www.jeffersoncountywv.org



Name: Angie Banks, Assessor

Department or Organization: Assessor's Office

Estimation of amount of time needed for appointment: _____

Date Requested – 1st Choice: July 18, 2013

Date Requested – 2nd Choice: _____

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

Subject (Wording to be placed on agenda): Exonerations

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):

Are documents attachments? Yes No
If not, explain:

Is a projector needed? Yes No

Contact information:

Email address: _____

Phone number: _____

AGENDA REQUEST FORM

Name: Mr. Yates

Department or Entity: Resident

Estimation of amount of time needed for appointment: 5 min

Date Requested – 1st Choice: July 18, 2013

Date Requested – 2nd Choice: _____

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

Subject:

Requesting permission for use of the Courtroom for the play The Anvil and to request bailiffs donate their time to opening and closing of the facility.

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

I will need the use of the court room from September 16 through September 21, 2013 for a total of 35 hours.

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

Are documents attached? yes

If not, please explain:

Is a projector needed?

Contact information:

Email Address:

Phone number:

Cost to the County for Court House Security at Anvil Play

2013

| | | | Hours | Hours | \$ 12.00 |
|------------------|---------------|--------------|----------|----------|------------------|
| | | | 1st Emp. | 2nd Emp. | Hrly Rate |
| Sept. 16 | Rehearsal | 6:00 - 9:00 | 3.5 | | \$ 42.00 |
| Sept. 17 | Rehearsal | 6:00 - 9:00 | 3.5 | | \$ 42.00 |
| Sept. 18 | Rehearsal | 6:00 - 9:00 | 3.5 | | \$ 42.00 |
| Sept. 19 | Show Day | 5:00 - 9:00 | 4.5 | 4.5 | \$ 108.00 |
| Sept. 20 | Show Day | 5:00 - 9:00 | 4.5 | 4.5 | \$ 108.00 |
| Sept. 21 | Show/Clean Up | 12:00 - 6:00 | 6.5 | 2.0 | \$ 102.00 |
| Total \$: | | | | | \$ 444.00 |
| | | | | | |

Commission Office Use Only

Date on Agenda:

Appt Time or New Business:

AGENDA REQUEST FORM

Name: Barbara Miller

Department or Entity: Homeland Security and Emergency Management

Estimation of amount of time needed for appointment: 10 Minutes

Date Requested – 1st Choice: July 18, 2013

Date Requested – 2nd Choice: _____

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

Subject:

- 1) Memorandum of Agreement between Jefferson County and the Federal Emergency Management Agency Integrated Public Alert and Warning System (IPAWS) Program Management Office

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

The WV Division of Homeland Security and Emergency Management Director, Jimmy Gianato is asking all counties in the state to sign this Memorandum of Agreement. To operate within these guidelines, all parties who will access this system must go through an on-line training course and agree to the guidelines outlined within this MOA.

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

- 1) I move to approve the Memorandum of Agreement between Jefferson County and the FEMA Integrated Public Alert and Warning System (IPAWS) Program Management Office.

Attachments: Copy of the MOA

AGENDA REQUEST FORM

Name: Sheriff Pete Dougherty

Department or Entity: Jefferson County Sheriff Office – Animal Control

Estimation of amount of time needed for appointment: 5 min

Date Requested – 1st Choice: July 18, 2013

Date Requested – 2nd Choice: _____

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

Subject:

Reconsideration of hiring an Animal Control Officer

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

Due to the hiring freeze until October, the request to replace the Animal Control Officer at the July 11, 2013 was not acted upon. I believe the cost of overtime will cost the County much more then to hire a replacement officer.

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

Are documents attached? yes

If not, please explain:

Is a projector needed?

Contact information:

Email Address:

Phone number:

JEFFERSON COUNTY

Personnel Requisition

Department Name Animal Control Date 6/27/2013 Date Needed 7/15/2013

Job Title AIC officer Salary 29,280.46 Criminal History Check Yes No

Suggested Recruitment Source(s) _____

Applicants Interviewed By Colbert, Lambiotte
+ Sheriff Position Reports To Lambiotte

Minimum Education Required _____

Minimum Experience Required _____

Job Duties _____

Budget Information

Addition Replacement Explain or For Whom Joe Jacobs

Position Budgeted Yes No Proposed Salary 29,280.46 Date of Hire 7/15/2013

Is Position: Full-Time Regular Part-Time On-Call Occasional Temporary

Safety/Security _____ Hours Per Week 40 Grade 11 Step A

Approvals

Elected Official Approval Peter H. Dunham Date 6/27/13

Department Head Approval _____ Date _____

County Commission Approval _____ Date _____

Comments _____

AGENDA REQUEST FORM

www.jeffersoncountywv.org



Name:

Lynn Fields

Department or Organization: Probate Office

Estimation of amount of time needed for appointment: 30 minutes

Date Requested – 1st Choice: July 18th, 2013

Date Requested – 2nd Choice: _____

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

Must have quarterly review before the end of the month of July

Subject (Wording to be placed on agenda):

Quarterly Probate Review AND Petition to Probate A Will in Solemn Form (William C. Perry)

Please provide the County Commission with a description of your request or presentation, including any background information: Quarterly review to close estates and approve newly opened estates for probate; hear the petition to probate the Last Will and Testament of William C. Perry in solemn form

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

Move to close estates and approve newly opened estates; rule on the petition to probate a will in solemn form (William C. Perry)

Are documents attachments? Yes No

If not, explain:

Is a projector needed? Yes No

Contact information:

Email address: lfields@jeffersoncountywv.org

Phone number: 304 728 3210

IN THE COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA

IN RE: ESTATE OF William C. Perry

PETITION TO PROBATE A WILL IN SOLEMN FORM

COME NOW your Petitioners, Elizabeth T. Haney and Scott C. Jodoin, and petition for the admission and probate in solemn form of the Last Will and Testament of William C. Perry pursuant to the provisions of West Virginia Code Chapter 41, Article 5, Section 5, and represents to the Commission the following:

1. That Elizabeth T. Haney of P. O. Box 936, Harpers Ferry, Jefferson County, West Virginia, and Scott C. Jodoin, of 537 South Mildred Street, Charles Town, Jefferson County, West Virginia, are designated as Co-Executors under the Last Will and Testament of William C. Perry, deceased, dated August 9, 1995; as amended by a First Codicil to said Last Will and Testament dated February 10, 2004; as amended by a Second Codicil to said Last Will and Testament dated April 5, 2006; and as amended by a Third Codicil to said Last Will and Testament dated May 17, 2011, which are the subject of this Petition.

2. That William C. Perry died April 7, 2013, at Charles Town, Jefferson County, West Virginia.

3. That the last place of residence and domicile of William C. Perry at his death was 418 South Mildred Street in the City of Charles Town, Jefferson County, West Virginia.

4. That at the date of his death the nature of the estate of William C. Perry consisted of real estate situate in or adjoining the City of Charles Town, Jefferson County, West Virginia, and tangible and intangible personal property.

5. That at the date of his death, the said William C. Perry was a widower and had not remarried; that he had two children, Elizabeth T. Haney and Gwynn T. Jodoin.

6. That the known heirs at law and distributees of William C. Perry as defined under West Virginia Code Chapter 42, and their relationship to the Decedent are as follows:

- a. Elizabeth T. Haney, daughter.
- b. Gwynn T. Jodoin, daughter.

7. That after a thorough and diligent search, the Petitioners has delivered to the Clerk of this Commission an original document entitled, "Last Will and Testament of William C. Perry" executed by the Decedent on August 9, 1995, a copy of which is attached to this Petition as Exhibit 1; a photocopy of a document entitled "First Codicil" to said Last Will and Testament dated February 10, 2004, a copy of which is attached to this Petition as Exhibit 2; a photocopy of a document entitled "Second Codicil" to said Last Will and Testament dated April 5, 2006, a copy of which is attached to this Petition as Exhibit 3; and an original document a photocopy of a document entitled "Third Codicil" to said Last Will and Testament dated May 17, 2011, a copy of which is attached to this Petition as Exhibit 4.

8. That the beneficiaries under the Last Will and Testament of William C. Perry dated August 9, 1995, as amended, and their relationship to him are as follows:

| <u>Name</u> | <u>Relationship</u> |
|--------------------|---------------------|
| Elizabeth T. Haney | Daughter |
| Gwynn T. Perry | Daughter |

9. That the Petitioners, following the death of William C. Perry

on April 7, 2013, have made a diligent and thorough search for the original First Codicil to said Last Will and Testament dated February 10, 2004, and Second Codicil to said Last Will and Testament dated April 5, 2006, but have been unable to find the whereabouts thereof.

10. That the Petitioners have had no reason to conclude that William C. Perry revoked the aforesaid Codicils to his Last Will and Testament, but are without sufficient information and knowledge to determine whether Decedent either misplaced the same or they were accidentally destroyed without the intent to revoke the same.

11. Personal jurisdiction over the Defendants is asserted pursuant to West Virginia Code §41-5-1, et seq., West Virginia Code §44-1-1, et seq., and West Virginia Code §56-3-33.

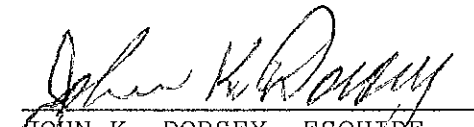
12. Subject matter jurisdiction is asserted pursuant to West Virginia Constitution Article VIII, §6, West Virginia Code §41-1-1, et seq., and West Virginia Code §44-1-1, et seq.

15. Venue lies within this Commission pursuant to West Virginia Code §41-5-4, as said Petition involves the probate of a Will of the Testator who at the time of his death had a mansion house or known place of residence in Jefferson County, West Virginia.

WHEREFORE, the Petitioners respectfully petition this honorable County Commission to issue process and summons to all those persons known as heirs at law of William C. Perry, and those interested in the probate of the Last Will and Testament of William C. Perry, deceased, to appear at a day named to show cause why the Last Will and Testament of William C. Perry dated August 9, 1995; as amended by a First Codicil to said Last Will and Testament dated February 10, 2004; as amended by a Second Codicil to said Last Will and Testament dated

April 5, 2006; and as amended by a Third Codicil to said Last Will and Testament dated May 17, 2011, should not be admitted to probate pursuant to the provisions of Article 5, Chapter 41, of the West Virginia Code, to appoint a guardian ad litem to represent the interest of any unknown beneficiaries of the Estate of William C. Perry, to appoint Elizabeth T. Haney and Scott C. Jodoin as Co-Executors of said Will, and to take such further action as to this Commission may seem fair and just.

ELIZABETH T. HANEY and SCOTT C. JODOIN
BY COUNSEL



JOHN K. DORSEY, ESQUIRE
Attorney for Petitioners
WV State Bar ID No. 1044
104 West Congress Street
Charles Town, WV 25414
(304) 728-6000

STATE OF WEST VIRGINIA

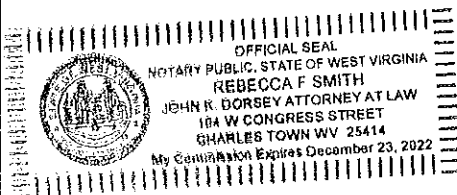
COUNTY OF JEFFERSON, to-wit:

Elizabeth T. Haney and Scott C. Jodoin, Petitioners in the foregoing Petition, being first duly sworn, says that the facts and allegations therein contained are true, except insofar as they are therein stated to be upon information and belief, and insofar as they are therein stated to be upon information and belief, they believe them to be true.

Elizabeth T. Haney
ELIZABETH T. HANEY

Scott C. Jodoin
SCOTT C. JODOIN

Taken, sworn to and subscribed before me this 6th day of June, 2013, by Elizabeth T. Haney and Scott C. Jodoin.



Rebecca F. Smith
NOTARY PUBLIC

My commission expires: December 23 2022

Regular Term

JULY 2013

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

At a Regular Term of the County Commission of said County and State, begun and held at the Old Charles Town Library thereof, on Thursday, July 18th, 2013 beginning at 11:05 a.m.

PRESENT: Dale Manuel, President
Lyn Widmyer, Patsy Noland
Jane Tabb, and Walt Pelish, Commissioners

A list of Wills Probated, Executors qualified, Guardians, Administrators, &c appointed since the last Regular Term of this Commission, to-wit: The April 2013 Term, thereof was this day presented to the Commission by the Clerk thereof, examined by it, and ordered filed.

Estate of Jeanne Hancock Dodson, deceased, in Account with Mary Campise, Executrix

Estate of Walter McKinley Jenkins, Sr., deceased, in Account with Dana S. Jenkins, Administratrix

Estate of Gladys Kienzlen, deceased, in Account with Chris Kienzlen, Executor

Estate of Marian A. Koster, deceased, in Account with Daniel I. Alquist, Executor

Estate of Edgar Arnold McDowell, deceased, in Account with Roxanne Y. McDowell, Executor

Estate of Howard J. Parrish, Sr., deceased, in Account with Ladaska A. Jones, Executrix

Estate of Paul F. Propps, Jr, deceased, in Account with Victoria H. Propps,
Executrix

Estate of Shirley Ann Wilt, deceased, in Account with Tiffany Dailey,
Executrix

The following Waivers of Final Settlement were this day examined by
the Commission and there being no exceptions thereto, and none appearing on
the face thereof, same are ordered approved and recorded as follows:

Estate of Edward Lacey Burns, IV, deceased, Waiver of Final Settlement,
Rosamond A. Rutledge-Burns, Executor

Estate of Thomas D. Cardis, deceased, Waiver of Final Settlement, Thomas
M. Cardis, Administrator

Estate of Wilbur Paul Chidester, deceased, Waiver of Final Settlement, Peggy
P. Young, Executrix

Estate of Barbara L. Colabrese, deceased, Waiver of Final Settlement,
Kenneth H. Sims, Executor

Estate of Edgar E. Hawkins, deceased, Waiver of Final Settlement, Joseph E.
Hawkins, Executor

Estate of Evelyn J. Johnson, deceased, Waiver of Final Settlement, Mary J.
Johnson, Administrator

Estate of Emory Allder Kable, deceased, Waiver of Final Settlement, Jennifer
C. Kable and Amy K. Fincham, Co-Executors

Estate of Peter Edward Ladnier, deceased, Waiver of Final Settlement,
Charles A. Ladnier, Administrator

Estate of Timothy Scott Long, deceased, Waiver of Final Settlement, April
Dawn Rickard, Administrator

Estate of Michael A. Lugaila, deceased, Waiver of Final Settlement, Barbara
A. Lugaila, Administratrix

Estate of Virginia C. Nutzman, deceased, Waiver of Final Settlement, Robert L. Nutzman, Administrator

Estate of Linda Marie O'Brien, deceased, Waiver of Final Settlement, Kelly O'Brien Todd, Executrix

Estate of Josephine E. Ramsey, deceased, Waiver of Final Settlement, Donna M. Miller, Executrix

Estate of Elizabeth Shank Saum, deceased, Waiver of Final Settlement, Juliana E. Holland, Executrix

Estate of Glenda Eileen Shewbridge, deceased, Waiver of Final Settlement, Deborah K. Shewbridge, Executrix

Estate of Ella Louise Smith, deceased, Waiver of Final Settlement, Nathaniel Peterson, Administrator dbn

Estate of Mabel M. Tessier, deceased, Waiver of Final Settlement, Michael H. Durst and Martin E. Durst, Co-Executors

Estate of Geraldine E. Zaccardi, deceased, Waiver of Final Settlement, Robert W. Zaccardi and Barbara L. Zaccardi, Co-Executors

Accountings and Waivers of Final Settlement submitted from the Fiduciary

Commissioners: June K. Jovanelly, S. Andrew Arnold, Frank D. Hill, III and

David A. Dejarnett:

Estate of James Franklin Ainsworth, Jr., deceased, in Third Accounting, Patricia J. Longerbeam, Executrix

Estate of Loretta I. Green, deceased, Waiver of Final Settlement, Vilma H. Hancock, Executrix

Estate of Walter Nathaniel Harris, deceased, Waiver of Final Settlement, Anthony W. Gales, Executor

Estate of Jack Vincent Shiflett, deceased, First and Final Accounting, William R. Shiflett, Administrator cta

Estate of Clarence W. Wright, deceased, First Accounting, Mary Ellen Lloyd,
Executrix

Estate of Elizabeth C. Hooe, deceased, First Interim Accounting, Bank of
Charles Town, Executor

President

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: 2 hours

Date Requested – 1st Choice: July 18, 2013

Date Requested – 2nd Choice: _____

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

Subject: 2nd Joint Meeting with Envision Jefferson 2035 Steering Committee Members and the County Commission

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

At the request of the County Commission, a joint meeting with the Envision Jefferson 2035 Steering Committee will be held to provide a status update and to initiate a discussion of the draft Goals and Objectives that are slated to be discussed at the upcoming July 27 and 30 Public Input Meetings. Staff proposes that this meeting be held in a workshop format and that the following topics to be covered at this workshop (proposed agenda attached):

- 1) Envision Jefferson 2035 Status Update (summary attached)
- 2) Review, discussion and possible recommendation of Draft Goals and Objectives and Vision to be presented at July Public Input meetings (attached)
- 3) Overview of upcoming July Public Input opportunities
- 4) Brief discussion of Existing Conditions document and Existing Land Use Map (to be distributed at end of joint meeting)
- 5) Steering Committee/County Commission Comments and Discussion

As the bulk of the discussion relates to the draft Goals and Objectives and Vision statement, the following definitions are provided to assist in that discussion:

Goals are general guidelines that broadly describe what the community wishes to achieve over the period of the Comprehensive Plan. Goals are generally bigger in scope than objectives.

Objectives are the types of actions or activities that are recommended in order to attain the goals.

Implementation Strategies are specific steps that would be undertaken to achieve the goals and objectives. They can involve regulatory processes or actions that provide a means for the goals and objectives to be achieved. (not yet undertaken)

Goals and Objectives are what a community wishes to achieve. Implementation Strategies are how a community looks to achieve them.

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

Attachments:

- Proposed Agenda for July 18, 2013 Joint County Commission/Steering Committee Meeting
- Envision Jefferson 2035 Status Update
- Draft Goals and Objectives dated July 10, 2013 Revised
- Draft Vision Statement dated July 10, 2013



JEFFERSON COUNTY, West Virginia

Departments of Planning and Zoning

116 East Washington Street, 2nd Floor

Charles Town, WV 25414

Email: steeringcommittee@jeffersoncountywv.org

Phone: (304) 728-3228

Web: www.envisionjefferson2035.com

Fax: (304) 728-8126

Joint County Commission/ Steering Committee Meeting

Envision Jefferson 2035 (2014 Comp Plan)

July 18, 2013, 7:00 p .m. – 9:00 p.m.

Old Charles Town Library -- Jefferson County Commission Meeting Room

- 1) Envision Jefferson 2035 Status Update *(10 minutes)*
- 2) Review, discussion and possible recommendation of Draft Goals and Objectives and Vision to be presented at July Public Input meetings *(30 minutes)*
- 3) Overview of upcoming July Public Input opportunities *(10 minutes)*
 - a. **Saturday July 27, 2013, 9:30 am – noon**
Sam Michaels Park gym
Public Input Workshop
 - b. **Tuesday July 30, 2013, 6:30 – 9 pm**
Shepherdstown Community Club War Memorial Bldg
Public Input Workshop
 - c. **August 19 - 23, 2013, 3:00 – 7:00 pm**
County Fair Booth
- 4) Brief discussion of Existing Conditions document and Existing Land Use Map *(10 minutes)*
- 5) Steering Committee/County Commission Comments and Discussion *(60 minutes)*

ENVISION JEFFERSON 2035 STATUS UPDATE

July 18, 2013 Joint CC/SC Meeting

| Tentative Dates | Tasks | Responsibility |
|--|---|-----------------------------|
| August – December 2012 | Phase 1: 2014 Plan Start Up/Organization | |
| <i>Completed</i> | Technical Advisory Committee formed for Existing Conditions element; Steering Committee appointed by County Commission and meetings initiated | |
| May 2012 – January 2013 | Phase 2: Existing Conditions Data Collection, Mapping and Trends Analysis | |
| <i>Completed</i> | Nearly complete draft serving as a snapshot in time to be a separate baseline document | |
| January 2013 – February 2013 | Phase 3: Issues Analysis/Visioning | |
| <i>Completed</i> | 4 public meetings held in February and March and on-line survey input received | |
| March 2013 – August 2013 | Phase 4: Goals and Objectives | |
| January through April 2013 | Video links of 15 Lunch and Learns available on http://envisionjefferson2035.com/ | Staff |
| March through June 2013 | 6 Steering Committee Meetings focused on: <ul style="list-style-type: none"> • issues analysis • review of other plans • existing conditions and land use map • initiation and development of draft goals and objectives discussion | Steering Committee Staff |
| 5/23/13 | David Mills presentation to County Commission on Ranson Renewed Plan and Form Based Code Rezoning | |
| July 8, 2013 (rescheduled from 7/16/13) | Steering Committee Meeting Finalize Draft Goals and Objectives | Steering Committee Staff |
| 7/18/13 7 pm | Joint Meeting with County Commission – progress update and discussion of Existing Conditions draft and Goals and Objectives | Steering Committee Staff |
| Saturday July 27, 2013 9:30 am – noon (Sam | 2nd series of Public Outreach Meetings: <ul style="list-style-type: none"> • “what we heard” | Staff Steering |

| | | |
|--|--|---|
| Michaels) AND Tuesday July 30, 2013 6:30 – 9 pm (War Memorial Bldg) | <ul style="list-style-type: none"> • Draft Goals and Objectives presentation and feedback • Initial Future Land Use visioning exercise and related infrastructure | Committee |
| Week of 8/19/13 | COUNTY FAIR WEEK – Land Use Exercise (No Steering Committee Meeting) | Steering Committee Staff |
| September 2013 | Finalization of Draft Goals and Objectives based on public input received | Staff |
| 9/17/13 | Steering Committee Meeting Prep for Joint PC/CC Meeting re: Goals and Objectives | Steering Committee Staff |
| End of September 2013 | Joint meeting of PC/CC to request endorsement of goals and objectives for the purpose of proceeding with recommendations – need legal input | PC/CC Staff/legal |
| October 2013 – May 2014 | Phase 5: Plan Recommendations and Implementation Strategies (with the following milestones) | Steering Committee Staff |
| January 2014 (3 rd or 4 th week) | 3rd series of Public Input Meetings (3 mtgs): <ul style="list-style-type: none"> • Review “approved” goals and objectives • Review draft recommendations and strategies • Request feedback – 2 week written comment time period • Finalize future land use map | Staff Steering Committee |
| 4/22/14 | 4th Public Input Meeting – one large joint meeting instead of regional meetings ***PC/CC invited to attend this meeting | Staff Steering Committee |
| 5/20/14 | Steering Committee Meeting to forward draft Envision Jefferson 2035 Plan to the Planning Commission for initiation of formal public hearing and adoption process | Steering Committee Staff |
| June 2014 – December 2014 | Phase 6: 2014 Plan Workshops and Public Hearings by PC and CC and Adoption | PC/CC Staff/legal |
| 12/11/14 | CC Vote on 2014 Comprehensive Plan | CC |

Envision Jefferson 2035 Draft Goals and Objectives

A key element of any land use planning document is the development of a statement of realistic goals and objectives which lay the groundwork for the implementation strategies of the vision. For the purposes of the Envision Jefferson 2035 Plan, these goals and objectives are grouped into five elements:

- Land Use and Growth Management;
- Economic Development, Employment, and Infrastructure;
- Cultural, Historic, and Natural Resources, and Recreation;
- Education; and
- Finance, Public Safety, & Governance.

The five elements incorporate the components that are required and/or recommended by WV Code 8A: The components are (Required): Land Use, Housing, Transportation, Infrastructure, Public Services, Rural, Recreation Economic Development, Community Design, Preferred Development Areas, Renewal and /or Redevelopment, Financing, Historic Preservation (Recommended): History, Environmental, Tourism, Conservation, Safety, Natural Resource(s).

It should be noted that a Comprehensive Planning document such as this generally covers a twenty year planning horizon and as a result, is intended to reach beyond current physical, political and institutional constraints. The process of developing goals began with an examination of existing conditions related to each of the categories listed above and the analysis of issues and opportunities throughout the County. The most important sources for the draft Goals and Objectives were public input from four public meetings conducted in early 2013, results of an online survey available countywide, and discussion and submitted comments from the Steering Committee.

Land Use and Growth Management Element

Goal #1: Require Urban Intensity Residential and Non-Residential Development to Occur within Existing Urbanized Areas, Approved Urban Growth Boundaries, Villages, and/or the County's Identified Preferred Growth Areas"

Objective #1: Recognize the existing vested rights, development entitlements, and permitted density levels on properties in Jefferson County.

Objective #2: Require that any rezoning of properties adhere to the Future Land Use Map created as part of the Comprehensive Plan.

- Objective #3: Establish a broader variety of commercial, residential, and mixed-use zoning categories appropriate to the County's needs.
- Objective #4: Permit the creation of urban level uses (particularly residential development) within approved Urban Growth Boundaries, Villages, or in the Preferred Growth Areas through rezoning that is consistent with the Future Land Use Map.
- Objective #5: Allow areas outside of the Urban Growth Boundaries or Preferred Growth Areas to develop as rural cluster subdivisions; in accordance with existing land use rights; and/or as compatible non-residential development utilizing the Conditional Use Permit (CUP) process.
- Objective #6: Encourage the location of new community facilities (such as schools, libraries, parks and other county facilities) and infrastructure within Municipalities, Villages, approved Urban Growth Boundaries, or Preferred Growth Areas.
- Objective #7: Establish that new development adjacent to municipal boundaries, Villages, or within Urban Growth Boundaries is designed and built in a way that enables connectivity to the existing street and infrastructure network or for future connectivity as development is extended to these areas.
- Objective #8: Encourage the adaptive reuse of existing buildings and previously used sites within Jefferson County, paying particular attention to brownfield and greyfield sites.
- Objective #9: Establish a plan to provide incentives to encourage residential developments to locate in preferred areas (within the Urban Growth Boundaries, Villages or Preferred Development Areas where sewer and water services are available.)

Goal #2: Maintain and Enhance the Agricultural and Artisan Economy, Rural Land Uses, Rural Neighborhoods, and Rural Character of the Areas of the County Outside the Preferred Growth Areas.

- Objective #1: Review and revise the existing Jefferson County Subdivision and Land Use Regulations and site plan standards to reduce regulatory barriers to agricultural and/or artisan operations.

- Objective #2: Review and revise local regulations to ensure that production and marketing of artisan or agricultural products can occur on-site in the Rural district; based on the size and scale of the operation and the property.
- Objective #3: Enhance the viability of existing farmlands within Jefferson County by allowing a greater range of agricultural and/or artisan uses within existing rural areas.
- Objective #4: Provide a variety of mechanisms to protect existing farmlands, key farm buildings, and scenic corridors within Jefferson County.
- Objective #5: Identify methods to involve members of the agricultural community in planning and land use decisions related to rural lands within Jefferson County.
- Objective #6: Recognize the vested rights that are present on existing properties in Jefferson County.
- Objective #7: Protect the viability of agricultural lands and wildlife corridors by encouraging the utilization of cluster subdivisions as the preferred form of residential development within rural areas
- Objective #8: Recognize the rights and viability of existing rural residential neighborhoods.

Goal #3: Encourage Renewal, Redevelopment, and Limited Expansion of Villages to Allow Village-Scale Residential Development and Compatible Neighborhood Commercial Activities

- Objective #1: Identify resources to enable the rehabilitation of key structures within the village areas.
- Objective #2: Provide land use tools to encourage expansions to the village areas and to provide a continuation of village scale and design into these areas.
- Objective #3: Utilize shared public infrastructure to allow the construction of village-scaled businesses, residential uses (including small-scale multi-family housing) and applicable community facilities within designated village areas and in potential village expansion areas.
- Objective #4: Where appropriate, allow small-scale commercial and multi-family uses in existing areas that have the potential to be designated as a village at a future date.

Goal #4: Preserve, Protect and Enhance the Character of the County by Implementing Community Design Standards Which Promote High Quality Development in Appropriate Areas

- Objective #1: Ensure that development within approved Urban Growth Boundaries is designed to a similar standard as development in the adjacent municipality.
- Objective #2: Identify means to encourage developers to develop new neighborhoods in ways that meet standards set by regional or national sustainable building organizations.
- Objective #3: Create and implement corridor management requirements and design guidelines to protect accessibility and viewsheds along designated Primary and Secondary roadways located within Jefferson County.
- Objective #4: Create and enforce design guidelines for new commercial development and the redevelopment and revitalization of non-residential properties throughout the County.

Goal #5: Encourage the Development of a Comprehensive Range of Housing Options for Residents of all Incomes and at all Lifecycle Stages within Jefferson County

- Objective #1: Work with county residents, members of the development community, and local and regional non-profit organizations to identify ways to integrate workforce and affordable housing within existing and new communities in Jefferson County.
- Objective #2: Amend regulations to provide property owners with a streamlined process to enable the construction of accessory dwelling units or energy efficient home improvements on their properties.
- Objective #3: Continue to regularly evaluate fees and taxes related to residential uses in Jefferson County.
- Objective #4: Work with local and regional financial institutions and state and federal agencies to identify a variety of financing mechanisms to encourage the construction of affordable and workforce housing in Jefferson County and to encourage homeownership within Jefferson County by workers employed in the County.

- Objective #5: Encourage the construction of a mix of housing options, including single family homes, townhomes, and apartments (including detached accessory units or similar housing) within Jefferson County at a variety of price points for both the owner-occupied and rental markets.
- Objective #6: Encourage developers, contractors, and homeowners to build new homes and to renovate homes to accommodate residents across the entire lifecycle.
- Objective #7: Identify ways to encourage residents to maintain and upgrade their homes.
- Objective #8: Encourage the adaptive reuse (renovation and utilization) of existing non-residential structures for housing.
- Objective #9: Encourage the construction or renovation of homes that are energy, resource, and location efficient and that provide long-term cost savings for Jefferson County residents by meeting national “green housing” certification standards while being respectful of the natural and built environment.
- Objective #10: Identify methods to lower the cost of constructing low-income and affordable housing within Jefferson County while ensuring a high quality of housing in conjunction with local non-profits and housing providers.
- Objective #11: Encourage the development of communities that provide a variety of care for elderly and/or disabled residents within Jefferson County in close proximity to transportation corridors, medical facilities, and everyday needs.

Economic Development, Employment, and Infrastructure Element

Goal #6: Encourage the Growth of Jefferson County’s Economy and Enable the Creation of High Quality Jobs within the County

- Objective #1: In coordination with the Jefferson County Development Authority and other agencies, work to build and expand existing local businesses and to enable the start-up of new businesses within Jefferson County.

- Objective #2: Collaborate with local higher education institutions, non-profit organizations, and existing federal facilities to provide training that supports and enhances local economic development efforts.
- Objective #3: Sponsor, support, and establish school to work programs to meet current and future workforce needs.
- Objective #4: Work with the Jefferson County Development Authority, other local economic development agencies, and local employers to identify opportunities and programs that would aid in retaining young residents within Jefferson County.
- Objective #5: Provide opportunities to engage local employers with the existing local workforce in order to enable county residents to work locally.
- Objective #6: In conjunction with the Jefferson County Development Authority and other local economic development agencies and local businesses, identify ways to better market local facilities and products within the region and nationally.
- Objective #7: Provide incentives and opportunities for businesses in target industries identified by the Jefferson County Development Authority and other local economic development agencies to relocate or to expand their operations within the County.
- Objective #8: Work with the state's congressional delegation, federal agencies, and state elected officials to identify opportunities for relocation or expansion of federal or state facilities within Jefferson County.

Goal #7: Encourage and Promote Diverse Business and Employment Creation and Retention within the Approved Urban Growth Boundaries, Villages, and/or Preferred Growth Areas within Jefferson County

- Objective #1: Provide a variety of incentives to guide economic development toward existing municipalities or within the approved Urban Growth Boundaries, Villages, and/or Preferred Growth Areas
- Objective #2: Ensure that sufficient public and private infrastructure is in place within Urban Growth Boundaries, Villages and/or Preferred Growth Areas to enable economic development to occur

Objective #3: Amend development requirements and reduce regulatory barriers in order to encourage economic development within the Urban Growth Boundaries, Villages, or Preferred Growth Areas.

Objective #4: Ensure that sufficient land area is available within the Urban Growth Boundaries, Villages, or Preferred Growth Areas to accommodate a variety of economic development opportunities.

Goal #8: Retain, Strengthen, and Enable the Growth of Jefferson County's Rural Economy

Objective #1: Encourage diverse economic activity and agricultural production in the County's rural areas.

Objective #2: Update existing land use regulations to allow for diverse compatible and complementary uses on agricultural properties and within rural areas of Jefferson County.

Objective #3: Enhance farmland protection activities within Jefferson County.

Objective #4: Encourage the creation of agricultural service facilities within Jefferson County, preferably within areas in close proximity to agricultural activities.

Objective #5: Enhance local and regional distribution and marketing of the county's agricultural products.

Objective #6: Provide tools for the education of and resources for the creation and viability of new generations of farmers.

Objective #7: Identify means for farm operators to collaborate with county officials in identifying potential economic development opportunities related to agriculture in Jefferson County.

Goal #9: Preserve, Promote and Enhance Components of Jefferson County's Natural, Cultural, Built, Historic, Recreational, and Rural Environments which Encourage Tourism

Objective #1: Collaborate with the Jefferson County Arts and Humanities Alliance (AHA) Historic Landmarks Commission, Jefferson County Convention and Visitors Bureau, and other organizations in the creation of a long-range cultural tourism and management plan.

Objective #2: Encourage the utilization of existing historic and agricultural areas for a variety of uses in ways that respect their historical function or setting.

Objective #3: Protect and enhance the viability of natural, cultural, and built environments within Jefferson County while allowing recreational and tourism opportunities.

Goal #10: Maintain and Enhance Community Services and Infrastructure Capacity for Water, Sanitary Sewer, Storm Sewer, and Other Utilities; and Enable the Provision of Orderly and Efficient Services and Advanced Technologies

Objective #1: In coordination with public and private service providers serving Jefferson County, create a public service plan for the county that identifies specific standards (based on state and nationally accepted standards for communities), the applicability of enhancements to existing facilities, and potential locations of future infrastructure improvements.

Objective #2: Continue to coordinate between county and regional/state agencies in relation to information and activities related to meeting Chesapeake Bay Watershed Implementation Plan (WIP) goals.

Objective #3: Create and implement a means to require shared infrastructure between existing and proposed development.

Objective #4: Require that new utility facilities and/or extensions are located within Urban Growth Boundaries, Villages, or inside the Preferred Growth Area(s).

Objective #5: Identify and implement ways to provide utility services within and immediately adjoining Village areas.

Objective #6: Provide mechanisms to ensure that existing utility systems are upgraded to meet the needs of the residents and businesses throughout the County.

Objective #7: Private water and wastewater plants shall meet material and design standards set by local publicly owned service providers.

Objective #8: Work with appropriate local agencies and regional providers to extend natural gas services into Jefferson County.

Objective #9: Encourage the creation of and use of a variety of energy sources (including renewable energy) within Jefferson County in ways that respect the character of the County.

Objective #10 Adhere to the regulations included as part of the Jefferson County Stormwater Ordinance.

Objective #11: For water and sewer utilities to serve new developments and in areas currently not served by sewer and water where services have been deemed necessary by local or state health officials, allocate costs equitably so that new development or the development being served is responsible for the infrastructure cost, rather than existing ratepayers.

Goal #11: Ensure the Provision of High-Speed Broadband Internet or Advanced Technology Communication Services throughout Jefferson County

Objective #1: Work with local internet service providers to identify ways to enable the provision of more reliable high speed internet connections.

Objective #2: In coordination with other communities and in partnership with the various federal agencies, healthcare facilities, and institutes of higher education located in the Eastern Panhandle, consider the creation of a region-wide open source advanced technology network.

Objective #3: Encourage area communications providers to provide the highest speed or connections that are possible under current technology to reach all areas in the county, while being designed in a way that respects the historic and natural features of Jefferson County.

Goal # 12: Improve Roadway Capacity and Safety and Decrease Travel Time and Congestion

Objective #1: Identify an attainable level of service for roadways located in Jefferson County and work with appropriate agencies to identify means to achieve this level of service.

Objective #2: Coordinate land use access and transportation improvement decisions in order to enhance the countywide transportation network through the development review process.

- Objective #3: Coordinate with HEPMPO and WVDOH District 5 (and other appropriate agencies) to identify areas of potential highway safety or capacity concerns within Jefferson County and ways to address these concerns.
- Objective #4: Work with HEPMPO and WVDOH to create a series of corridor management plans for arterial roadways within Jefferson County that take into account the natural beauty and historic character of the County.
- Objective #5: In coordination with HEPMPO, WVDOH and applicable state agencies in Virginia and Maryland, identify ways to improve highway connectivity into adjoining states.
- Objective #6: Continue to take an active role in the preparation of the HEPMPO Transportation Improvement Plan (TIP) and the HEPMPO Long Range Transportation Plan.
- Objective #7: Encourage development patterns in the County that would minimize the average household vehicle miles traveled (VMT).
- Objective #8: Develop and adopt an access management planning tool for application in appropriate areas of Jefferson County.
- Objective #9: To enhance the existing or future transportation network, ensure that neighborhood/commercial development within the Urban Growth Boundary, Preferred Growth Areas, or villages is designed in such a way that interconnections to existing (if possible) and future development are included.
- Objective #10: Work with WVDOH to develop a roadside beautification program for identified corridors within Jefferson County.
- Objective #11: Continue to coordinate with WVDOH regarding the locations of existing and potential development activities so the State and County can be informed of each other's potential activities.
- Objective #12: Ensure that streets through new developments are designed in a way that enables traffic calming and work with HOA's, WVDOH, and other agencies to identify ways that streets through existing neighborhoods and Villages can be retrofitted to enable traffic calming as needed.
- Objective #13: Implement a policy to allow for a right of way preservation and/or dedication when a preferred road alignment has been identified.

Goal #13: Provide a Variety of Options for Mobility and Accessibility for Jefferson County Residents and Visitors, including Public Transportation and Pedestrian/non-motorized Opportunities within the County and Between Neighboring Counties and States

- Objective #1: In coordination with PANTRAN, improve transit service both within Jefferson County and to other areas of the Eastern Panhandle.
- Objective #2: Coordinate with MARC and other applicable local government agencies to continue and improve commuter rail options from Jefferson County into Maryland and to Washington DC, including the relocation of the Duffields MARC station.
- Objective #3: Identify opportunities to provide commuter transit service into Northern Virginia for County residents and visitors.
- Objective #4: Implement a network of sidewalks, shared roadways, and trails are available to residents of Jefferson County and that connections along the trails/pathway are extended into adjoining neighborhoods, communities, and counties.
- Objective #5: Require that sidewalks are constructed (or that at a minimum, easements are provided) within and connecting to existing and new development within the Urban Growth Boundaries, Preferred Growth Areas, or within Villages.
- Objective #6: Encourage the expansion of existing taxicab services and carpool/vanpool programs in Jefferson County (including both traditional and peer to peer models.)

Cultural, Historic, and Natural Resources, and Recreation Element

Goal #14: Preserve and Protect Significant Cultural Landscapes that encompass Historic Properties, Buildings, Battlefields and Sites from the Impacts of Incompatible Development

- Objective #1: In conjunction with efforts from the Jefferson County Historic Landmarks Commission and other applicable agencies, continue to identify key sites and structures built more than 50 years ago that should be prioritized for protection.
- Objective #2: Create and implement a series of preservation standards to help protect the integrity of historic structures, properties, and districts within Jefferson County.
- Objective #3: Work with local, state, and federal elected officials and agencies to identify additional tools and incentives to aid in the preservation of historic structures, properties, and districts in Jefferson County.
- Objective #4: Work with property owners and applicable agencies to balance private property rights with the need to protect historically significant properties, structures, sites, or archeological resources.
- Objective #5: With assistance from applicable agencies, provide technical resources for property owners and local businesses on the protection of historic resources within Jefferson County.
- Objective #6: Encourage the adaptive reuse of existing historic buildings within Jefferson County for a variety of purposes.
- Objective #7: Identify areas or corridors for consideration for inclusion in a historic, cultural, or heritage area of local, regional, or national significance.

Goal #15: Protect the Rural and Historic Viewsheds and Landscapes in Jefferson County

- Objective #1: Develop and implement Community Design Standards as recommended in the 2004 Comprehensive Plan to enable high quality, compatible development.

Objective #2: Identify, prioritize, and conduct analysis of key viewsheds and landscapes within Jefferson County in cooperation with other agencies using the viewshed analysis undertaken by the Jefferson County Historic Landmarks Commission and Scenic America along the US 340 corridor as a model.

Objective #3: Develop methods to balance the interests of property owners and local government agencies in the protection of identified priority viewshed/landscape areas.

Objective #4: Identify and pursue a variety of funding mechanisms in order to enable the protection of identified priority viewshed/landscape areas.

Objective #5: Coordinate with the Jefferson County Historic Landmarks Commission, the Jefferson County Farmland Protection Board, and other applicable agencies to provide technical resources to assist property owners in the protection of their lands.

Objective #6: Continue to work with municipalities, villages, and the Jefferson County Historic Landmarks Commission to identify and establish additional historic districts where applicable.

Goal #16: Encourage and Promote the Protection of Jefferson County's Unique Natural Features Including, but not limited to: Sensitive Karst Features, Rivers and Streams, Steep Slopes, and Tree Canopy

Objective #1: Coordinate with property owners and applicable agencies to identify ways to balance the protection of unique natural features with the rights of property owners.

Objective #2: Identify and provide technical resources to property owners or their agents and the community to assist in the protection of the County's natural resources.

Objective #3: Identify financial resources that may be used to help fund activities that would lead to the protection of Jefferson County's unique natural features.

Objective #4: Continue to actively implement the recommendations of the County's Urban Tree Canopy Plan.

Objective #5: Identify and utilize best management practices in relation to the protection of the County's natural resources.

Goal #17: Conserve and Protect Significant, Sensitive and Unique Natural Features from Incompatible Development through Local Land Use Regulations.

- Objective #1: Based on the recommendations of the Jefferson County Green Infrastructure Assessment, designate priority natural resource protection areas within Jefferson County.
- Objective #2: Work with applicable agencies to help fund conservation and protection efforts of priority protection areas within Jefferson County.
- Objective #3: Strengthen applicable County regulations and standards related to site development and design to effectively protect key natural resources within proposed developments where appropriate.
- Objective #4: Work with property owners and the public to identify appropriate standards for the preservation of the existing tree canopy and significant individual trees and stands of trees where reasonable.
- Objective #5: Ensure that the natural beauty of the gateway areas to Jefferson County are improved to take advantage of the natural beauty of their surroundings.

Goal #18: Conserve and Protect the Watersheds and Aquifers that are Located Within or Connect to Lands in Jefferson County.

- Objective #1: Continue to work with private property owners and watershed groups to act upon the recommendations included in the Chesapeake Bay Watershed Improvement Plan.
- Objective #2: Work with property owners on the Blue Ridge Mountain and the Blue Ridge Watershed Coalition to implement the recommendations of the Blue Ridge Mountain Communities Watershed Plan.
- Objective #3: Collaborate with the Board of Health, local watershed groups, other agencies, and private property owners to identify funding mechanisms for the maintenance and upgrade of current septic systems.
- Objective #4: Identify and promote best practices regarding septic system design, installation, siting, and maintenance to ensure that there is a minimal effect on downstream waters.

Objective #5: Coordinate with WVDOH and private developers to ensure that streets, roadways, parking areas, and other impervious areas within the County are designed in a way that would mitigate stormwater impacts to the greatest possible extent.

Objective #6: Encourage the formation of new watershed groups and organizations in applicable areas of Jefferson County where groups do not currently exist.

Goal # 19 Develop and Expand Well-Programmed Publicly and Privately Owned Local, Regional and Federal Recreation, Park, and Trail Facilities and Opportunities Distributed throughout the County

Objective #1: Coordinate with the National Parks Service, public agencies, and private providers to minimize the duplication of facilities and programming within the County.

Objective #2: Based on the recommendations included in the Jefferson County Parks and Recreation Master Plan, work with area municipalities to identify and collaboratively manage future sites for parks and recreation facilities.

Objective #3: Work with local community groups, property owners, and agencies to identify ways to co-locate parks, trails, and recreation facilities with facilities owned and/or operated by other agencies.

Objective #4: Identify locations and key properties that would allow for the creation of a county-wide trail network that would connect communities, parks, schools, and other key civic facilities within Jefferson County.

Objective #5: Coordinate with volunteer groups and other organizations to provide for the development, improvement, and maintenance of trail facilities located within Jefferson County.

Objective # 6: Coordinate with public and private sector recreation providers located within Jefferson County to ensure that their facilities reflect the character of the communities or areas where they are located.

Goal #20: Provide for a Variety of Recreational Opportunities that Meet the Needs of Residents of all Ages and Abilities within Jefferson County

Objective #1: Utilizing on the recommendations of the Jefferson County Parks and Recreation Master Plan, identify and implement specific programs and opportunities that are desired by the County's residents.

- Objective #2: Coordinate with state and local governments, non-profits, and other community groups to identify funding sources for the construction and operation of publicly owned recreational facilities that may be needed within Jefferson County.
- Objective #3: Create a range of parks and recreational facilities within Jefferson County for both active and passive forms of recreation.
- Objective #4: Work with Shepherd University's Public Recreation and Parks Administration program and with other local schools to provide technical assistance and training for parks and recreation staff and volunteers.
- Objective #5: Identify ways for County, private recreation providers, the National Parks Service, schools, municipalities, and Shepherd University to collaborate on programming or special events.

Goal #21: Balance the Use of Jefferson County's Natural Resources for Recreational and Tourism Purposes with Conservation Practices that Ensure the Resources will be Available for Future Generations

- Objective #1: Ensure that public and privately owned parks and recreation facilities within Jefferson County are designed in a way that respects the natural features of the properties where the facilities are located.
- Objective #2: Develop methods to integrate community gardens and related facilities with parks and recreational activities.
- Objective #3: Encourage the provision of a variety of public and private camping facilities located in appropriate areas of Jefferson County.
- Objective #4: Provide improved public access to the Potomac and Shenandoah Rivers for residents and tourists in a manner that is compatible with existing neighborhoods and rural areas, for all water sports and related activities.

Education Element

Goal #22: Collaborate with the Jefferson County School Board to Assess Locations for new School Facilities and/or Potential Enhancement of Existing School Sites Based on the Rate and Location of New Development within Jefferson County.

- Objective #1: Work with the Jefferson County School Board to identify areas of existing and future facility needs related to the student population in Jefferson County.
- Objective #2: Encourage the construction of new school facilities inside of the Urban Growth Boundaries, within Preferred Growth Areas, or in Villages whenever possible.
- Objective #3: Identify ways to protect and enhance the viability of existing school facilities within Jefferson County, particularly those located within Urban Growth Boundaries, in identified Preferred Growth Areas, or within Villages.
- Objective #4: Identify opportunities for the shared use of school facilities with other area agencies.
- Objective #5: Review the School Impact Fee to determine if the existing fees are appropriate or need to be adjusted
- Objective #6: Jefferson County, in combination with its representation at the state level, should work with state agencies to identify a more equitable funding method for financing operating costs for schools within West Virginia.
- Objective #7: Continue to encourage the adaptive reuse of school buildings for community and non-profit uses.

Goal #23: Ensure that a High Quality Library and Information Technology Service is Available to Residents of Jefferson County

- Objective #1: Working with the existing library agencies and based on accepted standards of the field, identify the existing facility needs of the county's public libraries, community libraries and reading rooms, as well as identifying areas where gaps in service may exist.

- Objective #2: In conjunction with the various library agencies operating within Jefferson County, identify a desired level of service for library facilities and associated emerging information technologies within the County and help to find appropriate funding sources to reach the desired level of service.
- Objective #3: Encourage the construction of new library facilities in areas within municipalities, Urban Growth Boundaries, Preferred Growth Areas, or Villages, preferably in walkable proximity to residential neighborhoods, retail areas, services, and recreational areas.
- Objective #4: Identify ways to co-locate library facilities within other public and/or non-profit agencies located in Jefferson County.
- Objective #5: Work with regional and state library organizations to continue to improve the availability of virtual library services and materials in Jefferson County.
- Objective #6: Work with state and regional agencies and local libraries to identify potential funding mechanisms for the operation of public and community libraries in Jefferson County.

Finance, Public Safety, and Governance Element

Goal # 24: Ensure that Adequate Short and Long Term Financing is Available to Support the Current Capital and Operating Needs of the County and its Residents as well as the Requirements of Future Growth in Jefferson County.

- Objective #1: Establish the position of Chief Financial Officer for the County.
- Objective #2: Identify external funding sources to assist in the implementation of county activities or the construction of capital projects.
- Objective #3: Create a robust capital projects funding source in the annual budget that is adopted each year by the Jefferson County Commission
- Objective #4: Create a robust capital management plan for all buildings and facilities operated by Jefferson County.
- Objective #5: Ensure that if capital projects are constructed or if additional services are created, adequate funding is available to enable the continued operation and maintenance of the facility or agency.

- Objective #6: Continue to regularly evaluate County impact fees to ensure that they are able to support existing levels of services (based on population growth) for relevant agencies.
- Objective #7: Continue to regularly assess property values and to evaluate local taxation rates and fees to ensure that there is funding available to meet local needs.
- Objective #8 Identify ways to consolidate purchasing by County agencies, municipalities, and governments in the Eastern Panhandle

Goal #25: Ensure that Appropriate Levels of Fire, Police, Ambulance and other Emergency Services can be provided to Existing and New Development in an Orderly and Efficient Manner

- Objective #1: In conjunction with Jefferson County's public safety agencies, identify the desired level of services within the County, based on accepted national standards.
- Objective #2: In coordination with local, state, and federal public safety agencies, identify where service gaps may exist and based on this information, where new public safety facilities should be constructed.
- Objective #3: Identify methods and funding sources to ensure that sufficient staffing, equipment, and personnel training are available to meet the existing and future needs of Jefferson County's public safety agencies.
- Objective #4: To adequately serve the recommended urban density within the Urban Growth Boundaries, Preferred Growth Areas, or within Village areas identify ways to specifically improve the quality of public safety services to those areas.
- Objective #5: Review impact fees based on the existing level of services to determine if the existing fees are appropriate or should be adjusted.
- Objective #6: Identify locations for dry hydrants where there is not a water utility or low water pressure that cannot support a traditional hydrant system.

Goal #26: Coordinate with Local Municipalities, Adjoining Counties and States, and Federal Entities to Ensure Consistency of Goals and Outcomes across Multiple Jurisdictions

- Objective #1: Require staff members of local and regional agencies to meet on a regular basis.
- Objective #2: Identify ways that state, municipal, and county governments in the Eastern Panhandle can create opportunities to share services, facilities, and capital projects on a micro regional basis.
- Objective #3: When possible, identify ways to provide for compatible land use regulations to be in place along municipal, county, or state borders.
- Objective #4: Continue to encourage the collaboration between County elected officials and elected officials at the municipal, regional, and state levels in matters of importance to Jefferson County and its residents.

Goal # 27: Provide a High-Quality Experience for Individuals Utilizing County Services and Facilities.

- Objective #1: Ensure that providers of County services act in a transparent and accountable manner.
- Objective #2: Work to ensure that staff of County services and agencies continues to provide excellent customer service.
- Objective #3: Provide opportunities for County staff to improve their skills and knowledge to better serve the public.
- Objective #4: Continue to identify and implement best management practices from a variety of sources that would be applicable to the needs of Jefferson County and its residents.
- Objective #5: Establish a human resources department within Jefferson County government.
- Objective #6: Continue to provide opportunities for the public to provide feedback regarding County services.
- Objective #7: The County should provide residents with continuing educational opportunities regarding county and state regulations affecting county services.

Envision Jefferson 2035 Comprehensive Plan Vision (DRAFT)
For Discussion at County Commission on 7/18/13

We envision Jefferson County in the year 2035 as a place of natural beauty and historic value. It is an active, vibrant place to live, work, and play. The county has economic growth potential as a result of its location in the Washington, D.C. metropolitan area, as well as its skilled workforce. The county's rich historic, cultural and natural resources are preserved and are an integral part of its economy. Excellent infrastructure, public facilities and services are available to all residents and employers. It is a community with well-defined rural, village, and urban areas. Residents enjoy a countywide system of well-programmed parks, as well as recreational opportunities serving all ages. Safe and convenient transportation access is available throughout the county via a range of options.

Land Use and Growth Management Element

We envision a county that promotes new residential and commercial development in appropriate areas while preserving open space, viewsheds, and natural areas. Development is focused within municipalities and Urban Growth Boundaries, and in villages. Developments are served by utilities and adequate roads, including cluster development where development is proposed in rural areas. We envision thriving, self-supporting villages.

We envision a community with well-defined rural, village, and urban areas. Our neighborhoods and developments are well-designed, interconnected, and walkable. Their design reflects a "sense of place" for Jefferson County – rural, small town, and historic. We promote infill development on vacant parcels within developed areas, as well as the reuse of vacant structures.

We envision a variety of housing types serving a broad spectrum of income levels, household types, and ages. An adequate supply of safe, high-quality housing is available both for homeownership and rental purposes, including units affordable to essential service workers such as teachers, firefighters, police officers, and nurses. New housing (including mixed-use and live-work developments) is located close to public services and shopping areas. Energy-efficient design and construction yield lower energy bills for residents. A concerted effort is made to allow for residents to age in place.

Economic Development, Employment and Infrastructure Element

Economic and Employment:

We envision a well-diversified economic base of manufacturing, services, government, tourism, and agriculture that is not reliant on any single business type. As a result of its location, amenities, and high quality-of-life, Jefferson County is able to attract and retain federal and other highly-skilled jobs, high-tech firms, and a variety of other industries. We have a skilled, educated workforce that is employed locally in jobs that pay a living wage. We encourage innovation and sustainable business practices. Many local, independent businesses provide jobs as well as unique products and services. County regulations and processes reflect

an “open for business” approach and are supportive of small businesses, agriculture-related businesses, and home occupations. Tourism (historic, cultural, and recreational) draws many visitors to the county.

Additionally, we envision a thriving agricultural landscape with a broad variety of economically viable farm-related industries. The rural economy includes not only conventional crops but also orchards, dairies, horses, cattle, aquaculture, on-farm processing, direct marketing, diversification, sustainable agriculture, and production for specialized markets. Education and resources are available for new generations of farmers. Financial resources allow for purchase of agricultural easements, and agricultural production is protected from development encroachment. Prime soils, water resources, and large, contiguous tracts of agricultural land are preserved. A significant portion of Jefferson County's food is produced, marketed, and consumed locally. A distribution network allows for easy access to markets within the county as well as in the broader Washington DC metropolitan area. Other compatible rural land uses (such as wineries) provide alternative sources of income for rural lands, while retaining rural character.

Infrastructure:

We envision a county with excellent infrastructure, public facilities and services available to all residents, employers, and visitors. Major roadways are safe and have sufficient capacity to efficiently move traffic at an appropriate speed. The extension of natural gas service to industrial parks and other locations and the encouragement of the utilization of a variety of alternative energy sources allows for recruitment of major employers. New residential, commercial, and mixed-use developments within Urban Growth Boundaries, Preferred Growth Areas, and Villages are served by central water and sewer systems.

We envision safe and convenient transportation access throughout the county, as a result of improved land use planning as well as in the planning and design of roads, highways, and alternative transportation facilities. Roadway improvements keep pace with growth. Jefferson County works collaboratively with the WVDOH, HEPMPO, and other regional organizations in planning for new roads and roadway improvements. Adequate highway connections with Maryland and Virginia, improved through tri-state coordination, allow for robust inter-state economic activity.

An improved transportation network also largely preserves the natural beauty and historic character of rural roads and areas such as the Harpers Ferry water gap. Cross-county linkages enable convenient travel between areas that currently lack connections, particularly where development occurs.

High speed and frequent rail access to Washington DC and Baltimore is available, including holiday and weekend service. Amtrak access allows fast, affordable travel to other cities and states. Multi-modal transportation hubs allow drivers, transit users, cyclists and pedestrians to access other transportation modes. Bus and taxicab transit allows users to travel conveniently throughout the county, while carpools and vanpools provide commuter services. A well-maintained network of public off-road bicycle and hiking paths connects the county's municipalities and other major destinations. Bicycle paths (and sidewalks where appropriate)

along roadway edges provide non-motorized transportation options for residents and visitors alike.

Cultural, Historic and Natural Resources, and Recreation

We envision that the county's rich legacy of cultural landscapes that encompass historic buildings, sites, landscapes, and viewsheds are identified and preserved. The county's municipalities, villages, and countryside continue to be the location of well-preserved historic buildings reflecting diverse architectural styles. To encourage preservation of historic resources, preservation standards in local ordinances are strengthened, and incentives are available to encourage property owners to preserve historic buildings and sites. Flexible requirements allow adaptive use of historic buildings. Nationally significant historic sites are preserved, including Washington family homes as well as sites significant to the Revolutionary War, Civil War, Treason Trials and the Postal Service. There is strong collaboration with the National Parks system. Local residents and elected officials are educated on the importance of preserving the county's historic heritage. Additional financing mechanisms are available to help property owners to preserve historic resources. As a result of the preservation and enhancement of historic sites, cultural tourism increases, benefiting the county's economy significantly.

We envision a county with a vibrant natural life, where open spaces and natural vegetation provide scenic beauty, habitat for native wildlife, and places to hike, bike, camp, and to engage with the outdoor landscape. People are not separated from nature but see and interact with nature and the county's natural features as a part of everyday life. There is adequate public access to rivers for swimming, boating, and fishing; and rivers are free of pollutants. Conservation and appropriate protections have resulted in clean, plentiful groundwater and protected Karst areas. Buffers protect riparian areas from runoff and contaminants. The county's tree canopy has been preserved and expanded, including plantings along public rights-of-way.

Public lands in the county (local, state, and federal) are well taken care of by staff and volunteers and enjoyed by residents and visitors. The Blue Ridge Mountain area has retained its unique natural character. Lighting standards preserve nighttime views of the sky. Residents and community leaders are knowledgeable regarding the importance of preserving the county's natural resources. Jefferson County is recognized as an environmentally progressive county for initiatives in conservation, clean energy, green building, and efficient transportation. Gateways at the entrances to Jefferson County reflect its scenic, historic, and rural beauty.

We envision a system of well-programmed parks with facilities designed to serve a variety of park users, distributed throughout the county. Paths and trails (both on-road and off-road) provide walking and cycling opportunities for residents and visitors. A network of greenways with trails connects county and state parks as well as destinations such as the Harpers Ferry National Historic Park and the Appalachian Trail. Both public sector as well as private, commercial entities provide recreational opportunities (such as golf, camping, lodging, river access, swimming, boating, fishing, hiking, biking, fitness and other opportunities for residents and tourists of all ages, including seniors and youth.

Educational Element

State-of-the art public schools provide an education that is competitive with surrounding states and meets or exceeds national employment requirements and needs. High-speed internet service and high-quality library services are available countywide.

Financing, Public Safety, and Governance

We envision a fiscally sound county that is able to provide for its service and capital needs. Taxes and fees are affordable to residents. County services and operations incorporate high levels of efficiency and cost-savings. The fiscal stability of the county's towns is enhanced as a result of the incorporated areas encompassing much of the county's new commercial growth. Costs associated with growth are paid by new development, rather than by existing residents. The County capitalizes on alternative funding sources such as grants, in addition to public-private partnerships. Fire companies, law enforcement, and EMS providers are adequately staffed and equipped to quickly respond to all calls. Coordination with other jurisdictions results in collaborative relationship and sharing of resources. The County provides a high-quality experience for individuals utilizing County services and facilities.

JEFFERSON COUNTY, WEST VIRGINIA

Department of Planning

116 East Washington Street, 2nd Floor

P.O. Box 338

Charles Town, West Virginia 25414

Email: planningdepartment@jeffersoncountywv.org
zoning@jeffersoncountywv.org

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

NOTICE

RECEIVED

JUL 11 2013

Jefferson County Commission

DATE: July 9, 2013

TO: Jefferson County Property Owner

FROM: Jefferson County Planning Department and Commission

SUBJECT: **Notice of waivers received by ARC-FD JV, LLC c/o Arcland Property Co. (US Coast Guard) from the requirements of the Jefferson County Subdivision and Land Development Regulations. File Numbers PCW13-04, PCW13-05, and PCW13-06.**

Attention Property Owners adjacent to Lot #8 on James Burr Boulevard in Burr Business Park:

Please be advised, the Jefferson County Planning Commission has received a request from the above referenced property owner for a waiver from the requirements of the Jefferson County Subdivision and Land Development Regulations. The Planning Commission will review this request during a public meeting to be held in the Charles Town Library meeting room located at 200 East Washington Street, which can be accessed from the side entrance located on Samuel Street in downtown Charles Town.

The following information is pertinent to the request:

Meeting Date: July 23, 2013

Time of Meeting: 7:00 PM

Waiver Applicant: ARC-FD JV, LLC c/o Arcland Property Co. (US Coast Guard)

Applicant Address: 1054 31st Street, NW, Suite 340, Washington, DC 20007

Location of Property: The property is located in Burr Business Park on James Burr Boulevard in Charles Town.

Tax Identification: Charles Town District (02); Map 1; Parcel 108

Section of Regulation: Appendix B, Section 2.5N; Appendix B, Section 2.3.B.1, Section 20.102.B

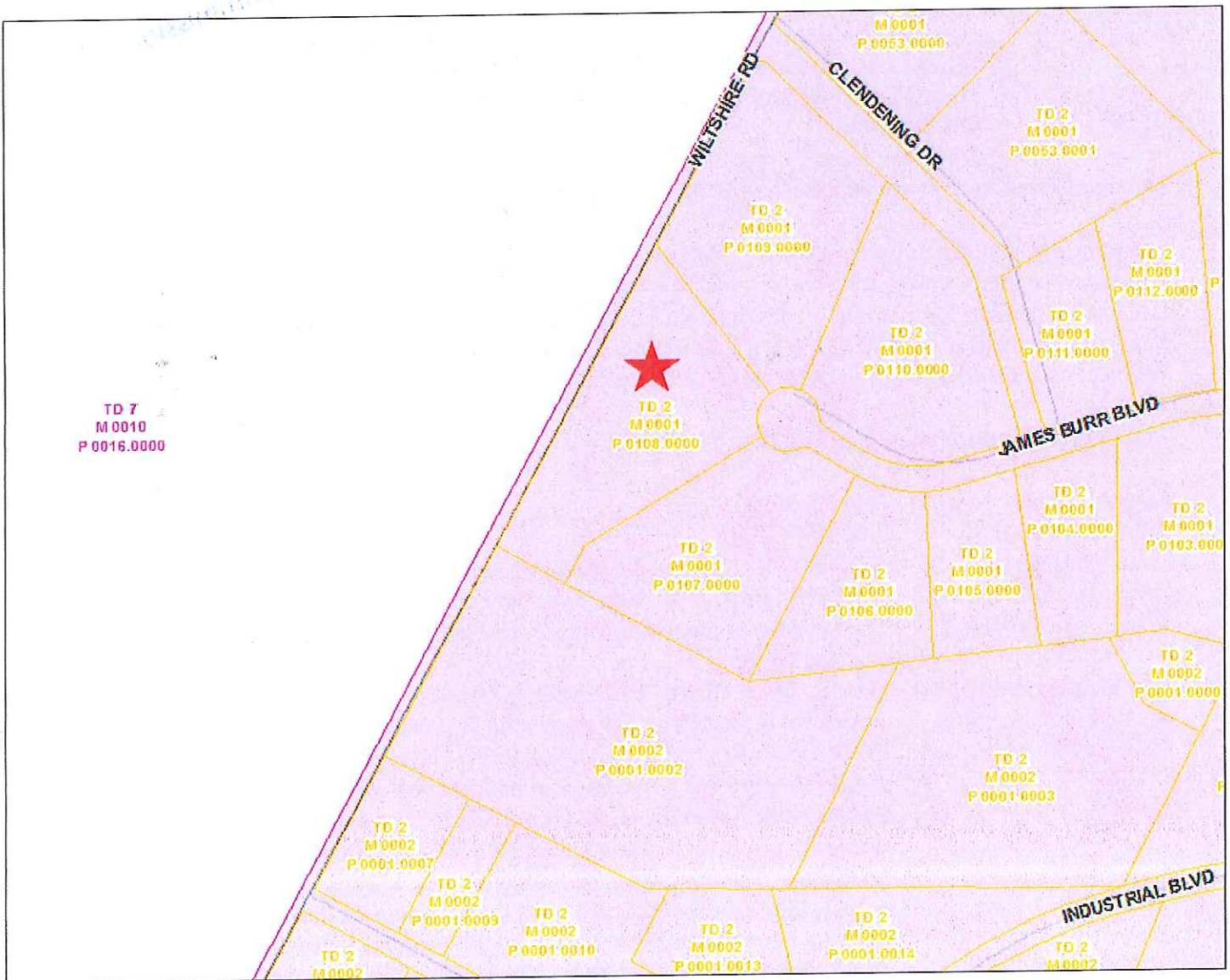
Nature of Request: **PCW13-04:** Appendix B, Section 2.5N. The applicant is requesting a waiver to allow for a reduction in parking stall depth from 20 feet to 18 feet. **PCW13-05:** Appendix B, Section 2.3.B.1. The applicant is requesting a waiver to allow for a second entrance off of Wiltshire Road, which is a state road. The applicant is required by their lease to include two points of access, the first of which will meet the requirement that all lots front an existing internal subdivision road by utilizing the existing cul-de-sac. **PCW13-06:** Section 20.102.B. The applicant is requesting a waiver from having the site plan approved prior to starting construction to allow surface grading in anticipation of subsequent procedural and document approvals.

Subdivision Regulations: [http://www.jeffersoncountywv.org/uploads/planning/Subdivision Regulations as amended 01-12-2012.pdf](http://www.jeffersoncountywv.org/uploads/planning/Subdivision_Regulations_as_amended_01-12-2012.pdf)

Should you have any interest in this application, you are encouraged to attend this meeting for informational purposes or to offer public comment. Should you wish to provide comment via email, please feel free to do so at planningdepartment@jeffersoncountywv.org or in writing to the address listed above.

If you have any questions regarding this letter or the nature of the waiver, please contact our office at 304-728-3228, Monday through Friday, 9:00 a.m. to 5:00 p.m. and our staff will be happy to assist you.

US Coast Guard, ARC-FD JV, LLC c/o Arcland Property Co. Waiver Request Files PCW13-04, -05, and -06.



JEFFERSON COUNTY, WEST VIRGINIA

Engineering Department

116 East Washington Street
P.O. Box 716
Charles Town, West Virginia 25414

*Rec'd
7-11-13
asm*

Email: engineering@jeffersoncountywv.org

Phone: 304-728-3257

Fax: 304-728-3953

MEMORANDUM

TO: SANDY SLUSHER McDONALD, DEPUTY COUNTY ADMINISTRATOR
JEFFERSON COUNTY COMMISSION

FROM: ROGER L. GOODWIN, CHIEF COUNTY ENGINEER *RLG/rfb*
ENGINEERING DEPARTMENT

DATE: JULY 5, 2013

SUBJECT: SPARC, LLC, PHASE 3 – LECTURE HALL - FILE #S06-03

Please find enclosed the construction bond(s) and security for the following project(s):

SPARC, LLC, Phase 3 – Range Classroom Lecture Hall (File #S06-03), which is secured by Letter of Credit #322 with the Bank of Charles Town, Charles Town, WV in the amount of \$115,150.00.

The bond(s) is in compliance with the County Bonding Policy. If you have any questions, please give me a call.

RLG:rfb



State of West Virginia

Office of the State Auditor
Glen B. Gainer III
State Auditor
www.wvsao.gov

Building 1, Room W-100
Charleston, West Virginia 25305
Telephone: (304) 558-2251
FAX: (304) 558-5200

200 West Main Street
Clarksburg, West Virginia 26301
Telephone: (304) 627-2415
FAX: (304) 627-2417

July 10, 2013

TO: WEST VIRGINIA COUNTY COMMISSIONS

RE: TRAINING SEMINAR FOR COUNTY COMMISSIONERS AND STAFF

Under the provisions of W. Va. Code § 7-7-2, the State Auditor is authorized and directed to establish in-service training programs for circuit clerks, county clerks, county commissioners, sheriffs and their employees. According to the code each official and, at his or her option, one or more of his or her employees shall participate in the program established by the State Auditor.

In addition, the County Commission is authorized and directed to expend funds for reimbursing officials while in attendance at meetings called by the State Auditor.

This year's In-Service Training Seminar for County Commissioners and their staff is set for Tuesday and Wednesday, August 6 and 7. It is being held at the Stonewall Resort in Roanoke, WV.

Enclosed is the agenda for this seminar. You should have already received registration information from the County Commissioner's Association.

Please also, remember the nominations for the Thelma J. Stone Memorial Achievement Award must be received by our office by Monday, July 22, 2013.

If you have questions, suggestions, or comments regarding the seminar, please feel free to contact Ora L. Ash, Deputy State Auditor, Local Government Services Division at 1-877-982-9148 or 627-2415 extension #5114 or via email at ora.ash@wvsao.gov.

Sincerely,

A handwritten signature in blue ink that reads "Glen B. Gainer III".

Glen B. Gainer III
State Auditor



Glen B. Gainer III
State Auditor

**2013 State Auditor's Annual Training for
County Commissioners and Assistants
Stonewall Resort, Roanoke, WV
August 6-7, 2013**

Tuesday – August 6th

- 8:30 – 8:40 Opening Ceremonies**
Ora Ash, Deputy State Auditor, West Virginia State Auditor's Office
Honorable Patrick D. Boyle, Lewis County Commissioner
Honorable Tim McCormick, Ohio County Commissioner, President CCAWV
Vivian Parsons, Executive Director, County Commissioner's Association of WV
- 8:40 – 9:00 Keynote Address**
Honorable Glen B. Gainer III, West Virginia State Auditor
- 9:00 – 10:00 What You Need to Know about Audits; Auditing of Boards and Authorities**
Stuart Stickel, CPA, Deputy State Auditor, WV State Auditor's Office
- 10:00 – 10:15 Break**
- 10:15 – 10:45 The Do's and Don'ts of Major Construction**
The Lewis County Commission
- 10:45 – 12:00 County Commissioner's Responsibilities in the Probate Process**
John F. Hussell, IV, Partner - Dinsmore and Shohl, LLP
- 12:00 – 1:15 Thelma J. Stone Memorial Achievement Award Luncheon (Salons A&B)**
- 1:15 – 2:00 The Tax Exoneration Process**
Jan P. Mudrinich, Esquire and Assist. Dir. of the Legal Division, State Tax Depart.
- 2:00 – 3:00 Employers and the Affordable Healthcare Act**
Jason A. Haught, CPA, Chief Financial Officer Public Employees Insurance Agency/
Retiree Health Benefits Trust Fund
- 3:00 – 3:10 Break**
- 3:10 – 4:30 Taxable Fringe Benefits**
Shellie Humphrey, CPA, Budget-Finance Specialist, WV State Auditor's Office



Glen B. Gainer III
State Auditor

**2013 State Auditor's Annual Training for
County Commissioners and Assistants
Stonewall Resort, Roanoke, WV
August 6-7, 2013**

Wednesday – August 7th

- 8:30 – 9:15 General Discussion on Disposing of Surplus Property, Maximum Allowable Rainy Day Fund Balance, Requirements for Grants to Other Entities and Allocation of Funds, etc.**
Ora Ash, Deputy State Auditor, West Virginia State Auditor's Office
- 9:15 – 9:30 Update from the West Virginia Association of Counties**
Patti Hamilton, Executive Director, West Virginia Association of Counties
- 9:30 – 10:30 Update on Regional Jails**
Joe Delong, Executive Director, WV Regional Jail and Correctional Facility Authority
- 10:30 – 10:40 Break**
- 10:40 – 11:00 Update from the WV Courthouse Facilities Improvement Authority**
Melissa Garretson Smith, Executive Director, West Virginia Courthouse Facility Improvement Authority
- 11:00 – 12:00 Dealing With The Media**
John Sorrenti, West Virginia State Auditor's Office

Adjournment - Safe Trip Home





2013 CCAWV Annual Meeting

"Blazing New Trails!"

Sunday – August 4, 2013

- CCAWV Services Review Meeting
- CCAWV Board of Directors Meeting
- Registration 1:00 pm 6:00 pm
- Welcome Reception – 7:00 pm

Monday – August 5, 2013

"Gathering the Herd" - Registration Continues 8:30 am – 5:30 pm

8:00 am – 9:00 am Continental Breakfast

9:00 am – General Session

--Call to Order / Pledge

--Roll Call

--Approval of minutes

Speakers:

9:00 am – 9:30 am --Federal Affordable Health Care Act – Dave Barton, SVG & Willie Parkers, Administrator Harrison County

9:30 am – 10:00 am--WVCoRP Update – Chris Carey & Steve Rawlings

--Future Meeting Dates / 2014 Annual Meeting Proposals

--Financial Report / 2014 Budget / 2014 Dues Report

--Reports:

2013 County Essay Contest Winners

Legislative Issues

--Awards Presentations

Early Bird Award

Rising Star Award

President and Vice-President Awards

Elections of 2013 President and Vice-President

11:00 – 11:50 am District Directors' Discussion/Board Member Elections (break into districts)

12:00 Noon – *Accept Nominations for Board members and Legislative Committee*

Adjourn Business Meeting

Group Luncheon (– Riki Hokama, NACo 2nd Vice-President, guest speaker)

Back to General Session

1:00 pm -1:30 pm - Disaster Planning & Recovery, Vanessa VanGlider, Behavior Health Services

1:30 pm – 2:00 pm Moving WV Forward by Connecting Counties, Natalie Tenant, Secretary of State

2:00 pm – 2:50 pm Update on Floodplain Permitting/ Biggert Waters Act of 2012 – Kevin Snead, National Flood Insurance Program Coordinator & Richard Carte, WV Floodplain Management Program

2:50 – 3:10 pm -- Break

3:10 pm – 3:40 pm – Prevailing Wage Issues and Construction Projects - Dave Mullins, Division of Labor (or designee)

3:40 pm – 4:30 pm – Pretrial Release Programs & Drug Courts, James Lees

4:30 pm – 5:30 pm – “Circle the Wagons” CCAWV Roundtable of Regional Jail Best Practices – Chris Tatum, Chair CCAWV Jails Steering Committee and panel.

7:00 pm – “Blue Jeans Jamboree” Dinner & Dance

Tuesday, August 6, 2013

4:30 – 5:30 –Administrator's Roundtable

7:00 pm – **CCAWV will host a group dinner Lambert's Winery**

Cindy Schott

From: Sandy McDonald [sandy@jeffersoncountywv.org]
Sent: Friday, July 12, 2013 8:51 AM
To: 'Cindy Schott'
Subject: FW: Emergency Services increases

-----Original Message-----

From: Ramona Wesling [mailto:RamonaLMSW@aol.com]
Sent: Friday, July 12, 2013 1:14 AM
To: webmaster@jeffersoncountywv.org; cschott@jeffersoncountywv.org;
sandy@jeffersoncountywv.org; chernandez@jeffersoncountywv.org
Subject: Emergency Services increases

Your submission:

Your Name: Ramona Wesling
Your Email Address: RamonaLMSW@aol.com
Subject: Emergency Services increases

Message: I follow this story of charging my family, and others, more money for those who have no regard for precious, limited resources. I follow this story knowing the guardians of our precious, limited tax dollars should not raise taxes and fees as a first resort.

My family has been without insurance and simply went without. Now with wonderful insurance we continue to be frugal, as should the guardians of our precious and limited resources. I have picked up my spouse from the doctor to drive him to the ER when they wanted to call an ambulance. I have taken cabs to and from the ER myself when home alone.

Yet an ambulance is on my street every other day for the same person, who is home within hours only to leave again by ambulance in another day or two. Frequent flyers (very possibly at taxpayer expense) are one example of waste that should be investigated and solved. No doubt there are other areas of waste costing taxpayer dollars in a time of precious limited resources.

Cutting waste and problem solving should be the first line of defense. NOT forcing the costs of waste on already overburdened citizens. I donate to the fire department regularly. I pay too much in taxes. I must be very frugal to provide for basic necessities. So too must our elected officials, for they are the guardians of our precious and limited resources. This is our expectation.



*Shenandoah Valley Chapter #313
Korean War Veterans Association*



Winchester, VA 22601

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

July 8, 2013

Dear Commissioners,

The Shenandoah Valley Chapter # 313, Korean War Veterans Association hereby acknowledges receipt of your generous contribution. At your request this contribution will be placed in the KWVA Chapter # 313 Memorial Fund and designated for personalized Memorial Brick / Bricks. This letter will serve as your receipt documenting your charitable gift.

No tangible goods or services have been provided in connection with this gift.

The Shenandoah Valley Chapter # 313, Korean Veterans Association is recognized as a tax-exempt organization under section 501 (a) of the Internal Revenue Code, as an organization described in section 501 (c) (19).

Again we wish to thank you for your generous donation to our Chapter. Should you need additional documentation, please do not hesitate to contact us. The Dedication of the Memorial will be July 20, 2013.

Sincerely

RECEIVED

JUL 11 2013

Jefferson County Commission

Ira F. Haymaker
Ira F. (Fred) Haymaker
Treasurer
2600 Hillside Terrace
Winchester, VA 22601

Agency reducing jail costs

■ Office gaining better financial control through program to lower overtime by hiring more employees

By ZACK HAROLD
DAILY MAIL CAPITOL REPORTER

The state Regional Jail Authority is on track to again reduce per diem costs at its facilities statewide, which could save counties thousands of dollars in jail fees.

The state Regional Jail and Correctional Facility Authority Board agreed last October to reduce costs by 55 cents per day. Those cuts went into effect July 1 and are expected to save counties and state agencies about \$900,000 per year.

Joe DeLong, director of the Regional Jail Authority, told board members at a Monday meeting the authority might be able to reduce per diem costs again this year. He said it is too soon to tell how much those reductions will be, but board members likely will vote on them in October.

DeLong said the reductions are a result of the authority getting better control of its finances.

That includes a new pilot program that aims to reduce overtime pay by hiring new correctional officers.

The program went into effect June 1 at South Central Regional Jail in South Charleston, where an additional 14 correctional officers were hired.

DeLong said South Central averaged about 4,560 overtime hours per month before hiring the new guards. In June, the number was down to 1,005.

Even after training the new officers and paying for their salaries and benefits, the jail saved about \$18,000 last month on overtime costs. DeLong said he expects those savings will increase as the pilot program grows, saving the jail \$50,000 to

CHARLESTON DAILY MAIL

Jail

▲ Continued from 1A

Less overtime likely will reduce turnover, agency director says

The Regional Jail Authority hopes to eventually expand the program to all 10 of its jails, hiring as many as 125 new officers system-wide. DeLong estimates that could save the authority \$2 million annually.

DeLong said it does not seem to make sense that hiring more employees would save money, but "the data on paper showed that it made sense."

"This has been a great way for us to 'put your money where your mouth is,'" he said.

Reducing overtime pay will save jails money in other ways, too. DeLong expects turnover rates will decrease as mandatory overtime disappears.

He said officers listed "burnout" as the No. 1 reason for quitting. Often, workers show up for 12-hour shifts but end up working 16 to 18 hours.

Reducing overtime also would cut down on incidents and allegations of abuse on inmates, DeLong said, and limit the number of worker's compensation claims by officers.

Last October's per diem reductions reduced the amount counties pay the authority from \$48.80 a day to \$48.25. Even that small change is expected to save counties more than \$500,000.

Kanawha County is set to save about \$56,000.

Contact writer Zack Harold at 304-346-7929 or zack.harold@daily-mail.com. Follow him at www.twitter.com/ZackHarold.

To:
ALL
COMMISSIONS
+
SHERIFFS

F.Y.I.

Jefferson County Public Service District

RECEIVED

JUN 8 2013

Jefferson County Public Service District
Regular Board Meeting
June 3, 2013
Jefferson County Commission

The monthly meeting of the Jefferson County Public Service District was held at 7:00PM on Monday, June 3, 2013 in the meeting room at the District's office in Kearneysville. Those in attendance included: Chairman, Jim Cummins; Secretary, Peter Appignani; Treasurer, Bill Strider; General Manager, Susanne Lawton; Administrative Assistant, Ashley Stottlemeyer; Operations Manager, Joe Freeze; District Legal Counsel, Jim Kelsh; from Pentree Engineering, John Tuggle and Zane Summerfield; and liaison for the County Commission, Commissioner Jane Tabb.

CALL TO ORDER

Chairman Jim Cummins called the meeting to order at 7:00PM.

APPROVAL OF AGENDA

The Board moved the items regarding the sewer and water bonds to the first items to be discussed.

PUBLIC COMMENTS

Scott Tatina, Westridge Hills resident, questioned why the Board had let the public/private partnership with Jefferson Utilities expire and if they had plans to move forward on renewing.

OLD BUSINESS

Update on and possible action with respect to the District's sewer revenue bonds authorized by the District at its May 6, 2013 meeting to be issued in an aggregate principal amount of not to exceed \$1,720,000 to finance engineering fees payable to Pentree, Inc., costs of certain improvements to and a truck for the sewer system of the District, to fund a debt service reserve fund for the bonds and to pay costs relating to the issuance of the bonds

The Board called Cam Siegrist from Bowles Rice for the discussion on the bonds. The Bond will be used to pay Pentree, relining of a wet well at pump station 1-12A, replacement of pump station 5-3, a strategic plan, and a new truck. Mr. Siegrist informed the Board that the settlement for the sewer revenue bond is scheduled for Friday, June 14th. The bond closing documents will be signed and forwarded back to Mr. Siegrist after the meeting.

Action: Motion made by Mr. Appignani and seconded by Mr. Strider to approve the resolution with respect to the sewer revenue bonds totaling \$1,660,000. Unanimously approved.

NEW BUSINESS

Consideration of and final action on a Bond Resolution and related Supplemental Resolution authorizing the issuance of not to exceed \$182,500 in principal amount of the Jefferson County Public Service District's water system design revenue bonds to finance temporarily engineering fees and other costs relating to improvements to the water system of the District and to pay costs relating to the issuance of the bonds

Cam Siegrist reviewed the bond resolution for the water project not to exceed \$182,500. He is still waiting on the amount from R. Christopher Goodwin for additional testing at Glen Haven which is now required by the Division of Culture and History's State Historic Preservation Office.

Action: Motion made by Mr. Strider and seconded by Mr. Appignani to approve the Bond Resolution as read into record:

**JEFFERSON COUNTY PUBLIC SERVICE DISTRICT WATER SYSTEM DESIGN
REVENUE BONDS, SERIES 2013 A (WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY); RESOLUTION AUTHORIZING THE DESIGN**

OF AND OTHER PRELIMINARY EXPENDITURES RELATING TO CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING WATER SYSTEM OF THE JEFFERSON COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE JEFFERSON COUNTY PUBLIC SERVICE DISTRICT OF NOT MORE THAN ONE HUNDRED EIGHTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$182,500) IN AGGREGATE PRINCIPAL AMOUNT OF JEFFERSON COUNTY PUBLIC SERVICE DISTRICT WATER SYSTEM DESIGN REVENUE BONDS, SERIES 2013 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO. BE IT RESOLVED BY THE JEFFERSON COUNTY PUBLIC SERVICE DISTRICT.

Motion was unanimously approved.

Action: Motion made by Mr. Appignani and seconded by Mr. Strider to approve the Supplemental Resolution as read into record:

JEFFERSON COUNTY PUBLIC SERVICE DISTRICT WATER SYSTEM DESIGN REVENUE BONDS, SERIES 2013 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY); SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, INTEREST RATE, DATE, MATURITY DATE, REDEMPTION PROVISIONS, PRINCIPAL AND INTEREST PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE WATER SYSTEM DESIGN REVENUE BONDS, SERIES 2013 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY) OF THE JEFFERSON COUNTY PUBLIC SERVICE DISTRICT AUTHORIZING, RATIFYING AND APPROVING A LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A BONDS REGISTRAR, DEPOSITORY BANK, AND PAYING AGENT; AMENDING THE RESOLUTION AUTHORIZING THE ISSUANCE OF THE AFORESAID BONDS; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

Motion was unanimously approved.

Action: Motion made by Mr. Appignani and seconded by Mr. Strider to approve the Resolution No. 1 as read into record:

JEFFERSON COUNTY PUBLIC SERVICE DISTRICT 2012W-1331 RESOLUTION NO. 1; RESOLUTION OF THE PUBLIC SERVICE BOARD OF THE JEFFERSON COUNTY PUBLIC SERVICE DISTRICT APPROVING INVOICES RELATING TO ENGINEERING AND OTHER SERVICES FOR THE CAVALAND & GLEN HAVEN WATER SYSTEM IMPROVEMENTS PROJECT AND AUTHORIZING PAYMENT THEREOF.

Motion was unanimously approved.

Consideration of and final action on a resolution approving first requisition relating to the District's water system design revenue bonds described above and possible other actions with respect to such bonds and the project being financed with the proceeds thereof.
There was no further business to discuss.

OLD BUSINESS

Review Minutes of May 6 Regular Board Meeting

The minutes of the May 6, 2013 regular Board meeting were approved as presented.

Action: **Motion made by Mr. Strider and seconded by Mr. Appignani to accept the May 6, 2013 minutes as presented. Approved 2-0. Mr. Cummins abstained since he was not present at that meeting.**

Update on the Water Systems Improvement Project for Glen Haven and Cavaland

Mr. Kelsh informed the Board that he has not yet filed the certificate application for the project with the Public Service Commission. Staff is also waiting on a response from the West Virginia State Historic Preservation Office to determine the price for the additional testing.

Action: **No action taken by the Board.**

Update on Middleway water and sewer

Two months ago, Ms. Lawton, Mr. Strider, and Commissioner Tabb attended a meeting in Middleway to discuss water and sewer issues in the area as well as other items. Ms. Lawton had distributed surveys at the meeting and asked that people fill them out to get an idea of the support behind a possible project. In the Board packets included information on the survey forms that have been received from Middleway area residents so far. Most of the replies were not in favor of further explorations of a public water or wastewater system in Middleway. Ms. Lawton expressed a willingness to continue with a door to door explanation and survey in Middleway, but the Board would not like to pursue any more with Middleway residents unless the District receives expressed verbal or written requests from a number of people who are in favor of a study.

Action: **No action taken by the Board.**

Discuss Odor and Corrosion Control Report from Siemens for the District and City of Ranson's Collection System

Ms. Lawton informed the Board that the FY 2014 budget has been revised showing a better coverage rate to cover the bioxide project if the Siemens contract is approved. The Board chose to pursue the contract with Siemens which will be included in the revised FY 2014 budget.

Action: **No action taken by the Board.**

NEW BUSINESS

Consider revision of the FY 2014 sewer budget

Action: **Motion made by Mr. Strider and seconded by Mr. Appignani to approve the revised FY 2014 sewer budget as presented including the odor and corrosion control showing 123% coverage. Unanimously approved.**

Update on Charles Town wastewater treatment plans

Mr. Kelsh gave an overview of the meeting held earlier that day with the City of Charles Town and the discussions on the upcoming plans to improve their sewer system. Mr. Kelsh also mentioned the rate increase from Charles Town that will impact the District's customers after September 1st. There was also a discussion on Senate Bill 245 and the use of the funds to help cover the costs of upgrades which were necessary due to Chesapeake Bay issues. It is the plan of Charles Town not to apply for these funds at this time due to issues that may be present with the availability of these funds. The Board is considering setting up a meeting with Senator Snyder regarding the intentions of Senate Bill 245. The Board suggested Ms. Lawton email Mr. Jim Ellars from West Virginia Infrastructure and Jobs Development Council first.

Action: No action taken by the Board.

Update on Statuses of Current Public Service Commission Cases

Mr. Kelsh gave a brief update on the current cases the District is involved in at the Public Service Commission, including the sewer rate case (12-0513-PSD-42T-PC), Milliron/Parker complaint case (12-1370-PSD-C), BAN for water project soft costs (12-1116-PWD-PC), the proposed application for Certificate of Convenience and Necessity for the water systems project, and the petition to reopen the Alternate Mainline Extension Agreement with Aspen Greens (12-1567-PSD-PC).

Action: No action taken by the Board.

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 Public Service District water expenses in the amount of \$3,866.47. Unanimously approved.

Action: Motion made by Mr. Strider and seconded by Mr. Appignani to approve disbursements for the Public Service District sewer expenses in the amount of \$133,480.93. Unanimously approved.

Approve transfer of \$2,929.74 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 \$2,929.74 from sewer security deposit account into sewer operating account for security deposit refunds. Unanimously approved.

Approve transfer of \$192.09 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 \$192.09 from water security deposit account into water operating account for security deposit refunds. Unanimously approved.

General Manager's Report

Ms. Lawton updated the Board on activities since last month's meeting.

Lysimeter at Deerfield- Ms. Lawton informed the Board that there has been no water in the homemade lysimeter staff installed last month to improve the Nitrogen test results.

Action: No action taken by the Board.

Operations Manager's Report

Mr. Freeze updated the Board on activities since last month's meeting.

Action: No action taken by the Board.

Public Comment

Charles Cheezum questioned how a profit company can partner with a non-profit company and the profit company makes money off of it. Mr. Kelsh gave a short explanation on how public private partnerships work.

Correspondence

None.

Mr. Freeze, Commissioner Tabb, Mr. Tuggle, and Mr. Summerfield exited the meeting.

Action: Motion made by Mr. Appignani seconded by Mr. Strider to convene in

executive session for the purpose of discussing litigation, personnel matters, and contract negotiations. Unanimously approved.

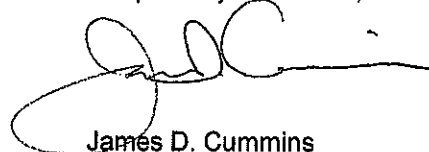
Action: Motion made by Mr. Appignani and seconded by Mr. Strider to return to public session. Unanimously approved.

Action: Motion made by Mr. Appignani and seconded by Mr. Strider to adjourn. Unanimously approved.

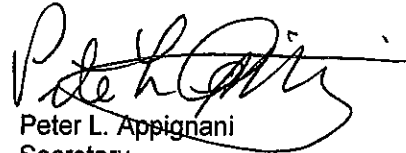
There being no further business at this time, the meeting was adjourned at 9:23PM

The next regular meeting is scheduled for Monday, July 1, 2013 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

Jefferson County Public Service District

Jefferson County Public Service District Special Board Meeting June 11, 2013

The special meeting of the Jefferson County Public Service District was held at 7:00PM on Tuesday, June 11, 2013 at the District's office in Kearneysville. Those in attendance included: Chairman, Jim Cummins; Secretary, Peter Appignani; Treasurer, Bill Strider; PSD General Manager, Susanne Lawton; Administrative Assistant, Ashley Stottlemeyer; and Liaison for the County Commission, Commissioner Jane Tabb.

Chairman Cummins called the meeting to order at 7:00PM.

The Board called Cam Siegrist and Jim Kelsh from Bowles Rice for the items concerning the water and sewer bonds.

Consider approval of R. Christopher Goodwin & Associates proposal for the additional archeological services for the water systems project

Action: Motion made by Mr. Appignani and seconded by Mr. Strider to approve the Professional Engineering Services Proposal – Amendment No. 2 by Gwin Dobson & Foreman for the Cavaland and Glen Haven water system project.

Action: Motion made by Mr. Appignani and seconded by Mr. Strider to approve the Phase 1 Archeological Survey for Supplemental Testing proposal by Gwin Dobson & Foreman for the Cavaland and Glen Haven water system project.

Possible action(s) with respect to: (i) the Jefferson County Public Service District's water system design revenue bonds authorized by the District at its June 3, 2013 meeting; (ii) the District's sewer revenue bonds authorized by the District at its May 6, 2013 meeting; and/or (iii) the projects being financed with the proceeds of either of such bonds

Action: Motion made by Mr. Appignani and seconded by Mr. Strider to approve the Resolution No. 1 as follows:
RESOLUTION OF THE PUBLIC SERVICE BOARD OF THE JEFFERSON COUNTY PUBLIC SERVICE DISTRICT APPROVING INVOICES RELATING TO ENGINEERING AND OTHER SERVICES FOR THE CAVALAND & GLEN HAVEN WATER SYSTEM IMPROVEMENTS PROJECT AND AUTHORIZING PAYMENT THEREOF.
Unanimously approved.

Action: Motion made by Mr. Appignani and seconded by Mr. Strider to approve the Requisition as follows:
RESOLUTION OF THE PUBLIC SERVICE BOARD OF THE JEFFERSON COUNTY PUBLIC SERVICE DISTRICT APPROVING INVOICES RELATING TO ENGINEERING AND OTHER SERVICES IN CONNECTION WITH THE JEFFERSON COUNTY PUBLIC SERVICE DISTRICT SEWER REVENUE BONDS , 2013 SERIES A in total of \$1,062,900.
Unanimously approved.

Interview engineering firms to provide general consulting services

Action: Motion made by Mr. Cummins and seconded by Mr. Appignani to convene into executive session to interview prospective engineering firms for general services. Unanimously approved.

Special Board Meeting
June 11, 2013

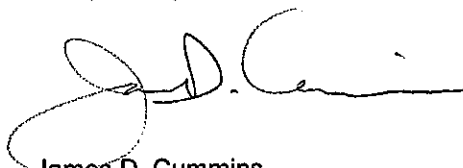
Action: Motion made by Mr. Appignani and seconded by Mr. Strider to return to public session. Unanimously approved.

Action: Motion made by Mr. Appignani and seconded by Mr. Strider to adjourn. Unanimously approved.

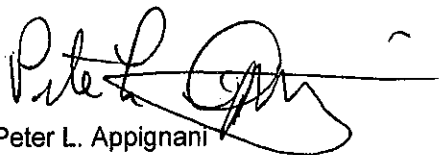
There being no further business at this time, the meeting was adjourned at 9:20PM.

The next regular meeting is scheduled for July 1, 2013 at 7:00pm at 340 Edmond Road, Suite A at the Districts office in Kearneysville.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "J.D. Cummins", written in a cursive style.

James D. Cummins
Chairman

A handwritten signature in black ink, appearing to read "Peter L. Appignani", written in a cursive style.

Peter L. Appignani
Secretary

Jefferson County Public Service District

Jefferson County Public Service District Work Session June 3, 2013

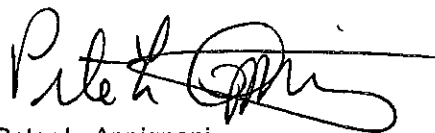
The work session of the Jefferson County Public Service District was held at 2:00PM on Monday, June 3, 2013 at the District's office in Kearneysville. Those in attendance included: Secretary, Peter Appignani; Treasurer, Bill Strider; PSD General Manager, Susanne Lawton; Administrative Assistant, Ashley Stottlemeyer; Finance Manager, April Williams; District Legal Counsel, Jim Kelsh; from Pentree Engineering, Zane Summerfield; the Districts Accountant from Cox Hollida Price, Chuck Young; Liaison for the County Commission, Commissioner Jane Tabb; from the City of Charles Town, Joe Cosentini, Jane Arnett, Hoy Shingleton, David Decker, and John Cole; and from the City of Ranson, Andy Blake and Chris Bontoft.

There was a discussion on the upcoming plans to improve/upgrade the Charles Town sewer system.

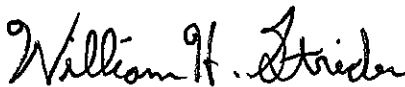
There being no further business at this time, the meeting was concluded at 3:41PM

The next regular meeting is scheduled for July 1, 2013 at 7:00pm at 340 Edmond Road, Suite A at the Districts office in Kearneysville.

Respectfully Submitted,



Peter L. Appignani
Secretary



William H. Strider
Treasurer



2211 Washington Street East
Charleston, WV 25311-2118
Phone: (304) 346.0591
Fax: (304) 346.0592

FAX

Patricia L. Hamilt
Executive Direct

**TO: ALL COUNTY COMMISSIONERS, COUNTY CLERKS, SHERIFFS,
ASSESSORS & PROSECUTING ATTORNEYS**

FROM: WEST VIRGINIA ASSOCIATION OF COUNTIES

RE: INFORMATION ABOUT SB 527, FILLING VACANCIES

DATE: JULY 10, 2013

Attached is information from Kanawha County Commission pursuant to authorizing legislation they sought and achieved during the 2013 legislative session. We thank Kanawha County for sharing this information. (Note that the legislation does not apply to the office of Circuit Clerk).

KANAWHA COUNTY COMMISSION

Post Office Box 8627
Charleston, West Virginia 25336



Telephone (304) 357-0101
Fax (304) 357-0788
www.kanawha.us

Henry C. Shores
Commissioner

W. Kent Carper
Commissioner

Dave Hardy
Commissioner

July 9, 2013

Patti Hamilton
West Virginia Association of Counties
2211 Washington Street, East
Charleston, WV 25311

Dear Ms. Hamilton:

One of the most important duties of a county commission is replacing a constitutional official. As you know, during the 2013 Regular Legislative Session, the Kanawha County Commission made it a priority to pass a bill revising the method vacancies are filled in certain county constitutional offices. Senate Bill 527 amended W.Va. Code §3-10-7 and §3-10-8 to authorize a county commission to temporarily fill vacancies in the offices of Clerk of the County Commission, Sheriff, Prosecutor, Assessor, and Surveyor, with the condition that a permanent replacement must be made within thirty days of the date of the vacancy. The temporary appointee is eligible to serve as the permanent replacement.

The Kanawha County Commission passed a policy statement pertaining to filling of vacancies in certain elected county offices. We made a decision to do this knowing that when a vacancy occurs and you have to make a decision of this significance and magnitude it is better to have a set policy. Many times, vacancies occur unexpectedly therefore, we established a protocol to ensure transparency and prevent a rush to judgment. The policy statement we passed is enclosed. While it is not binding on anyone else, I thought we should share our protocol with other local governments throughout West Virginia. Accordingly, I am requesting this letter and our policy statement be distributed to the members of your association.

Sincerely,

A handwritten signature in cursive script that reads "W. Kent Carper".

W. Kent Carper
President

WKC/cc



**KANAWHA COUNTY COMMISSION
POLICY STATEMENT PERTAINING TO FILLING OF VACANCIES IN CERTAIN
ELECTED COUNTY OFFICES.**

W.Va. Code §3-10-1 et seq.

1. W.Va. Code § 3-10-1 *et seq.* was amended to clarify the procedure the County Commission must follow when filling vacancies in certain elected County offices (which includes the offices of County Commission, County Clerk, Prosecuting Attorney, Sheriff, Assessor, and Surveyor). The code permits vacancies in certain County offices to be filled by temporary replacements for no more than thirty days (30) days. A permanent replacement must be appointed within thirty (30) days of the original vacancy. See W.Va. Code §3-10-7(b); §3-10-8(b). The temporary appointee is eligible to serve as the permanent replacement.
2. The Kanawha County Commission is committed to transparency and as a policy shall require that ample public notice and an opportunity for meaningful public comment occur prior to any individual being selected as a permanent replacement to a vacancy in the office of County Commission, County Clerk, Prosecuting Attorney, Sheriff, Assessor, or Surveyor.
3. The Kanawha County Commission will not make a permanent appointment until there has been at least one duly noticed public meeting with opportunity for meaningful public comment, input, and participation.
4. Notice of the vacancy will be of the utmost importance. Any vacant position shall be advertised on the Kanawha County Commission website and by Legal Advertisement. Media outlets will be informed and kept apprised throughout the process. Every reasonable effort will be made to see that all eligible and interested candidates are allowed an opportunity to apply for the position.
5. The Kanawha County Commission will conduct a public interview of all candidates at a duly noticed and advertised County Commission meeting or special meeting.
6. The term that the permanent appointee holds the office depends on when the vacancy occurs, as set forth in W.Va. Code §3-10-1(b).
7. W.Va. Code §3-10-1 *et seq.* continues to set forth that the County Commission has no statutory authority or participation regarding the appointment to vacancies in the office of Circuit Clerk of the Thirteenth Judicial Circuit. When a vacancy occurs in the office of Circuit Clerk, the Chief Judge may appoint a temporary successor to position to serve for not more than thirty (30) days. W. Va. Code §3-10-6.

2013-398

At a Regular Session of the County Commission of Kanawha County, West Virginia, held at the Courthouse thereof, on the 27th day of June, 2013, the following Order was made and entered:

SUBJECT: Order adopting policy statement regarding succession of certain county elected officials per W.Va. §3-10-1 et seq., effective June 27, 2013

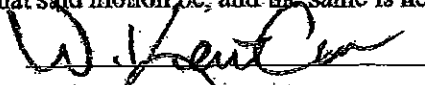
The following motion was offered by W. Kent Carper, Commissioner.

The County Commission of Kanawha County, West Virginia hereby policy statement (attached hereto) regarding succession of certain county elected officials per W.Va. §3-10-1 et seq., effective June 27, 2013.

The adoption of the foregoing motion having been moved by W. Kent Carper, Commissioner, and duly seconded by Henry C. Shores, Commissioner, the vote thereon was as follows:

| | |
|-------------------------------|------------|
| W. Kent Carper, President | <u>AYE</u> |
| Henry C. Shores, Commissioner | <u>AYE</u> |
| Dave Hardy, Commissioner | <u>AYE</u> |

WHEREUPON, W. Kent Carper, President, declared said motion duly adopted; and it is therefore **ADJUDGED** and **ORDERED** that said motion be, and the same is hereby adopted.


W. Kent Carper, President


Henry C. Shores, Commissioner


Dave Hardy, Commissioner

Approved by: 
Marc Stotnick, County Attorney



2211 Washington Street East
Charleston, WV 25311-2118
Phone: (304) 346.0591
Fax: (304) 346.0592

Patricia L. Hamilton
Executive Director

To: County Health Initiative Committee (13/14)

Commissioners: Jerry Linkinogger, Chair; Larry Barnhart, Tony Williams, Lyn Widmyer


Assessor: Steve Keadle

County Clerk: Robin Loudermilk

Circuit Clerk: Donnie Kopp

Sheriff: Steve Tanner

Prosecutor: Gerry Hough

From: Patti Hamilton 

Re: Presentation to Spring Board Meeting & Examples of Try This! Project

Date: July 12, 2013

Enclosed please find information that was in the spring board packets that some of you have already seen. The article is a small example of the types of activities and initiatives that will be featured in the Try This! project. Note that Wyoming County Circuit Clerk David "Bugs" Stover is on the last page!

The focus is ongoing efforts, not one-time events, so please keep that in mind when reviewing the survey which I've also enclosed in case it was hard to read on the email.

Thank you for your participation!

Survey:

- If you could or can say that your county offers many active recreation possibilities, do you see that as an economic development tool?
- What steps has your county taken toward being able to make that statement?
- Has anybody inventoried the healthy lifestyle offerings in your county? If so, is the inventory available?
- Do you feature local active recreation/healthy lifestyle in your advertising (example: Summersville billboards, Jefferson County brochures, Greater Parkersburg Web site)? Give examples.

Check if your county:

___ has a volleyball league. If so, contact info:

___ has a running/walking organization. If so, contact info:

___ has adult soccer. If so, contact info:

___ has a biking organization. If so, contact info:

___ has a bike rental service

___ have a biking-on-the-streets policy

___ has a program that connects people who want to exercise by doing something helpful such as repairing homes or mowing lawns for elderly, helping them tend gardens or Adopt-a-Highway

- Do you or the school system have joint use agreements that allow the public to use public buildings after hours for health-promoting activities?
- If the legislature were to make a fund for communities to apply for grants to do healthy lifestyle projects, would you apply?
- Has your county commission passed a resolution asking the legislature to increase the amount of mandated physical education in schools?
- Would you favor such a resolution?
- What amateur adult sports leagues does your county offer?
- What kid sports leagues – open to all – does your county offer?

West Virginia's soaring obesity, diabetes and heart disease rates threaten the well-being and budgets of our communities. If the work force appears unhealthy, employers hesitate to locate here. Yet proactive West Virginia communities are finding that their healthy lifestyle efforts are very attractive to potential employers.

What can communities do to lower these numbers? What works? What's working in other West Virginia communities?

The "Try This" project will provide you with a menu of examples, references and contact information, so you can easily see what others are doing, choose the things you think will work in your community, then consult with people who have already been down that road.

We will ask at the Harpers Ferry meeting for examples of promising efforts that could be added to the list.



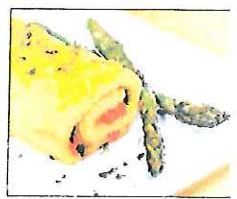
Home | 10F
Introducing our new garden columnist, WVU Extension Service Agent John Porter.

Weddings | 5F
Special full-page wedding advertisement.

Travel | 9F
Hiking the South Tyrolean Alps in Italy offers sights you might not believe.



Food | 12F
Eggs are the featured ingredient for breakfast or brunch.



SUNDAY
GAZETTE-MAIL
May 5, 2013

Celebrations, 4 Linda Arnold, 4 Horoscope, 11

Life & Style

'Moving in the right direction'

With little state leadership, communities find many ways to prevent obesity



Photo courtesy of RON AGNIR | MARTINSBURG JOURNAL

Jefferson County volunteers raise money for their healthy children's activities each year with a 2,000-person running event. Here, kids participate in a one-mile Fun Run. The Freedom's Run (www.freedomrun.org) pays for children's running clubs, school trails and hiking programs. It is organized by volunteers from the West Virginia University School of Medicine, Shepherd University, Harpers Ferry National Park and local tourism groups, among others. "We've found a healthy way to pay for healthy activities," said Dr. Mark Cucuzella.

By Kate Long
Staff writer

In Parkersburg, nurse practitioner Amy Eddy volunteers countless hours to set up children's runs for the River City Runners and Walkers. "I'm so conscious, in my nursing job, of the obesity epidemic," she said. "This is one way I can help kids get hooked on health."

In Elkins, Forest Service employee Teri Evans does the same for Girls on the Run. Because of her, 200 grade-school girls in four counties run for fun after school. "If they learn to love running, it'll protect their health for the rest of their lives," she said.



THE SHAPE WE'RE IN

Final installment

helped cut trails through thick brush to connect hiking and biking trails in six counties.

In the Eastern Panhandle, Dr. Mark Cucuzella spearheads a huge running race each year to pay for children's running clubs, walking trails and playgrounds.

They — and people like them — are reasons to hope that someday West Virginia will be off the top of every list of awful chronic diseases: diabetes, heart disease, obesity, etc.

All over the state, people are taking the lead. They're doing it, with or without state support, with or without pay, trying to make it easier to follow doctors' advice: Move more. Eat more fresh food, less fast food. Quit drinking soda pop.

Farmers markets have doubled in number since 2008, bringing fresh food to areas that had

SEE WAYS, 6F



KATE LONG | Sunday Gazette-Mail photos

ADD FRESH PRODUCE AT CONVENIENCE STORES: Nearly 200 West Virginia convenience stores now carry fresh fruits and vegetables, including 90 Little Generals, with more on the way. The Bureau of Public Health's Change the Future project gives the stores display racks to encourage them to try. The fresh produce is selling, BPH sources say. "It's definitely selling," said clerk Chelly Nicholson at the Amma Quick Stop. "Customers thank us for having it. Otherwise they'd have to drive 20 minutes to Clendenin to get a tomato or an onion." For more information, contact jessica.g.wright@wv.gov.



ADD HEALTHY SCHOOL SNACKS: Kindergartners at Gilmer County's Sand Fork Elementary enjoyed fresh pineapple slices, thanks to the federal Fresh Fruit and Vegetable Program. By the end of 2012, 144 eligible elementary schools were receiving daily snacks from the U.S. Department of Agriculture. "It has made a big difference in their willingness to try new foods and in the range of foods they realize they like," said Principal Sue McCue. "We're teaching them good habits early."



START YOUR OWN SPORTS LEAGUE: When Braxton County Schools said they couldn't afford to offer soccer, Braxton parents decided to do it themselves. Jennica Barker is one of about 20 parents who coach a soccer league for more than 200 children at a Flatwoods field they lease from the county. Barker's four kids all play in the league. "It gives me another way to be with them," she said. All over West Virginia, parents have started similar groups for sports and healthy activities not offered in their schools: rowing, canoeing, mountain biking.

INSIDE: More of what local communities are doing 6F, 7F



Sunday Gazette-Mail photos by KATE LONG unless otherwise noted.

TEACH KIDS WHAT'S IN FOOD: "I think I'm going to cry," East Bank Middle School seventh-grader Kaylee Hull said last spring when she saw how much fat is in six chicken nuggets: 20.5 grams. "It looks so gross," she said. Physician assistant Mary Grandon, who runs the school-based health center at the school for Cabin Creek Clinic, showed Hull's class one tube after another to show how much fat is in fast food. State Department of Education spokesmen say to counter child obesity, schools are emphasizing healthy eating and awareness of food advertising.



HAVE A COMMUNITY CONVERSATION: Every Thursday, 25 to 50 people gather at C.J. Maggie's restaurant in Buckhannon for a \$5 noon meal and a session of Create Buckhannon. Anyone is welcome. As they eat, they plan ways to make their town healthier and more prosperous. "We're just citizens, not an official group or a 501(c)(3)," organizer C.J. Rylands said. They have created a park, a weekly summer music festival and market and a city plan and are now working on safe biking and walking, among other things. For more information, type Create Buckhannon into an online search engine.



Photo courtesy of SUSTAINABLE WILLIAMSON

CREATE A COMMUNITY GARDEN: The community garden movement is growing fast. In urban areas particularly, residents of Williamson senior citizen apartments can grow vegetables in community plots near their building. Kanawha County has six community gardens, and Clendenin, Dunbar, Montgomery and South Charleston each have one. "It's about more than food. It's about sharing with other people and learning from each other," said WVU Extension agent John Porter. In 2011, one garden raised 3,000 pounds of food for Manna Meal Soup Kitchen.



CHALLENGE THE COMMUNITY TO WALK: Last year, in Williamson, teams of 10 competed to see who could walk the equivalent distance to Los Angeles first. "Friendly competition makes it fun," said Vicki Lynn Halford, competition organizer. Many communities have their own version. This summer, West Virginia University Extension Service is challenging all counties to its second "Summer Steps" program. The Williamson "lunchtime walk tool kit" can be found at www.stuid.com/doc/134080876/Lunch-Walk-Tool-Kit-Summer-Steps info: <http://live.wvelliext.wvu.edu>.



Photo courtesy of RIVER CITY RUNNERS AND WALKERS

LET RUNNING CHANGE THE CULTURE: More than 1,000 people belong to the Parkersburg-area River City Runners and Walkers Club (www.riverrunners.com). Volunteers organize more than 30 running/walking events per year, plus beginners' clinics, daily runs and an extensive children's program. Last year, they raised money for running shoes for more than 100 needy schoolchildren. "We wanted to change the local culture to include running," said Sharon Marks, club president. "We think we've done that."



ORGANIZE ANTI-DIABETES CLASSES: How do you exercise when you keep from pigging out at a buffet or church supper? How do you exercise when the weather's bad? In Roane County, seniors traded tips during a diabetes prevention class at the Amma Sciorler Center. Dozens of people are being trained statewide to lead such classes by Marshall University and the Bureau of Public Health. "We hope to have a statewide schedule next year," said bureau employee Chuck Thayer. Want a class in your community? Contact lesjica.g.wright@wv.gov or visit www.selfmanagementonline.org.



ASK IF YOUR SCHOOL COOKS USE PROCESSED FOOD: As of the end of 2012, hundreds of school cooks from 27 counties had been trained to cook more nutritious meals from scratch instead of reheating processed food. The state Office of Child Nutrition plans more trainings for the other 28 counties, says office director Rick Goff. Cooks who have successfully made the transition train cooks who are new to the game so they can share tips and best practices.



ENCOURAGE AFTER-SCHOOL EXERCISE: Last year, the West Virginia Statewide Afterschool Network (www.wva-ed.net) board voted to require its 360 programs to keep students physically active (not sitting) at least half the time. "Studies show that active kids do better in school, and we have these students with us five days a week," said director Chris Kimes. "We can have a big impact on their health." Here, teens at Beckley Stratton School's after-school program play ball with the GenMove, a multi-game exercise program.



PROMOTE MOUNTAIN BIKING: Several school systems, including Wirt County, shown here, have made mountain biking part of a physical education curriculum that concentrates on physical activity students can enjoy all their lives. The fast-growing West Virginia Mountain Bike Association lists 23 races in West Virginia this summer, including events for children and beginner's classes. North Bend State Park offers introductory classes and a mountain biking program. Visit www.wvmba.com/ridev.

WAYS

FROM PAGE 1F

little or none. Rural parents are forming sport leagues to keep kids active. Churches sponsor exercise groups that bring lonely seniors together.

Maybe it's starting to work. Last year, the fifth-graders' blood pressure, cholesterol and obesity level all dropped, according to West Virginia University measurements.

The Children's Medicine Center at CMMC Women and Children's Hospital has had even better news. Five years ago, 44 percent of its patients ages 2 to 14 were obese or overweight. Today, that number has dropped to 35 percent.

"We've got a way to go, but we're headed in the right direction," said director Dr. Jamie Jeffrey. "We've got the attention of a lot of parents now. If we keep at it, we can turn this thing around."

Twenty years ago, obesity wasn't even on Kanawha County's list of biggest health problems. Now it tops the list. In 2012, 85 percent of local officials identified obesity as one of the top three problems in their counties, after lack of jobs and drugs, in a WVU study.

"Local officials are starting to realize community health is very much part of their job," said Patti Hamilton, director of the West Virginia Association of Counties. "Sidewalks, bike paths, farmers markets and hiking trails are part of economic development too."

Help from state government has been spotty. A new audit of the Department of Health and Human Services says state health programs are weak, fragmented and uncoordinated. Yet, at the same time, individual programs are rock stars:

- The Office of Child Nutrition got junk food and sodas out of the schools, improved the nutrition of school meals and increased the number of children eating, among other things.
- The Mid-Ohio Valley Health

Department created an array of healthy projects for other communities to copy (visit <http://ctf.wvresources.com>). The state's underfunded Community Transformation program is trying to spread them statewide.

- One in five West Virginians gets care through the state's community health centers, considered one of the strongest networks in the nation. The centers offer anti-diabetes programs and emphasize prevention.

- Public employees and their families have lost more than 16 tons of weight since 2004, through weight-loss programs of the Public Employees Insurance Agency, a prevention pioneer.

But nobody tracks local healthy lifestyle efforts statewide, so nobody really knows who is doing what. "People in one place don't always know what other communities are doing or what help is available from the state. So they can't inspire and help each other as much as they otherwise might," observed Kim Tieman, who represents the Claude Worthington Benedum Foundation in West Virginia.

One community might have 10 healthy lifestyle projects, while the next has none. "These towns could help each other," Tieman said.

In 2011, 33 state health leaders told a West Virginia Center on Budget and Policy interview that the state lacks strong leadership from the governor's office. "They all cited it as a major problem," said study author Renate Pore. "It's still true. And this is a time when we need a real leader."

In other states, mayors and governors are leading the charge.

- The Oklahoma City mayor challenged residents to lose a million pounds. He created a website called www.thiscityisgoingonadiet.com to track it. He lost 50 pounds. City residents lost the other 999,950.

- Iowa's governor launched the Healthiest State Initiative (www.iowahealthieststate.com) with a statewide walk. More than 291,000 people participat-



HELP GET SCHOOLKIDS MOVING: Most schools provide little time for physical education or activity during the school day, so the Department of Education is urging teachers to get kids moving during class too. All over the state, teachers, like Sutton Elementary's first-grade teacher Susan Schiefer, are finding ways to do that. Here, Schiefer's students dance as they identify vowels and consonants in a game she devised. Many schools would welcome volunteers to organize activities at recess and before school.

The Initiative gives communities grants to carry out healthy lifestyle projects.

- Massachusetts' Mass in Motion program (www.mass.gov/massinmotion) gives grants to communities, with the governor as head cheerleader. The schools measure the body mass index of all children and mail results and advice to parents. Obesity levels in Mass in Motion towns are dropping faster than those with no program.

In West Virginia, the governor's office has been oddly quiet.

Gov. Earl Ray Tomblin's home county Logan, has the state's highest diabetes rate and one of the nation's highest rates of early death. The Logan Diabetes Coalition struggles for funding. "So far, he just doesn't deal with health-care problems," Pore said.

• Before Tomblin took office, there was an active, state-supported Healthy Lifestyle Coalition. Now the members' terms have expired, but Tomblin did

SEE WAY 7F

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Charleston Town Center Mall 345-2302 Bridge Road Shops 345-8077 Huntington Mall 733-2301



CREATE A FARMERS MARKET: Since 2008, the number of farmers markets in the state has approximately doubled, to 87, according to the West Virginia Farmers Market Association, making fresh food much more available in many areas. Markets range from year-round heated buildings to seasonal truck-fair sales. Phillippi's market, open four days a week, raised more than \$23,000 for 98 growers in 2010. Morgantown, which averages more than \$11,600 per month, offers cooking classes. See videos of several markets on West Virginia Farm and Food Coalition website.

Graduation
This special section will list graduates from area high schools along with graduation ceremony information. Help our local graduates and their families with an ad in this 2013 Graduation edition.
Publication Date: Sunday, May 19th
Deadline Date: Thursday, May 9th
For more information call: 804.348.4860 or 1.800.WVA.NEWS
WV Gazette-Mail SPECIAL EDITION



LOOK AT FUNDING SOURCES: Two foundations, the Claude Worthington Benedum Foundation and the Sisters of St. Joseph, have together poured more than \$35 million into West Virginia health projects in the past 10 years. "I'm not sure what we would do without them," said Don Perdue, chairman of the House Health committee, Kim Tieman (left), of Benedum, and Sister Jane Harrington, of the Sisters of St. Joseph, turn up frequently at health care meetings, in this case, an anti-smoking meeting.



Photo courtesy of RA-ALL TRANSPORTATION INSTITUTE

BUILD HIKING/BIKING TRAILS: Charleston City Council passed a resolution supporting creation of 100 miles of trail. It has some good models. Using trail maps from six counties, the Mid-Ohio Valley Health Department partnered with the West Virginia Mountain Biking Association to connect all six counties' trails. In Cabell County, Huntington is creating the citywide Paul Ambrose Trail to Health, pictured. <http://paulambrosetrail.org>. More information on Charleston's plans are at www.cityofcharleston.org/landtrust.



Sunday Gazette-Mail photos by KATE LONG unless otherwise noted

START A DIABETES COALITION: With the help of Marshall University, 12 counties have created diabetes coalitions. They range from relatively inactive groups with occasional awareness events to Mingo's coalition, which secured a \$2.5 million grant through Duke University to canvass all households to locate people who are diabetic or pre-diabetic and don't know it. Coalitions allow a county to combine efforts, seek grants and pull interested people together. For more information, email cesp@marshall.edu.



RUN THROUGH THE MIDDLE OF TOWN: Glenville has created an extensive physical activity program, sparked by a grant from West Virginia On the Move. "We are making running very visible, so it's becoming a normal part of life around here," said chief instigator Jeff Campbell. This year, they have more than 300 people signed up. West Virginia On the Move has given 110 community groups, schools and organizations an average seed money amount of \$4,000. That small amount has sparked projects statewide, from playgrounds and church exercise programs to walking challenges and hiking trails. Visit www.wvonthemove.net or gilmercountyonthemove on Facebook.



MAKE SURE YOUR TOWN HAS FACE TO FACE: In this program, about 3,700 West Virginia diabetics keep their diabetes under control by working with a pharmacist who advises them about exercise, diet and good medication management. The program, offered to state government employees and their families, is proven effective in research studies. South Charleston pharmacist Kate Dotson helped retired schoolteacher Mary Ann Wilder keep her blood sugar in the normal range for years. Visit www.pealz21.com.



GET COMMUNITY DEVELOPMENT TRAINING: About 70 West Virginia towns now work with the Main Street and Blueprint Communities programs. Both programs have added healthy lifestyle components to their training for towns and small cities. "The two go hand in hand," said Main Street director Monica Miller. "Companies want to locate in a place with a healthy workforce and active lifestyle." Here, Marlinton residents talk with their Blueprints coach, Jose Kuda. For more information, type "Main Street West Virginia" or "Blueprint Communities" into an online search engine.



AGITATE FOR BIKE LANES: Wyoming County Clerk Bugs Stover says he feels a lot safer from timber trucks while biking on paved shoulders. For five years, the Department of Highways has paved shoulders as part of a new design standard. Stover is grateful. The 2013 Legislature passed a "complete streets" law that encourages DOT to consider bikers and pedestrians in new plans. DOT plans to build hundreds of miles of bike routes through the state, says DOT biking specialist Perry Kelcey. Visit <http://mountainstatewheelers.org> or search West Virginia Connecting Communities.



LET PEOPLE USE PUBLIC BUILDINGS AFTER HOURS FOR HEALTHY ACTIVITIES: This Zumba class was offered at Braxton County High School rent-free on the condition that students could attend for free. In many counties and towns, public buildings and gyms are available after hours for activities ranging from yoga to square dancing. The county or city signs an agreement with the user. In Braxton, for instance, the high school is active after hours with team practice, college classes and now exercise classes. For sample joint-use agreements, type "joint use" into a search engine.



HELP PEOPLE ENROLL FOR HEALTH INSURANCE: West Virginians for Affordable Health Care is training hundreds of volunteers to help people sign up for the health-care exchange when, starting in October 2014, as many as 200,000 West Virginians become eligible for health insurance, depending on how far the state expands Medicaid. Many West Virginians will then be able to afford the early checkups that can prevent diabetes, obesity and other risky conditions. See www.wvahc.org for more information.



SEE ABOUT A SCHOOL-BASED HEALTH CENTER: Parents can help bring a school-based health center to their community. West Virginia started with 14 school-based health centers about 15 years ago. Today there are 88, serving 107 schools in 32 counties. In the past two years, 32 have opened. In Calhoun County, nurse practitioners such as Lisa Coleman (shown) travel to three schools, from a modern high school clinic to a grade school office in a portable building. For more information, visit www.wvsbha.org.



FIND WAYS CHURCHES CAN HELP: The West Virginia Council of Churches recently set up an obesity project, but individual churches are ahead of them. Many churches have decided weight reduction and disease prevention are part of their mission. Some, such as Gassaway Baptist Church, build gyms. Others are using the "Walk to Jerusalem" program. Mingo County's Little Dove Baptist Church adopted the Arthritis Association's Walk with Ease program for "Fitness and Fellowship," stretching, then walking around the church building — 15 times around is about a mile.



GET OUT ON THE RIVER: "West Virginia has beautiful rivers, and I've got grandparents on both sides who died of heart disease, so I'm determined not to get it. Rafting is great exercise," said Brent Samples, hitting the New River in April. The West Virginia Wildwater Association, based in Charleston, organizes paddling trips all over the state and sponsors workshops for beginners and rolling lessons at the South Charleston rec center. The website www.wvwa.net often has impromptu paddling trips anybody can join.

WAY

FROM PAGE 6F

not renew their terms or appoint others. They meet anyhow.

■ Facing a deadly epidemic, the state's Diabetes Prevention and Control program has a tiny budget and a staff of only two.

■ The state GOHELP office, created in 2006, was supposed to coordinate local healthy lifestyle efforts and find ways to fund them. After the director and program staff quit, Tomblin did not replace them. Five of seven office spaces now sit empty.

■ "We created GOHELP partly to inventory our most successful programs so we could try them in other areas, but GOHELP didn't do that. For whatever reason," said Delegate Don Perdue, D-Wayne, chairman of the House Health and Human Resources Committee.

■ About \$473,000 for GOHELP in this year's budget is unspent. Yet the Legislature put another

\$475,000 in the governor's account for GOHELP for next year, at Tomblin's request, bringing the amount available for GOHELP to nearly \$1 million.

Why? "I'm not sure," Perdue said.

Going forward anyhow

The DHHR audit recommends more support for local communities. "This coming year will be a transition year," said Sen. Ron Stollings, D-Boone, chairman of the Senate Health Committee. He and Perdue plan

to keep the audit on the Legislature's front burner all year.

The audit recommends that the huge, "unwieldy," understaffed and underfunded DHHR be split up and reorganized for greater efficiency. "We plan to hold hearings and take what action we can on it," Stollings said.

Public health should be expanded, the audit recommends, and communities should be allowed to apply for state health grants to do local projects. At this point, there is no such system.

GOHELP's million dollars may used to move the DHHR audit findings forward, Perdue said. "That may be the plan. If so, it's going to be person by person, town by town. Maybe one town won't do it, but the next one will!"

Raich, Kate Long at kate.long@hotmail.com or 304-343-1884.

ly," Jeffrey said. "Once you see how much is going on, you can't help but believe these numbers can keep dropping, but it's going to be person by person, town by town. Maybe one town won't do it, but the next one will!"

Raich, Kate Long at kate.long@hotmail.com or 304-343-1884.

This is a glimpse of community activities. Visit wvgazette.com for more. If your community is doing something effective, tell us about it. Email kate.long@hotmail.com. Put "The Shape We're In" in the subject line.

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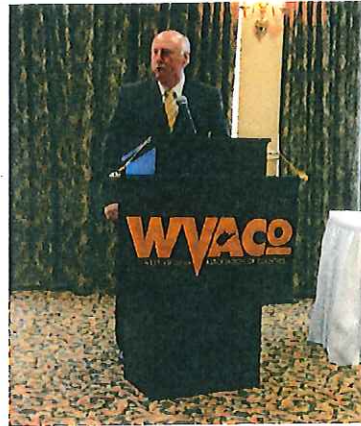
WVACO

The County Line

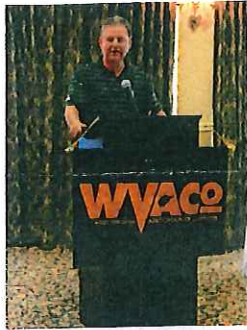
WVACO BOARD OF DIRECTORS MEETS IN HISTORIC HARPERS FERRY, JEFFERSON COUNTY



A big welcome from the Jefferson County Officials



WVACO President Al Kisner, Monongalia County Sheriff



Immediate past president, Jeff Waybright, Jackson County Clerk

Thank you JEFFERSON COUNTY.

INTERIM HIGHLIGHTS

Interim studies for the 2013 Legislative Interim Session have been finalized and there are no less than 92 proposals and study resolutions adopted. Several topics will be of interest to counties:

Joint Committee on Finance will study:

- Financial status and needs of local health department, HCR 173
- Financial solvency of volunteer and part-volunteer fire departments, SCR 45
- Local funding of public libraries, SCR 74
- State and Local Financing Issues Generally

Joint Government Organization Committee will study:

- Bail Bonds Industry, SCR 73
- Abandoned buildings regulations by counties and cities, SCR 61
- Methods to increase salaries of elected officials, SCR 72

Special Committee on Infrastructure will study:

- Disbursing portions of Turnpike tolls to host counties, SCR 53

Joint Committee on the Judiciary will study:

- Gun registry purchase prohibition effectiveness for those found mentally incompetent

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inside

THE President's View

Greetings to all association members of the West Virginia Association of Counties.

I wanted to take this opportunity to thank the West Virginia Sheriff's Association members for electing me as their representative to fill the Presidents position on the West Virginia Association of Counties board.

I am looking forward to an exciting year, hopefully filled with accomplishments that we can all be proud of.

The year started off quickly with our first meeting June 9-11 at Harpers Ferry.

WEST VIRGINIA ASSOCIATION OF COUNTIES
2211 WASHINGTON STREET, EAST
CHARLESTON, WV 25311

TELEPHONE (304) 346-0591 | FAX (304) 346-0592
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Kathy Yates **MEMBER SERVICES COORDINATOR**
Crystal Young **EXECUTIVE ASSISTANT**
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Jan Pest, Marshall County Clerk, Secretary to the Board of Directors

THE President's View

Continued from Page 1

Jeff Waybright started the meeting and it seemed like only minutes before he handed the torch to me and we were off.

I don't remember Patti telling me about the pace of the meetings before accepting the presidency, nor do I remember anyone saying you don't get many breaks throughout the day. It must have been alright though, I'm still here.

I certainly want to acknowledge the wonderful job done by our immediate past president Jeff Waybright, County Clerk of Jackson County.

Jeff worked extremely hard to further the efforts of the WVACO's on behalf of all it's membership. I know I've got a huge job ahead of me just to hope to keep up with the efforts Jeff has put forward.

Jeff, thank you for your leadership and dedication, you should be very proud of your accomplishments.

Working with the talented staff of Patti Hamilton, Kathy Yates, Crystal Young and Jack McClung will make my job much easier I'm sure. So much talent and knowledge can only serve to continue making the WVACO's a force to be reckoned with.

Your ideas and input concerning issues dealing with the association are always invited and I look forward to getting to know each of you more over the next year.

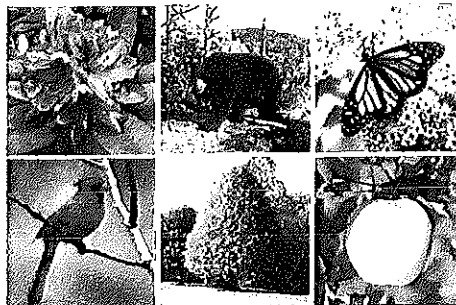
To say working "together we're stronger" is exactly right. As long as we try to understand and respect the positions of all of the member associations we'll definitely be stronger together.

Again, thank you for the opportunity to serve as your president and lets work together to make this a great year.

Al Kisner

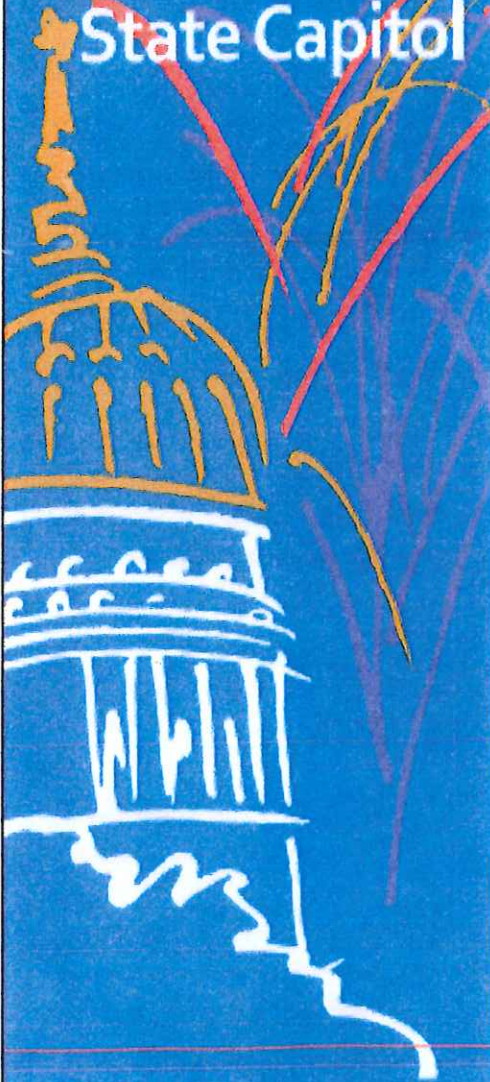
WEST VIRGINIA'S OFFICIAL SYMBOLS

State Flower – Rhododendron
State Bird - Cardinal
State Animal – Black Bear
State Insect – Honeybee
State Reptile – Timber Rattler
State Fish – Brook Trout



State Tree – Sugar Maple
State Fruit – Golden Delicious Apple
State Butterfly – Monarch
State Rock – Coal
State Soil – Monongahela Silt Loam
State Colors – Old Gold & Blue

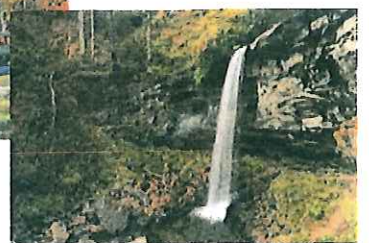
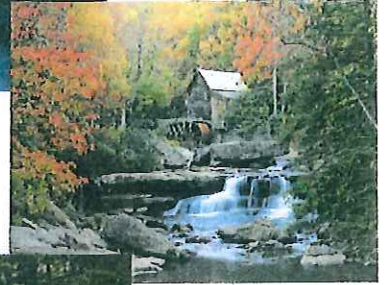
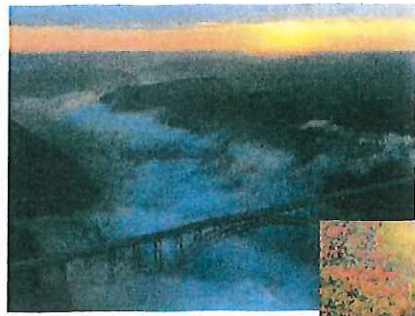
150TH
Birthday
Celebration
June 20-23
State Capitol



150

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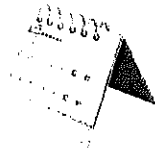
"Family means no one gets left behind or forgotten." - DAVID STIERS



Calendar of Events

- AUGUST 5-7, 2013** County Commissioners Association of WV
Stonewall Resort, Lewis County
- AUGUST 12-14, 2013** WV Association of Circuit Clerks
Oglebay Resort, Ohio County
- SEPT. 15-18, 2013** WV Sheriffs' Assoc. Annual Conference
Glade Springs, Raleigh County
- OCTOBER 3-4, 2013** Community Leadership Academy
Morgantown, Monongalia County
- OCTOBER 6-9, 2013** WVACo Fall Board Meeting
Oglebay Resort, Ohio County
- FEBRUARY 9-11, 2013** WVACo Conference of Counties
Kanawha County

- JULY 22-24**
- AUGUST 19-21**
- SEPTEMBER 23-25**
- OCTOBER 21-23**
- NOVEMBER 18-20**
- DECEMBER 9-11**
- JANUARY 5-7, 2014**



LEGISLATIVE Interim Dates for 2013

m
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Responsible attorney: David L. Yaussy



MEMBER PROFILE: MICKEY BROWN Boone County Commissioner



Years in office: 12 years plus

Education: Master plus 30 from Marshall

My favorite sport is: Football

The hardest thing I have done: having to say no to people's wants.

You would be surprised to know: I was a teacher and coach for 37 years.

I'm most proud of: improving the infrastructure of Boone County, the judicial annex and improving the Boone County Court House

The last book I read was: Lou Holtz Football Offense

Three people (living or dead) I'd invite to dinner: Mom, Dad and my grandfather

My favorite movie is: "The Ten Commandments"

My favorite music is: Country

My pet peeve is: Satisfying peoples wants instead of needs.

My motto is: Treat people with respect, work hard, be consistent and leave it better than you found it!



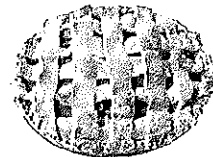
RECIPE OF THE MONTH

APPLE BUTTER PIE



- 1 pt. sweet apple butter
- 4 heaping Tablespoons flour
- 4 eggs
- 4 pints milk
- 2 cups sugar
- Cinnamon (to taste)

Mix together. Bake in unbaked pie shells. (This makes 4 pies)



"The weak can never forgive. Forgiveness is the attribute of the strong." - GANDHI

WV Fairs & Festivals

JULY 2013

- Hurricane 4th of July Celebration, July 4 - Cabell
- Mountain State Art & Craft Fair, July 4 - Jackson
- Ripley 4th of July Celebration, July 4 - Jackson
- WV Freedom Festival, July 4 - Logan
- Gassaway Days Celebration, July 4-6 - Braxton
- Alderson 4th of July Celebration, July 4-8 - Greenbrier
- Nitro Celebration Days, July 5-7 - Kanawha
- Nicholas County Fair, July 8 - Nicholas
- Pocahontas County Pioneer Days, July 10 - Pocahontas
- Bridgeport Benedum Festival, July 12 - Harrison
- Putnam County Fair, July 13 - Putnam
- Lewis County Fair, July 16 - Lewis
- WV Interstate Fair & Exposition, July 16 - Wood
- Braxton's Mountain Lakes Festival, July 19 - Braxton
- Pendleton County Fair, July 19 - Pendleton
- Upshur County Fair, July 19 - Upshur
- Marshall County Fair, July 21 - Marshall
- Cabell County Fair, July 22 - Cabell
- Jackson County Jr. Fair, July 22 - Jackson
- Paw Paw District Fair, July 23 - Marion
- Tri-County Fair, July 27 - Grant
- Morgan County, July 27-28 - Morgan
- Cherry River Festival, July 29 - Nicholas
- Mineral County Fair, July 29—August 3 - Mineral
- Braxton County Fairs & Festivals Celebration, July 30 - Braxton
- Ritchie County Fair & Exposition, July 31-Aug 3 - Ritchie



NEWS FROM WASHINGTON

The Admission of West Virginia as a State
A PROCLAMATION

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

Whereas, by the act of Congress approved the 31st day of December last, the State of West Virginia was declared to be one of the United States of America, and was admitted into the Union on an equal footing with the original States in all respects whatever, upon the condition that certain changes should be duly made in the proposed Constitution for that State;

And whereas, proof of a compliance with that condition, as required by the second section of the act aforesaid, has been submitted to me;

Now, therefore, be it known, that I, Abraham Lincoln, President of the United States, do hereby in pursuance of the act of Congress aforesaid, declare and proclaim that the said act shall take effect and be in force from and after sixty days from the date hereof.

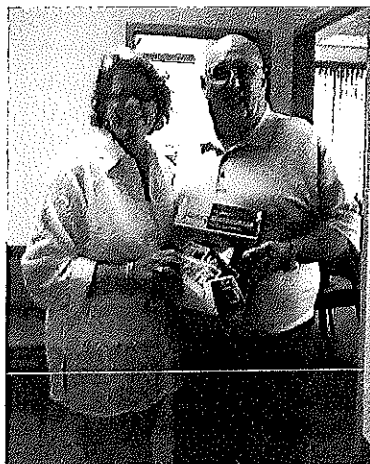
In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the City of Washington, this twentieth day of April, in the year of our Lord one thousand eight hundred and sixty-three, and of the independence of the United States the eighty-seventh.

ABRAHAM LINCOLN.

By the President:

William H. Seward, Secretary of State



Kathy Yates presented Butch Tennant, President of the Marion County Commission, a courthouse book and WV 150 banner.

All counties received a WV150th banner from WVACo!

WVACo is proud to celebrate history and the future of West Virginia with the publication of

West Virginia's Living Monuments—the Courthouse. The book is available now and we recommend that county officials present this unique publication to your libraries, 8th grade WV History classes, and historical societies.

INTERIM HIGHLIGHTS Continued from Page 1

Special Committee on Infrastructure will study:
Disbursing portions of Turnpike tolls to host counties,
SCR 53

Joint Committee on the Judiciary will study:
Gun registry purchase prohibition effectiveness for
those found mentally incompetent

Special Committee on PEIA and Senior Citizens will study:
Updating state laws that strengthen protections
against elder abuse, exploitation and fraud, HCR 130

Joint Economic Development Committee will study:
Project Launch Pad (includes property tax incentives),
SCR 69



July 19-22

Fort Worth Convention Center
Tarrant County - Fort Worth, TX

NACo's 78th Annual Conference and Exposition provides an opportunity for all county leaders and staff to learn, network and guide the direction of the association. The Annual Conference, held each July, is hosted by a member county.

This year, the conference will be held in Tarrant County, (Fort Worth) Texas. The Annual Conference provides county officials with a great opportunity to vote on NACo's policies related to federal legislation and regulation; elect officers; network with colleagues; learn about innovative county programs; find out about issues impacting counties across the country; and view products and services from participating companies and exhibitors.

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"Learning to trust is one of life's most difficult tasks." - ISAAC

COUNTY WELLNESS.....

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WILL BEGIN FOR 2013
ON JUNE 1ST AND
CONCLUDE ON AUGUST 31ST
GET YOUR
COUNTY TEAM TOGETHER
AND WALK TO WIN!
GO TO WWW.LIVEWELLWV.ORG
AND REGISTER IN THE TRACKER.**

DO
SOMETHING
EVERYDAY
THAT YOUR
FUTURE SELF
WILL
THANK YOU
FOR.

CONGRATULATIONS

Two veteran County Clerks are retiring this summer. Congratulations to Jamie Six, County Clerk of Wood County and Eleanor Straight, County Clerk of Hancock County.

Congratulations to Marshall County Clerk Jan Pest and Hancock County Clerk Eleanor Straight who tied for the Danny Cline Award given by the WV County Clerks Association.



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CYBER SECURITY TIP



Protect your laptop, smartphone or other portable devices when traveling. Just as your wallet contains lots of important and personal information that you wouldn't want to lose, so too do your portable devices. Don't let them out of your sight! Never store your laptop as checked luggage. If there is a room safe available at your hotel, use it to securely store your devices. Also, make sure you have strong passwords on these devices in case they are lost or stolen.

Be aware that public computers and public wireless access are not secure. Cyber criminals can potentially access any information you provide, such as credit card numbers, confidential information or passwords. So don't conduct any sensitive transactions at the local free Wi-Fi site.

Save the vacation posts 'til you get back. It JUNE be tempting to post details of where and when you'll be traveling. Don't. By revealing such specifics, you are providing information that could be used by criminals to break into your house while you're gone. Another common scam involves using compromised email accounts to contact the victim's friends or family with requests for help, claiming that the person was robbed in a foreign country while on vacation and needs money.



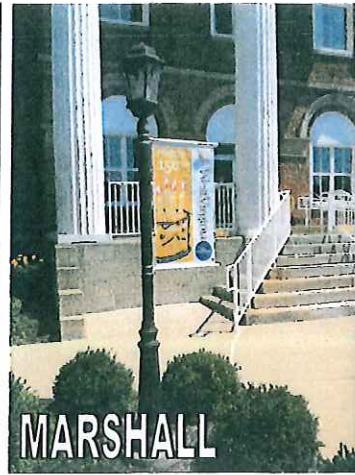
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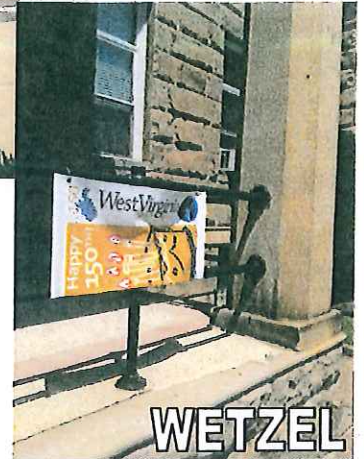
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150TH
BIRTHDAY,
WEST VIRGINIA!



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WETZEL



BOARD Responsibilities series

LEGAL PRINCIPLES

DUTY OF CARE — requires leaders to use reasonable care and good judgement in making their decisions on behalf of the interests of the organization.

DUTY OF LOYALTY—requires leaders to be faithful to the organization, avoiding conflicts of interest.

DUTY OF OBEDIENCE—requires leaders to comply with governing documents (i.e. bylaws, article of inc., policies, etc.)

#1 lie —

"You will not have to do anything when you get on the board!"

"I suppose leadership at one time meant muscles; but today it means getting along with people." - GANDHI



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Direct to You

Welcome to Monongalia County Sheriff Al Kisner! Sheriff Kisner will serve as President of the West Virginia Association of Counties this year. County Clerk Jeff Waybright likes the sound of the title "Immediate Past President" and we thank him for his dedication to WVACO. This organization has been blessed with excellent leadership over the years. With a 32 member Board of Directors, I must rely on the President for advice, good judgment, and diplomacy and I've been very fortunate to have those qualities in our Presidents.

Patti

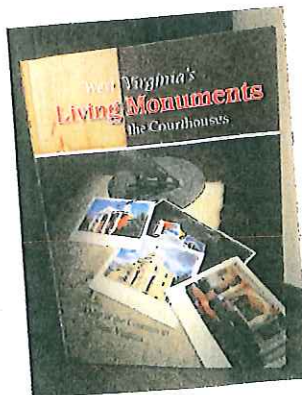


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Ethics Reporter

Since the Last Reporter

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

The Commission was unable to meet and issue opinions in May due to a lack of a quorum for its meeting.

At its June 6 meeting, the West Virginia Ethics Commission approved opinions relating to the permissibility of a municipal judge representing a city entity in his private law practice, the permissibility of a chief deputy sheriff receiving compensation for service in another

county position, the permissibility of a county solid waste authority accepting a donation from a company it regulates and may do business with, the permissibility of a public employee redeeming reward points from using a public credit card, the permissibility of a county commissioner voting on a contract with a company he does business with, the permissibility of a town council member renting a building owned by the town at less than market value, the permissibility of legislators appearing on a television broadcast staged by a non-profit group that solicits funds for the program, the permissibility of a state employee doing business with a contractor to his agency, the permissibility of a solid waste authority contracting with a business involving an authority member, the permissibility of a public service district giving unused property to its employees for potential

resale and, the permissibility of a county development authority's spouse applying for a loan from the authority.

ADVISORY OPINION REPORT

Advisory Opinion 2013-14 addressed the permissibility of a part-time municipal judge announcing his appointment on his private law website and also continuing to represent a municipal entity as a private attorney.

The judgeship is a part-time position in the municipality. However, the judge contends there is confusion over his appointment and wishes to communicate via his private law firm's website that he has assumed the public position on a part-time basis only, while still maintaining his private practice. The judge also serves as a department head for the city by virtue of his position, but seeks guidance on whether he can continue

to represent the city-funded municipal sanitary board as a private lawyer.

At issue for the Ethics Commission were the provisions of 6B-2-5(b)(1) prohibiting a public official from using their office to generate a private gain for themselves, those of 6B-2-5(d)(1) prohibiting a public official from having an interest in a contract over which they have authority or control, as well as those of 6B-2-5(j) prohibiting a public official from voting on matters in which they have an interest.

The Ethics Commission ruled, based on numerous previous cases, that the municipal judge could announce the news of his judicial appointment on his private law firm website without violation. Additionally, the Commission determined that the municipal judge, as a part-time official, had no authority or control over the municipal sanitary board and can permissibly continue to represent the board as a

private attorney. The Commission did outline a number of hypothetical conflicts for the judge/attorney to consider as the relationship continues and that may require attention in the future.

Advisory Opinion 2013-15 concerned the permissibility of a county commission compensating the chief sheriff deputy for also serving as the county 911 director.

In this case, a county commission and a county sheriff have had a memorandum of understanding in place permitting the sheriff or his designee to serve as the county's 911 director. The sheriff has full authority over the 911 system but there has been no additional compensation given for the work involved. Upon election of a new sheriff, the county commission and the sheriff provided additional compensation for the deputy who has named as the 911 director.

The Ethics Commission analyzed the provisions of 6B-2-5(b) prohibiting public officials for using their positions to

generate a private gain for themselves, those of 6B-2-5(d)(1) prohibiting a public official from having an interest in a contract over which they have control and authority, and those found in Chapter 61-10-15 making it unlawful for a county officer to have direct or indirect pecuniary interests in matters where they exercise voice, control or influence.

In its opinion, the Ethics Commission ruled that the proposed increase in compensation to be provided to the deputy sheriff for additional service as 911 director would violate the Ethics Act. The Commission opined that the same individual had held the position previously without compensation and that the original MOU between the county sheriff and the commission did not contemplate compensation.

As such, the Ethics Commission ruled that the performance of 911 management duties was part of the usual and customary duties associated with the deputy's work. Further, the Ethics Commission

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also determined that the chief law enforcement deputy/911 director was subject to the strictures of the Code's 61-10-15 pecuniary interest standards and was also prevented from accepting additional compensation on that basis.

Advisory Opinion 2013-16 addressed the permissibility of a county solid waste authority accepting donations from a regulated entity that is also seeking a business relationship with the authority.

The Authority desires to hold a public educational seminar on topics of benefit to the mission of the organization, and has devoted resources to that purpose. The event has been publicized on the Authority's website and other social media platforms in order to stimulate interest and solicited general support for the effort.

Members of the Authority's vendor have offered financial support for the event, without being solicited by the

Authority beyond the general public request, and entities regulated by the Authority have also offered unsolicited financial support for the event.

In considering this case, the Ethics Commission examined the provisions of 6B-2-5(c) prohibiting a public official from soliciting or accepting a gift from interests regulated by or doing business with the public body. In addition, the Commission referred to its regulations on this topic, as well as the statute governing solid waste authorities.

In its opinion, the Ethics Commission ruled that the Authority may permissibly accept financial support for its public education efforts on the basis that the vendors and regulated entities were not specifically solicited and the event constitutes a public purpose within the Authority's mission.

However, the Commission ruled that one of the unsolicited donations, from a business seeking a land-use relationship with the Authority, may not permissibly donate

to the public education events and the Authority may not accept its support as this aspect of the gift acceptance scenario posed in the Request for Opinion would constitute a violation.

Advisory Opinion 2013-17 concerned the permissibility of a public employee redeeming credit card reward points for the benefit of agency employees.

An executive from a multi-county agency indicates that her agency has not been permitted to access the state's purchasing card advantages and now desires to use a credit card obtained by the agency to make purchases and then use the customer points associated with the card's usage to provide employment related incentives and benefits for her staff.

The Ethics Commission reviewed the language of 6B-2-2(d) pertaining to the Commission's publication of public employee recognition programs and the associated guidelines for such activities, as well as that of 6B-2-5(b)

prohibiting the use of public office to generate a private gain for oneself or others.

In its opinion, the Commission ruled that its previous rulings and guidelines on this topic are applicable and that the use of credit card reward points would be permissible in this instance as long as the agency's total expenditures on employee recognition do not exceed \$25 per employee and no one employee receives more than \$100.

Advisory Opinion 2013-18 addressed the permissibility of a county commissioner voting on a county contract with a business the commissioner patronizes.

The commissioner's private business is a client of another business which is seeking a contract with the county. The commissioner has no ownership or financial interests in the prospective county contractor.

At issue for the Commission are the provisions of 6B-2-5(d) prohibiting a public official from having an interest in a contract over which they have authority or control, those of 6B-2-5(j) governing the ability of public officials to vote on matters in certain situations, along with the language of Chapter 61-10-15 which makes it unlawful for a county officer to have direct or indirect pecuniary interests in a matter over which they exercise voice, influence or control.

The Ethics Commission ruled that the county commissioner clearly had no direct or indirect pecuniary interests at stake in the choice of a potential county vendor and that there would be no violation if the commissioner voted on the matter. The simple fact that the commissioner's private business utilizes the services of the potential vendor does not produce any benefits for him if that same vendor is chosen by the county.

Advisory Opinion 2013-19 concerned the permissibility of a town

council member renting a building owned by the town for less than fair market value.

The council member has served in that elected position off and on for many years. During a time that he was off of council in the past, the individual's business rented a building from the town and that relationship continues to this time.

The lease for the property is up for renewal at a time when the individual is again a member of council. It was also discovered that the lease is at a below market rental rate for the property and the council member desires to renew it at that rate.

The Ethics Commission analyzed the provisions of 6B-2-5(b) prohibiting a public official from using their position to generate a private gain, and those of 6B-2-5(d) prohibiting a public official from having an interest in a contract over which they have authority and control, and the accompanying provisions providing for and exemption from these restrictions.

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In its opinion, the Ethics Commission determined that even though the contract was proper when first entered into (at a time when the individual was not a member of council), the contract may not be renewed while the individual is on the council without there being a competitive bidding process for the lease.

Should the council decide to seek a contract exemption from the Ethics Commission, the council member must disclose the conflict at hand and recuse himself from the decision-making and voting processes associated with the exemption request.

Advisory Opinion 2013-20 addressed the permissibility of a legislator appearing in a television program produced by a non-profit foundation when the foundation solicits private financial support for the program.

In this instance, members of the Legislature will be

appearing on a news interview program that will be produced by a non-profit organization that intends to seek underwriting support from private sponsors in order to be able to afford the program. The legislators will not receive any compensation for their participation and will not be involved in the solicitation of underwriting sponsors.

The Ethics Commission reviewed the provisions of 6B-2-5(b) prohibiting the use of public office to produce a private gain for self or another, along with those of 6B-2-5(c) prohibiting a public official from soliciting or accepting a gift from those having an interest in their public actions.

The Commission ruled that there is no violation of the Ethics Act for legislators to appear in a news interview program that is underwritten by sponsors. No participant will be involved in the solicitation of sponsors or will they receive any financial benefits from appearing.

Advisory Opinion 2013-22 concerned the permissibility of a state employee's business subcontracting with a contractor of the employee's agency.

In this case, a state highway worker owns a private trucking company and wants the company to become a subcontractor to a state highway contractor on jobs being undertaken under a contract with the state. The highway worker has no supervisory duties and is not involved in any purchasing or contracting decisions.

The Ethics Commission reviewed the language of 6B-2-5(b) prohibiting a public official from using their position to produce a private gain for themselves, as well as that of 6B-2-5(d)(1) prohibiting a public official from having an interest in a contract over which they have authority or control, along with that of 6B-2-5(h)(6) prohibiting a full-time public employee from receiving private compensation for responsibilities that are the same as those required in his public employment.

The Ethics Commission ruled in this instance that the proposed subcontractor relationship between the state highway worker's private business and a state contractor would not violate the Ethics Act since the state employee has no involvement or authority over state contracting decisions and he will operate his business only at times he is not performing state duties.

Advisory Opinion 2013-24 addressed the permissibility of a solid waste authority contracting with an insurance agency when the authority chairman is a principal of the agency.

In this case, the Authority has purchased workers' compensation coverage from the agency in which its chairman is a principal owner since the time that this coverage was privatized. The chairman's agency is the only licensed agent in the area for the company that is the predominant supplier of

coverage for public employers.

The Commission analyzed the provisions of 6B-2-5(b) prohibiting a public official from using their position to generate a private gain for themselves, and those of 6B-2-5(d)(1) prohibiting a public official having an interest in a contract over which they have authority and control, including provisions permitting recusal for part-time public officials when a conflict arises.

The Ethics Commission ruled that there was a potential violation at stake in this situation involving the purchase of insurance from the agency of the Authority chairman but that that violation could be mitigated with the chairman's public disclosure of the conflict and his complete physical recusal from the decision-making and voting processes associated with the insurance purchase decision.

Advisory Opinion 2013-23 addressed the permissibility of a public service district disposing

of property to district employees for resale.

In this instance, a member of a county commission, which is the body that appoints members of public service districts, is seeking an opinion to address the permissibility of the transfer of district property to its employees.

At issue for the Ethics Commission in this case were the provisions of 6B-2-5(b)(1) prohibiting a public official from using their position to generate a private gain for themselves or another.

In its ruling, the Ethics Commission stated in unequivocal terms that public service districts may not give unused or surplus property to their employees for any reason. The Commission further opined that public service district employees are prohibited from selling such property and keeping the money from the sales.

Advisory Opinion 2013-26 concerned the permissibility of a county

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development authority employee's spouse applying for a loan from the authority.

In this case, a bookkeeper for a development authority seeks guidance on the permissibility of her husband applying for and receiving a business loan from the authority. The employee has no involvement with any aspect of the authority's loan operations, including with any paperwork for the application.

In its analysis of the request, the Commission analyzed the provisions of 6B-2-5(b) prohibiting the use of public office for private gain, those of 6B-2-5(d) prohibiting a public official from having an interest in a contract over which they have authority or control, and those of 6B-2-5(e) prohibiting public employees from disclosing confidential information for the benefit of others.

In its ruling, the Ethics Commission determined

that there is not potential violation of the Ethics Act should the spouse of a development authority employee seek a business loan from the authority. The employee has no involvement in the loan process or review and is not in a position to influence the authority's decision, but was nevertheless cautioned against seeking preference for her husband.

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WEST VIRGINIA
ETHICS
COMMISSION
ADVISORY
OPINIONS**

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

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LOBBYISTS

NONE PUBLISHED

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2013 ADVISORY OPINIONS
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NONE PUBLISHED

MISCELLANEOUS

NONE PUBLISHED

ADVISORY OPINION NO. 2013-16

2013 JUN 10 AM 11:59

Issued on June 6, 2013 By the

WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

A **County Solid Waste Authority** asks if it may accept donations to fund a training seminar from regulated companies, including a regulated company that is currently negotiating a long term land lease and potential private-public partnership with the Authority.

FACTS RELIED UPON BY THE COMMISSION

The requester is a County Solid Waste Authority. Established pursuant to W. Va. Code § 22C-4-1, it has broad powers and duties and responsibilities regarding the management of solid waste. For example, the findings and purposes section reads, in relevant part, as follows:

Therefore, it is the purpose of the Legislature to protect the public health and welfare by providing for a comprehensive program of solid waste collection, processing, recycling and disposal to be implemented by state and local government in cooperation with the private sector. The Legislature intends to accomplish this goal by establishing county and regional solid waste authorities throughout the state to develop and implement litter and solid waste control plans.

It is further the purpose of the Legislature to reduce our solid waste management problems and to meet the purposes of this article by requiring county and regional solid waste authorities to establish programs and plans based on an integrated waste management hierarchy. In order of preference, the hierarchy is as follows:

(1) *Source reduction.* -- This involves minimizing waste production and generation through product design, reduction of toxic constituents of solid waste and similar activities.

(2) *Recycling, reuse and materials recovery.* -- This involves separating and recovering valuable materials from the waste stream, composting food and yard waste and marketing of recyclables.

W. Va. Code § 22C-4-1.

Additionally, the Authority regulates certain businesses, and contracts with others. See W. Va. Code §§ 22C-4-23(6) and 22C-4-30.

The Authority, at the request of citizens, plans to host a three day backyard composting event training seminar which is expected to cost \$3,000. Participants will be required to pay a minimal fee (less than \$50) to offset expenses. The Authority has agreed to provide \$1,500 toward the event.

Based on advice obtained from the Ethics Commission, the Requester did not directly solicit co-sponsors from companies that it regulates. Instead, the Authority sought co-sponsors on its Facebook account, in its electronic newsletter, and in local media outlets. Nonetheless, three regulated companies have offered to be co-sponsors, at \$500 each. All three companies have contracts with and regularly conduct business with the Authority. Further, one of the companies is currently negotiating a long term land lease and potential private-public partnership with the Authority.

In addition to the unsolicited offers from regulated entities, the Authority has received in response to its solicitation, donations from two unregulated entities totaling \$150. It has also received free publicity from two local newspapers as well as free access to a meeting room for the event from the local County Commission.

The Requester asks if it is allowed to accept the co-sponsorship funding from the three regulated companies.

CODE PROVISIONS AND LEGISLATIVE RULE RELIED UPON BY THE COMMISSION

W. Va. Code § 6B-2-5 (c) reads:

(1) A public official or public employee may not solicit any gift unless the solicitation is for a charitable purpose with no resulting direct pecuniary benefit conferred upon the official or employee or his or her immediate family: *Provided*, That no public official or public employee may solicit for a charitable purpose any gift from any person who is also an official or employee of the state and whose position is subordinate to the soliciting official or employee: *Provided, however*, That nothing herein shall prohibit a candidate for public office from soliciting a lawful political contribution. No official or employee may knowingly accept any gift, directly or indirectly, from a lobbyist or from any person whom the official or employee knows or has reason to know:

(A) Is doing or seeking to do business of any kind with his or her agency;

(B) Is engaged in activities which are regulated or controlled by his or her agency; or

(C) Has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his or her official duties.

Title 158, Series 7, Section 7. Manner of Solicitation and Use of Funds reads:

7.1. Public officials, public employees and agencies who regulate individuals or businesses may not orally solicit donations from:

a. Persons under the regulatory control of the agency. A person is under the regulatory control of the public official, employee or agency if the person has a matter pending before the agency or had a matter pending within the past 12 months. This subsection does not apply to purely law enforcement agencies, officials or employees who do not actually regulate or exercise regulatory control over other persons but merely enforce existing laws and rules as to all applicable persons;

b. A vendor which has a contract with the agency, is bidding on a contract or is in the process of soliciting business from the agency.

7.2. A written solicitation to the public or business community at large, even if the targeted group may encompass regulated persons or vendors, is permissible; Provided, That the written solicitation may not be directed solely to persons under the regulatory authority of, or vendors, of the public official, employee or agency. This subsection does not apply to purely law enforcement agencies, officials or employees who do not actually regulate or exercise regulatory control over other persons but merely enforce existing laws and rules as to all applicable persons.

7.3. Solicitations should be conducted, and acknowledgments made, in a fair and evenhanded manner. Each solicitation should contain a statement setting forth that donations are purely voluntary.

7.4. Under no circumstances should anyone soliciting a contribution for a charitable purpose state that contributors will receive some special treatment from a government agency or its employees, or any other sort of quid pro quo as a consequence of making a donation.

W. Va. Code §§ 22C-4-23(12) authorizes a Solid Waste Authority to:

Receive and accept from any source such grants, fees, real and personal property, contributions, funds transferred from a solid waste facility and funds of any nature as may become available to the authority, in order to carry out the purposes of this article including but not limited to the development, operation or management of litter control programs and recycling programs....

ADVISORY OPINION

The Ethics Act generally prohibits public agencies from soliciting for their operational needs. See Advisory Opinion 2012-08 and opinions cited therein (Municipal Police

Department may not solicit donations to purchase a police dog or gun racks for police cars.) Instead, agencies may only solicit for charitable purposes unless their enabling legislation authorizes it. See Advisory Opinion 2012-49 (County Farmland Protection Boards authorized by statute to solicit funds to accomplish the agency's purposes).

The Commission clarified its position in Advisory Opinion 2005-02, wherein it held:

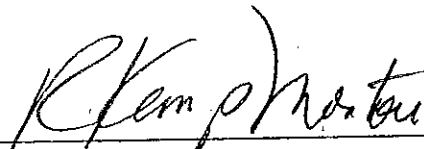
As a general guideline, the Commission recognizes two main categories of programs or activities which constitute a charitable purpose: (1) Those which benefit the poor or disadvantaged; and, (2) Those which serve a public purpose or provide a significant public benefit.

Given the above-referenced legislative findings, the Commission hereby finds that the backyard composting event constitutes a public purpose and provides a public benefit. Normally, since the three regulated companies responded to a general solicitation in compliance with the relevant legislative rule, the Commission would conclude that the Requester may accept funding from them. Indeed, with two of the three companies the Commission finds this permissible.

As to the company that is currently negotiating a long term land lease and potential private-public partnership with the Authority, however, there still remains the question of whether the Authority's acceptance of a donation constitutes use of public office for the personal gain of another, which is also prohibited by the Act. Notwithstanding the fact that this company, like the other two, responded to a general solicitation, given its unique relationship with the Requester, accepting funding and allowing the company to co-sponsor the event would create an appearance of impropriety that the Ethics Act seeks to avoid.

Thus, the company that is currently negotiating a long term land lease and potential private-public partnership with the Authority may **not** co-sponsor the event and the Authority may **not** accept any funds from such company for the event. The Requester may, however, accept funding from the two other regulated companies so long as it otherwise complies with the remaining provisions of the legislative rule set forth above.

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

ADVISORY OPINION NO. 2013-17

Issued On June 6, 2013 By The

WEST VIRGINIA ETHICS COMMISSION

2013 JUN 10 AM 11:59

OPINION SOUGHT

A **Public Employee** of a Regional Government Agency asks under what circumstances, if any, a public servant may redeem rewards points earned through the use of the agency's credit card, for the benefit of agency employees.

FACTS RELIED UPON BY THE COMMISSION

The Requester is the Executive Director of a multi-county Regional Government Agency. She has been unable to obtain a State of West Virginia Purchasing Card through the Auditor's Office for her agency; instead, like some other government agencies, the agency acquired a bank issued credit card.

The particular card is a rewards card whereby points accrue with the agency's purchases. Points may be redeemed for merchandise, gift cards, and for other purposes. The Requester asks whether it is permissible to redeem the points for the benefit of agency employees in the form of gift cards and/or merchandise to reward and recognize their contribution to the agency.

The agency incurs no expense when points are redeemed.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

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

The Commission shall, in addition to its other duties:

(2) Prepare and publish manuals and guides explaining the duties of individuals covered by this law; and giving instructions and public information materials to facilitate compliance with, and enforcement of, this act.

Indeed, on December 4, 2008 the Ethics Commission issued a Guideline, *Public Employee Recognition Events*; governing public employee recognition events. The Guideline reads in part:

In order to provide uniform guidance as to what level of spending for this purpose

complies with the Ethics Act; the Ethics Commission hereby finds that the expenditure of public funds for all events to recognize employees does not violate the Ethics Act if an agency expends no more than \$25.00 per employee per fiscal year. This money may be allocated between one or more events or activities which are held to recognize employees and promote employee morale. It may be used to purchase light refreshments, meals or mementos of appreciation.

The Guideline further reads:

This guideline recognizes a spending threshold which the Ethics Commission has determined to be acceptable under the general limitations in the Ethics Act against use of public office for private gain. This guidance does not establish or confer any employee benefit. The head of an agency or its governing body must determine whether any such expenditure is consistent with fiscal responsibility and whether appropriated funds are authorized for this purpose.

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

A public official or 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.

ADVISORY OPINION

In Advisory Opinion 2010-05, the Commission considered whether an agency could spend more than \$25.00 per fiscal year to recognize certain employees for special achievements so long as the total expenditures did not exceed an amount equal to \$25.00 multiplied by the total number of employees. The Commission reaffirmed its finding that expending a reasonable amount of public funds for employee recognition serves a public purpose and therefore does not violate the Ethics Act.

The Commission also reaffirmed its Guideline permitting public agencies to spend up to \$25.00 per employee per fiscal year for employee recognition related events. Moreover, in Advisory Opinion 2010-05, the Commission held that if an agency allocates more than \$25.00 to one or more employees, in lieu of spending up to \$25.00 per employee per fiscal year, it does not violate the Ethics Act so long as: the expenditure on any one employee does not exceed \$100.00 and the total amount expended for this purpose during the fiscal year does not exceed the sum total of \$25.00 per employee.

The Guideline and related advisory opinion refer to the expenditure of public funds. In Advisory Opinion 2012-50, the Commission clarified the definition of public funds:

There are limitations on the use of public funds. These same limitations apply regardless of whether the funds are general revenue funds, e.g.

funds generated by State or local government through taxes; or special revenue funds, a term commonly used for funds generated through fees.

Here, rewards points accrue with agency purchases. But for the agency's performance of its customary duties, those rewards points would not exist. Thus, those rewards points are the equivalent of public funds, and the same limitations apply. *See also* Advisory Opinion 2010-18 wherein the Commission denied a City's request to give its officials free Sam's Club cards provided to the City as part of its membership package. The Commission reasoned, "Even if there is no additional charge to the City for these cards, still, there is a private benefit to the public servants and their families because a membership, purchased at taxpayer expense, is the source of the free cards."

Therefore, the Commission finds that, consistent with the Guideline and cited advisory opinions, the Requester may redeem reward points and give her subordinate employees the benefit thereof so long as the expenditure on any one employee does not exceed \$100.00 and the total amount for the fiscal year does not exceed the sum total of \$25.00 per employee. If the Requester elects to redeem rewards points to recognize employees, then the agency may not expend public funds for that purpose during the same fiscal year.

This advisory opinion is based upon the facts provided. If all material facts have not been provided, or if new facts arise, the Requester should contact the Commission for further advice as it may alter the analysis and render this opinion invalid.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.* and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other public agencies unless and until it is amended or revoked, or the law is changed.


R. Kemp Morton, Chairperson

ADVISORY OPINION NO. 2013-23

Issued On June 6, 2013 By The

2013 JUN 10 11:59

WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

A **County Commissioner** asks whether a local Public Service District may give unused or out-of-service property to its employees, and whether those employees may sell said property and keep the money from such sales; and, if not whether the Public Service District may use E-bay or another auction site to dispose of such equipment.

FACTS RELIED UPON BY THE COMMISSION

The Requester is a County Commissioner. The County Commission is authorized to appoint members of the local Public Service District (PSD) pursuant to W. Va. Code §16-13A-3. W. Va. Code § 16-13A-21 provides that every PSD "organized, consolidated, merged or expanded under this article is a public instrumentality created and functioning in the interest and for the benefit of the public...."

CODE PROVISIONS RELIED UPON BY THE COMMISSION

W. Va. Code § 6B-2-5(b)(1) reads:

A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person. Incidental use of equipment or resources available to a public official or public employee by virtue of his or her position for personal or business purposes resulting in de minimis private gain does not constitute use of public office for private gain under this subsection. The performance of usual and customary duties associated with the office or position or the advancement of public policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.

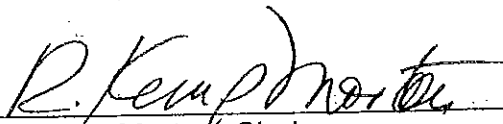
ADVISORY OPINION

This is a matter of first impression for the Ethics Commission. Since the Ethics Act expressly prohibits public servants from using their public position for private benefit, the Commission hereby finds that the Ethics Act prohibits a local Public Service District from giving unused or out-of-service property to its employees for **any** purpose. Further, the Commission finds that such employees are prohibited from selling said property and keeping the money from such sales. Neither of these transactions constitutes incidental use. Further, neither of these transactions involves the

performance of usual and customary duties associated with the office.

As to the second question, the Ethics Commission lacks jurisdiction to opine about the appropriate disposition of surplus or property by the PSD, so long as the disposal of said public property does not result in private gain.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.*, and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other similarly situated public servants unless and until it is amended or revoked, or the law is changed.



R. Kemp Morton, Chairperson

ADVISORY OPINION NO. 2013-26

2013 JUN 10 AM 11:53

Issued On June 6, 2013 By The

WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

A Public Employee of a County Development Authority asks whether her husband may apply for a small business loan through a program the Authority administers.

FACTS RELIED UPON BY THE COMMISSION

The County Development Authority (Authority) encourages, assists, and promotes industrial, economic, commercial, recreational, and educational development in the county. The Authority has various duties, including awarding small business loans made possible through the West Virginia Small Business Development Center (WVSBDC). (WVSBDC is a division of the West Virginia Development Office and is funded by the State of West Virginia, the United States Small Business Administration, and other partners.) The Requester is employed as a bookkeeper for the Authority. The Requester's husband would like to apply for a loan to open a small business.

The Requester states that she is not directly involved with the loan program, or any process with obtaining a loan or the repayment of any loan. She further states that the Authority has a loan manager for such purposes. The Requester does not even process any of the paperwork related to the loan program. The Requester wants to ensure that the Ethics Act does not prohibit her husband from applying for, or obtaining, a loan.

CODE PROVISIONS RELIED UPON BY THE 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...

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

(d) Interests in public contracts. --

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

she may have control...Provided, however, That nothing herein shall be construed to prohibit a member of the Legislature from entering into a contract with any governmental body...

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

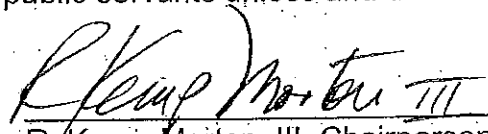
(e) Confidential information. -- No present or former public official or employee may knowingly and improperly disclose any confidential information acquired by him or her in the course of his or her official duties nor use such information to further his or her personal interests or the interests of another person.

ADVISORY OPINION

In Advisory Opinion 98-24, A City Council Member asked whether it would violate the Ethics Act, if she and her husband received a loan from the City's Housing Department. There the Director of the Housing Department was appointed by the Mayor. The Department processed and approved loan applications and directly disbursed the money (provided by federal funding). Although City Council approved the Department's overall budget, Council did not approve individual loan applications. The Commission wrote that the Ethics Act's prohibition against having an interest in a public contract "is not intended to deny the Council Member and her spouse the benefit of a loan program administered by the City's Housing Authority, simply because she serves on Council", and concluded that it would not violate the Ethics Act for the Council Member and her spouse to obtain from the City's Housing Authority a low interest loan to which she was otherwise entitled.

Here, the fact that the Requester is employed by the Authority which makes the loans should not bar her husband's eligibility therefor. Thus, the Ethics Act does not prohibit her husband from seeking and obtaining a loan the Authority. The Requester may not, however, use her position to influence the Authority's actions to obtain preferential treatment, terms, conditions or other consideration not available to the general public. Additionally, in seeking such a loan, she may not use confidential information, if any, obtained during the course of her public duties. Finally, the Authority shall process the Requester's husband's application in the same manner as any other applicant.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.*, and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other similarly situated public servants unless and until it is amended or revoked, or the law is changed.


R. Kemp Morton, III, Chairperson

ADVISORY OPINION NO. 2013-24

2013 JUN 10 PM 12:00

Issued on June 6, 2013 By the

WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

A **Regional Solid Waste Authority** asks if it may continue to contract with an insurance agency while the Authority's Chairperson is Vice President and a principal therein.

FACTS RELIED UPON BY THE COMMISSION

The Chairperson for a Regional Solid Waste Authority's (SWA) Board of Directors is Vice President and a principle of an insurance agency.

The insurance agency has provided workers' compensation insurance to the Authority since coverage was privatized in the State. The Insurance Agency is the only agency in the Authority's multi-county region appointed by Brickstreet.

CODE PROVISIONS AND LEGISLATIVE RULE RELIED UPON BY THE COMMISSION

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

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

W. Va. Code § 6B-2-5(d)(1) provides in part that no elected or appointed public official or business with which s/he is associated may be a party to or have an interest in a contract which such official may have direct authority to enter into, or over which s/he may have control. *Provided, however,* That nothing herein shall be construed to prohibit a part-time appointed public official from entering into a contract which the part-time appointed public official may have direct authority to enter into or over which s/he may have control when the official has not participated in the review or evaluation thereof, has been recused from deciding or evaluating and has been excused from voting on the contract and has fully disclosed the extent of her/his interest in the contract.

W. Va. C.S.R. § 158-8-4.2 reads:

Public officials or public employees or members of their immediate family are considered to be "associated" with a business if they or their immediate family member are a director, officer or holder of stock which constitutes five percent or more of the total outstanding stocks of any class.

W. Va. Code § 6B-2-5(d)(3) provides, in part, that if a public official has an interest in the profits or benefits of a contract, then s/he may not make, participate in making, or in any way attempt to use her/his office to influence a government decision affecting her/his financial interest. Public officials shall also comply with the voting rules prescribed in subsection (j) of this section.

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

(1) Public officials ... may not vote on a matter:

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

ADVISORY OPINION

Pursuant to W. Va. Code § 6B-2-5(d)(1), a public official may not have more than a limited interest in the profits or benefits of a public contract over which s/he has direct authority or control; however, this restriction in the Ethics Act also includes a proviso which exempts **part-time appointed** public officials from the prohibition against having an interest in the profits or benefits of a public contract over which they have authority or control, provided that the official, in her/his public position, is excluded from matters relating to the contract.

In Advisory Opinion 2012-12, the Ethics Commission applied the foregoing statutory exception and ruled that a part-time appointed health officer could have interests in public contracts over which she exercised control. See also Advisory Opinion 2003-07 (County Farmland Protection Board permitted to contract with part-time appointed Board member).

Here, the SWA Chairperson is a part-time appointed public official and therefore fits within the exception carved out in W. Va. Code § 6B-2-5(d)(1) allowing the public body to enter into the contract so long as the interested party is recused from the decision-making process.

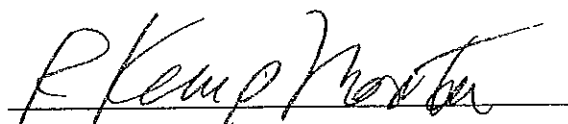
While part-time appointed officials may have interests in public contracts over which they exercise control, limitations apply. Specifically, a public official with an interest in the profits or benefits of a contract may not make, participate in making, or in any way attempt to use her/his position to influence a government decision affecting her/his financial or limited financial interest. W. Va. Code § 6B-2-5(d)(3). Further, pursuant to the prohibition against use of public office for private gain, the SWA Chairperson may not use his public position to attempt to persuade his fellow Board members or SWA employees to take favorable action regarding his insurance company.

Therefore, it does not violate the Ethics Act for the SWA to contract with a Board Member if the Board Member is fully recused from any and all matters related to his insurance company, and any and all workers' compensation issues.

For recusal to be proper, the Chairperson must first fully disclose on the record his disqualifying interest, then leave the room during the discussion, deliberation and vote on the matter. Additionally, the minutes and any other record of the meeting must reflect the basis for the recusal and that the Chairperson left the room during all consideration, discussion and vote on the item under consideration.

As advisory opinions are prospective only, any future contracts or modifications thereto where a member of the SWA's Board of Directors is, or may be, an interested party to a contract, that member must be fully recused from all discussions and decisions regarding the selection of a vendor and the terms of the contract.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.*, and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other public agencies unless and until it is amended or revoked, or the law is changed.


R. Kemp Morton, Chairperson

ADVISORY OPINION NO. 2013-17

Issued On June 6, 2013 By The

WEST VIRGINIA ETHICS COMMISSION

2013 JUN 10 AM 11:59

SECRETARY - STATE

OPINION SOUGHT

A **Public Employee** of a Regional Government Agency asks under what circumstances, if any, a public servant may redeem rewards points earned through the use of the agency's credit card, for the benefit of agency employees.

FACTS RELIED UPON BY THE COMMISSION

The Requester is the Executive Director of a multi-county Regional Government Agency. She has been unable to obtain a State of West Virginia Purchasing Card through the Auditor's Office for her agency; instead, like some other government agencies, the agency acquired a bank issued credit card.

The particular card is a rewards card whereby points accrue with the agency's purchases. Points may be redeemed for merchandise, gift cards, and for other purposes. The Requester asks whether it is permissible to redeem the points for the benefit of agency employees in the form of gift cards and/or merchandise to reward and recognize their contribution to the agency.

The agency incurs no expense when points are redeemed.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

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

The Commission shall, in addition to its other duties:

- (2) Prepare and publish manuals and guides explaining the duties of individuals covered by this law; and giving instructions and public information materials to facilitate compliance with, and enforcement of, this act.

Indeed, on December 4, 2008 the Ethics Commission issued a Guideline, *Public Employee Recognition Events*, governing public employee recognition events. The Guideline reads in part:

In order to provide uniform guidance as to what level of spending for this purpose

complies with the Ethics Act; the Ethics Commission hereby finds that the expenditure of public funds for all events to recognize employees does not violate the Ethics Act if an agency expends no more than \$25.00 per employee per fiscal year. This money may be allocated between one or more events or activities which are held to recognize employees and promote employee morale. It may be used to purchase light refreshments, meals or mementos of appreciation.

The Guideline further reads:

This guideline recognizes a spending threshold which the Ethics Commission has determined to be acceptable under the general limitations in the Ethics Act against use of public office for private gain. This guidance does not establish or confer any employee benefit. The head of an agency or its governing body must determine whether any such expenditure is consistent with fiscal responsibility and whether appropriated funds are authorized for this purpose.

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

A public official or 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.

ADVISORY OPINION

In Advisory Opinion 2010-05, the Commission considered whether an agency could spend more than \$25.00 per fiscal year to recognize certain employees for special achievements so long as the total expenditures did not exceed an amount equal to \$25.00 multiplied by the total number of employees. The Commission reaffirmed its finding that expending a reasonable amount of public funds for employee recognition serves a public purpose and therefore does not violate the Ethics Act.

The Commission also reaffirmed its Guideline permitting public agencies to spend up to \$25.00 per employee per fiscal year for employee recognition related events. Moreover, in Advisory Opinion 2010-05, the Commission held that if an agency allocates more than \$25.00 to one or more employees, in lieu of spending up to \$25.00 per employee per fiscal year, it does not violate the Ethics Act so long as: the expenditure on any one employee does not exceed \$100.00 and the total amount expended for this purpose during the fiscal year does not exceed the sum total of \$25.00 per employee.

The Guideline and related advisory opinion refer to the expenditure of public funds. In Advisory Opinion 2012-50, the Commission clarified the definition of public funds:

There are limitations on the use of public funds. These same limitations apply regardless of whether the funds are general revenue funds, e.g.

funds generated by State or local government through taxes; or special revenue funds, a term commonly used for funds generated through fees.

Here, rewards points accrue with agency purchases. But for the agency's performance of its customary duties, those rewards points would not exist. Thus, those rewards points are the equivalent of public funds, and the same limitations apply. *See also* Advisory Opinion 2010-18 wherein the Commission denied a City's request to give its officials free Sam's Club cards provided to the City as part of its membership package. The Commission reasoned, "Even if there is no additional charge to the City for these cards, still, there is a private benefit to the public servants and their families because a membership, purchased at taxpayer expense, is the source of the free cards."

Therefore, the Commission finds that, consistent with the Guideline and cited advisory opinions, the Requester may redeem reward points and give her subordinate employees the benefit thereof so long as the expenditure on any one employee does not exceed \$100.00 and the total amount for the fiscal year does not exceed the sum total of \$25.00 per employee. If the Requester elects to redeem rewards points to recognize employees, then the agency may not expend public funds for that purpose during the same fiscal year.

This advisory opinion is based upon the facts provided. If all material facts have not been provided, or if new facts arise, the Requester should contact the Commission for further advice as it may alter the analysis and render this opinion invalid.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.* and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other public agencies unless and until it is amended or revoked, or the law is changed.


R. Kemp Morton, Chairperson

ADVISORY OPINION NO. 2013-15

Issued On May 2nd, 2013 By The

WEST VIRGINIA ETHICS COMMISSION

2013 JUN 10 AM 11:59

WEST VIRGINIA ETHICS COMMISSION
STATE

OPINION SOUGHT

A **County Commission** asks whether it may compensate the Sheriff's Chief Law Enforcement Deputy to continue to serve as the County's 911 Director when the Chief Law Enforcement Deputy previously served in that capacity without pay when he was Sheriff in the previous administration.

FACTS RELIED UPON BY THE COMMISSION

In 2009, a County Commission and a Sheriff entered into a Memorandum of Understanding (MOU) whereby the Sheriff, or his or her designee, would be the Director of the 911 Communications Center. The 911 Director's responsibilities include structuring and managing the staff, budget, equipment at the 911 Center; interviewing new hires; the same authority and control over staff as the Sheriff has over sheriff and tax deputies; implementation of policies; and appointment of the Chief of E911 Operations. The MOU does not afford the 911 Director any additional compensation for undertaking these duties. In his role as Sheriff, he performed duties related to the 911 Center on a daily basis, such as answering questions and decision-making, including frequent events outside of normal operational hours, while serving as Sheriff.

In 2012, a new sheriff was elected. He hired the outgoing Sheriff – the party to, and signor of, the MOU – as his Chief Law Enforcement Deputy. The new Sheriff has designated, with the acceptance of the County Commission, the Chief Law Enforcement Deputy (Chief Deputy) to continue to serve as the County's 911 Director. The current Sheriff and the County Commission agreed to add an additional \$10,000.00 to the Chief Deputy's salary for the added duties.

In his role as Chief Deputy, he performs duties related to the 911 Center on a daily basis, such as answering questions and decision-making, including frequent events outside of normal operational hours, while serving as Chief Deputy. The Chief Deputy is a salaried, overtime-exempt, appointed position with the County Sheriff's office with set hours. According to the Requester, the 911 Director position does not have set hours, and, upon information and belief, is considered a part-time position.

CODE PROVISIONS RELIED UPON BY COMMISSION

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

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

W. Va. Code § 6B-2-5(d)(1) reads, in pertinent part that no elected or appointed public official may be a party to or have an interest in the profits or benefits of a contract which the official or employee may have direct authority to enter into, or over which he or she may have control: Provided, That nothing herein shall be construed to prevent or make unlawful the employment of any person with any governmental body.

W. Va. Code § 61-10-15(a) states, in pertinent part:

(a) It is unlawful for any ...county ...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).

In furtherance of this goal, the Legislature established certain limits and prohibitions against a public servant contracting with his/her own governmental entity. In particular, the Ethics Act prohibits public servants from having more than a limited interest in the profits or benefits of a public contract over which he or she has direct authority or control. W. Va. Code § 6B-2-5(d)(1). For purposes of this provision, a limited interest is defined as an interest which does not exceed one thousand dollars in the profits or benefits of the contracts in a calendar year. W. Va. Code § 6B-2-5(d)(2)(A).

Additionally, the Ethics Act prohibits public servants from using their public office for private gain, and from receiving compensation for "the performance of usual and customary duties associated with the office or position or the advancement of public policy goals or constituent services." W. Va. Code § 6B-2-5(b).

In Advisory Opinion 2013-04, the Commission stated:

There is no provision in the Ethics Act which prohibits a County Employee from performing three separate job functions for the same County Employer. This arrangement does not constitute unlawful "double dipping", i.e. receiving additional compensation from another publicly-funded county office for working the same hours. W. Va. Code § 6B-2-5(l)(1). Instead, the public employer has made the management decision that having one employee perform the duties of the three positions is in the best interest of the county. While the employee may be compensated from two county funds, the source of the funding does not change the analysis or conclusion herein.

The Requester has stated that while the 911 Director position does not have set hours, the Chief Deputy answers questions and makes decisions as the 911 Director while on duty as Chief Deputy on a daily basis. Indeed, during his previous term as Sheriff, he performed these same duties of the 911 Director, while on duty, **at no additional compensation.**

The County Commission and Sheriff are now using the original MOU to empower the Sheriff, or his designee, to function as the 911 Director. The original MOU, however, does not provide for compensation for the 911 Director, regardless of who the Sheriff designates. As a result, according to the Requester, the current Sheriff and the County Commission agreed to add an additional \$10,000 to the Chief Deputy's salary for the added duties. At a regular meeting of the County Commission on January 2, 2013, the minutes read: "Sheriff [redacted] also appointed [redacted] to be the [redacted] County 911 Director in addition to his position as Chief Deputy. Commissioner [redacted] moved to approve the Sheriff's appointment of [redacted] to 911 Director along with the accompanying salary for that position. Commissioner [redacted] seconded the motion and the motion passed." It is unclear what role, if any, the Chief Deputy/former Sheriff played in the agreement to provide compensation.

Given the overlap between the Requester's law enforcement duties and the responsibilities and duties of the 911 Director, the Commission hereby finds that compensating the Chief Deputy for performing the duties of the position of 911 Director constitutes impermissible compensation for the performance of usual and customary duties, in violation of W. Va. Code § 6B-2-5 (b).

The analysis, however, does not end here; instead, the Commission must determine whether a chief deputy is a public official subject to the prohibitions contained in W. Va. Code § 61-10-15 which applies to certain county officers. A public official is normally one whose position is created by law, has a fixed tenure of office and takes an oath of office. State ex rel. Key v. Bond, State Auditor, 118 S.E. 276, 277 (W. Va. 1923). See also, State ex rel. Ralich v. Millsop, 76 S.E.2d 737 (W. Va. 1953).

This is not the first time that the Commission has undertaken to determine whether a chief deputy is subject to the prohibitions contained in W. Va. Code § 61-10-15. Indeed, in Advisory Opinion 2010-24 the Ethics Commission found that a chief **tax** deputy is not subject to W. Va. Code § 61-10-15. Additionally, the Fourth Circuit Court of Appeals ruled in an unpublished opinion that chief tax deputies do not fall within the statutory definition of a deputy sheriff contained within W. Va. Code § 7-14-1 *et seq.* Sizemore v. Aliff, 64 F.3d 659 (1995) (citing dissent in Adkins v. Miller, (421 S.E.2d 682). The opinion notes the distinction between a tax deputy and a law enforcement deputy:

This is particularly so in light of the different duties and responsibilities required of employees in these two positions, law enforcement deputy and tax deputy. A chief tax deputy does not fall within the statutory definition of a deputy sheriff as an armed law enforcement officer, W. Va. Code § 7-14-12. Adkins v. Miller, 421 S.E.2d 682, 697 n. 17 (W. Va. 1992) (Neely, J., dissenting). Rather, a chief tax deputy is appointed by the sheriff pursuant

to W. Va. Code § 7-7-7 to "assist [the sheriff] in the discharge of [his] official duties" as ex officio county treasurer. W. Va. Code §§ 6-8-5, 7-5-1.

The position of chief law enforcement deputy is further distinguished from Key wherein the Supreme Court found that the Chief Clerk for the Office of the Secretary of State was not a public official since the term of office, powers and duties are not fixed by law.

As a general rule, it may be stated that a position is a public office when it is created by law, with duties cast on the incumbent which involve an exercise of some portion of the sovereign power and in the performance of which the public is concerned, and which are continuing in their nature and not occasional or intermittent. But one who merely performs the duties required of him by persons employing him under an express or implied contract, though such persons themselves be public officers, and though the employment be in or about public work or business, is a mere employee.

Key at 279.

W. Va. Code § 6-3-1(a)(4) states:

Each deputy so appointed shall take the same oath of office required of his principal, and may, during his continuance in office, perform and discharge any of the official duties of his principal, and any default or misfeasance in office of the deputy shall constitute a breach of the conditions of the official bond of his principal.

W. Va. Code §§ 7-14-1 and 2 read:

§7-14-1. Appointments and promotions of deputy sheriffs.

Notwithstanding the provisions of article three, chapter six, and article seven, chapter seven of this code, all appointments and promotions of full-time deputy sheriffs shall be made only according to qualifications and fitness to be ascertained by examinations, which, so far as practicable, shall be competitive, as hereinafter provided. On and after the effective date of this article, no person except the chief deputy shall be appointed, promoted, reinstated, removed, discharged, suspended or reduced in rank or pay as a full-time deputy sheriff, as defined in said section two, of any county in the state of West Virginia subject to the provisions hereof, in any manner or by any means other than those prescribed in this article.

§7-14-2. Definitions; population.

(a) For the purpose of this article:

(1) "Appointing officer" or "appointing sheriff" shall mean the sheriff of the county in which the appointment of a deputy sheriff shall be made pursuant to this article; and

(2) "Deputy sheriffs" or "deputies" shall mean persons appointed by a sheriff as his deputies whose primary duties as such deputies are within the scope of active, general law enforcement and as such are authorized to carry deadly weapons, patrol the highways, perform police functions, make arrests or safeguard prisoners. This definition shall not be construed to include any person or persons whose sole duties shall be the service of civil process and subpoenas as provided in section fourteen, article one, chapter fifty of this code, but such exclusion shall not preclude the service of civil process or subpoenas by deputy sheriffs covered by the provisions of this article.

In addition to taking an oath, a deputy is empowered by statute to "perform and discharge any of the official duties of [the sheriff]." Given the clear distinction between a tax deputy and a law enforcement deputy, the finding in Advisory Opinion 2010-24 is inapplicable here. Instead, based on the analysis above, the Ethics Commission hereby finds that a law enforcement deputy sheriff or chief law enforcement deputy is subject to the provisions contained in W. Va. Code § 61-10-15.¹

Having established that a Chief Law Enforcement Deputy is subject to § 61-10-15, the Ethics Commission must next determine whether he has voice, influence, or control over contracts between the County Commission and the Sheriff's Department. Clearly, while Sheriff, as the party and signatory of the original MOU, he had direct authority and control over the MOU. Given his involvement in the original MOU as well as the statutory role of a deputy to perform any of the sheriff's duties, the Ethics Commission hereby finds that the Chief Law Enforcement Deputy has the requisite voice, influence, or control over the new contract to compensate the 911 Director, as contemplated by § 61-10-15.²


Thus, the Ethics Act prohibits the Chief Law Enforcement Deputy from accepting additional compensation from the County for performing the duties and responsibilities of 911 Director. As a result, the Chief Law Enforcement Deputy may only accept compensation for the contractual duties if the County Commission seeks and obtains a contract exemption.

In order to obtain a contract exemption, the County Commission must demonstrate that the Ethics Commission's decision herein creates an undue hardship, substantial interference with government operations, or excessive cost. The County Commission is welcome to submit its request for a contract exemption for the Ethics Commission's consideration. The Ethics Commission is unable to imagine a situation where performing contractually obligated usual and customary duties would meet this test.

¹ Given the conclusion that a chief law enforcement deputy deputy is a public official subject to W.Va. Code § 61-10-15, it is unnecessary to analyze the application of W. Va. Code § 6B-2-5(d).

² This conclusion should not be construed as a finding that a law enforcement deputy or chief law enforcement deputy has voice, influence, or control over every contract to which the sheriff is a party. Instead, the finding herein as to the MOU and subsequent agreement is fact specific.

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. 2013-16

2013 JUN 10 AM 11:59

Issued on June 6, 2013 By the

WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

A **County Solid Waste Authority** asks if it may accept donations to fund a training seminar from regulated companies, including a regulated company that is currently negotiating a long term land lease and potential private-public partnership with the Authority.

FACTS RELIED UPON BY THE COMMISSION

The requester is a County Solid Waste Authority. Established pursuant to W. Va. Code § 22C-4-1, it has broad powers and duties and responsibilities regarding the management of solid waste. For example, the findings and purposes section reads, in relevant part, as follows:

Therefore, it is the purpose of the Legislature to protect the public health and welfare by providing for a comprehensive program of solid waste collection, processing, recycling and disposal to be implemented by state and local government in cooperation with the private sector. The Legislature intends to accomplish this goal by establishing county and regional solid waste authorities throughout the state to develop and implement litter and solid waste control plans.

It is further the purpose of the Legislature to reduce our solid waste management problems and to meet the purposes of this article by requiring county and regional solid waste authorities to establish programs and plans based on an integrated waste management hierarchy. In order of preference, the hierarchy is as follows:

(1) *Source reduction.* -- This involves minimizing waste production and generation through product design, reduction of toxic constituents of solid waste and similar activities.

(2) *Recycling, reuse and materials recovery.* -- This involves separating and recovering valuable materials from the waste stream, composting food and yard waste and marketing of recyclables.

W. Va. Code § 22C-4-1.

Additionally, the Authority regulates certain businesses, and contracts with others. See W. Va. Code §§ 22C-4-23(6) and 22C-4-30.

The Authority, at the request of citizens, plans to host a three day backyard composting event training seminar which is expected to cost \$3,000. Participants will be required to pay a minimal fee (less than \$50) to offset expenses. The Authority has agreed to provide \$1,500 toward the event.

Based on advice obtained from the Ethics Commission, the Requester did not directly solicit co-sponsors from companies that it regulates. Instead, the Authority sought co-sponsors on its Facebook account, in its electronic newsletter, and in local media outlets. Nonetheless, three regulated companies have offered to be co-sponsors, at \$500 each. All three companies have contracts with and regularly conduct business with the Authority. Further, one of the companies is currently negotiating a long term land lease and potential private-public partnership with the Authority.

In addition to the unsolicited offers from regulated entities, the Authority has received in response to its solicitation, donations from two unregulated entities totaling \$150. It has also received free publicity from two local newspapers as well as free access to a meeting room for the event from the local County Commission.

The Requester asks if it is allowed to accept the co-sponsorship funding from the three regulated companies.

CODE PROVISIONS AND LEGISLATIVE RULE RELIED UPON BY THE COMMISSION

W. Va. Code § 6B-2-5 (c) reads:

(1) A public official or public employee may not solicit any gift unless the solicitation is for a charitable purpose with no resulting direct pecuniary benefit conferred upon the official or employee or his or her immediate family: *Provided*, That no public official or public employee may solicit for a charitable purpose any gift from any person who is also an official or employee of the state and whose position is subordinate to the soliciting official or employee: *Provided, however*, That nothing herein shall prohibit a candidate for public office from soliciting a lawful political contribution. No official or employee may knowingly accept any gift, directly or indirectly, from a lobbyist or from any person whom the official or employee knows or has reason to know:

(A) Is doing or seeking to do business of any kind with his or her agency;

(B) Is engaged in activities which are regulated or controlled by his or her agency; or

(C) Has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his or her official duties.

Title 158, Series 7, Section 7. Manner of Solicitation and Use of Funds reads:

7.1. Public officials, public employees and agencies who regulate individuals or businesses may not orally solicit donations from:

a. Persons under the regulatory control of the agency. A person is under the regulatory control of the public official, employee or agency if the person has a matter pending before the agency or had a matter pending within the past 12 months. This subsection does not apply to purely law enforcement agencies, officials or employees who do not actually regulate or exercise regulatory control over other persons but merely enforce existing laws and rules as to all applicable persons;

b. A vendor which has a contract with the agency, is bidding on a contract or is in the process of soliciting business from the agency.

7.2. A written solicitation to the public or business community at large, even if the targeted group may encompass regulated persons or vendors, is permissible; Provided, That the written solicitation may not be directed solely to persons under the regulatory authority of, or vendors, of the public official, employee or agency. This subsection does not apply to purely law enforcement agencies, officials or employees who do not actually regulate or exercise regulatory control over other persons but merely enforce existing laws and rules as to all applicable persons.

7.3. Solicitations should be conducted, and acknowledgments made, in a fair and evenhanded manner. Each solicitation should contain a statement setting forth that donations are purely voluntary.

7.4. Under no circumstances should anyone soliciting a contribution for a charitable purpose state that contributors will receive some special treatment from a government agency or its employees, or any other sort of quid pro quo as a consequence of making a donation.

W. Va. Code §§ 22C-4-23(12) authorizes a Solid Waste Authority to:

Receive and accept from any source such grants, fees, real and personal property, contributions, funds transferred from a solid waste facility and funds of any nature as may become available to the authority, in order to carry out the purposes of this article including but not limited to the development, operation or management of litter control programs and recycling programs....

ADVISORY OPINION

The Ethics Act generally prohibits public agencies from soliciting for their operational needs. See Advisory Opinion 2012-08 and opinions cited therein (Municipal Police

Department may not solicit donations to purchase a police dog or gun racks for police cars.) Instead, agencies may only solicit for charitable purposes unless their enabling legislation authorizes it. See Advisory Opinion 2012-49 (County Farmland Protection Boards authorized by statute to solicit funds to accomplish the agency's purposes).

The Commission clarified its position in Advisory Opinion 2005-02, wherein it held:

As a general guideline, the Commission recognizes two main categories of programs or activities which constitute a charitable purpose: (1) Those which benefit the poor or disadvantaged; and, (2) Those which serve a public purpose or provide a significant public benefit.

Given the above-referenced legislative findings, the Commission hereby finds that the backyard composting event constitutes a public purpose and provides a public benefit. Normally, since the three regulated companies responded to a general solicitation in compliance with the relevant legislative rule, the Commission would conclude that the Requester may accept funding from them. Indeed, with two of the three companies the Commission finds this permissible.

As to the company that is currently negotiating a long term land lease and potential private-public partnership with the Authority, however, there still remains the question of whether the Authority's acceptance of a donation constitutes use of public office for the personal gain of another, which is also prohibited by the Act. Notwithstanding the fact that this company, like the other two, responded to a general solicitation, given its unique relationship with the Requester, accepting funding and allowing the company to co-sponsor the event would create an appearance of impropriety that the Ethics Act seeks to avoid.

Thus, the company that is currently negotiating a long term land lease and potential private-public partnership with the Authority may **not** co-sponsor the event and the Authority may **not** accept any funds from such company for the event. The Requester may, however, accept funding from the two other regulated companies so long as it otherwise complies with the remaining provisions of the legislative rule set forth above.

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

ADVISORY OPINION NO. 2013-17

Issued On June 6, 2013 By The

WEST VIRGINIA ETHICS COMMISSION

2013 JUN 10 AM 11:59

STATE

OPINION SOUGHT

A **Public Employee** of a Regional Government Agency asks under what circumstances, if any, a public servant may redeem rewards points earned through the use of the agency's credit card, for the benefit of agency employees.

FACTS RELIED UPON BY THE COMMISSION

The Requester is the Executive Director of a multi-county Regional Government Agency. She has been unable to obtain a State of West Virginia Purchasing Card through the Auditor's Office for her agency; instead, like some other government agencies, the agency acquired a bank issued credit card.

The particular card is a rewards card whereby points accrue with the agency's purchases. Points may be redeemed for merchandise, gift cards, and for other purposes. The Requester asks whether it is permissible to redeem the points for the benefit of agency employees in the form of gift cards and/or merchandise to reward and recognize their contribution to the agency.

The agency incurs no expense when points are redeemed.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

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

The Commission shall, in addition to its other duties:

(2) Prepare and publish manuals and guides explaining the duties of individuals covered by this law; and giving instructions and public information materials to facilitate compliance with, and enforcement of, this act.

Indeed, on December 4, 2008 the Ethics Commission issued a Guideline, *Public Employee Recognition Events*, governing public employee recognition events. The Guideline reads in part:

In order to provide uniform guidance as to what level of spending for this purpose

complies with the Ethics Act, the Ethics Commission hereby finds that the expenditure of public funds for all events to recognize employees does not violate the Ethics Act if an agency expends no more than \$25.00 per employee per fiscal year. This money may be allocated between one or more events or activities which are held to recognize employees and promote employee morale. It may be used to purchase light refreshments, meals or mementos of appreciation.

The Guideline further reads:

This guideline recognizes a spending threshold which the Ethics Commission has determined to be acceptable under the general limitations in the Ethics Act against use of public office for private gain. This guidance does not establish or confer any employee benefit. The head of an agency or its governing body must determine whether any such expenditure is consistent with fiscal responsibility and whether appropriated funds are authorized for this purpose.

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

A public official or 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.

ADVISORY OPINION

In Advisory Opinion 2010-05, the Commission considered whether an agency could spend more than \$25.00 per fiscal year to recognize certain employees for special achievements so long as the total expenditures did not exceed an amount equal to \$25.00 multiplied by the total number of employees. The Commission reaffirmed its finding that expending a reasonable amount of public funds for employee recognition serves a public purpose and therefore does not violate the Ethics Act.

The Commission also reaffirmed its Guideline permitting public agencies to spend up to \$25.00 per employee per fiscal year for employee recognition related events. Moreover, in Advisory Opinion 2010-05, the Commission held that if an agency allocates more than \$25.00 to one or more employees, in lieu of spending up to \$25.00 per employee per fiscal year, it does not violate the Ethics Act so long as: the expenditure on any one employee does not exceed \$100.00 and the total amount expended for this purpose during the fiscal year does not exceed the sum total of \$25.00 per employee.

The Guideline and related advisory opinion refer to the expenditure of public funds. In Advisory Opinion 2012-50, the Commission clarified the definition of public funds:

There are limitations on the use of public funds. These same limitations apply regardless of whether the funds are general revenue funds, e.g.

funds generated by State or local government through taxes; or special revenue funds, a term commonly used for funds generated through fees.

Here, rewards points accrue with agency purchases. But for the agency's performance of its customary duties, those rewards points would not exist. Thus, those rewards points are the equivalent of public funds, and the same limitations apply. See also Advisory Opinion 2010-18 wherein the Commission denied a City's request to give its officials free Sam's Club cards provided to the City as part of its membership package. The Commission reasoned, "Even if there is no additional charge to the City for these cards, still, there is a private benefit to the public servants and their families because a membership, purchased at taxpayer expense, is the source of the free cards."

Therefore, the Commission finds that, consistent with the Guideline and cited advisory opinions, the Requester may redeem reward points and give her subordinate employees the benefit thereof so long as the expenditure on any one employee does not exceed \$100.00 and the total amount for the fiscal year does not exceed the sum total of \$25.00 per employee. If the Requester elects to redeem rewards points to recognize employees, then the agency may not expend public funds for that purpose during the same fiscal year.

This advisory opinion is based upon the facts provided. If all material facts have not been provided, or if new facts arise, the Requester should contact the Commission for further advice as it may alter the analysis and render this opinion invalid.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.* and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other public agencies unless and until it is amended or revoked, or the law is changed.


R. Kemp Morton, Chairperson

ADVISORY OPINION NO. 2013-18

Issued on June 6, 2013

WEST VIRGINIA ETHICS COMMISSION

2013 JUN 10 AM 11:59

OPINION SOUGHT

A County Commissioner asks whether he may vote on the selection of the County's insurance provider if he is a client of one of the insurance firms the County is considering. If not, then the Commissioner asks whether he may vote in the event of a tie.

FACTS RELIED UPON BY THE COMMISSION

A County Commissioner owns a private business which is a client/customer of a specific insurance firm. The Commissioner does not own or have any financial interest in the insurance firm. The County Commission is considering selecting an insurance firm for the County. The insurance firm which provides services to the Commissioner in his private business is one of the firms being considered. The Commissioner does not stand to gain financially from the selection of the insurance firm.

In the past, the Commissioners have disagreed between insurance proposals. Therefore, in the event of a tie, a third Commissioner will be necessary to make the decision.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

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

(1)...[N]o elected official may be a party to or have an interest in a contract which such official may have direct authority to enter into, or over which he or she may have control...

(3) 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 § 6B-2-5(j) reads in relevant part:

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

(A) In which they, an immediate family member, or a business with which they or an immediate family member is associated have a financial interest. Business with which they are associated means a business of which the person...is...an employee...

Finally, W. Va. Code § 61-10-15(a) reads, in pertinent part:

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

ADVISORY OPINION

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

Both the Ethics Act and W. Va. Code § 61-10-15, a criminal misdemeanor statute, prohibit public servants from being a party to, or having a financial interest in a public contract over which their public positions give them control. W. Va. Code § 6B-2-5(d)(1). W. Va. Code § 61-10-15, a criminal provision, prohibits covered persons, such as county commissioners, from having a personal financial interest, **directly or indirectly**, in public contracts over which their public positions gives them voice, influence or control. In Advisory Opinion 2013-13, The Ethics Act seeks to prevent not only actual impropriety, but also situations which give the appearance of impropriety.

The Commission previously prohibited County Commissioners from considering a lease proposal of the County's marina by a business partner of one County Commissioner. In Advisory Opinion 2013-13, a Commissioner had an unrelated private business with one of the bidders on the marina. The Commission found that even though the business was unrelated to the marina, the County Commissioner had voice, influence, or control over the County's lease of the marina to a private business, by virtue of his position as an elected County Commissioner. Therefore, his partner's gain of this contract resulted in a prohibited contract, unless the County Commission obtained a contract exemption, because of even an indirect pecuniary interest.

In contrast with Advisory Opinion 2013-13, the County Commissioner here has no relationship at all with the insurance firm, other than as a customer. The only financial interest the County Commissioner could be the potential decrease in insurance premiums. That potential decrease is wholly speculative.

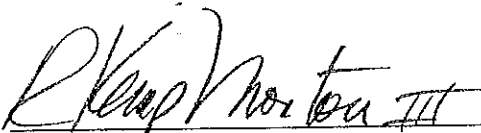
The Ethics Commission also ruled a County Commissioner could not vote in matters which may have an indirect financial interest on his business partner. In Advisory Opinion 2012-39, a County Commissioner and County Prosecuting Attorney owned a private business together. The Commission found the County Commissioner could vote on the general budget of the Prosecutor's Office, however, he could not vote on or

participate in matters in which the County Prosecuting Attorney has a financial interest e.g. approving the Prosecutor's expense reimbursement.¹

In Advisory Opinion 2012-47, the Commission found no violation of the Ethics Act where a County Commissioner voted on the finances of a County Board on which he was nominally paid to serve. The Commission has reasoned that County Commissioners normally serve on county boards as a means for a County Commission to monitor and observe the workings of its boards. The Commission further found County Commissioners, do not, for purposes of the voting provisions in the Ethics Act, have a financial interest which prohibits them, in their capacity as county commissioners, from voting on matters affecting the boards. This same conclusion follows even if they receive nominal compensation for their service on a county board.

The Commission hereby finds that, here, the Requester does not have any financial interest in the insurance firm which seeks the Commission's patronage. Any perceived interest, such as a rate decrease to the Commissioner's private business, is too remote to be considered even an indirect gain financial interest. Therefore, the Commissioner may vote.

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

¹ The Ethics Commission recognized the Prosecutor's salary is set by statute and the salaries and expenses of other employees were not related to the County Commissioner's business interests.

ADVISORY OPINION NO. 2013-17

Issued On June 6, 2013 By The

WEST VIRGINIA ETHICS COMMISSION

2013 JUN 10 AM 11:59

OPINION SOUGHT

A **Public Employee** of a Regional Government Agency asks under what circumstances, if any, a public servant may redeem rewards points earned through the use of the agency's credit card, for the benefit of agency employees.

FACTS RELIED UPON BY THE COMMISSION

The Requester is the Executive Director of a multi-county Regional Government Agency. She has been unable to obtain a State of West Virginia Purchasing Card through the Auditor's Office for her agency; instead, like some other government agencies, the agency acquired a bank issued credit card.

The particular card is a rewards card whereby points accrue with the agency's purchases. Points may be redeemed for merchandise, gift cards, and for other purposes. The Requester asks whether it is permissible to redeem the points for the benefit of agency employees in the form of gift cards and/or merchandise to reward and recognize their contribution to the agency.

The agency incurs no expense when points are redeemed.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

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

The Commission shall, in addition to its other duties:

(2) Prepare and publish manuals and guides explaining the duties of individuals covered by this law; and giving instructions and public information materials to facilitate compliance with, and enforcement of, this act.

Indeed, on December 4, 2008 the Ethics Commission issued a Guideline, *Public Employee Recognition Events*, governing public employee recognition events. The Guideline reads in part:

In order to provide uniform guidance as to what level of spending for this purpose

complies with the Ethics Act, the Ethics Commission hereby finds that the expenditure of public funds for all events to recognize employees does not violate the Ethics Act if an agency expends no more than \$25.00 per employee per fiscal year. This money may be allocated between one or more events or activities which are held to recognize employees and promote employee morale. It may be used to purchase light refreshments, meals or mementos of appreciation.

The Guideline further reads:

This guideline recognizes a spending threshold which the Ethics Commission has determined to be acceptable under the general limitations in the Ethics Act against use of public office for private gain. This guidance does not establish or confer any employee benefit. The head of an agency or its governing body must determine whether any such expenditure is consistent with fiscal responsibility and whether appropriated funds are authorized for this purpose.

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

A public official or 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.

ADVISORY OPINION

In Advisory Opinion 2010-05, the Commission considered whether an agency could spend more than \$25.00 per fiscal year to recognize certain employees for special achievements so long as the total expenditures did not exceed an amount equal to \$25.00 multiplied by the total number of employees. The Commission reaffirmed its finding that expending a reasonable amount of public funds for employee recognition serves a public purpose and therefore does not violate the Ethics Act.

The Commission also reaffirmed its Guideline permitting public agencies to spend up to \$25.00 per employee per fiscal year for employee recognition related events. Moreover, in Advisory Opinion 2010-05, the Commission held that if an agency allocates more than \$25.00 to one or more employees, in lieu of spending up to \$25.00 per employee per fiscal year, it does not violate the Ethics Act so long as: the expenditure on any one employee does not exceed \$100.00 and the total amount expended for this purpose during the fiscal year does not exceed the sum total of \$25.00 per employee.

The Guideline and related advisory opinion refer to the expenditure of public funds. In Advisory Opinion 2012-50, the Commission clarified the definition of public funds:

There are limitations on the use of public funds. These same limitations apply regardless of whether the funds are general revenue funds, e.g.

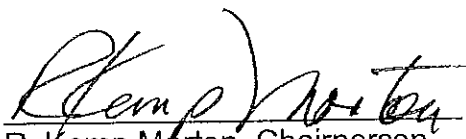
funds generated by State or local government through taxes; or special revenue funds, a term commonly used for funds generated through fees.

Here, rewards points accrue with agency purchases. But for the agency's performance of its customary duties, those rewards points would not exist. Thus, those rewards points are the equivalent of public funds, and the same limitations apply. See also Advisory Opinion 2010-18 wherein the Commission denied a City's request to give its officials free Sam's Club cards provided to the City as part of its membership package. The Commission reasoned, "Even if there is no additional charge to the City for these cards, still, there is a private benefit to the public servants and their families because a membership, purchased at taxpayer expense, is the source of the free cards."

Therefore, the Commission finds that, consistent with the Guideline and cited advisory opinions, the Requester may redeem reward points and give her subordinate employees the benefit thereof so long as the expenditure on any one employee does not exceed \$100.00 and the total amount for the fiscal year does not exceed the sum total of \$25.00 per employee. If the Requester elects to redeem rewards points to recognize employees, then the agency may not expend public funds for that purpose during the same fiscal year.

This advisory opinion is based upon the facts provided. If all material facts have not been provided, or if new facts arise, the Requester should contact the Commission for further advice as it may alter the analysis and render this opinion invalid.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.* and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other public agencies unless and until it is amended or revoked, or the law is changed.


R. Kemp Morton, Chairperson

ADVISORY OPINION NO. 2013-20
Issued on June 6, 2013
WEST VIRGINIA ETHICS COMMISSION

2013 JUN 10 AM 11:59

OPINION SOUGHT

Two **Members of the Legislature** ask whether it is permissible under the Ethics Act for them to continue to appear in a television program for a non-profit foundation, if the non-profit solicits and obtains financial underwriting for future broadcasts.

FACTS RELIED ON BY THE COMMISSION

At some point before the 81st session of the Legislature, Requesters were asked to appear in public broadcasts produced by a non-profit foundation. Requesters appeared, without compensation, in ten public television broadcasts which focused on various issues in West Virginia. The broadcasts included: discussion about the upcoming 81st legislative session and hot-button issues in front of the Legislature, child poverty, prison overcrowding, the "Home Rule" Pilot Project bill, the role of the legislative services office in the bill writing process, and other subjects involving State government. The broadcasts were made available to the public without commercials and without underwriting.

The non-profit foundation would like to continue these broadcasts for public viewing. In order to continue, the foundation would like to solicit underwriters for the program subject to the following restrictions: the Requesters will not be directly or indirectly involved in the solicitation of financial underwriters, Requesters will not be paid or otherwise receive any financial payments or remuneration for their participation in the broadcasts, and the underwriting will be undertaken in compliance with the PBS National Program Funding Standards and Practices and Guidelines for On-Air Announcements Promoting Program Related Goods and Services.

CODE PROVISIONS AND LEGISLATIVE RULE RELIED UPON BY THE COMMISSION

W. Va. Code § 6B-2-5(b) prohibits a public official from knowingly and intentionally using his or her office or the prestige of his or her office for his or her own private gain or that of another person.

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

(c) *Gifts.* -- (1) A public official or public employee may not solicit any gift unless the solicitation is for a charitable purpose with no resulting direct pecuniary benefit conferred upon the official or employee or his or her immediate family: *Provided*, That no public official or public employee may solicit for a charitable purpose any gift from any person who is also an official or employee of the state and whose position is subordinate to the soliciting official or employee: *Provided, however*, That nothing

herein shall prohibit a candidate for public office from soliciting a lawful political contribution. No official or employee may knowingly accept any gift, directly or indirectly, from a lobbyist or from any person whom the official or employee knows or has reason to know:

- (A) Is doing or seeking to do business of any kind with his or her agency;
- (B) Is engaged in activities which are regulated or controlled by his or her agency; or
- (C) Has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his or her official duties.

Title 158, Series 7, Section 7. Manner of Solicitation and Use of Funds reads:

7.1. Public officials, public employees and agencies who regulate individuals or businesses may not orally solicit donations from:

a. Persons under the regulatory control of the agency. A person is under the regulatory control of the public official, employee or agency if the person has a matter pending before the agency or had a matter pending within the past 12 months. This subsection does not apply to purely law enforcement agencies, officials or employees who do not actually regulate or exercise regulatory control over other persons but merely enforce existing laws and rules as to all applicable persons;

b. A vendor which has a contract with the agency, is bidding on a contract or is in the process of soliciting business from the agency:

7.2. A written solicitation to the public or business community at large, even if the targeted group may encompass regulated persons or vendors, is permissible; Provided, That the written solicitation may not be directed solely to persons under the regulatory authority of, or vendors, of the public official, employee or agency. This subsection does not apply to purely law enforcement agencies, officials or employees who do not actually regulate or exercise regulatory control over other persons but merely enforce existing laws and rules as to all applicable persons.

7.3. Solicitations should be conducted, and acknowledgments made, in a fair and even-handed manner. Each solicitation should contain a statement setting forth that donations are purely voluntary.

7.4. Under no circumstances should anyone soliciting a contribution for a charitable purpose state that contributors will receive some special treatment from a government agency or its employees, or any other sort of quid pro quo as a consequence of making

a donation.

ADVISORY OPINION

In Advisory Opinions 2003-03 and 2003-09, the Commission ruled that public entities could not accept free use of vehicles, covered with commercial advertising, to conduct official business. The Commission found that in the absence of any overriding public benefit, endorsement of commercial products through advertising on police and emergency county vehicles could constitute a use of office for private gain.

In Advisory Opinion 2012-08, the Commission reaffirmed the Ethics Act's prohibition of solicitation except for a charitable purpose.

The Commission also ruled in Advisory Opinion 2007-02, that it would violate the Ethics Act for a State Agency to enter into a contract with a private entity to make Public Service Announcements where the Agency would be obligated to: provide visibility to the entity and its corporate underwriters, make its executives and spokespersons available to the entity during its promotional media tours, or publicize its relationship with the entity. The Commission reasoned the provisions of this contract would, in effect, be an endorsement by a State Agency of a private business. The Commission further reasoned that the public benefit was not outweighed by the private benefit to that entity.

Here, however, a private non-profit will engage in the solicitation of underwriters for the broadcast without Requesters participation or assistance. Further, there are no contractual obligations between the Requesters and the underwriters. Thus, the Commission hereby finds that the Requesters may continue to appear in the broadcasts described above even if the non-profit solicits and accepts financial underwriting from private entities. Their participation in the broadcast does not violate the Ethics Act because the program is a tool to educate the general public about the inner workings of state government, issues facing the State, and the history and culture of the State. Therefore, any benefit to any underwriters or to the Requesters is outweighed by the public benefit of the broadcast.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.*, and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other public agencies unless and until it is amended or revoked, or the law is changed.


R. Kemp Morton, III, Chairperson

ADVISORY OPINION NO. 2013-14

Issued On June 6, 2013 By The

WEST VIRGINIA ETHICS COMMISSION

2013 JUN 10 AM 11:59

OPINION SOUGHT

A **Municipal Judge** who also maintains a private law practice asks whether he may announce his appointment to his government position on his business website; and whether he may, in his private capacity, continue to be paid to represent the Municipal Sanitary Board.

FACTS RELIED UPON BY THE COMMISSION

The Requester has recently been appointed to serve as Municipal Judge, a part-time employment position. As Municipal Judge he also serves as Department Head. He also operates a private law practice in the municipality and his law practice has a presence on the Internet in the form of a website. After his appointment as Municipal Judge, the Requester has found that some people in the community question whether he is closing his private practice, which he is not.

Accordingly, the Requester proposes to update his website under the "News and Events" section with an announcement that reads as follows: "[The Requester] appointed Municipal Judge.... The position is part-time, and [the Requester] will continue in his private practice."

Prior to his appointment, the Requester served as counsel for the Municipal Sanitary Board, a separate public entity from the municipality. City Council approves the Board's budget. The Requester asks whether he is permitted to receive a paycheck from the municipality and receive payment/fees from the Municipal Sanitary Board.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

W. Va. Code § 6B-2-5(b)(1) provides, in relevant part, that: A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person. Incidental use of equipment or resources available to a public official or public employee by virtue of his or her position for personal or business purposes resulting in *de minimis* private gain does not constitute use of public office for private gain under this subsection. The performance of usual and customary duties associated with the office or position or the advancement of public policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.

W. Va. Code § 6B-2-5(d)(1) provides, in relevant part, that no elected or appointed public official or public employee or business with which he or she is associated may be a party to or have an interest in the profits or benefits of a contract which the official or employee may have direct authority to enter into, or over which he or she may have control.

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

(1) Public officials... may not vote on a matter:

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

...

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

ADVISORY OPINION

The Ethics Act generally prohibits public officials from using the resources or prestige of their office for private gain. In Advisory Opinion 2000-04 the Commission authorized a County School Board to provide a link on its web page to a Board Member's personal website where he had information regarding his re-election campaign. Although this opinion relied on the School Board's decision to make links on its web page available to any candidate running for the Board, the Commission noted that a link to another web page is "merely an option which a visitor to the site may choose to accept or ignore."

Then, in Advisory Opinion 2007-05, the Commission ruled that a County Commissioner was permitted to provide information on the website for his private law practice relating to his role as an elected Commissioner. The Commission did not propose to create a link from the County Commission's website to his law practice website. Instead, he effectively donated part of his private website to support his work as an elected County Commissioner by providing an opportunity for citizens to contact him about his County Commission duties. Under those circumstances, the Commission found that any use of office for personal gain was *de minimis*.

The same result obtains here. The Requester is not proposing a link from a municipal website to his private website. Instead, he is merely referencing his appointment to a public position. Thus, he is permitted to list the proposed announcement on his private law practice website.

Next, the Commission must determine whether the Requester's position as Municipal Judge prohibits him from continuing to represent a separate, but related, municipal board. Simply put, does a Municipal Judge have direct authority or control over the Municipal Sanitary Board's contracts? As a part-time municipal employee, the Requester lacks direct authority or control over the municipality's contracts with the exception of contracts relating to his department; he is even farther removed from the Municipal Sanitary Board's contracts. As a result, he may continue to represent the Municipal Sanitary Board and receive compensation therefor.

Limitations apply. To the extent that any violation of the Municipal Sanitary Board's regulations may result in a complaint heard by the Municipal Judge, the Requester shall recuse himself from all such cases; similarly, he is required to recuse himself from presiding over any matters involving a relative, business associate, or client of his private practice.¹ See Advisory Opinion 2012-07 wherein the Commission provided general guidance to mayors/municipal judges on recusal in relation to customers of their private businesses, and stated:

For those mayors who also serve as municipal judge, they need to take special care if a customer appears before them in their judicial capacity. Again, the fact that a citizen purchased goods or services in the past from a mayor is generally insufficient to require the mayor to recuse herself/himself from the proceeding. The mayor shall, however, disclose the fact of the transaction, and if either party requests that the mayor recuse herself/himself from the proceeding following such disclosure, the mayor shall do so. Further, mayors are prohibited from presiding over a judicial matter involving a customer when the transaction occurred within the preceding six months.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.*, and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by public servants and other persons unless and until it is amended or revoked, or the law is changed.


R. Kemp Morton, Chairperson

¹ The Requester is encouraged to obtain advice from the West Virginia State Bar regarding any potential legal ethics concerns arising from his dual service.

ADVISORY OPINION NO. 2013-17

Issued On June 6, 2013 By The

WEST VIRGINIA ETHICS COMMISSION

2013 JUN 10 AM 11:59

OPINION SOUGHT

A **Public Employee** of a Regional Government Agency asks under what circumstances, if any, a public servant may redeem rewards points earned through the use of the agency's credit card, for the benefit of agency employees.

FACTS RELIED UPON BY THE COMMISSION

The Requester is the Executive Director of a multi-county Regional Government Agency. She has been unable to obtain a State of West Virginia Purchasing Card through the Auditor's Office for her agency; instead, like some other government agencies, the agency acquired a bank issued credit card.

The particular card is a rewards card whereby points accrue with the agency's purchases. Points may be redeemed for merchandise, gift cards, and for other purposes. The Requester asks whether it is permissible to redeem the points for the benefit of agency employees in the form of gift cards and/or merchandise to reward and recognize their contribution to the agency.

The agency incurs no expense when points are redeemed.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

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

The Commission shall, in addition to its other duties:

- (2) Prepare and publish manuals and guides explaining the duties of individuals covered by this law; and giving instructions and public information materials to facilitate compliance with, and enforcement of, this act.

Indeed, on December 4, 2008 the Ethics Commission issued a Guideline, *Public Employee Recognition Events*, governing public employee recognition events. The Guideline reads in part:

In order to provide uniform guidance as to what level of spending for this purpose

complies with the Ethics Act, the Ethics Commission hereby finds that the expenditure of public funds for all events to recognize employees does not violate the Ethics Act if an agency expends no more than \$25.00 per employee per fiscal year. This money may be allocated between one or more events or activities which are held to recognize employees and promote employee morale. It may be used to purchase light refreshments, meals or mementos of appreciation.

The Guideline further reads:

This guideline recognizes a spending threshold which the Ethics Commission has determined to be acceptable under the general limitations in the Ethics Act against use of public office for private gain. This guidance does not establish or confer any employee benefit. The head of an agency or its governing body must determine whether any such expenditure is consistent with fiscal responsibility and whether appropriated funds are authorized for this purpose.

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

A public official or 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.

ADVISORY OPINION

In Advisory Opinion 2010-05, the Commission considered whether an agency could spend more than \$25.00 per fiscal year to recognize certain employees for special achievements so long as the total expenditures did not exceed an amount equal to \$25.00 multiplied by the total number of employees. The Commission reaffirmed its finding that expending a reasonable amount of public funds for employee recognition serves a public purpose and therefore does not violate the Ethics Act.

The Commission also reaffirmed its Guideline permitting public agencies to spend up to \$25.00 per employee per fiscal year for employee recognition related events. Moreover, in Advisory Opinion 2010-05, the Commission held that if an agency allocates more than \$25.00 to one or more employees, in lieu of spending up to \$25.00 per employee per fiscal year, it does not violate the Ethics Act so long as: the expenditure on any one employee does not exceed \$100.00 and the total amount expended for this purpose during the fiscal year does not exceed the sum total of \$25.00 per employee.

The Guideline and related advisory opinion refer to the expenditure of public funds. In Advisory Opinion 2012-50, the Commission clarified the definition of public funds:

There are limitations on the use of public funds. These same limitations apply regardless of whether the funds are general revenue funds, e.g.

funds generated by State or local government through taxes; or special revenue funds, a term commonly used for funds generated through fees.

Here, rewards points accrue with agency purchases. But for the agency's performance of its customary duties, those rewards points would not exist. Thus, those rewards points are the equivalent of public funds, and the same limitations apply. See also Advisory Opinion 2010-18 wherein the Commission denied a City's request to give its officials free Sam's Club cards provided to the City as part of its membership package. The Commission reasoned, "Even if there is no additional charge to the City for these cards, still, there is a private benefit to the public servants and their families because a membership, purchased at taxpayer expense, is the source of the free cards."

Therefore, the Commission finds that, consistent with the Guideline and cited advisory opinions, the Requester may redeem reward points and give her subordinate employees the benefit thereof so long as the expenditure on any one employee does not exceed \$100.00 and the total amount for the fiscal year does not exceed the sum total of \$25.00 per employee. If the Requester elects to redeem rewards points to recognize employees, then the agency may not expend public funds for that purpose during the same fiscal year.

This advisory opinion is based upon the facts provided. If all material facts have not been provided, or if new facts arise, the Requester should contact the Commission for further advice as it may alter the analysis and render this opinion invalid.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.* and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other public agencies unless and until it is amended or revoked, or the law is changed.


R. Kemp Morton, Chairperson

ADVISORY OPINION NO. 2013-19
Issued on June 6, 2013
WEST VIRGINIA ETHICS COMMISSION

2013 JUN 10 AM 11:59

OPINION SOUGHT

A **Town Attorney** asks whether a Town Council Member may rent a building owned by the Town, and, if so, whether the Council Member must be recused from voting on the lease. He further asks whether the Town may rent the building to the Council Member for less than fair market value.

FACTS RELIED ON BY THE COMMISSION

The Town owns a building which a Town Council Member rents for a private business. The Council Member has had the business located in the town building for many years. The Council Member has been a member of the Council several times, however never at the time the lease of the building came before Council for a vote. The Council member was not on the Town Council at the time the lease was originated.

The Town recently discovered through an appraisal that the amount of rent to the Council Member is less than fair rental value. The lease will expire on July 1, 2013. The Council Member wants to continue to rent the Town's building at the current rental rate.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

W. Va. Code § 6B-2-5(b) prohibits a public official from knowingly and intentionally using 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) states, in relevant part:

(1)...[N]o elected official may be a party to or have an interest in a contract which such official may have direct authority to enter into, or over which he or she may have control...

(3) 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 § 6B-2-5(d)(3) provides that where the provision of subdivision (1) of this subsection would result in excessive cost, undue hardship, or other substantial interference with the operation of a municipality the affected government body may make written application to the ethics commission for an exemption from subdivision (1) of this subsection.

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.

In furtherance of this goal, the Legislature established certain limits and prohibitions on a public servant contracting with his/her own governmental entity. In particular, the Ethics Act prohibits public servants from having more than a limited interest in the profits or benefits of a public contract over which he or she has direct authority or control. W. Va. Code § 6B-2-5(d)(1).

In Advisory Opinion 2008-10, the Commission found an exception to the public contract restrictions exist when a contract was lawful at the time it was agreed to. The Commission ruled that where the public servant had no control over the contract at the time of its execution, or where the public servant's interest in the contract arose after the contract was already in effect, a continuing contract exception exists.

The same situation exists here. The Town Council Member has a lease agreement with the Town. This lease was entered into at a time when the Council Member was not on Town Council, nor did s/he have control over the contract terms. However, now the Council Member's lease is close to expiration and an appraisal has determined the rent is less than fair market value. Further, the Councilperson is now in a situation where s/he could have control over the contract terms. Only July 1, 2013, the lawful continuing contract no longer exists and the Town must determine new terms of the contract.

After expiration of the lease, the Town may not rent its building to a Council Member, even if the Councilmember is fully recused from voting thereon. In Fisher v. Jackson, 107 W.Va. 138, 147 S.E. 541 (1929), the West Virginia Supreme Court of Appeals held that the recusal of a public official from voting on a particular matter in which he has a direct or indirect pecuniary interest was not sufficient to immunize that official from the sanctions in W. Va. Code § 61-10-15. See also Advisory Opinion 2003-02 ("The Board's members control the Board's contracts and their recusal from action in regard to its contracts does not excuse compliance with the requirements of 61-10-15.")

The Town may not do business with one of its public officials or employees, without exercising due diligence in ensuring that all interested persons or businesses are given a full and fair opportunity to compete for the government agency's business. As a result, the Town must advertise the building via public notice, a good faith search, and/or obtaining estimates or, in the case of purchases, reviewing recent comparable sales data. If thereafter the government agency determines that it is in its best interest to contract with one of its public officials or employees, then it must seek a contract

exemption from the Ethics Commission. Due to the Council Member's position on Town Council, absent a contract exemption, the Town may not rent its building to a Council Member, even if the Council Member recuses him/herself from voting thereon.

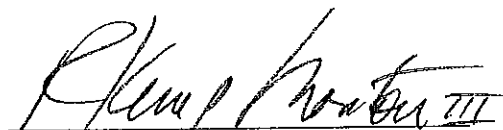
First, the Town must decide whether its best interest is to seek a contract exemption during a properly noticed public meeting. In order to comply with the Open Governmental Proceedings Act, the issue has to be placed on the agenda in a manner that is specific enough to let the public to know what is being considered. See A.O. 2012-16.

The affected Council Member shall not make, participate in making, or in any way attempt to use his or her office or employment to influence a government decision affecting the decision to seek a contract exemption. S/he may also not informally "lobby" or otherwise attempt to influence voting members of, or other decision-makers on the Town Council.

For recusal to be proper, the Councilperson must first fully disclose on the record his/her disqualifying interest in any matter before the Town, then leave the room before discussion, deliberation and vote on the matter. Additionally, the minutes and any other record of the meeting must reflect the basis for the recusal and that the Councilperson left the room during all consideration, discussion and vote on the item under consideration. The Town must then vote to seek the contract exemption.

In order to seek the exemption, the Town must request, in writing, permission from the Ethics Commission for the Town to be a party to a contract that is otherwise prohibited by the Ethics Act. The Town 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 enter into the contract with the Councilperson. The contract exemption request should include information reflecting the following; the basis for the Town's conclusion that entering into the subject contract is in the best interest of the Town; what other options the Town considered and reasons rejected; and the agenda/minutes of the meeting(s) at which the decision to seek a contract agreement was discussed and approved.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.*, and does not purport to interpret other laws or rules. In accordance with W. Va. Code §6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other public agencies unless and until it is amended or revoked, or the law is changed.


R. Kemp Morton, III, Chairperson

ADVISORY OPINION NO. 2013-17

Issued On June 6, 2013 By The

WEST VIRGINIA ETHICS COMMISSION

2013 JUN 10 AM 11:59

OPINION SOUGHT

A **Public Employee** of a Regional Government Agency asks under what circumstances, if any, a public servant may redeem rewards points earned through the use of the agency's credit card, for the benefit of agency employees.

FACTS RELIED UPON BY THE COMMISSION

The Requester is the Executive Director of a multi-county Regional Government Agency. She has been unable to obtain a State of West Virginia Purchasing Card through the Auditor's Office for her agency; instead, like some other government agencies, the agency acquired a bank issued credit card.

The particular card is a rewards card whereby points accrue with the agency's purchases. Points may be redeemed for merchandise, gift cards, and for other purposes. The Requester asks whether it is permissible to redeem the points for the benefit of agency employees in the form of gift cards and/or merchandise to reward and recognize their contribution to the agency.

The agency incurs no expense when points are redeemed.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

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

The Commission shall, in addition to its other duties:

(2) Prepare and publish manuals and guides explaining the duties of individuals covered by this law; and giving instructions and public information materials to facilitate compliance with, and enforcement of, this act.

Indeed, on December 4, 2008 the Ethics Commission issued a Guideline, *Public Employee Recognition Events*, governing public employee recognition events. The Guideline reads in part:

In order to provide uniform guidance as to what level of spending for this purpose

complies with the Ethics Act, the Ethics Commission hereby finds that the expenditure of public funds for all events to recognize employees does not violate the Ethics Act if an agency expends no more than \$25.00 per employee per fiscal year. This money may be allocated between one or more events or activities which are held to recognize employees and promote employee morale. It may be used to purchase light refreshments, meals or mementos of appreciation.

The Guideline further reads:

This guideline recognizes a spending threshold which the Ethics Commission has determined to be acceptable under the general limitations in the Ethics Act against use of public office for private gain. This guidance does not establish or confer any employee benefit. The head of an agency or its governing body must determine whether any such expenditure is consistent with fiscal responsibility and whether appropriated funds are authorized for this purpose.

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

A public official or 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.

ADVISORY OPINION

In Advisory Opinion 2010-05, the Commission considered whether an agency could spend more than \$25.00 per fiscal year to recognize certain employees for special achievements so long as the total expenditures did not exceed an amount equal to \$25.00 multiplied by the total number of employees. The Commission reaffirmed its finding that expending a reasonable amount of public funds for employee recognition serves a public purpose and therefore does not violate the Ethics Act.

The Commission also reaffirmed its Guideline permitting public agencies to spend up to \$25.00 per employee per fiscal year for employee recognition related events. Moreover, in Advisory Opinion 2010-05, the Commission held that if an agency allocates more than \$25.00 to one or more employees, in lieu of spending up to \$25.00 per employee per fiscal year, it does not violate the Ethics Act so long as: the expenditure on any one employee does not exceed \$100.00 and the total amount expended for this purpose during the fiscal year does not exceed the sum total of \$25.00 per employee.

The Guideline and related advisory opinion refer to the expenditure of public funds. In Advisory Opinion 2012-50, the Commission clarified the definition of public funds:

There are limitations on the use of public funds. These same limitations apply regardless of whether the funds are general revenue funds, e.g.

funds generated by State or local government through taxes; or special revenue funds, a term commonly used for funds generated through fees.

Here, rewards points accrue with agency purchases. But for the agency's performance of its customary duties, those rewards points would not exist. Thus, those rewards points are the equivalent of public funds, and the same limitations apply. See also Advisory Opinion 2010-18 wherein the Commission denied a City's request to give its officials free Sam's Club cards provided to the City as part of its membership package. The Commission reasoned, "Even if there is no additional charge to the City for these cards, still, there is a private benefit to the public servants and their families because a membership, purchased at taxpayer expense, is the source of the free cards."

Therefore, the Commission finds that, consistent with the Guideline and cited advisory opinions, the Requester may redeem reward points and give her subordinate employees the benefit thereof so long as the expenditure on any one employee does not exceed \$100.00 and the total amount for the fiscal year does not exceed the sum total of \$25.00 per employee. If the Requester elects to redeem rewards points to recognize employees, then the agency may not expend public funds for that purpose during the same fiscal year.

This advisory opinion is based upon the facts provided. If all material facts have not been provided, or if new facts arise, the Requester should contact the Commission for further advice as it may alter the analysis and render this opinion invalid.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.* and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other public agencies unless and until it is amended or revoked, or the law is changed.


R. Kemp Morton, Chairperson

ADVISORY OPINION NO. 2013-22

Issued On June 6, 2013 By The

WEST VIRGINIA ETHICS COMMISSION

2013 JUN 10 PM 12:00

STATE

OPINION SOUGHT

A **State Employee** asks whether it is permissible for his private trucking business to subcontract with a contractor of his State Agency.

FACTS RELIED UPON BY THE COMMISSION

The Requester is employed as a Transportation Worker/Equipment Operator by a State Agency which is statutorily charged with, among other things, constructing, improving and maintaining state roads. The Commissioner of the Agency is authorized to contract with private companies for this work. The Requester has no supervisory duties nor is he involved in any way in the selection process of state contractors or subcontractors. Neither he nor his supervisor have direct authority or control over the State Agency's contractors or subcontractors.

The Requester is currently assigned to a county's road maintenance crew. He owns and operates a private trucking business, and asks if it is permissible for his trucking business to serve as a subcontractor to haul materials for his State Agency.

The Requester states that he would perform work for his private company only during his time off from the State Agency. He would have an employee of his private company perform the work at times when the Requester is working for his State Agency.

His supervisor is aware of his request for an advisory opinion and has no objection.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

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

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

W. Va. Code § 6B-2-5(d)(1) provides in part that ... no elected or appointed public official ... or business with which he ... is associated may be a party to or have an interest in ... a contract which such official or employee may have direct authority to enter into, or over which he ... may have control...

W. Va. Code § 6B-2-5(h)(6) reads:

A full-time public official or full-time public employee may not receive private compensation for providing information or services that he or she is required to provide in carrying out his or her public job responsibilities.

ADVISORY OPINION

First, the Commission must determine whether a subcontractor of a State Agency is subject to the restrictions in the Ethics Act. Indeed, the Ethics Commission has subjected subcontractors of public agencies to the Ethics Act in previous advisory opinions. In Advisory Opinion 94-22, the Commission held that the prohibitions against having an interest in public contracts extend to subcontractors. Specifically, a County Board of Education member asked whether his contracting company could serve as a subcontractor for the County Board of Education (BOE). The Ethics Commission found that it would violate the Ethics Act, W. Va. Code §6B-2-5(d)(1), to enter into a public contract with the BOE directly, or indirectly as a subcontractor, to perform private work for his agency because, as a member of the BOE, he has direct authority and control over any construction contract.


Further, in Advisory Opinion 2012-40, the Ethics Commission subjected a subcontractor for a BOE to the Act. Again, the Commission addressed whether a BOE member's spouse's subcontract with the BOE was prohibited under the Act. The Commission found that the subcontract was prohibited because the BOE member would have voice, influence and/or control over the contract, in violation of W. Va. Code § 61-10-15. Finally, in Advisory Opinion 2012-06, the Commission subjected a subcontractor for the State to W. Va. Code § 6B-2-5(c) which generally prohibits public servants from accepting gifts from interested persons. Therefore, the prohibitions of the Ethics Act apply to subcontractors of public agencies.

The Ethics Commission has considered the relevant prohibitions of the Ethics Act. The Commission hereby finds it does not violate the Ethics Act for the Requester to contract with a company who has contracts with his State agency since:

- (1) The Requester's private subcontract would not constitute the use of public office for private gain;
- (2) The Requester does not exercise direct authority or control over the selection of the contracts with his State agency; and,
- (3) The Requester states that he will not perform work for his private company while working for his State agency.

In closing, there is nothing in the Ethics Act which prohibits the Requester from contracting with a contractor of his State Agency. The Requester must perform this work on his own time; not during his State Agency work hours. The Requester may not use agency resources, including staff, to perform work for his private company.

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. The Requester is encouraged to consult with legal counsel for his agency for compliance with any agency rules and restrictions which may prevent his private company from performing work as a subcontractor. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other similarly situated public servants unless and until it is amended or revoked, or the law is changed.


R. Kemp Morton, Chairperson

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

| Week Ending Date | Week Ending <u>June 30, 2013</u> FY13 | Week Ending <u>July 1-6, 2013</u> FY14 | Week Ending July 6, 2013 July 12, 2013 |
|---|---|--|--|
| To be Deposited on: | | | |
| Amount Played | 13,255,319.87 | 68,710,119.57 | 81,965,439.44 |
| Amount Won | 11,872,923.57 | 62,021,619.07 | 73,894,542.64 |
| Amount Promo | 49,351.00 | 268,089.00 | 317,440.00 |
| MWAP Contribution | <u>921.92</u> | <u>3,907.61</u> | <u>4,829.53</u> |
| Adjusted Gross Terminal Revenue | <u>1,332,123.38</u> | <u>6,416,503.89</u> | <u>7,748,627.27</u> |
| Administrative Costs @ 4% | 0.00 | 256,660.16 | 256,660.16 |
| Excess Lottery Fund @ 4% | <u>53,284.94</u> | <u>0.00</u> | <u>53,284.94</u> |
| Net Terminal Revenue | <u>1,278,838.44</u> | <u>6,159,843.73</u> | <u>7,438,682.17</u> |
| Surcharge @ 10% | 127,883.84 | 0.00 | 127,883.84 |
| State Share Excess @ 58% | 74,172.63 | 0.00 | 74,172.63 |
| Track Share of Capital Reinvestment @ 42% | 53,711.21 | 0.00 | <u>53,711.21</u> |
| Track Share of Capital Reinvestment @ 42% - 96% | 51562.76 | 0.00 | 51562.76 |
| Track Share of Capital Reinvestment @ 42% - 4% | 2148.45 | 0.00 | 2148.45 |
| Adjusted Net Terminal Revenue | <u>1,150,954.60</u> | <u>6,159,843.73</u> | <u>7,310,798.33</u> |
| Racetrack @ 46.50% / 42% | 483,400.93 | 2,864,327.33 | 3,347,728.26 |
| Lottery Fund @ 30% / 0% | 0.00 | 1,847,953.11 | 1,847,953.11 |
| Excess Lottery Fund @ 0% / 41% | 471,891.41 | 0.00 | 471,891.41 |
| Race Track Purses @ 7% / 14% / 8% | 92,076.37 | 431,189.06 | 523,265.43 |
| Workers' Compensation Debt Reduction @ 7% / 0% | 0.00 | 431,189.06 | 431,189.06 |
| Employee Pension Fund @ 1% / .5% | 5,754.77 | 61,598.44 | 67,353.21 |
| Greyhound Development @ .75% | 8,632.16 | 46,198.83 | 54,830.99 |
| Thoroughbred Development @ .75% | 8,632.16 | 46,198.83 | 54,830.99 |
| Racing Commission @ 1% | 11,509.54 | 61,598.44 | 73,107.98 |
| County/Municipality @ 2% | 23,019.08 | 123,196.88 | 146,215.96 |
| 3% Funds: | | | |
| Tourism Promotion Fund @ 1.375% | 15,825.63 | 84,697.85 | 100,523.48 |
| Development Office Promotion Fund @ .375% | 4,316.08 | 23,099.41 | 27,415.49 |
| Research Challenge Fund @ .5% | 5,754.77 | 30,799.22 | 36,553.99 |
| Capitol Renovation and Improvement Fund @ .6875% | 7,912.81 | 42,348.93 | 50,261.74 |
| 2004 Capitol Complex Parking Garage Fund @ .0625% | 719.35 | 3,849.90 | 4,569.25 |
| 1% Funds: | | | |
| State Capitol Complex Parking Garage @ 1% | 0.00 | 61,598.44 | 61,598.44 |
| Cultural Facilities and Capitol Resources @ .5% | 0.00 | 0.00 | 0.00 |
| Capitol Dome and Capitol Improvements @ .5% / 1% | <u>11,509.54</u> | <u>0.00</u> | <u>11,509.54</u> |
| | <u>1,150,954.60</u> | <u>6,159,843.73</u> | <u>7,310,798.33</u> |

WEST VIRGINIA LOTTERY

First Benchmark
Charles Town
County / City Split
Fiscal Year 2013

Charles Town
1999 Net Terminal Revenue \$ 45,603,174
Benchmark Goal @ 2% \$ 912,063.48

| DATE | 2% OF ADJ. NET REVENUE | TO JEFFERSON COUNTY | TO FIVE CITIES | BOLIVAR 8.19% 7.93% | CHARLES TOWN 41.20% 39.90% | HARPERS FERRY 2.24% 2.17% | RANSON 34.78% 33.68% | SHEPHERDS TOWN 13.59% 16.32% |
|----------------------------|------------------------------|---------------------------|----------------------|---------------------------|-------------------------------------|------------------------------------|----------------------------|---------------------------------------|
| Revised % (after 2/9/2013) | | | | | | | | |
| Week Ending: | | | | | | | | |
| 07/07/12 | \$ 161,637.92 | \$ 161,637.92 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 07/14/12 | \$ 129,458.04 | \$ 129,458.04 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 07/21/12 | \$ 130,037.00 | \$ 130,037.00 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 07/28/12 | \$ 137,164.44 | \$ 137,164.44 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 08/04/12 | \$ 132,931.16 | \$ 132,931.16 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 08/11/12 | \$ 134,212.88 | \$ 134,212.88 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 08/18/12 | \$ 133,861.76 | \$ 110,241.90 | \$ 23,619.86 | \$ 1,934.47 | \$ 9,731.38 | \$ 529.08 | \$ 8,214.99 | \$ 3,209.94 |
| 08/25/12 | \$ 132,419.80 | \$ 66,209.90 | \$ 66,209.90 | \$ 5,422.59 | \$ 27,278.48 | \$ 1,483.10 | \$ 23,027.80 | \$ 8,997.93 |
| 09/01/12 | \$ 134,266.84 | \$ 67,133.42 | \$ 67,133.42 | \$ 5,498.23 | \$ 27,658.97 | \$ 1,503.79 | \$ 23,349.00 | \$ 9,123.43 |
| 09/08/12 | \$ 148,058.80 | \$ 74,029.40 | \$ 74,029.40 | \$ 6,063.01 | \$ 30,500.11 | \$ 1,658.26 | \$ 25,747.42 | \$ 10,060.60 |
| 09/15/12 | \$ 123,676.08 | \$ 61,838.04 | \$ 61,838.04 | \$ 5,064.54 | \$ 25,477.27 | \$ 1,385.17 | \$ 21,507.27 | \$ 8,403.79 |
| 09/22/12 | \$ 113,993.80 | \$ 56,996.90 | \$ 56,996.90 | \$ 4,668.05 | \$ 23,482.72 | \$ 1,276.73 | \$ 19,823.52 | \$ 7,745.88 |
| 09/29/12 | \$ 123,222.80 | \$ 61,611.40 | \$ 61,611.40 | \$ 5,045.97 | \$ 25,383.90 | \$ 1,380.10 | \$ 21,428.44 | \$ 8,372.99 |
| 10/06/12 | \$ 125,430.40 | \$ 62,715.20 | \$ 62,715.20 | \$ 5,136.37 | \$ 25,838.66 | \$ 1,404.82 | \$ 21,812.35 | \$ 8,523.00 |
| 10/13/12 | \$ 121,420.36 | \$ 60,710.18 | \$ 60,710.18 | \$ 4,972.17 | \$ 25,012.59 | \$ 1,359.91 | \$ 21,115.00 | \$ 8,250.51 |
| 10/20/12 | \$ 124,666.16 | \$ 62,333.08 | \$ 62,333.08 | \$ 5,105.08 | \$ 25,681.23 | \$ 1,396.26 | \$ 21,679.44 | \$ 8,471.07 |
| 10/27/12 | \$ 116,147.08 | \$ 58,073.54 | \$ 58,073.54 | \$ 4,756.22 | \$ 23,926.30 | \$ 1,300.85 | \$ 20,197.98 | \$ 7,892.19 |
| 11/03/12 | \$ 113,090.60 | \$ 56,545.30 | \$ 56,545.30 | \$ 4,631.06 | \$ 23,296.66 | \$ 1,266.61 | \$ 19,666.46 | \$ 7,684.51 |
| 11/10/12 | \$ 112,221.92 | \$ 56,110.96 | \$ 56,110.96 | \$ 4,595.49 | \$ 23,117.72 | \$ 1,256.88 | \$ 19,515.39 | \$ 7,625.48 |
| 11/17/12 | \$ 114,864.72 | \$ 57,432.36 | \$ 57,432.36 | \$ 4,703.71 | \$ 23,662.13 | \$ 1,286.49 | \$ 19,974.97 | \$ 7,805.06 |
| 11/24/12 | \$ 131,777.72 | \$ 65,888.86 | \$ 65,888.86 | \$ 5,396.30 | \$ 27,146.21 | \$ 1,475.91 | \$ 22,916.14 | \$ 8,954.30 |
| 12/01/12 | \$ 100,486.68 | \$ 50,243.34 | \$ 50,243.34 | \$ 4,114.93 | \$ 20,700.26 | \$ 1,125.45 | \$ 17,474.63 | \$ 6,828.07 |
| 12/08/12 | \$ 101,541.92 | \$ 50,770.96 | \$ 50,770.96 | \$ 4,158.14 | \$ 20,917.64 | \$ 1,137.27 | \$ 17,658.14 | \$ 6,899.77 |
| 12/15/12 | \$ 94,044.76 | \$ 47,022.38 | \$ 47,022.38 | \$ 3,851.13 | \$ 19,373.22 | \$ 1,053.30 | \$ 16,354.39 | \$ 6,390.34 |
| 12/22/12 | \$ 93,677.92 | \$ 46,838.96 | \$ 46,838.96 | \$ 3,836.11 | \$ 19,297.65 | \$ 1,049.19 | \$ 16,290.59 | \$ 6,365.42 |
| 12/29/12 | \$ 119,394.44 | \$ 59,697.22 | \$ 59,697.22 | \$ 4,889.20 | \$ 24,595.26 | \$ 1,337.22 | \$ 20,762.69 | \$ 8,112.85 |
| 01/05/13 | \$ 143,347.04 | \$ 71,673.52 | \$ 71,673.52 | \$ 5,870.06 | \$ 29,529.49 | \$ 1,605.49 | \$ 24,928.05 | \$ 9,740.43 |
| 01/12/13 | \$ 100,832.60 | \$ 50,416.30 | \$ 50,416.30 | \$ 4,129.09 | \$ 20,771.52 | \$ 1,129.33 | \$ 17,534.79 | \$ 6,851.57 |
| 01/19/13 | \$ 102,423.76 | \$ 51,211.88 | \$ 51,211.88 | \$ 4,194.25 | \$ 21,099.30 | \$ 1,147.15 | \$ 17,811.49 | \$ 6,959.69 |
| 01/26/13 | \$ 93,932.52 | \$ 46,966.26 | \$ 46,966.26 | \$ 3,846.54 | \$ 20,350.10 | \$ 1,052.04 | \$ 16,334.87 | \$ 6,382.71 |
| 02/02/13 | \$ 104,135.84 | \$ 52,067.92 | \$ 52,067.92 | \$ 4,264.36 | \$ 21,451.99 | \$ 1,166.32 | \$ 18,109.22 | \$ 7,076.03 |
| 02/09/13 | \$ 104,444.40 | \$ 52,222.20 | \$ 52,222.20 | \$ 4,277.00 | \$ 21,515.54 | \$ 1,169.78 | \$ 18,162.88 | \$ 7,097.00 |
| 02/16/13 | \$ 128,487.04 | \$ 64,243.52 | \$ 64,243.52 | \$ 5,094.51 | \$ 25,633.17 | \$ 1,394.08 | \$ 21,637.22 | \$ 10,484.54 |
| 02/23/13 | \$ 128,231.40 | \$ 64,115.70 | \$ 64,115.70 | \$ 5,084.38 | \$ 25,582.16 | \$ 1,391.31 | \$ 21,594.17 | \$ 10,463.68 |
| 03/02/13 | \$ 125,205.48 | \$ 62,602.74 | \$ 62,602.74 | \$ 4,964.40 | \$ 24,978.49 | \$ 1,358.48 | \$ 21,084.60 | \$ 10,216.77 |
| 03/09/13 | \$ 118,426.52 | \$ 59,213.26 | \$ 59,213.26 | \$ 4,695.61 | \$ 23,626.09 | \$ 1,284.93 | \$ 19,943.03 | \$ 9,663.60 |
| 03/16/13 | \$ 124,732.72 | \$ 62,366.36 | \$ 62,366.36 | \$ 4,945.65 | \$ 24,884.18 | \$ 1,353.35 | \$ 21,004.99 | \$ 10,178.19 |
| 03/23/13 | \$ 119,682.04 | \$ 59,841.02 | \$ 59,841.02 | \$ 4,745.39 | \$ 23,876.57 | \$ 1,298.55 | \$ 20,154.46 | \$ 9,766.05 |
| 03/30/13 | \$ 115,135.96 | \$ 57,567.98 | \$ 57,567.98 | \$ 4,565.14 | \$ 22,969.62 | \$ 1,249.23 | \$ 19,388.90 | \$ 9,395.09 |
| 04/06/13 | \$ 126,217.68 | \$ 63,108.84 | \$ 63,108.84 | \$ 5,004.53 | \$ 25,180.43 | \$ 1,369.46 | \$ 21,255.06 | \$ 10,299.36 |
| 04/13/13 | \$ 113,698.60 | \$ 56,849.30 | \$ 56,849.30 | \$ 4,508.15 | \$ 22,682.87 | \$ 1,233.63 | \$ 19,146.84 | \$ 9,277.81 |
| 04/20/13 | \$ 110,864.24 | \$ 55,432.12 | \$ 55,432.12 | \$ 4,395.77 | \$ 22,117.41 | \$ 1,202.88 | \$ 18,669.54 | \$ 9,046.52 |
| 04/27/13 | \$ 117,225.48 | \$ 58,612.74 | \$ 58,612.74 | \$ 4,647.99 | \$ 23,386.48 | \$ 1,271.90 | \$ 19,740.77 | \$ 9,565.60 |
| 05/04/13 | \$ 122,205.84 | \$ 61,102.92 | \$ 61,102.92 | \$ 4,845.46 | \$ 24,380.07 | \$ 1,325.93 | \$ 20,579.46 | \$ 9,972.00 |
| 05/11/13 | \$ 114,857.40 | \$ 57,428.70 | \$ 57,428.70 | \$ 4,554.10 | \$ 22,914.05 | \$ 1,246.20 | \$ 19,341.99 | \$ 9,372.36 |
| 05/18/13 | \$ 122,345.60 | \$ 61,172.80 | \$ 61,172.80 | \$ 4,851.00 | \$ 24,407.95 | \$ 1,327.45 | \$ 20,603.00 | \$ 9,983.40 |
| 05/25/13 | \$ 114,262.48 | \$ 57,131.24 | \$ 57,131.24 | \$ 4,530.51 | \$ 22,795.36 | \$ 1,239.75 | \$ 19,241.80 | \$ 9,323.82 |
| 06/01/13 | \$ 131,841.32 | \$ 65,920.66 | \$ 65,920.66 | \$ 5,227.51 | \$ 26,302.34 | \$ 1,430.48 | \$ 22,202.08 | \$ 10,758.25 |
| 06/08/13 | \$ 110,467.48 | \$ 55,233.74 | \$ 55,233.74 | \$ 4,380.04 | \$ 22,038.26 | \$ 1,198.57 | \$ 18,602.72 | \$ 9,014.15 |
| 06/15/13 | \$ 108,135.04 | \$ 54,067.52 | \$ 54,067.52 | \$ 4,287.55 | \$ 21,572.94 | \$ 1,173.27 | \$ 18,209.94 | \$ 8,823.82 |
| 06/22/13 | \$ 109,380.56 | \$ 54,690.28 | \$ 54,690.28 | \$ 4,336.94 | \$ 21,821.42 | \$ 1,186.78 | \$ 18,419.69 | \$ 8,925.45 |
| 06/29/13 | \$ 111,982.76 | \$ 55,991.38 | \$ 55,991.38 | \$ 4,440.12 | \$ 22,340.56 | \$ 1,215.01 | \$ 18,857.90 | \$ 9,137.79 |
| 06/30/13 | \$ 23,019.08 | \$ 11,509.54 | \$ 11,509.54 | \$ 912.71 | \$ 4,592.30 | \$ 249.76 | \$ 3,876.41 | \$ 1,878.36 |
| Subtotal | \$ 6,249,226.88 | \$ 3,580,645.18 | \$ 2,668,581.70 | \$ 215,441.53 | \$ 1,083,879.02 | \$ 58,937.50 | \$ 914,952.48 | \$ 395,371.17 |

Benchmark Goal @ 2% \$ 912,063.48

Remainder until 1% / 1% Split \$ -

WEST VIRGINIA LOTTERY
 First Benchmark
 Charles Town
 County / City Split
 Fiscal Year 2013

Charles Town
 1999 Net Terminal Revenue \$ 45,603,174
 Benchmark Goal @ 2% \$ 912,063.48

| DATE | 2% OF ADJ. NET REVENUE | TO JEFFERSON COUNTY | TO FIVE CITIES | BOLIVAR 7.93% | CHARLES TOWN 39.90% | HARPERS FERRY 2.17% | RANSON 33.68% | SHEPHERDS TOWN 16.32% |
|----------------------------|------------------------------|---------------------------|----------------------|------------------|---------------------------|---------------------------|------------------|-----------------------------|
| 6 days ending: 07/08/13 | \$ 123,196.88 | \$ 123,196.88 | \$ - | | \$ - | \$ - | \$ - | \$ - |
| Subtotal | \$ 123,196.88 | \$ 123,196.88 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |

Benchmark Goal @ 2% \$ 912,063.48
 Remainder until 1% / 1% Split \$ 788,866.60

VIDEO LOTTERY REPORT

| FY 2010 | | FY 2011 | | FY 2012 | | FY 2013 | | FY 2014 | |
|--------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| Date | Amount | Date | Amount | Date | Amount | Date | Amount | Date | Amount |
| 07/04/2009 * | 128,262.42 | 07/03/2010 | 115,402.58 | 7/1-2/2011 | 69,824.12 | 07/07/2012 | 161,637.92 | 07/06/2013 | 123,196.88 |
| 07/11/2009 | 168,815.08 | 07/10/2010 | 205,731.64 | 07/09/2011 | 171,717.28 | 07/14/2012 | 129,458.04 | | |
| 07/18/2009 | 160,652.98 | 07/17/2010 | 161,386.76 | 07/16/2011 | 143,019.52 | 07/21/2012 | 130,037.00 | | |
| 07/25/2009 | 158,869.08 | 07/24/2010 | 160,368.28 | 07/23/2011 | 146,508.00 | 07/28/2012 | 137,164.44 | | |
| 08/01/2009 | 174,493.08 | 07/31/2010 | 157,802.08 | 07/30/2011 | 144,510.28 | 08/04/2012 | 132,931.16 | | |
| 08/08/2009 | 138,408.80 | 08/07/2010 | 136,494.98 | 08/06/2011 | 151,495.28 | 08/11/2012 | 134,212.88 | | |
| 08/15/2009 | 81,222.14 | 08/14/2010 | 78,376.68 | 08/13/2011 | 117,350.38 | 08/18/2012 | 110,241.90 | | |
| 08/22/2009 | 76,260.31 | 08/21/2010 | 76,199.02 | 08/20/2011 | 71,614.12 | 08/25/2012 | 66,209.90 | | |
| 08/29/2009 | 80,472.92 | 08/28/2010 | 72,460.03 | 08/27/2011 | 63,432.14 | 09/01/2012 | 67,133.42 | | |
| 09/05/2009 | 80,798.15 | 09/04/2010 | 76,362.84 | 09/03/2011 | 80,837.76 | 09/08/2012 | 74,029.40 | | |
| 09/12/2009 | 86,286.92 | 09/11/2010 | 82,969.36 | 09/10/2011 | 84,845.80 | 09/15/2012 | 61,838.04 | | |
| 09/19/2009 | 70,010.15 | 09/18/2010 | 67,638.78 | 09/17/2011 | 66,748.62 | 09/22/2012 | 56,996.90 | | |
| 09/26/2009 | 69,316.87 | 09/25/2010 | 70,435.06 | 09/24/2011 | 68,929.80 | 09/29/2012 | 61,611.40 | | |
| 10/03/2009 | 72,286.04 | 10/02/2010 | 71,013.86 | 10/01/2011 | 68,871.64 | 10/06/2012 | 62,715.20 | | |
| 10/10/2009 | 69,650.63 | 10/09/2010 | 69,311.50 | 10/08/2011 | 70,866.90 | 10/13/2012 | 60,710.18 | | |
| 10/17/2009 | 73,560.21 | 10/16/2010 | 75,234.62 | 10/15/2011 | 75,262.66 | 10/20/2012 | 62,333.08 | | |
| 10/24/2009 | 67,581.66 | 10/23/2010 | 70,290.80 | 10/22/2011 | 68,757.72 | 10/27/2012 | 58,073.54 | | |
| 10/31/2009 | 64,528.30 | 10/30/2010 | 65,615.04 | 10/29/2011 | 60,507.98 | 11/03/2012 | 56,545.30 | | |
| 11/07/2009 | 63,741.59 | 11/06/2010 | 61,337.62 | 11/05/2011 | 70,673.88 | 11/10/2012 | 56,110.96 | | |
| 11/14/2009 | 65,959.64 | 11/13/2010 | 64,595.28 | 11/12/2011 | 67,627.10 | 11/17/2012 | 57,432.36 | | |
| 11/21/2009 | 59,547.05 | 11/20/2010 | 56,010.08 | 11/19/2011 | 60,690.60 | 11/24/2012 | 65,888.86 | | |
| 11/28/2009 | 72,399.98 | 11/27/2010 | 71,170.90 | 11/26/2011 | 74,140.54 | 12/01/2012 | 50,243.34 | | |
| 12/05/2009 | 51,006.51 | 12/04/2010 | 53,215.08 | 12/03/2011 | 59,429.94 | 12/08/2012 | 50,770.96 | | |
| 12/12/2009 | 52,460.58 | 12/11/2010 | 46,944.00 | 12/10/2011 | 51,395.44 | 12/15/2012 | 47,022.38 | | |
| 12/19/2009 | 32,834.39 | 12/18/2010 | 42,076.76 | 12/17/2011 | 55,981.32 | 12/22/2012 | 46,838.96 | | |
| 12/26/2009 | 53,406.34 | 12/25/2010 | 50,450.28 | 12/24/2011 | 54,248.62 | 12/29/2012 | 59,697.22 | | |
| 01/02/2010 | 92,980.40 | 01/01/2011 | 85,152.12 | 12/31/2011 | 94,661.00 | 01/05/2013 | 71,673.52 | | |
| 01/09/2010 | 55,020.46 | 01/08/2011 | 54,301.30 | 01/07/2012 | 74,863.40 | 01/12/2013 | 50,416.30 | | |
| 01/16/2010 | 60,551.28 | 01/15/2011 | 54,005.90 | 01/14/2012 | 58,901.92 | 01/19/2013 | 51,211.88 | | |
| 01/23/2010 | 69,943.53 | 01/22/2011 | 60,924.74 | 01/21/2012 | 61,819.92 | 01/26/2013 | 46,966.26 | | |
| 01/30/2010 | 48,527.75 | 01/29/2011 | 48,036.94 | 01/28/2012 | 62,898.78 | 02/02/2013 | 52,067.92 | | |
| 02/06/2010 | 37,155.14 | 02/05/2011 | 60,777.44 | 02/04/2012 | 72,154.66 | 02/09/2013 | 52,222.20 | | |
| 02/13/2010 | 44,334.00 | 02/12/2011 | 67,471.84 | 02/11/2012 | 66,429.04 | 02/16/2013 | 64,243.52 | | |
| 02/20/2010 | 76,946.12 | 02/19/2011 | 72,018.54 | 02/18/2012 | 77,455.88 | 02/23/2013 | 64,115.70 | | |
| 02/27/2010 | 72,024.40 | 02/26/2011 | 75,544.02 | 02/25/2012 | 77,611.78 | 03/02/2013 | 62,602.74 | | |
| 03/06/2010 | 76,936.85 | 03/05/2011 | 74,535.34 | 03/03/2012 | 75,963.86 | 03/09/2013 | 59,213.26 | | |
| 03/13/2010 | 71,007.37 | 03/12/2011 | 66,979.48 | 03/10/2012 | 76,808.62 | 03/16/2013 | 62,366.36 | | |

| | | | | | | | |
|------------|-----------|------------|-----------|------------|-----------|------------|-----------|
| 03/20/2010 | 74,335.38 | 03/19/2011 | 73,113.26 | 03/17/2012 | 76,883.92 | 03/23/2013 | 59,841.02 |
| 03/27/2010 | 69,941.88 | 03/26/2011 | 68,490.80 | 03/24/2012 | 72,108.36 | 03/30/2013 | 57,567.98 |
| 04/03/2010 | 70,636.28 | 04/02/2011 | 70,846.58 | 03/31/2012 | 74,244.22 | 04/06/2013 | 63,108.84 |
| 04/10/2010 | 69,692.79 | 04/09/2011 | 67,076.78 | 04/07/2012 | 75,382.98 | 04/13/2013 | 56,849.30 |
| 04/17/2010 | 69,335.92 | 04/16/2011 | 64,698.56 | 04/14/2012 | 71,065.34 | 04/20/2013 | 55,432.12 |
| 04/24/2010 | 68,714.11 | 04/23/2011 | 67,674.14 | 04/21/2012 | 68,055.08 | 04/27/2013 | 58,612.74 |
| 05/01/2010 | 68,799.06 | 04/30/2011 | 66,807.50 | 04/28/2012 | 72,880.66 | 05/04/2013 | 61,102.92 |
| 05/08/2010 | 67,403.54 | 05/07/2011 | 66,379.74 | 05/05/2012 | 71,582.30 | 05/11/2013 | 57,428.70 |
| 05/15/2010 | 70,186.32 | 05/14/2011 | 66,699.76 | 05/12/2012 | 63,357.92 | 05/18/2013 | 61,172.80 |
| 05/22/2010 | 64,695.71 | 05/21/2011 | 63,210.44 | 05/19/2012 | 78,984.36 | 05/25/2013 | 57,131.24 |
| 05/29/2010 | 67,157.40 | 05/28/2011 | 64,724.06 | 05/26/2012 | 67,396.24 | 06/01/2013 | 65,920.66 |
| 06/05/2010 | 77,371.80 | 06/04/2011 | 74,952.34 | 06/02/2012 | 76,959.44 | 06/08/2013 | 55,233.74 |
| 06/12/2010 | 66,106.29 | 06/11/2011 | 62,203.12 | 06/09/2012 | 63,584.86 | 06/15/2013 | 54,067.52 |
| 06/19/2010 | 64,888.48 | 06/18/2011 | 61,200.76 | 06/16/2012 | 59,436.12 | 06/22/2013 | 54,690.28 |
| 06/26/2010 | 63,950.29 | 06/25/2011 | 65,470.44 | 06/23/2012 | 55,921.30 | 06/29/2013 | 55,991.38 |
| 06/30/2010 | 29,667.19 | 06/30/2011 | 34,351.16 | 06/30/2012 | 58,207.40 | 06/30/2013 | 11,509.54 |

TOTALS **4041141.56**

4016541.01

4124906.8

3580645.18

123196.9

Table Game Revenue

| Date | Amount | Date | Amount | Date | Amount |
|------------------------|------------------|------------------------|-------------------|------------------------|-------------------|
| July/August, 2010 | 154,185.68 | July, 2011 | 141,718.01 | July, 2012 | 138,663.64 |
| September, 2010 | 94,247.84 | August, 2011 | 137,473.92 | August, 2012 | 133,245.83 |
| October, 2010 | 105,903.60 | September, 2011 | 110,375.25 | September, 2012 | 127,532.40 |
| November, 2010 | 108,717.67 | October, 2011 | 124,273.94 | October, 2012 | 126,482.02 |
| December, 2010 | 118,721.11 | November, 2011 | 121,118.87 | November, 2012 | 134,443.93 |
| January, 2011 | 106,189.21 | December, 2011 | 140,509.93 | December, 2012 | 146,677.92 |
| February, 2011 | 105,776.45 | January, 2012 | 137,812.68 | January, 2013 | 132,650.35 |
| March, 2011 | 120,927.10 | February, 2012 | 142,770.01 | February, 2013 | 121,636.62 |
| April, 2011 | 130,654.61 | March, 2012 | 151,845.46 | March, 2013 | 149,033.62 |
| May, 2011 | 130,492.02 | April, 2012 | 127,862.26 | April, 2013 | 105,545.23 |
| June, 2011 | 121,576.41 | May, 2012 | 137,905.13 | May, 2013 | 109,747.38 |
| | | June, 2012 | 129,235.38 | | |
| Total 2010-2011 | 1297391.7 | Total 2011-2012 | 1602900.84 | Total 2011-2012 | 1425658.94 |

Table Game Revenue Distribution - Jefferson County School Board

| <u>Date</u> | <u>Amount</u> |
|------------------------|---------------------|
| July, 2011 | 425,154.03 |
| August, 2011 | 412,421.76 |
| September, 2011 | 331,125.75 |
| October, 2011 | 372,821.82 |
| November, 2011 | 363,356.61 |
| December, 2011 | 421,529.79 |
| January, 2012 | 413,438.04 |
| February, 2012 | 428,310.03 |
| March, 2012 | 455,536.38 |
| April, 2012 | 383,586.78 |
| May, 2012 | 413,715.39 |
| June, 2012 | 387,706.12 |
| <u>Total 2011-2012</u> | <u>4,808,702.50</u> |

| <u>Date</u> | <u>Amount</u> |
|------------------------|---------------------|
| July, 2012 | 415,990.92 |
| August, 2012 | 399,737.49 |
| September, 2012 | 382,597.20 |
| October, 2012 | 379,446.06 |
| November, 2012 | 403,331.79 |
| December, 2012 | 440,033.75 |
| January, 2013 | 397,951.05 |
| February, 2013 | 381,857.07 |
| March, 2013 | 447,100.86 |
| April, 2013 | 316,635.69 |
| May, 2013 | 329,242.14 |
| <u>Total 2011-2012</u> | <u>4,293,924.02</u> |