

Minutes
Jefferson County Commission
Thursday, January 26, 2012

A meeting of the Jefferson County Commission was held on Thursday, January 26, 2012 in the County Commission meeting room at the Old Charles Town Library located at 200 E. Washington Street, Charles Town, WV 25414. Present were Commissioners Patricia Noland, Dale Manuel, Lyn Widmyer, Frances Morgan and Walt Pellish. Also present were Sandy McDonald, Interim County Administrator, Debbie Stellato, Administrative Assistant and Jimmy Eddy, Bailiff. (An audio tape of the January 26, 2012 meeting is available through the Jefferson County Commission Office.)

PLEDGE OF ALLEGIANCE

Commissioner Widmyer led the Pledge of Allegiance.

APPROVAL OF MINUTES

Motion by Ms. Morgan approve the Minutes of the January 12, 2012 Public Hearing as presented.
Motion seconded by Mr. Pellish and unanimously approved.

Motion by Ms. Morgan to approve the Minutes of the January 19, 2012 Regular Meeting as presented.
Motion seconded by Mr. Manuel and unanimously approved.

APPROVAL OF PURCHASE ORDERS

Motion by Ms. Morgan to approve Purchase Orders in the amount of \$32,096.96, being purchase order numbers: 52986, 50869, 51004, 50663, 50664, 50925, 50773, 53273, 53274, 53275, 50926, 50928, 50931, 50692, 50727, 50929, and 50932. Motion seconded by Mr. Pellish and unanimously approved.

APPROVAL OF ACCOUNTS PAYABLE

Motion by Ms. Morgan to approve the accounts payable in the amount of \$54,647.08. Motion seconded by Mr. Manuel and unanimously approved.

PUBLIC COMMENT

Lyle Bivens requested that the Commission, pursuant to the case of Citizens United v. Federal Elections Commission, sign a Resolution in support of amending the U.S. Constitution to provide that corporations are not entitled to the entirety of protections or “rights” of natural persons, and, specifically, that the expenditure of corporate money to influence the electoral process is no longer a form of constitutionally protected speech.

Patience Wait supported the signing of the Resolution.

Keryn Newman supported the signing of the Resolution.

Lynn Yellot supported the signing of the Resolution.

Debbie Royalty supported the signing of the Resolution.

RESOLUTION

WHEREAS, In 2010 the United States Supreme Court issued its decision in Citizens United v. Federal Election Commission, holding that independent spending on elections by corporations and other groups could not be limited by government regulations; and;

WHEREAS, This decision rolled back the legal restrictions on corporate spending in the electoral process, allowing for unlimited corporate spending to influence elections, candidate selection, and policy decisions; and

WHEREAS, In reaching its decision, a majority of the Supreme Court, relying on prior decisions, interpreted the First Amendment of the Constitution to afford corporation the same free speech protections as natural persons; and

WHEREAS, In his eloquent dissent, Justice Paul Stevens rightly recognized that “corporations have no consciences, no beliefs, no feelings, no thoughts, no desires. Corporations help structure and facilitate the activities of human beings, to be sure, and their ‘personhood’ often serves as a useful legal fiction. But they are not themselves members of ‘We the People’ by whom and for whom our Constitution was established”; and

WHEREAS, The Court’s decision in Citizens United severely hampers the ability of federal, state and local governments to enact reasonable campaign finance reforms and regulations regarding corporate political activity; and

WHEREAS, Corporations should not be afforded the entirety of protections or “rights” of natural persons, such that the expenditure of corporate money to influence the electoral process is a form of constitutionally protect speech; and

WHEREAS, several proposed amendments to the Constitution have been introduced in Congress that would allow governments to regulate the raising and spending of money by corporations to influence elections;

NOW, THEREFORE BE IT RESOLVED, that the County Commission of Jefferson County, opposes the Supreme Court’s interpretation of the Constitution in Citizens United regarding the constitutional rights of corporations, and supports amending the Constitution to provide that corporations are not entitled to the entirety of protections or “rights” of natural persons, specifically so that the expenditure of corporate money to influence the electoral process is no longer a form of constitutionally protected speech, and calls on Congress to begin the process of amending the Constitution.

Approved this 26th day of January, 2012

Patsy Noland, President

Dale Manuel, Vice President

Frances Morgan, Commissioner

Walt Pellish, Commissioner

Lyn Widmyer, Commissioner

David Tabb informed the Commission that he had met with Angela Banks, Jefferson County Assessor, and she agreed to lower his real estate tax assessment from approximately \$500,000 to \$290,000.

Kathy Knight congratulated the Commission and the Jefferson County Planning Commission for the professional and informative manner in which the proposed zoning amendments were presented to the citizens of Jefferson County.

Following **Public Comment** Mr. Manuel made a motion that the Tim Boyde Exit Memo discussed in Executive Session last week be made available to the public with next week’s Agenda to allow citizen review before the Commission begins debate and possible action on its contents as stated on next week’s Agenda. Mr. Pellish seconded the motion. The motion was carried 3 – 2 with Ms. Widmyer and Ms. Morgan voting “no.”

PRESENTATIONS:

1. Presentation of Resolutions:

- **Dr. Oscar Stine (not present)** for service to the Water Advisory Committee. Ms. Noland read the Resolution. Ms. Widmyer made a motion to approve the Resolution. Motion was seconded by Ms. Morgan and unanimously approved.

RESOLUTION IN RECOGNITION OF DR. OSCAR C. STINE FOR HIS SERVICE ON THE WATER ADVISORY COMMITTEE

WHEREAS, the Jefferson County Commission formed the Water Advisory Committee in May 2003;

WHEREAS, the Water Advisory Committee is comprised of volunteers of Jefferson County Citizens who are knowledgeable and committed to preserving and protecting the water resources in Jefferson County, WV;

WHEREAS, Dr. Oscar C. Stine was appointed by the Jefferson County Commission to the Water Advisory Committee in March 2004 and has served in his capacity as a Volunteer since that time;

WHEREAS, Dr. Oscar C. Stine provided a valuable service to Jefferson County as a member of the Water Advisory Committee by providing his knowledge and applying his professional expertise to the Water Advisory Committee in order to preserve and protect the water resources in Jefferson County, WV;

WHEREAS, the Jefferson County Commission recognizes that the people of Jefferson County will benefit from the knowledge and expertise provided by Dr. Oscar C. Stine for future generations to come as the result of his involvement, dedication and loyalty to the Water Advisory Committee;

THEREFORE, the Jefferson County Commission hereby recognizes Dr. Oscar C. Stine for his years of service as a loyal and dedicated member of the Water Advisory Committee and in appreciation for his service to the citizens of Jefferson County, West Virginia.

By ORDER of the Jefferson County Commission:

Patricia A. Noland, President

Dale Manuel, Commissioner

Walt Pellish, Commissioner

Lyn Widmyer, Commissioner

Frances Morgan, Commissioner

DATED THIS 26TH DAY OF JANUARY, 2012

- **Nancy Manuel for service to the Harpers Ferry Library.** Ms. Widmyer made a motion to approve the Resolution. Motion seconded by Ms. Morgan and unanimously approved.

RESOLUTION IN RECOGNITION OF NANCY MANUEL FOR HER SERVICE TO THE BOLIVAR-HARPERS FERRY PUBLIC LIBRARY

WHEREAS, the dedication date for the Bolivar-Harpers Ferry Public Library was on October 15, 1977,

WHEREAS, the Bolivar-Harpers Ferry Public Library, is comprised of workers and volunteers from Jefferson County Citizens who are knowledgeable and committed to serving the residents of Bolivar and Harpers Ferry;

WHEREAS, Nancy Manuel was hired as the Library Director in October 1992 and was instrumental in navigating the library into the digital future as well as cooperating to create an interconnected county and ultimately a state wide computerized system;

WHEREAS, Nancy Manuel introduced computer proficiency that promoted growth of a book collection that started with 12,000 and tripled to 37,000 during her tenure and also creating an ongoing collaboration with Harpers Ferry Middle School;

WHEREAS, Nancy Manuel provided a valuable service to Jefferson County as a member of the Bolivar-Harpers Ferry Public Library by providing her knowledge and applying her professional expertise in order to educate and provide a resource to the residents of Jefferson County, WV;

WHEREAS, the Jefferson County Commission recognizes that the residents of Jefferson County will benefit from the knowledge and expertise provided by Nancy Manuel for future generations to come as the result of her involvement, dedication and loyalty to the Bolivar-Harpers Ferry Public Library;

THEREFORE, the Jefferson County Commission hereby recognizes Nancy Manuel for her years of service as a loyal and dedicated member of the Bolivar-Harpers Ferry Public Library and in appreciation for her service to the citizens of Jefferson County, West Virginia.

By ORDER of the Jefferson County Commission:

Patricia A. Noland, President

Dale Manuel, Commissioner

Frances Morgan, Commissioner

Lyn Widmyer, Commissioner

Walt Pellish, Commissioner

DATED THIS 26TH DAY OF JANUARY, 2012

- **Resolution opposing the United States Supreme Court’s decision regarding Citizens United.**
Motion made by Ms. Morgan. Motion seconded by Mr. Manuel and unanimously approved.

RESOLUTION

WHEREAS, In 2010 the United States Supreme Court issued its decision in Citizens United v. Federal Election Commission, holding that independent spending on elections by corporations and other groups could not be limited by government regulations; and;

WHEREAS, This decision rolled back the legal restrictions on corporate spending in the electoral process, allowing for unlimited corporate spending to influence elections, candidate selection, and policy decisions; and

WHEREAS, In reaching its decision, a majority of the Supreme Court, relying on prior decisions, interpreted the First Amendment of the Constitution to afford corporation the same free speech protections as natural persons; and

WHEREAS, In his eloquent dissent, Justice Paul Stevens rightly recognized that “corporations have no consciences, no beliefs, no feelings, no thoughts, no desires. Corporations help structure and facilitate the activities of human beings, to be sure, and their ‘personhood’ often serves as a useful legal fiction. But they are not themselves members of ‘We the People’ by whom and for whom our Constitution was established”; and

WHEREAS, The Court’s decision in Citizens United severely hampers the ability of federal, state and local governments to enact reasonable campaign finance reforms and regulations regarding corporate political activity; and

WHEREAS, Corporations should not be afforded the entirety of protections or “rights” of natural persons, such that the expenditure of corporate money to influence the electoral process is a form of constitutionally protected speech; and

WHEREAS, several proposed amendments to the Constitution have been introduced in Congress that would allow governments to regulate the raising and spending of money by corporations to influence elections;

NOW, THEREFORE BE IT RESOLVED, that the County Commission of Jefferson County, opposes the Supreme Court’s interpretation of the Constitution in Citizens United regarding the constitutional rights of corporations, and supports amending the Constitution to provide that corporations are not entitled to the entirety of protections or “rights” of natural persons, specifically so that the expenditure of corporate money to influence the electoral process is no longer a form of constitutionally protected speech, and calls on Congress to begin the process of amending the Constitution.

Approved this 26th day of January, 2012

Patsy Noland, President

Dale Manuel, Vice President

Frances Morgan, Commissioner

Walt Pellish, Commissioner

Lyn Widmyer, Commissioner

NEW BUSINESS:

2. Discussion and action on completion of commitment to the Town of Harpers Ferry for in-kind services.

Motion made by Mr. Manuel to approve payment to the Town of Harpers Ferry in lieu of further services to the town in the amount of \$12,000. Motion seconded by Mr. Pellish and unanimously approved.

PRESENTATIONS continued:

3. Paul Shroyer, Director of Finance Management presented for approve a Resolution for the revision of the Levy Estimate (Budget Revision #002 & #BR003) for Jefferson County.

Motion by Mr. Manuel to approve the revision of the Levy Estimate (Budget Revision #002 & #BR003) for Jefferson County. Motion seconded by Mr. Pellish and unanimously approved.

Paul Shroyer presented for approval the December Budget Analysis Report for the Fiscal Year ending June 30, 2012.

Motion by Mr. Manuel to approve the Budget Analysis Report for the Fiscal Year ending June 30, 2012 as presented. Motion seconded by Mr. Pellish and unanimously approved.

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

The Commission reconvened the meeting at 10:58 a.m.

4. Interviews and appointments to the following Boards, Committees and Commissions.

- **Board of Zoning Appeals for an unexpired term ending January 1, 2014.** Upon nomination Tyler Quynn was unanimously appointed as a regular member of the Board of Zoning Appeals for the unexpired term ending January 1, 2014.
- **Water Advisory Committee for two terms ending January 31, 2015.** Upon nomination Willis E. Nowell, Jr. and Jane Arnett were unanimously reappointed for the terms ending January 31, 2015 on the Water Advisory Committee.
- **Eastern Panhandle Transit Authority Board for one three-year term ending January 31, 2015.** Upon nomination Eugene Pierson was unanimously reappointed to the Eastern Panhandle Transit Authority three-year term ending January 31, 2015.

5. Public Hearing on the Petition of William E. Knode, Jr. and Jo Ann Knode to vacate unused streets and alley in Trussell's Addition, Shepherdstown, West Virginia. (See separate Special Session Minutes.)

6. Mark Schiavone, Director of Capital Management and Planning request for approval of:

- **FY 2011 Annual Report on Impact Fees, and**
- **Time line for implementation of affordable housing impact fee ordinance.**

Mr. Schiavone and Sandy McDonald, Interim County Administrator, are directed to choose an appropriate date and schedule a public hearing on the aforementioned items.

- **Mr. Schiavone requested approval to amend FY 2012 CIP for Middleway Fire Company from \$100,000 to \$148,500,**

Mr. Manuel made a motion to approve amendment of FY 2012 CIP for Middleway Fire Company from \$100,000 to \$148,500. Motion seconded by Ms. Morgan and unanimously approved.

The Commission broke for lunch at 12:30 p.m.

The Commission reconvened the meeting at 1:30 p.m.

7. **Jennifer Brockman, Director of Planning and Zoning** apprised the Commission of potential amendments to the Zoning Ordinance Text regarding the creation of new commercial and industrial zoning categories and additional recreational opportunities in various zoning districts. **Steve Barney, Director of Zoning**, used a Power Point presentation to illustrate the potential amendments.
8. **Roger Goodwin, Chief County Engineer, with regard to the Chesapeake Bay Initiative, requests the Commission for payment of \$10,000 as an in-kind match to grant funding of \$40,000 and approval to proceed with issuing a Request for Proposal.**

Motion by Ms. Widmyer to approve the payment of \$10,000 as an in-kind match to grant funding of \$40,000 and, if the grant is received, the Commission authorizes Mr. Goodwin to proceed with issuing a Request for Proposal. Motion seconded by Ms. Morgan and unanimously approved.

NEW BUSINESS continued:

9. **Reappointment for two positions on the Berkeley/Jefferson Community Criminal Justice Board.**

Motion by Ms. Morgan to reappoint Dr. Sheri L. Hoff and Ruth A. McQuade to the two positions on the Berkeley/Jefferson Community Criminal Justice Board. Motion seconded by Ms. Widmyer and unanimously approved.

10. **Appointment of full-time Administrative Assistant to fill the vacancy at the Emergency Communications Center.**

Ms. Morgan made a motion to approve the employment of Karen Echement as a full-time Administrative Assistant at Grade II, Step A in the Emergency Communications Center with a starting date to be determined by the Director of Communications. Motion seconded by Mr. Pellish and unanimously approved.

11. **Mr. Manuel provided legislative updates to the Commission.**

12. **Addition of Human Resource position.**

Mr. Pellish made a motion to create a Human Resource position, to develop a salary schedule and to proceed with the completion of the job description that will be used for the proper posting and seeking of applicants for the position. Motion seconded by Ms. Noland and carried 3 – 2 with Ms. Widmyer and Ms. Morgan voting “no.”

Ms. Morgan then moved to table the matter pending a job description and salary classification outlined. Motion seconded by Ms. Widmyer but failed 3 – 2 with Mr. Manuel, Ms. Noland and Mr. Pellish voting “no.”

Ms. Widmyer made a motion that the Commission postpone discussion of this matter until such time as the Commission has a job description and a salary schedule and an understanding of how the new position will

affect the County Budget. Motion seconded by Ms. Morgan but failed 3 – 2 with Ms. Noland, Mr. Manuel and Mr. Pellish voting “no.”

Ms. Morgan left the meeting for a prior commitment at 3:00 p.m.

13. **Doug Pittinger and Ed Hannon of the Jefferson County Emergency Services Agency** provided the Commission with an update on the fire fees and the public meetings. Mr. Hannon asked the Commission to review the draft of the Emergency Services Agency’s 5-year Strategic Plan and let them have their comments.

Ms. Widmyer left for a prior commitment at 3:15 p.m.

There being no further business the Commission adjourned at 3:23 p.m. until Thursday next, February 2, 2012.

PATRICIA A. NOLAND, PRESIDENT