

FAYETTE COUNTY COMMISSION

REGULAR SESSION

APRIL 3, 1996

COURTHOUSE

FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 3rd day of April, 1996.

Exonerations were signed and approved. Ms. Holly informed the Commissioners she received letter from the Assessor's Office recommending the Commission give credit to Judith Brown for tax year 1991, 1992, 1993, 1994 and 1995. This was approved and order signed. Ms. Holly informed the Commissioners she received letter from the Assessor's Office regarding Matthew Bounds property; their was a clerical error made an resulted in the sale by the Sheriff of Fayette County for delinquent 1994 taxes of Lot 4, Section 3 McDunn owned by John and Deborah K. Bounds, the Assessor's is asking the Commission to dismiss all penalties accrued as a result of said clerical error. Ms. Holly informed the Commission she would prepare an order.

Commissioner Witt informed he would like to discuss the Valley Tower. Ms. Holly informed the Commissioners she had contacted David Neal, E-911 Coordinator regarding the Valley Tower; received letter with 3 options of the cost for upgrading the Valley Tower. Ms. Holly informed the Commissioners she talked with Steve Cruikshank he's to determine if the Fire Levy Fund or 911 Fund can be used to pay for the upgrade of the tower. Discussion was held, Commissioner Witt suggested David Neal and Steve Cruikshank come in with their recommendation. Ms. Holly to check regarding the monthly electric bill.

The Commissioners received and reviewed letter from Poll Clerks and Voting Commissioners in Precinct 17 (Pax) requesting that the polling place be moved from Pax Elementary School to Pax City Hall.

Commissioner Lopez made motion to approve moving polling place from Pax Elementary School to Pax City Hall. Commissioner Carte seconded.

Ms. Holly informed the Commissioners she had checked regarding moving Precinct 18 (Dothan) Roma Lively Garage to the T & C Midway Hotel, it was okay to move polling place on emergency basis with agreement of all parties, but she would check with the Secretary of State for their opinion.

Commissioner Lopez asked the Commission if something could be done with the leaky roof in the Circuit Clerk's Office. Discussion was held, Ms. Holly informed the Commissioners she had called Allstate Roofing several times and they have not returned her calls, informed the Commission that Carl Harris, Assistant Prosecuting Attorney is aware of the problem with the roof and he has suggested suing Allstate. The Commissioners decided to talk with Carl before any decisions be made.

Commissioner Witt read letter from Public Service Commission regarding Wolf Creek Public Service District feasibility study, discussion was held, Commissioner Witt informed that from his understanding at the meeting the Commission would commit \$7,500.00 toward the feasibility study with the contingency that others would help.

Carl Harris, Assistant Prosecuting Attorney appeared before the Commission to continue discussion regarding the Circuit Clerk's Office roof. Mr. Harris suggested to the Commission to have someone come in today and give an estimate on what it's going to cost to have roof repaired; Mr. Harris informed the Commissioners he would file law suit against Allstate Roofers. Ms. Holly informed Mr. Harris that when Allstate was awarded contract, the contractor guaranteed he would do repairs. Mr. Harris informed he would be suing contractor and manufacturer. The Commissioners asked Ms. Holly to contact roofer

today.

Carl Harris, Assistant Prosecuting Attorney presented draft of lease agreement between the Fayette County Commission and the Fayette County Historical Society for their review. Commissioner Lopez made motion to accept lease agreement for renting of the first and second floors of the Fayette County Jail. Commissioner Carte seconded. All approved. Lease is effective as of April 3, 1996. Ms. Holly informed the Commission the utilities would be pro-rated and she would get breakdown for the cost. The Commission suggested the Fayette County Historical Society pay utilities on quarterly basis.

Ralph Young, Attorney for the City of Oak Hill appeared before the Commission with application for annexation by minor boundary adjustment of 4.277 acre area owned by Victoria Norosky (Burns), Helen Norosky Wriston and Paul Lively situated in Plateau District, adjoining the City of Oak Hill, Fayette County, West Virginia. Commissioner Carte made motion to approve order. Commissioner Lopez seconded. All approved; and annexation by minor boundary adjustment of 14.98 acre tract owned by Calvin Manning, situated in Plateau District, adjoining the City of Oak Hill, Fayette County, West Virginia; Commissioner Carte made motion to approve order. Commissioner Lopez seconded. All approved.

Ms. Holly informed the Commissioners they would have to inspect votomatics and tabulator on May 7th at 9:30 and suggested to the Commissioners to change regular meeting of May 8th to May 7th. Commissioner Carte moved that the Commission meeting of May 8th be changed to May 7th. All approved. Commissioner Carte moved that payroll be approved at the May 7th meeting. All approved.

Commissioner Witt read letter from the Division of Highways informing they received correspondence from three individual businesses requesting that the road name signs be installed on US 19 (Appalachian

Corridor "L" at the intersection of the road leading directly to their facilities, asking that the road be identified as Whitewater Avenue. The Division of Highways informed they had no objection to the naming of this roadway; but are requesting the Commission's approval of the proposed road name designation. Commissioner Carte made motion that sign (Whitewater Avenue) be installed on US 19 (Appalachian Corridor "L"). Commissioner Lopez seconded. All approved.

Beverly Walkup and members of the Fayette County Fair Association appeared before the Commission asking for their continued support and request that the Commission include in their budget \$2,000 for fiscal year 1996-97, discussion was held, the Commissioners informed Ms. Walkup that due to the error made in the coal severance distribution this year, the Commissioners informed Ms. Walkup they would take their request under advisement for the time being.

Ms. Holly informed the Commissioners she finally received signed lease agreement from Arbutus Pell, President of the Whipple Community in Action.

Bob Arthur and Carlyle Blomme members of the Fayette County Solid Waste Authority appeared before the Commission. Mr. Arthur informed the Commission of the Solid Waste Authority financial situation and asked the Commission if they would help pay for the Authority's liability insurance for the first quarter (\$2,805) and informed the Commission that the new members had requested a audit cost would be \$1,092. Commissioner Carte made motion to give \$4,000 to the Solid Waste Authority to pay for the liability insurance and audit. Commissioner Lopez seconded. All approved. The Commissioners informed the members of the Fayette County Solid Waste Authority that this insurance is a one time thing.

Joe Myers asked the Commission if they had any office space

available for the Recycling Coordinator. Mr. Myers suggested the third floor. Commissioner Witt informed Mr. Myers they would take under advisement. No decision made.

The meeting was adjourned 11:50.

The Commission reconvened; Ms. Holly informed the Commissioners she talked with David Neal, E-911 Coordinator he informed her that the power bill for the tower in the Valley through Appalachian Power Company would run approximately \$22.00 a month. Ms. Holly informed the Commissioners that the current rate is \$15.00 to \$16.00 a month for one station the other run off batteries.

The Commissioners received and reviewed statistics for the month of March, 1996 for the 911 Emergency Services.

Ms. Holly asked the Commissioners to approve panic bars for the door at the Courthouse Annex; cost to get ordered and repaired is \$750.00. This was approved.

The Commissioners received and reviewed a list of 'refusals to pay' associated with the Emergency Telephone System for the month of February, 1996.

The Commissioners received and reviewed check in the amount of \$28,619.92 for the Emergency Telephone System for the month of February 1996.

The Commissioners received and reviewed minutes and financial statements from the Fayette County Solid Waste Authority.

The Commissioners received and reviewed letter from Department of Tax and Revenue regarding the \$97,158.28 error with Fayette County's coal severance distribution of April 15, 1995.

Ms. Holly informed the Commissioners that Gale Rogers with the West Virginia Division of Labor had done annual inspection of the Elevator at the Courthouse Annex and informed her the elevator needed

two way communicating devise. This was approved.

The Commissioners received and reviewed report from the Workers' Compensation Fund for the month of February.

Ms. Holly informed the Commissioners she had been contacted by Woolpert regarding the payment for Route 19 Zoning Study. Ms. Holly informed the Commissioners they had asked her to hold because study was not complete, Ms. Holly informed the Commissioners she talked with Gary Harding, Zoning Officer and he informed her that the Planning Commission has not accepted the Study. Commissioner Witt informed the Commission could not do anything until the Planning and Zoning approved the Study and asked Ms. Holly to hold until study is accepted by the Planning and Zoning Commission. Commissioner Witt informed he needed to talked with Tim Fish.

The Commissioners received and reviewed summons regarding 1996 property tax assessment of Rivermont Presbyterian Home and Twin Oaks Plaza. Ms. Holly informed the Commissioners copy has been sent to the Prosecuting Attorney's Office for their review.

The Commissioners received and reviewed letter from David Neal, E-911 Coordinator informing that Andrew Bundshuh and Sam Parsons have completed the majority of the required probationary training, and have completed six months of employment; Mr. Neal is requesting that their hourly pay rate be adjusted from \$5.35 an hour to \$5.50 an hour effective upon approval with the next payroll period. This was approved by the Commission.

Ms. Holly reminded the Commissioners of Public Hearing on Tuesday, April 9, 1996 at 6:30 p.m. at the City Hall in Mount Hope regarding electing two Board members in Census Tract 205 for the Central Appalachia Empowerment Zone.

Ms. Holly informed the Commissioners that Earl Pauley, Park

Superintendent has advertised in the Fayette Tribune and Montgomery Herald for lifeguards for the Fayette County Park; season beginning late May through September.

Ms. Holly informed the Commissioners she had talked with the Secretary of State Office regarding changing Pax precinct. Ms. Holly informed the Commissioners the State suggested delaying change until the General Election.

Ms. Holly informed the Commissioners she received a call from Norma Isaacs regarding putting gravel on Clifftop parking area for the election. Ms. Isaacs informed Ms. Holly that she had talked with man from Division of Highways and he suggested to her to put red dog down before putting gravel. The Commission approved to get red dog.

The Commissioners received and reviewed order from the County Commission of Boone regarding the reductions in the National Reserve Accounts Grant Program. The Commission asked Ms. Holly to prepare support letter for next meeting.

The Commissioners received and reviewed letter from the Department of Health and Human Resources informing that a sanitary survey of the Cannelton water treatment and distribution system was conducted on December 5, 1995.

The Commissioners received and reviewed letter from 4-C Economic Development Authority asking the Commission to write letter of endorsement and support in locating a destination tourism facility to the region.

Ms. Holly informed the Commissioners she has prepared order regarding the clerical error made in the Assessor's Office which ultimately resulted in the sale by the Sheriff of Fayette County for delinquent 1994 taxes of Lot 4, Section 3 McDunn owned by John and Deborah K. Bounds and having been advised of the need to dismiss and

forgive any and all penalties accrued as a result of clerical error; Ms. Holly informed the Commission she included in the order the taxpayer be allowed to redeem said property by payment of the amount of \$452.11 without payment of any penalties or other charges and asked that the Sheriff of Fayette County would refund New River holdings LLC. Order was approved and signed.

The Commissioners received and reviewed from the Fayette County Solid Waste Authority copy of memo to Senator Shirley Love with proposal to the Legislative Digest for budget assistance in capping the Fayette County Landfill.

The Commissioners agreed to waive the hotel/motel tax for the Fayette County Park.


The Commissioners received and reviewed checks from the Division of Corrections and Family Law Masters for rent and lease of office space.

The Commissioners received and reviewed letter from Bell Atlantic informing that effective February 1 Greg Florence is account manager.

The Commissioners received and reviewed letter from the Regional Development Authority.

The Commissioners received and reviewed resume for employment from James J. Zeller.

The meeting was adjourned. Next scheduled meeting is April 16, 1996.

  
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FAYETTE COUNTY COMMISSION  
SPECIAL SESSION  
APRIL 16, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in special session on this 16th day of April, 1996.

Commissioner Lopez suggested adding Sherman Bobbit to the Planning and Zoning Commission to fill unexpired term of Leonard Nelson.

Ms. Holly presented letter from State Tax Department regarding approval of Levy Estimate (Budget) for fiscal year 1996-97. Ms. Holly asked the Commission if they would make motion to approve budget. Commissioner Lopez made motion to lay the levy for fiscal year 1996-97. Commissioner Carte seconded. All approved. Vote passed 3 - 0. Necessary forms and order signed.

The Commissioners received and reviewed Dog Warden report for the month of March.

Ms. Holly presented to the Commissioners minutes for February 20th, February 23rd, February 28th, March 6th, and March 13th to be approved. Commissioner Witt made motion that minutes be approved. Commissioner Carte seconded. All approved.

Commissioner Lopez informed he had talked with Percy Mosley regarding Open House from 2:00 p.m. to 5:00 p.m. at the Arbuckle Public Service District.

Ms. Holly informed the Commissioners that Earl Pauley, Park Superintendent, has prepared letters for camping at the Fayette County Park to Virginia Street Baptist, Clay County 4-H-H Camp, Saint Anthony, Buckskin Council, Hico United Methodist Church, 4-H Extension, Camp Kismet, and Gospel Hill Ministry for their signature. Letters approved and signed.

Commissioner Lopez asked Ms. Holly to ask Earl Pauley to notify campers of the camping fee increase for next year.

Ms. Holly presented to the Commissioners list of Polling Place for Primary Election, informed the Commissioners she had talked with the Secretary of State Office and they don't recommend changing Polling Places for Precinct 17 (Pax) or Precinct 18 (Dothan) until the General Election. Ms. Holly informed the Commissioners she had talked with Roma Lively (Precinct 18) and Novetta Wagner (Precinct 17) regarding the opinion of the Secretary of State Office. Ms. Holly informed the Commissioners she had contacted the Board of Education regarding opening the Kimberly School for the Primary Election, was informed that school would be opened but request that a cellular telephone be furnished in case of any questions or emergencies. This was approved.

The Commissioners approved Polling Places for Primary Election.

Ms. Holly informed the Commissioners that Earl Pauley had looked at area they're going to gravel for parking during the Primary Election at Clifftop informed they would be dumping 90 tons for base.

Ms. Holly presented grant application from General Ambulance, discussion was held, Commissioner Lopez questioned if any one had talked with General Ambulance regarding this grant. The Commissioners asked Ms. Holly to check with General Ambulance regarding the 50-50 match.

The Commissioners received and reviewed a letter from the City of Oak Hill regarding the water resource study.

The Commissioners presented check for \$4,000 to Joe Myers, member of the Fayette County Solid Waste Authority to help assistant with the payment of the liability insurance and audit.

Ms. Holly informed the Commissioners she had met with Paul Chaney contractor with A-1 Roofing Company regarding the Circuit Clerk's Office roof. Ms. Holly informed the Commissioners that Mr. Chaney does not

want the responsibility for repairing the roof; informed he would send report on estimate of inspection and his recommendation. Discussion was held; Commissioner Lopez suggested to wait and see what contractor's report says.

Exonerations were approved and signed.

The Commissioners received and reviewed a copy of a letter from the Clay County West Virginia University Extension Office to Mike Sales, Sanitarian with Fayette County Health Department informing that Clay County is scheduled for it's annual 4-H Camp for the week of June 17-21 and is asking the Health Department to inspect the camp before the camping session begins.

The Commissioners received and reviewed a letter from the Unemployment Compensation Division informing that on march 7, 1996, the West Virginia Legislature passed House Bill 4862 that amended the law relating to the West Virginia Bureau of Employment Programs.

The Commissioners received and reviewed a letter from the West Virginia Public Employees Insurance Agency (PEIA) regarding the delinquent accounts of the Fayette County Committee on Aging. Ms. Holly informed the Commissioners that the Commission do not have anything to do with their delinquent account. The Commissioner asked Ms. Holly to return to PEIA.

The Commissioners received and reviewed a letter from the Department of Tax and Revenue informing of the Appraisal Ratio Results.

Ms. Holly informed the Commissioners that Casto Technical was in to do follow-up of complaint regarding controlling of the heat at the Courthouse Annex on the second floor; Casto Technical informed Ms. Holly he had replaced fuses but they need to do a complete study of the heating system. Casto Technical asked Ms. Holly to have the maintenance crew check with the Judge's secretary for any hearings or trials so they

could adjust temperature the day before.

Commissioner Carte made motion to appoint Sherman Bobbit member of the Fayette County Planning and Zoning Commission to replace Leonard Nelson. Commissioner Witt seconded. Vote unanimous. Order signed.

The Commissioners received and reviewed a copy of a fax from the West Virginia Association of Counties informing that on April 1, 1996 Governor Gaston Caperton signed into law Senate Bill 382, the Reclassification and Salary Bill.

The Commissioners received and reviewed minutes from Salem-Gatewood Public Service District for the month of March.

The Commissioners received and reviewed a letter from the Regional Jail and Correctional Facility Authority informing that at their April 1, 1996 meeting, voted to raise the per diem three dollars effective July 1, 1996. Ms. Holly informed the Commission the per diem would increase from \$35.00 to \$38.00 for each inmate.

Ms. Holly informed the Commissioners the Public Service Commission will hold Public Hearing on April 18, 1996 at 1:30 p.m. regarding reducing the boundaries of the Gauley River Public Service District within Clay County and Fayette County for the purpose of enlarging the boundary lines of the Clay County Public Service District. Ms. Holly informed the Commissioners they would not have to attend.

The Commissioners received and reviewed letter from the West Virginia University Extension Service informing of Bob Arthur's retirement, effective March 31, 1996 and inform that during the period of the vacancy, the local portion is to be retained in Fayette County and utilized to employ a Program Assistant.

The Commissioners received and reviewed minutes from Multi-County Community Action Against Poverty, Inc. for the months of January and February, 1996.

The Commissioners received and reviewed a letter from Cleek, Pullin, Knopf, and Fowler regarding Horrocks v. City of Fayetteville, et al, regarding eyewitnesses to the automobile accident.

The Commissioners received and reviewed from Carl Harris, Assistant Prosecuting Attorney response to petition regarding 1996 Property Tax Assessments of Rivermont Presbyterian Home and Twin Oaks Plaza.

The Commissioners received and reviewed requisition for typewriter for Linda Johnson. Ms. Holly reminded the Commissioners about Debbie Berry's typewriter and informed the Commissioners that Tom Woodrum had dropped his on the floor, had Debbie to check with Clarence Vaughan to see if he could salvage parts to make one good typewriter. Commissioner Witt made motion to purchase typewriters for Linda Johnson and Debbie Berry. Commissioner Lopez seconded. All approved; vote passed 3 - 0.

Ms. Holly informed the Commissioners she received notice from American Legion that Know Your Government Day would be held on Friday, May 3, 1996.

The Commissioners received and reviewed maintenance and repair of vehicles report for county vehicles for the month of March.

The Commissioners received and reviewed bids from Earl Pauley, Park Superintendent for purchase of lawn mower for the Courthouse. Ms. Holly informed the Commissioners she had talked with Mr. Pauley and he had recommended rebuilding blown-up motor in a Jacobson lawn and garden tractor for \$1,400.00. Discussion was held, the Commissioners decided to let Earl make the decision regarding the riding lawn mower for courthouse. The Commissioners approved purchase of push mower for the Courthouse from Beckley Cub Cadet, amount \$289.00.

Ms. Holly gave an update of work being done at the Fayette County Memorial Building. Ms. Holly also informed the Commission that their is

a drain problem at the Memorial Building but she would have to check to see if the Fayette County Board of Education is responsible or the Commission.

The Commissioners signed letter to the United Community Services, Inc. informing the Commission support endeavors in their effort to acquire the Hygeian Facilities (Coal Valley Medical Center) Building, but informed they are unable to make financial contribution to this project due to the reduced Coal Severance revenues received.

The Commissioners received and reviewed a copy of funds deposited to the Fire Levy Fund for the purchase of fax cartridges, gloves and hoods, pager and portable batteries.

The Commissioners received and reviewed a list of "refusals to pay" associated with the Emergency Telephone System for the month of March, 1996.

The Commissioners received and reviewed memorandum from the West Virginia Development Office regarding the United States Department of Energy Clean Cities Survey. Commissioner Witt suggested forwarding to Sheriff William Laird for his review.

The Commissioners signed letters to the West Virginia Infrastructure and Jobs Development Council, Delegate Robert Kiss, and Senator Oshel Craigo informing the Commission would like to lend it full support for the destination tourism facility as proposed by Parks and Wildlife Service (PAWS).

The Commissioners received and reviewed memorandum from Dave Pollard informing the Department of Agriculture would like to meet on Monday, April 22, at 10:00 a.m. to discuss the \$500,000 water resource grant.

David Pollard, Community Resource Coordinator appeared before the Commission to inform the Commissioners they have completed their

interviews and their recommendation for Bond Council, Legal Council and Engineer Council for the Regional Water System. Dave Pollard, Guy Dooley, Tom Oxley, and Debbie Martin, secretary for Mr. Pollard conducted the interviews. Mr. Pollard presented the recommendations to the Commissioners, for Bond Council it was recommended that Vincent Collins, Steptoe and Johnson--Commissioner Lopez made motion to accept recommendation for Vincent Collins as Bond Council. Commissioner Carte seconded. All approved. Vote passed 3 - 0; for Legal Council, Travers Harrington was recommended--Commissioner Lopez made motion to accept recommendation of Travers Harrington as Legal Council. Commissioner Witt seconded. Commissioner Carte opposed. Vote passed 2 - 1; for Engineer Council, Stafford Consultants was recommended--Commissioner Lopez made motion to accept recommendation of Stafford Consultants as Engineer Council. Commissioner Carte seconded. All approved. Vote passed 3 - 0.

Mr. Pollard informed the Commissioners he had met with the West Virginia-American Water Company, the West Virginia Infrastructure and Job Development Council, and had spoke with Kelvin Holliday, County Clerk regarding setting date for election. Mr. Pollard asked the Commissioners if August 3rd was okay; informed the Commission that Mr. Holliday informed this is the only day his office could handle this election. Mr. Pollard presented a copy of the order and proposal to the Commission. Discussion was held, the Commissioners asked Ms. Holly to check and see if notice could be published in the Fayette Tribune today. Order to adopt a tax increment financing plan by the County Commission of Fayette County was approved and signed for publication today. Public Hearing would be held 10:00 a.m. on Friday, May 3, 1996 and the Election would be held on August 3, 1996. Commissioner Carte asked Mr. Pollard if West Virginia-American Water Company would pay election expense. Mr.

Pollard answered yes.

The Commissioners received and reviewed a letter from the Southern Appalachian Labor School.

The Commissioners received and reviewed a letter from the Prosecuting Attorney's Office regarding the Fayette County Health Department Building.

The meeting was adjourned. Next scheduled meeting is April 24, 1996.

John G. Witt



FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
APRIL 24, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840  
MEMBERS Present: John L. Witt, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 24th day of April, 1996.

Exoneration were approved and signed. Ms. Holly informed the Commissioners she received letter from the Assessor's Office recommending the Commission give credit to Mason and Henry A. Mathews for tax year 1990, 1991, 1992, 1993 and 1994. Ms. Holly informed the Commission this was approved in the meeting of April 2, 1996 and Ms. Holly informed the Commissioners order has been prepared. The Commissioners signed order.

Ms. Holly presented to the Commissioners pictures from the Oak Hill Camera Club of the Courthouse Centennial. Commissioner Carte moved that the Commission accept pictures from the Oak Hill Camera Club and to send a letter of thanks to Jim Painter and Mop Warrick. Commissioner Carte suggested getting a scrapbook.

The Commissioners approved for Commissioner Carte to attend Workers' Compensation Law and Practice in West Virginia seminar being held in Charleston on Thursday, April 25, 1996 and approved for Charlotte Holly to attend Employee Discharge and Documentation seminar being held in Charleston on Friday, May 10, 1995.

Ms. Holly informed the Commissioners she has prepared order to reimburse the Fayette County General Fund from the Excess Levy Election Expense Fund for election held on February 3, 1996. Commissioner Carte made motion to reimburse the General Fund \$42,739.91 to be transferred from the Fayette County Excess Levy Election Expense Fund to the Fayette County General Fund. Commissioner Witt seconded. All approved vote

passed 2 - 0.

The Commissioners signed invoice to the Division of Corrections for rent for the month of April, amount \$300.00.

The Commissioners signed request for reimbursement for rent in the amount of \$990.00 for the Office of the Family Law Master for the month of April.

The Commissioners signed letter to Mountain Transit Authority (MTA) informing them the Commission have appropriated \$2,500 for fiscal year 1996-97.

The Commissioners signed Budget Certification letter to the West Virginia Department of Health and Human Resources informing them the Commission has budgeted \$5,000 for the fiscal year July 1, 1996 through June 30, 1997 for local mental health services through the Fayette-Monroe-Raleigh-Summers Mental Health Council, Inc. (FMRS).

The Commissioners signed and approved minutes for March 11, 1996.

The Commissioners signed letter to Governor Gaston Caperton informing they endorse the efforts of the Hawks Nest State Park Foundation request that the State of West Virginia purchase an 18-acre tract of woodland which is owned by the Straughan Family and which borders the property of Hawks Nest State Park.

The Commissioners signed letter to Mike Cobb, West Virginia Department of Transportation informing them the Commission were asked by residents who live along the Hilltop Loop Road (old West Virginia Turnpike) for assistance to have the road upgraded with gravel and request that the Oak Hill Highways Division investigate this matter and upgrade the Hilltop Loop Road as the residents have requested.

The Commissioners signed letter to the West Virginia Department of Tax and Revenue informing that the Fayette County Commission grant permission to have a telephone/fax line installed on a temporary basis

in the back office located on the third floor of the Fayette County Courthouse for use by Gary Farren; informed that this permission may be revoked if said office space is needed by the County for any reason prior to the conclusion of Mr. Farren's assignment and it is the understanding of the Commission that all arrangements for and costs of installation, maintenance, monthly fees, etc. will be assumed by and the responsibility of the West Virginia Department of Tax and Revenue and not the Commission.

The Commissioners signed order assigning number of vote recording devices in each precinct informing they have reviewed the total number of registered voters and the number of registered voters of each party in each precinct and having determined the number of voting devices needed for the Primary Election.

Ms. Holly informed the Commissioners she has prepared checks as per agreement with the New River Convention and Visitors Bureau, Inc. (\$111.90) and the Southern West Virginia Convention and Visitors Bureau (\$111.90) the 25% for the hotel/motel occupancy tax for the months of January, February, and March.

The Commissioners approved requisition received from the West Virginia Extension Office to change locks on front, back and upstairs doors.

The Commissioners received and reviewed letter from the West Virginia Extension Central Office informing they would like to hire a 4-H Program Assistant with matching money sent to Morgantown and informed this would be contract work, no benefits, for a minimum of three months. After the three months are completed it would be a month to month basis, would like to advertise and start person May 15 to assist with camp, county fair and other summer activities. The Commission approved request.

Ms. Holly informed the Commissioners that Earl Pauley, Park Superintendent called with prices for gravel for Clifftop. Ms .Holly informed the Commissioners per Earl; base, 90 tons ballast rock, cost would be \$6.00 ton if Earl pickup and hauled, Mr. Pauley informed he could only haul 10 tons at a time or have delivered at \$10.00 a ton. The Commission approved to have gravel delivered.

Ms. Holly informed the Commissioners that James Perdue, maintenance, would adjust the thermostat in the Courthouse Annex when Judge Charles Vickers have a trial. Ms. Holly informed the Commission that she received proposal for Technical Assistance Services for HVAC System Evaluation at the Courthouse Annex from Casto Technical Services, Ms. Holly informed the Commissioners the cost of the study would be \$1,248.00. The Commission signed and approved proposal from Casto Technical Services.

The Commissioners received and reviewed letter from the Department of Public Safety (Division of Corrections) informing that August 31, 1996 lease on the Parole Office will expire and in order to have the lease renewed they would need a letter from the Commission either accepting the same terms and conditions, or explaining any changes. Commissioner Carte made motion not to renew Parole Office lease. Commissioner Witt seconded. All approved.

The Commissioners received and reviewed letter from Kelvin Holliday, County Clerk requesting four (4) volumes of debtor index for financing statements. No decision made.

Ms. Holly informed the Commissioners that the maintenance crew appreciated the new push mower and riding mower that was purchased for the Courthouse. Commissioner Witt complimented the maintenance crew on a good job they did stripping in the witness room. Commissioner Witt informed Judge Hatcher was also pleased with the job. Commissioner Witt

informed the maintenance crew is now in the process of stripping the furniture in witness room.

Ms. Holly asked the Commission if they didn't mind if they would walk with her up to the Memorial Building and look at the steps and check what changes are needed to be made, Ms. Holly informed the Commission she has concerns about the changes.

The Commissioners received and reviewed letter from the Fayette County Solid Waste Authority acknowledging receipt of check in the amount of \$4,000.00 from the Commission with explanation of how money would be spent.

The Commissioners received and reviewed copy of a letter to the Fayette County Solid Waste Authority informing the Commission of Roy G. Taylor resignation. Joe Meyers, member of the Fayette County Solid Waste Authority was present informed the Commission that a letter has been sent to the Division of Environmental Protection.

The Commissioners received and reviewed financial reports and minutes from the Fayette County Solid Waste Authority.

The Commissioners received and signed certificate of title from the Fayette County Solid Waste Authority for a 1987 Chevy Truck and a 1984 Jeep.

The Commissioners received and reviewed letter from Multi-Cap, Inc. informing of their Annual Meeting on Tuesday, April 30, 1996 at 5:30 p.m. at the Christ Church Untied Methodist.

The Commissioners received and reviewed letter from the Public Service Commission informing that the Gauley River Public Service District boundary changes hearing has been rescheduled for Wednesday, May 8, 1996 at 10:00 a.m.

The Commissioners received and reviewed announcement from the Juvenile Justice and Delinquency Prevention (JJDP) Grant Applicants

regarding the availability of Fiscal Year 1996 preapplication Deadline Thursday, April 16, 1996.

Commissioners Witt asked Ms. Holly to call Central Appalachia Empowerment Zone and remind them of Public Hearing scheduled for Tuesday, May 7, 1996 at 10:45 p.m.

The Commissioners received and reviewed letter from the Internal Revenue Service regarding Raleigh County, Fayette County, and Nicholas county Collateralized Mortgage Obligation Bond Series 1990B CUSIP Number 751078AD8 informing that examination of bond issue has been completed, and as a result have decided to close the examination with no change to the position that interest received by the bondholders is excludable from gross income under section 103 of the Internal Revenue Code.

The Commissioners received and reviewed orders from the Workers' Compensation Office of Judges on employees Harold Conner, Dovie Christian, Percy Gilliam, copies forwarded to the Prosecuting Attorney's Office and the Sheriff Office.

The Commissioners received and reviewed letter from the Criminal Justice and Highway Safety Division informing of he Mandatory in-Service Training for Law Enforcement. Copy forwarded to Sheriff's Office.

Ms. Holly reminded the Commissioners that Know Your Government Day is Friday, May 3, and informed the Commission that Tax Increment Financing Plan public hearing is scheduled for 10:00 a.m., also.

Ms. Holly reminded the Commissioners that inspecting and testing of votomatics and tabulator is scheduled for Tuesday, May 7th at 9:30 a.m.

Ms. Holly informed the Commissioners that Canvass would be held on May 17th and asked the Commissioners if they had any workers they wanted to use to let her know and she would make arrangements.

Ms. Holly informed the Commissioners that Kelvin Holliday, County

Clerk had called on Monday, April 22 requesting that ballot Room be opened so that Herb Mann, Circuit Clerk can get his cases out. The Commissioners unlocked ballot room.

Kelvin Holliday asked the Commissioners if they would unlock ballot room on May 7th.

Joe Myers asked the Commissioners about space for the Recycling Coordinator. No decision made.

Loren Shuck appeared before the Commission to inquire about the Estate of Elvie Louise McCallister. Mr. Shuck expressed his concern regarding the final settlement of the property informed the Commissioners he thinks the Executive of the Estate is selling the property. Commissioner Carte reviewed the file and found that the Attorney in this matter is Phil Tissue, Mr. Tissue being present for another appointment informed the Commission that the property Mr. Shuck is inquiring about is being surveyed and informed the Commission that none of the property has been sold.

Attorney Phil Tissue appeared before the Commission regarding the Mary Harris Estate informed the Commissioners that estate had been finalized, the Fiduciary Commissioner later received a will in the mail. Will McGee was present. Mr. Tissue asked the Commission if their were no objection to having will probated, and informed the Commissioners that he intend to file suit in Circuit Clerk. Commissioner Carte made motion to probate will. Commissioner Witt seconded. All approved. The Commissioners asked Mr. Tissue to prepare order.

Attorney Phil Tissue appeared before the Commission regarding Irene Rogers Estate. Kenneth and John Bennett were present. Attorney Tissue informed the Commissioners the Bennett's had attempted to probate handwritten will for Irene Rogers but the Clerk of the County Commission informed Kenneth and John Bennett that witnesses would have to be

produced relating to the handwriting of the decedent. Attorney Tissue presented handwritten will to the Commission for their review. And informed the Commissioners that the handwriting of Irene Rogers and is not a holographic will. Attorney Tissue informed the Commissioners that since the will is not a holograph and it cannot be proved to be the handwriting of Irene Rogers it is not valid and cannot be probated. Attorney Tissue asked the Commission to permit the administration of the Estate of Irene Rogers to proceed as an estate of intestacy rather than one in which a will is probated. Commissioner Carte moved that the Last Will and Testament of Irene Rogers is not valid and that the estate administration of Irene Rogers should proceed as an estate of intestacy. Commissioner Carte seconded. All approved. The Commissioners asked Attorney Tissue to prepare order.

Attorney Tissue appeared before the Commission regarding Polly Breeden property located in Hilltop, Lot 15, Plateau District. Attorney tissue informed the Commissioners that he has filed a Declaratory Judgment relating to Lot 17 of the Rostock Addition to the Town of Hilltop. Attorney Tissue explained to the Commissioners that although she has paid for lives on Lot 17, she received in error a deed containing Lot 15. Mr. Tissue informed the Commissioners that Ms. Breeden has never lived on this lot and informed the Commissioner that the clean-up letter should have been sent to the heirs of Lewis Bibb who are the owners of that property. The Commissioners suggested that letter be sent to the heirs of Lewis Bibb.

Outstanding bills and payroll were approved.

Janet Zamiela, Director of the Fayette Senior Programs and several senior citizens appeared before the Commission requesting money to be used as matching funds for an Urban Mass Transit act to obtain a new van. Ms. Zamiela informed the Commssion they would need an additional



\$3,000 funding to purchase van. Discussion was held, the Commission informed Ms. Zamiela that the County has to repay approximately \$100,000 to the Coal Severance Fund. The Commissioners informed Ms. Zamiela they would take under advisement and get back with them. Commissioner Witt asked Ms. Holly to check to see if anything could be done for this fiscal year 1995-96.

The Commissioners approved invoice from Southern States for purchase of Yardman-Riding Mower for Courthouse, amount \$1,639.00.

The Commissioners approved invoice from Two-Way Radio, Incorporated for purchase of 100' Self Supporting Tower for the Valley Tower, amount \$13,810.00.

The Commissioners received and reviewed letter from Software Systems, Incorporated informing they will no longer support IBM System/36 applications from their offices.

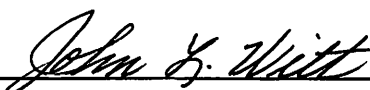
Ms. Holly informed Commissioner Witt that the letter authorizing charging of sleeping rooms and meals, included witnesses for the Billy Joe Hottle trial. Ms. Holly informed Commissioner Witt she had talked with Emily Corley from the Prosecuting Attorney's Office and she informed that the Prosecutor will request reimbursement from the State for the witnesses charges.

The Commissioners received and reviewed memorandum from Randolph County Commission regarding the West Virginia Lottery Act Code 29-22-18.

The Commissioners signed order regarding request for tax refund for Mason and Henry A. Mathews due to a clerical error for the years 1990, 1991, 1992, 1993, and 1994.

The Commissioners received and reviewed list of member doctors for the Vision Service Plan.

The meeting was adjourned at 11:35. Next scheduled meeting is May 3, 1996.

  
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FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
AUGUST 7, 1996  
COURTHOUSE

FAYETTEVILLE, WV 25840  
MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 7th day of August, 1996.

Attorney Phil Tissue appeared before the Commission regarding the Estate of Mary Lee Harris. Mr. Tissue requested that Mr. Willie F. McGee be excused from posting bond in connection with the recommencement of the administration of the Harris Estate. Discussion was held, the Commission moved that the previous administration where Mr. McGee qualified as personal representative be completely closed without filing and approval of a formal final settlement, and that a new administration be commenced where in Willie F. McGee serve as personal representative of the estate, but that no bond be required for the faithful performance of his duties.

Exonerations were approved and signed.

Carolyn Jones appeared before the Commission, Ms. Jones asked the Commission if they would help purchase equipment for the Minden Community Association. Discussion was held, the Commission decided to purchase weedeater. Commissioner Lopez made motion to contribute \$800 to the Minden Community Association. Commissioner Carte seconded. All approved. Vote passed 3-0. Ms. Jones asked the Commission about tearing down old housing in the area.

Commissioner Lopez presented to the Commission transcript of the Kanawha Falls Public Service District hearing held July 16, 1996. Commissioner Lopez informed the Commission that Ghosh Engineer was awarded project to construct lines to transport sewage from Smithers to

Boomer. Commissioner Lopez suggested to the Commission to write letter to the Kanawha Falls Public Service District asking them to hold Ghosh Engineering Project until problem is satisfied in the Boomer area. Commissioner Witt agreed with Commission Lopez and asked Ms. Holly to draft letter.

Ms. Holly informed the Commissioners that the Annual Financial Statement for fiscal year July 1, 1995 thru June 30, 1995 has been prepared and will be sent to the papers within the next day or so.

The Commissioners signed letter to Wilson Lodge authorizing sleeping rooms, room guarantees parking fees be charged to the Fayette County Commission while Thomas Aiello, Assessor is attending the 1996 board of Directors/Legislative Policy meeting being held September 29 through October 1, 1996.

The Commissioners signed letter to Appalachian OH-9 asking that they notify the Commission in writing of the date they were to remove equipment and prior to the removal the Commission is requesting payment in full as reimbursement of their share in the amount of \$5,168.00 for the cost of the replacement of the roof on the Fayette County Health Department.

The Commissioners received and reviewed Dog Tax Report for the month of July.

The Commissioner received and reviewed 911 responses report for the month of July.

Ms. Holly informed the Commissioners she did not have time to prepare letter to the Division of Correction regarding granting a 4 to 6 months extension of the rental of the parole office.

Ms. Holly informed the Commission that Debbie Berry told her she received a cal from Ann Berry saying that a lady had fallen at the Courthouse Annex; was informed that Ms. Berry did call insurance. Bob

Massey and Dee Lively to prepare sidewalk.

The Commissioners signed Zoning Hearing minutes of July 31, 1996.

The Commissioner signed contract for Casto Technical Services for Renewal of HVAC Maintenance Agreement, effective September 1, 1996

The Commissioners received and reviewed franchise fee from Master Telecable, Inc. For second quarter 1996.

The Commissioners received and reviewed resignation letter of Joseph Myers from the Fayette County Solid Waste Authority.

The Commissioners received and reviewed letter from Meadow River Coal Company dated July 29, 1996.

Ms. Holly informed the Commissioners she received letter from Michael L. Matheny for Sylvia Matheny asking that interest on the back taxes be waived for 1990, 1991, 1992, 1993 and 1994. Ms. Holly informed the Commissioners she received letter from the Assessor's Office stating that interest should be waived Ms. Holly informed the Commissioners that she would have to prepare an order.

Ms. Holly asked the Commissioners if any action would be taken on the reappointments of Gene Kistler, Charles Dummitt, Jack Wood and Al Gannon to the Fayette County Planning Commission. Commissioner Witt nominated Bob Kelly to take Jack Woods place. Discussion was held, it was decided to reappoint Charles Dummitt, Jack Wood, Al Gannon, Gene Kistler as members of the Fayette County Planning Commission. Order signed.

Commissioners Witt made motion to reappoint Andrew Wooten to the Arbuckle Public Service District. Commissioner Carte seconded. All approved.

Ms. Holly informed the Commissioners that the Commission would have to sign resolution stating our county wishes to participate in the Certified Development program and that the Commission designates the 4-C

Economic Development Authority as representing our county for the purpose of participating in this program. Commissioner Carte made motion to approve and authorize the adoption of said Resolution. Commissioner Lopez seconded. All approved. Vote passed 3-0.

The Commissioners received and reviewed letter from Gordon Billheimer, Chairman of the Fayette County Courthouse Centennial Committee with summary of the income and disbursements (amount \$3,364.84); Mr. Billheimer asked the Commission to inform the committee of what to do with money. Commissioner Lopez asked that the entire amount be reimbursed back to the county for our expenses for mug, decorations etc.

Ms. Holly informed the Commissioners she had talked with Bell Atlantic regarding changing telephones in Magistrate Court. Commissioner Carte made motion to change phones in Magistrate Court. Commissioner Lopez seconded. All approved. Ms. Holly informed Bell Atlantic to install August 20, 1996.

Ms. Holly informed the Commissioners she had called Dr. John David to reschedule hearing for August 7th, was informed by Dr. David to reschedule for last meeting in August, Dr. David is requesting that letter be sent giving an explanation of expenditures of the contribution of the \$5,000 given to the Beards Fork Community during the fiscal year 1995-96.

The Commissioners adjourned for Executive Session regarding personnel matter.

Upon returning from Executive Session, Commissioner Lopez informed that effective August 16th Forrest Bragg would be employed as janitor/maintenance.

Dave Pollard presented to the Commission Quarterly Progress Report of the Fayette Transition Team and Community Resource Coordinator.

Reba and Tim Smith and other concerned citizens appeared before the Commission requesting assistance in getting water to service the Sanger area. Mr. Smith informed the Commission that West Virginia American Water had agreed to assist. Discussion was held, Commissioner Witt asked Dave Pollard, Community Resource coordinator if they should meet with West Virginia American. Mr. Pollard informed it would be better. Commissioner Witt informed he would be meeting with Chris Jarrett over the weekend and would talk with him about the adding Sanger area to the Regional Water Project. Mr. Pollard recommended to Mr. Smith and citizens that they meet with Mike Miller, Chris Jarrett and Tom Muncy to see if something could be worked out.

Charles Toombs, Chairman of Wolf Creek Public Service District appeared before the Commission. Mr. Toombs informed that Woolpert is ready to start engineering feasibility study, Mr. Toombs informed the Commission that West Virginia Development Office is needing confirmation of the Commission fund. Commissioner Witt informed Mr. Toombs he had talked with Senator Shirley Love and was told that check has been cut for Wolf Creek Public Service District. Ms. Holly explained to Mr. Toombs how the Legislative Digest distribute the funds.

The Commissioners approved to grant funds and issue check to Wolf Creek Public Service District for engineering feasibility study, amount \$7,500.00.

Outstanding bills were approved.

The Commissioners received and reviewed letter from Pullin, Knopf, Fowler and Flanagan response to letter dated July 15, 1996 requesting information for an audit being conducted by the Department of Tax and Revenue.

The Commissioners signed order canceling the Tax Increment Financing (TIF) Special Election.

The Commissioners received and reviewed letter from West Virginia Development Office informing of meeting being held by the West Virginia Development Office-Energy Efficiency Program and West Virginia University (WVU) are co-sponsoring an Alternate Fuels Exposition at the WVU Hanger at the Morgantown Municipal Airport on Wednesday, August 28, 1996.

The meeting was adjourned. Next scheduled meeting is August 15, 1996.

  
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08/07/96

Maple Fork Area  
Hearing

Harrell & Deborah Zwoyer  
Don & Jane Allen  
Roger T. Elkins

James & Peggy Zwoyer

Margaret Novert

Daniel & Jerri Palmer

George & Mary Seumner II & III

also present  
was Jim Smith  
& Reba Smith



08/07/96

Wolf Creek PSD  
Hearing

Sandra K. Bragg  
Tresa Jackson  
Sadie Handqvist  
Robert Jackson PSD  
Kenneth R. Elder  
C. K. Fount  
Virginia Beckett Morgan

FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
AUGUST 15, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 15th day of August, 1996.

Meeting was called to order by Commissioner Witt.

Commissioner Witt opened the meeting by telling everyone that the petitioners would be given all the time they needed to present their proposal and then the opposition would be given equal time.

Commissioner Witt asked Paul Blake, Jr., Prosecuting Attorney to inform everyone as to how the public hearing would be conducted.

The following case was scheduled for a public hearing before the County Commission: Z-424-96-3: Request of Fayette County Haulers, Inc., owners, Joseph Hutchens, President, by James W. Keenan, Attorney, for a change in land classification from R-R, Agricultural and Rural Residence District, to P-D, Planned Development District, on 140.905 acres, Bend Branch, located on Route 19 at Sun Hollow Road near Mount Hope Plateau District.

Jim Keenan, Attorney spoke representing the Fayette County Haulers and presented the five companies making up the corporation (Joe Hutchens, Tex Hall, John Gray, Dave Strunk, and Allen Fox). Mr. Keenan stated that these five companies currently serve 12,400 households in Fayette County and submitted a petition with approximately 2,000 signatures supporting this request. He also stated that these haulers were currently paying Raleigh County \$150,000 per month in tipping fees. He also stated that these tipping fees were sufficient to cover the operating expense and to settle the debt incurred in this project. Tex Hall spoke representing the haulers. Leonard "Butch" Joyce then

outlined the site and briefly described the project. Ken Aiani was introduced to answer questions on the operation of the project.

Several people spoke against the proposal including John Hunt, Executive Director of the 4-C Economic and Development Authority, Pete Hart, Superintendent of the National Park Services, Kevin Burgess representing the Fayette County Chamber of Commerce and himself, Melanie Dragon, Sam Dorado and Melanie Bowyer.

After a lengthy discussion at which several others stated their positions both for and against the proposal Commissioner Witt asked for a 5 to 10 minute recess to go downstairs and discuss, Joe Myers with The Fayette Tribune questioned the Commission about going into Executive Session to make decision. Commissioner Witt informed the citizens the Commission would not be taking recess the Commission would be making their decision within the next 5 to 10 minutes. Commissioner Witt asked the Commission to take a vote. Commission Carte made motion that this request for a change in land classification on 75 acres to Planned Development be denied because of possible odors and traffic problems in area. Commissioner Lopez seconded. By a unanimous vote by the Commissioners the vote passed 3-0.

Exonerations were approved and signed.

Janice Comer appeared before the Commission asking that they would consider installing at the Memorial Building steps on ground at Library and Daniel's Market. Commissioner Witt agreed and recommended to Ms. Holly to get estimates from Coleman's Construction. Ms. Comer also asked the Commission if they would consider putting bench on ground near sidewalk. Commissioner Lopez informed Ms. Comer the Commission would look at an consider. No decision made.

Ms. Holly informed the Commission that she had received complaints from the ground floor of the Courthouse Annex regarding the air quality

on the floor causing headaches and eye problem. Ms. Holly informed the Commission that Casto Technical Service was here and he had spoke with Dee Lively, maintenance regarding the air quality on the floor, someone over heard conversation and misunderstood. Ms. Holly told the Commission she had talked with Dee, Sheriff Laird and Jeff Brown with Casto Technical and he informed her that the carbon dioxide (CO2) levels measured within the ground floor areas are not cause for occupant concern of unsafe environmental conditions. Ms. Holly told the Commissioners that Jeff was on vacation but he told her he would fax a letter to her Monday verifying. Commissioner Carte asked that once the letter is received to post on ground floor of Annex building.

Paul Blake, Prosecuting Attorney appeared before the Commission to discuss the situation with the Fayette County Health Department and Appalachian OH-9. Mr. Blake informed the Commissioners he had talked with OH-9's attorney and he wants to know the situation with the building. Mr. Blake informed the Commissioner he see no problem with OH-9 getting their equipment; told the Commission to terminate lease on both parties part.

The Commissioners signed letter to Kelvin Holliday, County Clerk informing that effective August 16, 1996 Forrest Bragg will be employed as a full-time janitor/maintenance, annual salary \$12,120.00 plus benefits to be paid from General County Fund.

The Commissioners signed invoice to Division of Correction for rent of parole office for the month of August, amount \$300.00.

The Commissioners signed letter to Penelope Crandall, Director Family Law Masters for reimbursement for rent in the amount of \$990.00 for the month of August.

The Commissioners signed letter to Gordon Billheimer, Chairman of the Fayette County Courthouse Centennial Committee requesting that the

\$3,364.84 balance of their account and any additional revenue received be forwarded to the Commission as reimbursement of previous expenditures for the event.

The Commissioners signed resolution regarding approval of grant funds for Wolf Creek Public Service District for \$7,500.00 for an engineering feasibility study for providing sewage treatment service.

The Commissioners signed Fire Levy Fire Protection Agreement for Gauley Bridge Fire Department for July 1, 1996 to June 30, 1997.

The Commissioners signed letter to the Division of Corrections notifying them that upon the expiration of the current lease ending August 31, 1996, that by unanimous decision the Commission decided to extend lease for 4-6 months under the terms and conditions of original lease dated June 12, 1995.

The Commissioners signed order reappointing Andrew Wooten to the Arbuckle Public Service District.

The Commissioners received and reviewed letter from Salem-Gatewood Public Service District asking that Alan Brinegar be reappointed commissioner. Commissioner Witt made motion to reappoint Alan Brinegar to Salem-Gatewood Public Service District. Commissioner Lopez seconded. All approved. Order signed.

The Commissioner signed letter to Kanawha Falls Public Service District requesting that they delay construction of Ghosh Engineering to construct lines to transport sewage from Smithers to Boomer until the complaint issue regarding the holding tanks is resolved to the satisfaction of the residents of Boomer.

The Commissioners signed letter to Armstrong Public Service District informing that the Fayette County Commission has budgeted an amount of \$15,000.00 for fiscal year 1996-97 to help with the needs of the Armstrong Public Service District water treatment plant, repair of

the holding tank and extension of water sewer to 28 families along Armstrong Creek.

Ms. Holly informed the Commissioners she received estimate from Roy Coleman to prepare walk at Courthouse Annex, cost \$450.00.

The Commissioners received and reviewed letter from Mary Lou Schmidt, Extension Agent informing that as of today Doug Hurst, 4-H Associate will complete his assignment in the Fayette County Extension Office. Copy given to Debbie Berry, Bookkeeper.

The Commissioners received and reviewed revised General Election Calendar for Absentee voting.

The Commissioners received and reviewed thank you letter from the Fayette County Emergency Food Assistance Center for their contribution of \$1,500 for fiscal year 1996-97.

The Commissioners received and reviewed letters from the Workers' Compensation Division regarding Fred Sizemore.

Payroll and outstanding bills were approved.

The Commissioners decided to put Circuit Clerk's roof out for bids.

The Commissioners received and reviewed letter from David Neal, 911 Coordinator informing that Tina Boyd has stepped down from full-time to part-time. Sam Parsons will fill full time position. This was approved.

The Commissioners approved to pay Jeremy Evan's travel from the Extension Office travel allocation.

The Commissioners received and reviewed letter from John David regarding the Beards Fork Community expenditures.

Commissioner Witt informed he would be absent for the Commission meeting August 28, 1996.

The Commissioners received and reviewed application of employment

from Gail Ray McClung.

The Commissioners received and reviewed letter from Meadow River Coal Company regarding taking person off termination and adding another person to be terminated.

Ms. Holly informed the Commissioners that Christy Workman, Magistrate Clerk had requested purchasing of metal shelves for Magistrate Office; Ms. Holly told the Commissioners she had checked, but she went back and checked the Code and the Supreme Court is responsible for purchasing furniture, equipment and supplies and she informed Ms. Workman of this, haven't heard anything since.

Ms. Holly asked the Commission what they want to do with the \$20,000.00 in Capital Improvement. The Commissioners asked Ms. Holly to hold off they would think about a little more and get back with her.

Ms. Holly informed the Commission that as of today \$22,000 is in the Coal Severance Fund; no allotment until October.

Ms. Holly informed the Commissioners that Earl Pauley, Park Superintendent called last week was told he didn't have enough lifeguards to keep pool open, but he will have lifeguards for Labor Day. Commissioner Witt asked Ms. Holly to check and see how many lifeguards are needed for the number of people in a pool.

Ms. Holly informed the Commissioners she would be leaving Friday afternoon on vacation, will be back August 26, 1996.

Ms. Holly presented to the Commissioners an article written by Joe Myers with the Fayette Tribune regarding the Memorial Building, Ms. Holly informed the Commission that Mr. Myers had asked that if we had any comments regarding article it would be added; Ms. Holly informed the Commission she had added her comments.

Sheriff Bill Laird appeared before the Commission with request for temporary small office space for Linda Harper; Sheriff Laird informed

the Commission that Ms. Harper is the social worker hired under the Domestic Violence Women's Resource Grant.

The Commissioners received and reviewed letter from the Criminal Justice and Highway Safety Division informing that Martha Craig-Hinshman has been reassigned to the Governor's Highway Safety Program and that Melissa B. Whittington is the new Justice Programs Administrator.

The Commissioners signed Sales Tax Report for Fayette County Park for the month of July.

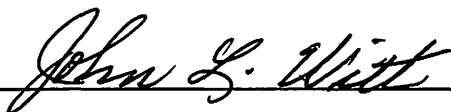
The Commissioners received and reviewed invoice from the West Virginia Association of Counties for annual dues for the West Virginia Association of Counties and the County Commissioners Association of West Virginia for Fiscal Year 96-97, amount \$4,994.00. The Commissioners approved to pay.

The Commissioners received and reviewed copy of reimbursement deposits to the Fire Levy Fund.

The Commissioners approved purchase of materials from Means Lumber for privacy fence being place around dumpster, cost \$399.22

The Commissioners received and reviewed notice from Southern Public Service Company regarding Federal Dot Code 192.16; this rule requires operators of gas service lines who do not maintain buried customer piping to notify customers of the need to maintain that pipe.

The meeting was adjourned at 3:13. Next scheduled meeting is August 28, 1996.

  
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08/15/96

7C Haulers, Inc Hearing  
COMPOSTING

John L. Kessler,	Hico,
Mary Sprakes	Fayal
Jean Berry	Sub
Pete Hart	Nat'l Park Service.
Ray + Joann Myers	Mt. Hope
Muriel Deal	Mt Hope
JAMES MUTTER.	Cv NA Rd. 25 VA.
Francis Canada	<sup>Hill Top</sup> oak Hill, W. Va.
Benny J Canada	<sup>Hill Top</sup> oak Hill W.V.
Enos H Dial	Fayetteville W.V.
Louise Dial	Fayetteville W.V.
Doug C Lutz	Greenwood, W.V.
Robert H. Vanley	Rt. 1 Fayetteville, W.V.
Dorothy Shrewsbury	Danese, W.V.
William Fox	Danese WV
C.R. HENDRICKSON	MT. HOPE WV.
Betra L. Hendrickson	Mt. Hope, WV.
Cherlene Humphrey	Pat. W.V.
S.L. Humphrey	Pat, WV
Janice Williams	Mt. Hope, W.V.
Kenneth Edace	Fayetteville, W.VA
Norma Isaac	Clifftop, WV
Mary Best	Mt Hope
Nancy Clin	Mt. Hope
Wilma Fox	Arsted WV
Egese James	Arsted, W.V.
Linda Cole	Arsted, WV 25812

Lona McClelland	Clifftop wv	
Laurie Sangerfield	Scarbro wv.	
Jete Marie Lindy	Gen Jean	
Darrell B. Williams	Mt. Hope	
C Brooks Martin	Hilton Village	
Francis Martin	Hilton Village	
Chris M. Cline	Fayetteville	
George Edgerl.	Sun	
Bobbie Yoder	Sun	
Patty Lilly	Mt Hope & gamat	
Nancy Martin	Mt. Hope	(Against)
Madison Hart	Mt. Hope	Opposed
RR Kaula	Fayetteville	opposed
Joan M Walker	Gen Jean	opposed
Carol Walker	Kruson	opposed
Oscil Herry	Oak Hill (Sun property owned)	Opposed
Joe K. Harvey	Gen Jean	" "
Mary E Kenney	Oak Hill	opposed
Burman Kay	Large Mt. Hope	"
Scott Vargo	Mt. Hope	"
Hanni Jones	Old Hill,	opposed
Amin Dependable	"	"
A B Jones	Oak Hill	"
Walter Sumner	Mt. Hope	"
Cindy Dragan	Thurmond	OPPOSED
Tom Droy	"	OPPOSED
Melanie Dragan	Thurmond	OPPOSED
Sandra W orado	Mount Hope	OPPOSED
Kerin Burgess	Oak Hill	OPPOSED

08-15-96

Rennylee Ann Frost	Oak Hill	against
Rosemary Gannon	Glen Jean	AGAINST
John Hunt	OAK Hill	AGAINST
RONALD J. Lee	RAULEY BR. W.VA	FOR
THERESA A LEE	GAULEY BR. W.VA	FOR
David A. Borford	Montgomery W.V.	For.
Gerald Kinney	unsted WV	FOR
Ardella Keester	Hico WV	FOR
Robert Kastru	Hico WV	FOR
Dorothy Mae Bragg	Glen Jean WV	against
Neill R Wright	Pack Branch WV	against
Howard Bragg	Glen Jean WV	against
Reta Callaway	Packs Branch WV	against
Beggin Orrial	Glen Jean	against
Pam Taylor	Mt Hope	against
Anna Logg Kendrickson	Oak Hill	against
Jimmy Triplett	Fayetteville	against
Tanel Triplett	Fayetteville	against
Joyce Triplett	Fayetteville	against
Richard W. Stewart	Beards Pond	against
Tom R. Sydney	OAK Hill	FOR
Dennis Lee Thomas	Fayetteville	FOR
Harold Aldabe	Conliss	FOR
Harold A. Aldabe Jr.	"	"
Byrden Warkman	Lansing WV	"
Victor Miller	Glen Jean WV	Against
Robert A. Warr	Stallup	FOR
Jon Dargen	Thurmond, WV.	AGAINST
Verli R. Sevin	Victor	FOR

08/15/96

8-15-96 Charles & Terry Fayetteville WV  
Lisa Jones Lansing For

08/15/96

Fayette Co. Haulers,  
Composting Hearing

Carmi Strunk

Wack Tyce

For

Michael Gline

West Va Division of Highways

Ernestine Simpson

Dorothy Stark

Samuel Mc Neely

Dorothy A Blomquist

C.W. Blomquist

Elletyne Wallow

Lee & Martha Kesler

Phyllis Farley - DNR - observer

John Burgess OAK HILL

Betty S. Burgess Oak Hill

Go Carl Smith

Jim Coye Hordeau - Mt. Hope

Edith Bailey - Mt Hope

Melanie Sawyer - Mt. Hope - Summit Ct

Don Green

Don Green

For Albie B. Sharp, Hico, WV

For Edward Sharp, Hico

For Myra Schale

John R Hoffman

Katherine Hoffman

Ruth Hogg

Sudana Spence

opposed

Jerry Cook

opposed  
opposed

Tom Stafford

Genevieve Hunt

Robert E. Hunt

Shave W. Wheeler City Councilman Mt. Hope

Mr. C. Knash

opposed

08-15-96

Say Hanger  
DAVID TURNER

Fayetteville WV  
" "

Judy Williams

Glen Jean, WV

Samantha Williams

Glen Jean, WV

Jennifer Williams

Glen Jean, WV

opposed

Phyllis Putnam

Mt Hope, WV

Henry Thodey

Charlton Heights WV

FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
AUGUST 28, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840  
MEMBERS Present: John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 28th day of August, 1996.

Commissioners Carte made motion to approve payroll and outstanding bills. Commissioner Lopez seconded. All approved.

Exonerations were approved and signed.

Ms. Holly presented to the Commission the Annual County Financial Statement for Fiscal Year ending June 30, 1996, Ms. Holly informed the Commission she also received a balance sheet statement for General County Fund only, but no signatures are required.

Ms. Holly presented to the Commissioners Petition from 60% of the citizens and 911 Center permission regarding changing Fayette road on U S Route 19 to Cafego Road. Ms. Holly informed the Commission Senator Love informed this would have to be done before renaming the road. Commissioner Carte made motion to send petition to the Division of Highways. Commissioner Lopez seconded.

The Commissioners received/reviewed and signed Fire Levy Pumper Replacement Agreement for Nuttall Volunteer Fire Department.

The Commissioners recessed to inspect dirt in County Clerk's Record Room.

David Neal, 911 Coordinator appeared before the Commission to inform them of the disciplinary action being taken on 2 employees. The Commissioners authorized disciplinary action for the 2 employees.

Ms. Holly informed the Commission she received from Kelvin Holliday, County Clerk bid from Dayton Legal Blank for precinct kits and poll slips for the 1996 Presidential General Election; Ms. Holly

informed Dayton Legal bid was \$1,890.00 and Casto Harris bid was \$2,085.50. Commissioner Carte made motion to accept lower bid of Dayton Legal Blank for precinct kits and poll slips for the 1996 Presidential General Election. Commissioner Lopez seconded. All approved.

Ms. Holly informed the Commissioners that Prosecuting Attorney Paul Blake had received a letter from Kevin Burgess, Appalachian OH-9 attorney. Mr. Burgess informed Mr. Blake that OH-9 is requesting to remove its personal property from building and regarding the roof repair Mr. Burgess informed that OH-9 disputes any obligation to contribute to the cost of the roof repairs reason being they did not use forty percent of the building. The Commissioners suggested terminating immediately. Commissioner Lopez asked Ms. Holly to sit down and talk with Prosecuting Attorney Paul Blake to see if some kind of decision could be made. Commissioner Carte informed he would like to put an end to the situation and suggested settling the personal property matter.

The Commissioners received/reviewed and approved one set of Emergency Ballot Commissioners (Paul McGraw, Democrat and Jess Tench, Republican) for the 1996 Presidential General Election.

Ms. Holly informed the Commissioners that Herbert Mann, Circuit Clerk is also asking that Joyce Wilson be approved to work part-time for the General Election, effective date September 9, 1996. This was approved.

Kelvin Holliday informed the Commissioner he would be hiring a part-time worker for the General Election during this time also.

The Commissioners approved purchase of Laser Printer for Circuit Clerk's office.

Commissioner Carte questioned about the phones at the Magistrate Court. Ms. Holly informed the Commission that Debbie Berry had called the phone company when she was on vacation to check and see what the



hold up was, they informed her they would be installing phones on September 5, 1996; Christy Workman has been notified of the installation.

Ms. Holly informed the Commission she had received accident report from Earl Pauley, Park Superintendent informing that Amy Campbell was sitting in swings at the Park and the chain broke. Ms. Holly told the Commission claim has ben sent to the insurance company.

The Commissioners received/reviewed and signed expenses for the Juvenile Justice Delinquent Program Social Worker for July and August.

Ms. Holly presented letter to the Commissioners from Belinda Morton informing that water is shooting over on her property from the Prosecuting Attorney's Office building. Ms. Holly informed she would have maintenance check and take care of.

Ms. Holly informed the Commissioners she had received letter from Dr. John David wanting to know what the Commission intend to do with the \$5,000.00 allotted for this fiscal year to the Beards for Community Project and what last years allotment was used for. Commissioner Witt asked Ms. Holly to response to Dr. David's request.

The Commissioners received and reviewed a list of "refusals to pay" associated with the Emergency Telephone System for the month of July, 1996.

The Commissioners received and reviewed Workers' Compensation claims for Fred Sizemore.

The Commissioners received and reviewed certificate of coverage from the Workers' Compensation Division.

The Commissioners received and reviewed check in the amount of \$3,364.84 from the Fayette County Courthouse Centennial Committee for balance of moneys collected.

The Commissioners received and reviewed Workers' Compensation

Payment Report for the month of May.

The Commissioners received and reviewed payment of the franchise fees for the period April 1, 1996 to June 30, 1996 from Helicon Group, L.P.

The Commissioners received and reviewed letter from Casto Technical Services regarding the quality of air and concern of existing carbon dioxide levels within the Courthouse Annex ground floor area.

The Commissioners received and reviewed notice from Casto Technical informing that effective September 1, 1996 hourly labor rate for service work not covered by maintenance agreement will increase. The Commissioners delegated Bob Massey to go with technician when servicing.

The Commissioners received and reviewed letter from Riccardi and Lutz informing that Lot 46, Riverview A in Boomer, West Virginia has been transferred to Doug Newbell and asked that the Commission give Mr. Newbell reasonable time to clean up the property since he has just today taken title to the property.

The Commissioners received and reviewed letter from the Public Service Commission appointing Josephine Thornton to serve on the Fayette County Solid Waste Authority.

The Commissioners received and reviewed letter from Governor Gaston Caperton informing that a Drug Control and System Improvement Grant for \$7,486 to provide for overtime for D.A.R.E. has been approved.

Ms. Holly asked the Commission if they were going to replace members to the 911 Advisory Board whose term has expired.

Ms. Holly informed the Commission she received check for \$12,500 to the Wolf Creek Public Service District for the engineering feasibility study. Ms. Holly informed the Commission she would have to check with the Community Development Office to see if the Commission

would have to advertise. Commissioner Lopez asked Ms. Holly to inquire about the proposal for services and hold until next week.

The Commissioners approved for Charlotte Holly to attend the Workers' Compensation Seminar in Charleston, September 6, 1996.

Ms. Holly informed the Commissioners they need to decide on what to do with the \$20,000.00 they received from the West Virginia Development Office. Commissioner Lopez suggested that \$10,000 be earmarked for walks and parking lots. No decision made.

Carlyle Blomme, Larry Johnson appeared before the Commission with letter requesting funds in the amount of \$7,500.00 to help with insurance and other expenses of the Fayette County Solid Waste Authority. Discussion was held regarding the leachate problem. Commissioner Lopez informed the Fayette County Solid Waste Authority that the Commission had received letter from Fayetteville Municipal Water and Sewage saying they didn't want no part of hauling the leachate. Ms. Holly asked the members of the Fayette County Solid Waste Authority if they had checked into getting release of the bond. Joe Myers informed that Earl Pauley, Park Superintendent informed him that he had a truck the Authority could use to haul the leachate. Commissioner Carte asked Dave Pollard to check with the Public Service Districts to see if they could help with the hauling of the leachate. Commissioner Lopez informed he would check with Mr. Pauley regarding the use of the truck. The Commission asked to hold off on request for funds.

Jerry Lilly appeared before the Commission to discuss the Leash Law Ordinance. Mr. Lilly informed the Commission he had talked with Mary Abbot, Chairman of the Fayette County Humane Society and she informed him that the Fayette Humane Society did not oppose to the Leash Law. Carl Harris, Assistant Prosecuting Attorney was present and

presented to the Commission for their review the Leash Law Ordinance. Discussion was held regarding the Dog Warden issuing citations. Commissioner Carte moved to adopt Leash Law Ordinance effective September 1, 1996. Commissioner Lopez seconded. All approved. Vote unanimous.

Discussion was held regarding the Circuit Clerk's Office roof. Commissioner Carte asked Carl Harris what the Commission should do. Ms. Holly informed the Commissioners she has advertised for bids for the roof but no one has responded.

The Commissioners received and reviewed letter from Carlyle Blomme resigning as a member of the Fayette County Solid Waste Authority.

The Commissioners received and reviewed letter from David Hartung thanking the Commission on their decision regarding the proposed trash site.

The meeting was adjourned. The next scheduled meeting is September 4, 1996.

  
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FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
DECEMBER 4, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez (10:20), Gene Carte, Jr.

The Fayette County Commission met in regular session on this 4th day of December, 1996.

Commissioner Witt called meeting to order at 9:50 a.m.

Ms. Holly apologized for being late; informed the Commissioners she was talking with Paul Blake, Prosecuting Attorney regarding letter she had prepared to be sent to Barbara Hull and had requested his review. Ms. Holly presented letter to the Commissioners; letter signed.

Ms. Holly informed the Commissioners she received letter from West Virginia Development Office congratulating the Commission for receiving the Community Partnership grant to make improvements to the Valley Detachment of the Fayette County Sheriff's Department and the Fayette County Courthouse for Circuit Clerk roof. Ms. Holly informed she has sent grant agreement over for Prosecuting Attorney to review.

Commissioner Carte made motion to approve and authorize Commissioner Witt, President of the Commission, to execute agreements. Commissioner Lopez seconded. All approved.

The Commissioners approved invoice from Paul O. Clay, Jr.

Paul Clay appeared before the Commission informing them that Mountain Cove, Inc. had purchased parcels of real estate but lost the Purchaser's Certificate of Sale from the Fayette County Sheriff. Mr. Clay asked the Commission to sign order stating that the filing of the affidavit and copies of certificates of sale in the Clerk's Office in satisfaction of the requirements of the West Virginia Code §11A-3-10. Orders signed.

Ms. Holly presented voucher to the Commissioners from Gary

Harding, Zoning Officer with request to the refund of a building permit to Eric and Kathy Neal; applicant did not get financing to buy the property, cost of building permit \$40.00. Discussion was held question was asked if the Commission could refund money, the Commission asked Ms. Holly to check into.

Paul Blake, Prosecuting Attorney appeared before the Commission and asked that the Commission go into Executive Session. Commissioner Witt asked for motion for executive session to confer with legal counsel and discuss personnel matters.

Commissioner Carte made motion to go into Executive Session. Commissioner Witt seconded. Unanimous. (Commissioner Lopez not present.)

Reconvening from Executive Session, Commissioner Witt asked for motion to return to regular session; Commissioner Lopez made motion to come out Executive Session and go back into the regular session. Commissioner Carte seconded. Unanimous

Commissioner Witt informed the Executive Session was to discuss personnel matters and information relating to legal matter (law suit).

Eddie Young appeared before the Commissioners to ask for assistance with the Upper Kanawha-Valley Ball League. Discussion was held, the Commissioners asked Mr. Young to come back with some type of plan as to what they're trying to do. Commissioner Lopez informed Mr. Young that between the Commission and the Board of Education maybe they could come up with something.

Ms. Holly informed the Commissioners she had advertised for 2 used cruisers for the Fayette County Sheriff Department; no bids received.

Ms. Holly informed the Commissioners that Tom Johnson had indicated that he did not have a problem in letting Valley Emergency Medical Service, a non-profit organization, move its radio equipment and

antennas to the County Commission Valley Tower site if the Commission sent him a letter of approval.

The Commissioners signed letter to Kanawha-Gauley Coal and Coke Company informing they approve the request of Valley Emergency Medical to move its radio equipment and antennas to the Valley Tower site.

Ms. Holly updated the Commission on the status of the Valley Tower project; Appalachian Power Company has completed installation of the electrical service and the antennnas were shipped from the supplier on December 3 and scheduled to be installed as soon as the weather permits.

Ms. Holly informed the Commissioners that Two-Way Radio had given them a bid to remove the old tower. Commissioner Witt made motion to recommend two-Way Radio to dismantle old tower. Commissioner Lopez seconded. All approved. The old tower would be stored at the Fayette County Park.

Ms. Holly informed the Commissioners that Gary Harding, Zoning Officer had investigated the complaint from Carolyn Jones regarding the old houses in Minden. Discussion was held, it was decided that clean-up letter be sent to Derek Arbogast, Smith Young, Mountain Cove, Inc. and Warren and Helen Ratliff. Letters signed.

Ms. Holly informed the Commissioners that Earl Pauley, Park Superintendent informed her the consideration for the easement to Camp Abbot from Benjamin Hudnall would be \$500.00; approved.

The Commissioners received and reviewed resume from Lorrie E. Sydnor.

Outstanding bills were approved.

The Commissioners received and reviewed check in the amount of \$29,174.63 for the Emergency telephone system for the month of October.

The Commissioners received and reviewed from Steve Cruikshank copy of funds for deposit to the Fire Levy Fund.

The Commissioners received and reviewed reimbursement from the Federal Emergency Management Agency.

The Commissioners received and reviewed copy of a letter to James W. Keenan from Paul clay, Jr. requesting a copy of the Motion For a Special Prosecutor filed in the zoning matter concerning the recycling plant.

The Commissioners received and reviewed letter form Harold D. Bragg requesting updated copy of the Fayette County Zoning Ordinance. Discussion was held, the Commissioners asked Ms. Holly to talk with Gary Harding, Zoning Officer, and have Gary to send the requested material Mr. Bragg.

Ms. Holly informed the Commissioners that Judge Charles Vickers is still having problems with the heat on the second floor of the Magistrate Court building. Ms. Holly recommended to the Commissioners replacing the thermostats on the second floor as recommended by the HVA contractor; approved. Commissioner Lopez recommended purchasing 2 heaters from Lowe's. The Commissioners decided to go over and check the building.

Ms. Holly informed the Commissioners that 1st and 2nd half December payrolls for full-time employees and part-time employees and overtime would have to be approved at the next meeting since the Commission meeting scheduled for the last Wednesday in the month has been canceled. Ms. Holly informed the Commissioner she had asked the payroll clerk to only pay overtime up to the 13th and that any other overtime would have to be paid at the next year's meeting.

Ms. Holly informed the Commissioners that water is running off the roof of the Health Department building into the road. Ms. Holly informed she would have Earl Pauley, Park Superintendent, and Bob Massey, maintenance, check and correct problem.



The meeting was adjourned at 11:25. Next scheduled meeting is  
December 13, 1996.

John K. Witt

FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
DECEMBER 13, 1996  
COURTHOUSE

FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 13th day of December, 1996.

Commissioner Witt called meeting to order.

Exonerations were signed and approved.

The Commissioners received and reviewed Dog Warden report of the month of November.

The Commissioners signed letter to Page-Kincaid Public Service District informing the Commission is not able to approve their request for funding to replace telemetering equipment due to recent revenue shortfalls, especially Coal Severance funds..

Ms. Holly advised the Commission that the Valley Tower was in operation as of December 11, 1996, and presented pictures of the completion of the Valley Tower. Ms. Holly asked the Commission if they wanted David Neal, E911 Coordinator to give them a project summary. Commissioner informed no.

The Commissioners approved request of the West Virginia Army National Guard to designate the Fayette County park as an alternate assembly area for the 193rd Engineer Company in the event of mobilization. Ms. Holly informed the Commissioner she had talked with Earl Pauley, Park Superintendent regarding this request; he has no problem with this designation.

The Commissioners signed order transferring the balance of the Fayette County General School Fund be transferred to the Fayette County General Fund to defray the balance due said fund for the cost of care

and feeding of misdemeanor prisoners incarcerated by magistrates.

The Commissioners signed letter to Penelope Crandall, Director, Family Law Masters requesting reimbursement for rent in the amount of \$990.00 for the month of December.

The Commissioners signed invoice to the Division of Corrections for rent for the parole office for the month of December.

The Commissioners signed minutes for December 4th, 1996. Ms. Holly informed the Commission that Jim Keenan had requested a copy of the minutes of the December 4, 1996, meeting; the Commissioners approved to forward copy of minutes to Mr. Keenan.

The Commissioner signed letters to Paul M. Blake, Prosecuting Attorney, Cleek, Pullin, Knopf, Fowler and Flanagan, King Beets and Allen, Steptoe and Johnson asking them to provide the Department of Tax and Revenue with information concerning any pending litigations, claims or assessments currently pending against the county while they are conducting an audit of the financial statements for fiscal year ended June 30, 1996.

The Commissioners signed invoices to the City of Montgomery, Town of Ansted, City of Mount Hope, Town of Fayetteville, City of Oak Hill for the costs paid for the confinement of prisoners at the Southern Regional Jail for the month of November.

Ms. Holly informed the Commissioners that since Sheriff Laird had resigned the County Commission would have to prepare the application for the Court Security Grant. Ms. Holly informed the Commission that Judge Vickers wanted the security concerns addressed by the Supreme Court Fayette County Court Facilities Audit Report to be in the application and she needed some direction from the Commission on items to be included in the application. She advised the Commission that she had contacted vendors for estimates on security equipment and improvements

and that the application was due by noon on December 31.

The Commissioners signed letter to Sheriff Howard E. Janney and Steve Cruikshank, Director of Emergency Services, informing that an audit of the courthouse facilities was performed by the West Virginia Supreme Court of Appeals and that a general observation set forth in the security report was that an emergency contingency plan should be created for fire and bomb threat evacuation. The Commission requested that the Office of the Fayette County Sheriff and Office of Emergency Services work cooperatively to prepare said plan for review and implementation by the Fayette County Commission as soon as possible.

The Commissioners signed Sales Report for the Fayette County Park for the month of November.

Ms. Holly informed the Commissioners that Earl Pauley, Park Superintendent asked if the Commission wanted him to disconnect air bags from the vehicles due to receiving so many warnings about the air bag safety. Ms. Holly informed the Commission she had talked with Jim Lively, insurance agent, regarding this matter and he advised to leave air bags connected on vehicles due to manufacturer liability. The Commissioners told Ms. Holly to tell Earl to leave as is.

Ms. Holly informed the Commission that Belinda Morton did not want work done on the Prosecuting Attorney drain and her parking lot during weekdays and asked if Earl Pauley could do the work on Saturday December 14, 1996, as Earl suggested. This was approved.

Ms. Holly informed the Commissioners that Earl Pauley asked if the Commission would consider paying him for his vacation days in lieu of time off since he had not been able to take his vacation due to his time spent on special projects like the Valley Tower Site. Commissioner Witt informed he sees no problem with paying Earl for his vacation on a one time basis because of his over and above call of duty. Unanimously

approved.

Commissioner Carte made motion to pay outstanding bills and 1st half December county employees payroll. Commissioner Lopez seconded. Approved.

Commissioner Lopez made motion to approve 2nd half December county employees payroll and part-time payroll for 2nd half of December. Commissioner Carte seconded. All approved. Vote passed 3-0.

Ms. Holly informed the Commission that Earl Pauley is trying to put together material cost to put Valley Detachment under roof; informed the cost of material from several places would be from \$7,700.00 to \$8,200.00 and that this cost is just for the shell and no interior work is included. Discussion was held; the Commission informed that they would have to advertise and asked Ms. Holly to get started.

Ms. Holly informed the Commissioners she received from Steve Cruikshank, OES Director, a copy of letter where Governor Gaston Caperton has given funding to the West Virginia Soil Conservation Agency; Bellwood has been awarded \$30,000 to do flood related stream work. Ms. Holly told the Commission that Kanawha Falls Public Service District has received \$125,000.00.

The Commissioners received and reviewed from the Workers' Compensation Office of Judges Order Extending Time Frame regarding claimant #96-11045, Donald W. Williams, II.

The Commissioners received and reviewed letter form Workers' Compensation Division regarding Earnest K. Lester.

The Commissioners received and reviewed letter form Workers' Compensation Division regarding Dovie Christian.

Ms. Holly informed the Commissioners she had contacted AT&T regarding upgrading the telephone system as requested.

The Commissioners received and reviewed a copy of a letter from

James C. Blankenship, Attorney for the Town of Fayetteville that he sent to Charles Toombs, Chairman of the Wolf Creek Public Service District, regarding the sewage on Nickelville Road.

Ms. Holly reminded the Commissioners she would be attending a seminar in Charleston on December 18, 1996, as approved previously.

The Commissioners received and reviewed letter from the Department of Health and Human Resources regarding construction permit application for the proposed Water Facilities in Ansted and Oak Hill areas of Fayette County.

The Commissioners received and reviewed letter from Travers Harrington, Jr. to the Public Service Commission informing that he represents the interest of the Fayette County Commission in the West Virginia-American Water Company and Salem Gatewood Public Service District Case #960317-W-PWD-PC and West Virginia-American Water Company and County Commission of Fayette County and New Haven Public Service District Case #94-1477-W-PWD-PC-CA.

The Commissioners received and reviewed request from Kelvin Holliday, County Clerk asking to replace two typewriters in his front office with IBM Wheelwriters. Commissioner Carte suggested holding off on request. The Commission decided to hold until after January 1, 1997.

Ms. Holly informed the Commissioners she had talked with Kelvin Holliday regarding the calculation of Kay Smith's payroll for November 27th through November 30th and had advised him that she had been over payed by 1 day. Ms. Holly informed the Commission she received letter from Kelvin informing that he had adjusted her salary in December for the one day overpayment.

The Commissioner received and reviewed letter from CableVision informing that effective December 31, 1996 changes will be made in Oak Hill CableVision and Mount Hope CableVision.

The Commissioners received and reviewed a copy of a letter to James W. Keenan from Judge Charles Vickers informing he had received his request dated November 29, 1996 and informed Mr. Keenan that it is his opinion that his motion for appointment of a special prosecutor is not proper and that he should consult with the Prosecuting Attorney or a law enforcement officer if he or his clients desire to pursue any type of criminal charge.

The Commissioners received and reviewed letter from the West Virginia Development Office informing they have in place a new compressed natural gas (CNG) vehicle grant program. Commissioner Witt informed the Commission he is disappointed with the Natural gas for the vehicles.

The Commissioner received, reviewed and accepted the Delinquent List for the year 1995 from Sheriff Howard E. Janney.

Ms. Holly informed the Commissioners she has 7 days vacation left this year that she would be taking during the Christmas holidays beginning on Thursday, December 19, 1996, if she was able to finish the Court Security grant application; approved.

Ms. Holly informed the Commissioners question had been raised about the swearing in of the Elected Officials for the 1997 year. No decision made; Commissioner Witt said he would contact other officials.

Commissioner Witt informed the Commission that Priscilla Asbury want to give 80 or 90 acres to the county to be used for nothing but a park. Commissioner Witt read letter from John David regarding the property. The Commission asked Ms. Holly to hold. No decision was made.

Commissioner Witt asked that the Commission go into Executive Session for personnel reasons. It was properly moved and second that the Commission go into Executive Session. Unanimous.

Reconvening from Executive Session, Commissioner Witt made motion to go back into Regular Session.

Commissioner Witt informed the Executive Session was to discuss personnel changes for the coming year.

The Commissioners received and reviewed funds for deposit to the Fire Levy Fund.

The Commissioners received and reviewed refund check for overpayment from Two Way Radio \$3,767.75.

The Commissioners received and reviewed letter from West Virginia Power with update on the new rate structure filed with the West Virginia Public Service Commission and to introduce the new Sales Representative.

The Commissioners received and reviewed thank you letter from Pitney Bowes Credit Corporation thanking the Commission for selecting them as their equipment leasing resource.

The Commissioners signed letter to Senator Shirley Love on behalf of the Board of Directors of the Upper Kanawha Valley Little League requesting their assistance in obtaining a State Grant for that non-profit organization to fund the construction of restroom facilities, the replacement and/or construction of bleachers, the prevention of soil erosion and other much need improvements at the Upper Kanawha Valley baseball field in Boomer.

The meeting was adjourned at 11:50. Next scheduled meeting is January 8, 1997.

  
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FAYETTE COUNTY COMMISSION  
SPECIAL SESSION  
BOARD OF EQUALIZATION & REVIEW  
FEBRUARY 1, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in Special Session on this 1st day of February, 1996 as Board of Equalization and Review of Property Assessment.

There were no scheduled hearings for Board of Equalization and Review of Property Assessment.

Ms. Holly presented letter from the Assessor's Office requesting that an order be issued giving the Assessor's Office permission to correct errors caused by their office and giving them permission to contact the Department of Tax and Revenue to request that all errors created by the State be corrected before the 29th day of February. The Commissioners asked Ms. Holly to prepare an order approving request.

Since there were no Board of Equalization and Review of Property Assessment hearings scheduled, Commissioner Witt called for a recess to discuss other business brought before the Commission.

Tim Keeney appeared before the Commission to request tax relief for 1994 tax year. Betty Brogan from the Department of Tax and Revenue, Thomas Steele, Assistant Prosecuting Attorney, and Gloria Bozo from the Assessor's Office were present. Ms. Brogan presented a letter from the Department of Tax and Revenue and informed the Commission that the 1994 appraisal was made due to the failure of the previous property owner to file a tax return; thus, an adjustment in the appraisal can not be considered by the Department of Tax and Revenue. The Commissioners informed Mr. Keeney they would take his request under advisement and give him notice of their decision.

Commissioner Lopez informed the Commissioners that John Parrish had asked for a partition for the Probation Office and suggested to the

Commission to have Billy Horrocks check. The Commissioners took recess to talk with Mr. Parrish about the partition. The Commission directed Ms. Holly to contact Billy Horrocks to perform the work.

Ms. Holly informed the Commission she had talked with Linda Johnson who had checked with the Secretary of State's Office and received approval for Law Enforcement personnel to pick up poll officials to take them to the polling places to work the election on February 3, 1996 due to the inclement weather. Ms. Holly informed the Commission that the Sheriff had offered such assistance by his department. Also, Ms. Holly advised the Commission that several inquiries had been made by poll officials and others of whether or not the election would be postponed if the weather was bad. Commissioner Carte moved to authorize Charlotte Holly to take care of details and make any necessary decisions; all approved.

The Commissioners received and reviewed thank you letter from Tom Oxley, City Manager of Oak Hill thanking the Commission for the increased fire levy funding.

The Commissioners received and reviewed copy of resignation of Karla A. Sanford as a full-time Communications Specialist.

The Commissioners received and reviewed notice from David Neal, E-911 Coordinator informing that Karla Sanford will retain employment as part-time Communications Specialist and George Campbell, currently part-time Communications Specialist will assume the Full-time Communications Specialist position effective February 12, 1996.

The Commissioners signed letter to Dean Lockett informing that the Gospel Sing Benefit being sponsored by Fayette County Volunteers on April 6, 1996 did meet the public, non-profit guidelines and asked that the \$500.00 rental fee be waived.

The Commissioners received and reviewed Tax and Regulation from the Department of Tax and Revenue for the Board of Equalization and Review hearings.

The Commissioners received and reviewed notice from Dale Cummings asking for a hearing for tax relief regarding the Harry Ward Estate taxes for 1992 and 1993.

The meeting was adjourned at 11:15. Next scheduled meeting is February 6, 1996.

John L. Witt

FAYETTE COUNTY COMMISSION  
SPECIAL SESSION  
BOARD OF EQUALIZATION & REVIEW  
FEBRUARY 6, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840  
MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte Jr.

The Fayette County Commission met in special session on this 6th day of February, 1996.

Exonerations were approved and signed.

Commissioner Carte informed the Commission he had talked with Delegate John Pino this morning; Delegate Pino wanted to know if the County is ready to write a check to Armstrong Public Service District; Commissioner Lopez informed the Commission that when Armstrong Public Service District was here at the Commission meeting, the Commission informed them that the request would be discussed in this year's budget session.

Commissioner Witt informed the Commission that John Perdue from the Governor's Office informed him that Gus Douglass would help with the Regional Water Project.

Evelyn O'Dell with the Retired Senior Volunteer Program appeared before the Commission to request funds for the fiscal year 96-97. The Commission informed Ms. O'Dell they would consider her request during budget session.

Outstanding bills were approved.

The Commissioners recessed until 1:30.

The Commission reconvened for Board of Equalization and Review hearings.

Ned Rose, Attorney for Rivermont Presbyterian Homes and Oak Hill Citizens for Better Housing, appeared before the Commission to discuss appraisal of property. Mr. Rose asked Ronald P. Davis to give analysis of their appraisal; Mr. Davis was sworn in. Eddie Young with the Assessor's Office was present, Tom Steele, Assistant Prosecuting Attorney was present, and Managers of the apartments were also present. The Commission informed Mr. Rose they would take matter under advisement and a decision would be made by the end of the month.

The meeting was adjourned at 3:00. Next scheduled meeting is February 9, 1996.

John B. Witt

FAYETTE COUNTY COMMISSION  
SPECIAL SESSION  
CANVASS OF SPECIAL LEVY ELECTION AND  
BOARD OF EQUALIZATION & REVIEW  
FEBRUARY 9, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in Special Session on this 9th day of February, 1996.

The Commissioners convened as a Board of Canvassers to conduct Canvass of Special Levy Election held on February 3rd, 1996. Absentee ballots were received from the Circuit Clerk and counted as directed by Bill Harrington of the Secretary of States office. The Statements of Ballots Used were verified, the challenged ballots were determined, and the results of the election were declared. Results are to be certified on Thursday, February 15th, 1996. The Commission adjourned as a Board of Canvassers.

The Commission convened as a Board of Equalization and Review.

There was one scheduled hearing for the Board of Equalization and Review of Property Assessment.

The Commissioners met with Lowell Payne with application for Review of Property Assessment. Present from the Assessor's Office were Eddie Young and Donald Hogan. Mr. Payne informed the Commission that he was here to question why there are three woodland classifications on his property. Discussion was held; Mr. Hogan explained to Mr. Payne the reason for the classifications. Mr. Payne asked why couldn't his property be classed in one class. The Commission informed Mr. Payne they would take the matter under advisement for consideration and would make their decision at the end of the month. The Commission adjourned as a Board of Equalization and Review.

Ms. Holly discussed with the Commission plans for Commissioner

Carte and Commissioner Witt to attend the National Association of Counties meeting in Washington, D. C. Commissioner Witt and Commissioner Carte requested Ms. Holly to hold the registrations until they made a definite decision of whether or not to attend conference.

The Commissioners signed order appointing John Hoffman to the Board of Zoning Appeals to replace Ann Skaggs.

Ms. Holly informed the Commission she received check in the amount of \$2,400.27 for Deputy Robert Godsey's vehicle. Ms. Holly informed the Commission she sent copy of check to Earl Pauley on February 7, 1996, and asked him to compare this check with the invoices.

The Commissioners received and reviewed letter from Sheriff Bill Laird informing that Jennifer Lynn Settle's attorney, F. Alfred Sines, Jr. is requesting to inspect the county police cruiser that was involved in the accident which occurred on December 30, 1995. Sheriff Laird informed Mr. Sines that certain body parts have been removed from the vehicle to meet the maintenance needs of another vehicle, but informed Mr. Sines that upon receipt of his letter no additional parts be removed from the vehicle pending further notification.

The Commissioners received and reviewed franchise fee checks from Helicon Group L. P., amount \$4,894.92, Master Telecable, Inc., amount \$1,312.32, Rifkin Communications Partners, L.P., amount \$294.80, and Cable Equities of the Virginias, Ltd, amount \$3,799.67 for the period from October 1, 1995 through December 31, 1995.

The Commissioners received and reviewed Workers' Compensation Report for the month of December, 1995.

The Commissioners received and reviewed minutes of the meeting of the Multi-County Community Action Against Poverty, Inc. for the month of November, 1995.

The Commissioners received and reviewed notice of redemption from

the One Valley Bank regarding counties of Berkeley, Brooke, Fayette, Hancock, Harrison, Jackson, Jefferson, Marion, Marshall, Mason, Mercer, Monongalia, Morgan, Nicholas, Ohio, Raleigh, Randolph, Upshur, Wetzel, and Wood, and the City of Wheeling, West Virginia, Single Family Mortgage Revenue Bonds, 1984 Series A.

The Commissioners received and reviewed copy of letter to Gus Douglass, Commissioner with the Department of Agriculture, from Delegate John Pino giving his support of financial assistance to the Southern Soil Conservation District comprehensive water resource plan.

The Commissioners received and reviewed statistics report from the 911 Center for the month of January, 1996.

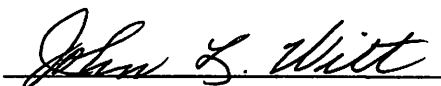
The Commissioners received and reviewed list of "refusals to pay" associated with the Emergency Telephone System for the month of November, 1995.

The Commissioners received and reviewed resume from Michael John Nagy.

The Commissioners received and reviewed letter from Affiliated Construction Trades Foundation (ACT) thanking the Commission for passing the resolution in support of local hiring for publicly funded projects.

Outstanding bills were approved.

The meeting was adjourned at 2:00. Next scheduled meeting is February 15, 1996.

  
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FAYETTE COUNTY COMMISSION  
REGULAR SESSION AND BOARD OF  
EQUALIZATION AND REVIEW  
FEBRUARY 15, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 15th day February, 1996.

Exonerations were approved and signed.

The Commissioners signed orders certifying results of the Special Election held on February 3, 1996 as follows:

Purpose Number 1 - Law Enforcement Salaries and Benefits for the Law Enforcement Levies - 1,384, against the Law Enforcement Levies - 408.

Purpose Number 2 - Libraries for the Libraries Levies - 1,418, against the Libraries Levies - 373.

Purpose Number 3 - Fire Protection Services and Equipment for the Fire Protection Levies - 1,398, against the Fire Protection Levies - 391.

The Commissioners reviewed the request from the Estate of Harry E. Ward, Jr. (Dale Cummings) Attorney Paul Roop, II asking for relief in the form of a credit against taxes owing in future years to correct the error or mistake made by the Assessor in assessing the 1992 and 1993 real estate taxes. Ms. Holly informed the Commission that this was not a Board of Equalization and Review matter and informed the Commission that Mr. Cummings was denied tax relief for 1993 by order entered April 27, 1994. Discussion was held; Carl Harris, Assistant Prosecuting Attorney advised the Commission to draft an order informing Mr. Roop that the request for a refund and reassessment be denied and inform Mr. Roop that the matters set forth therein were addressed by the Commission

at a hearing held on March 15, 1994 and an Order of the Commission was entered on April 27, 1994. Mr. Harris also asked the Commission to inform Mr. Roop that the request for relief regarding 1992 taxes was not timely filed and to deny the request. Ms. Holly asked Mr. Harris if he would prepare the order; Mr. Harris informed he would. Commission signed order denying request.

The Commissioners received and reviewed letter from Danese Public Service District informing that the term of Sterley Carl Flanagan expires on March 30, 1996 and asking that he be reappointed to serve for another six years. Commissioner Lopez made motion to reappoint Sterley Flanagan to the Danese Public Service District; Commissioner Witt seconded. All approved.

Payroll and outstanding bills were approved.

The Commissioners received and reviewed minutes from Salem-Gatewood Public Service District for the month of January, 1996.

The Commissioners received and reviewed letter from the Citizen's Advisory Board Southern Regional Juvenile Detention Center informing that the next scheduled meeting will be February 20, 1996 in the front lobby of the Southern Regional Juvenile Detention Center at 4:00 P.M.

Ms. Holly asked the Commission if they wanted to make a decision on the letter received from Bell Atlantic requesting an easement for ingress and egress from the rear of their office building. The Commission informed Ms. Holly not to grant access across the county property.

Ms. Holly asked Mr. Witt about the status of the complaint on the Stanley Matthews' property; Commissioner Witt informed the Commission he had talked several times with Vada Ellison regarding the Stanley Matthews property in Scarbro. Mr. Witt informed the Commission that the property in question had been sold to the state and asked the Commission

what could the county do. Commissioner Witt asked Carl Harris, Assistant Prosecuting Attorney what the county could do. Mr. Harris informed very little.

The Commissioners received and reviewed a letter from Carl Harris suggesting that the Commission adopt a resolution stating that Bert Horrocks, Dog Warden and his deputy are hereby empowered and authorized to issue citations for violations of Chapter 19, Article 20, as the same is authorized by Section 19a thereof. The Commission asked Ms. Holly to prepare resolution.

Commissioner Witt suggested to Ms. Holly to use \$38.00 per diem for housing of prisoners in Budget for fiscal year 1996-97.

Commissioner Witt reported that Steve Cruikshank, Office of Emergency Service, was preparing an application for a grant for emergency services for overtime during the inclement weather during the month of January.

Ms. Holly informed the Commissioners she received one bid for computer equipment for Prosecuting Attorney's Office. Ms. Holly informed the Commission that Software Systems total cost would be \$2,158.00; \$1,438.00 for Personal computer, \$389.00 for monitor, token ring \$295.00 and \$36.00 token ring adapter cable. The Commission approved to accept the bid.

The Commissioners received and reviewed copy of letter to Thomas Woodrum, Mayor of the Town of Fayetteville from Brenda Janney (concerned citizen) concerning the old Inge Building located on Fayette Avenue. No action taken.

The Commissioners received and reviewed letter from the State Tax Department informing that a list of parcels that were originally certified by the Division of Forestry as managed timberland were not keyed into the Natural Resource System and informed the Commission they

would key-enter the data for the parcels to be valued as managed timberland. Fayette County had one parcel: Surf 59/belonging to Georgia-Pacific with a minimum appraised value of \$150. Correction by State to be made in accordance with February 1, 1996, order.

The Commissioners received and reviewed franchise fees from Tele-Media Corporation for the period October 1, 1995 through December 31, 1995, amount \$5,836.22.

The Commissioners received and reviewed list of "refusals to pay" associated with the Emergency Telephone System for the month of December, 1995.

The Commissioners received and reviewed letter from Vance Akers asking the Commission for relief of the cost of 4 sheep killed by dogs. After discussion, Commissioner Witt suggested having Carl Harris, Assistant Prosecuting Attorney check the matter. Carl Harris reviewed letter.

Ms. Holly informed the Commissioners she received a request for review of prior year taxes from Billy J. Suttle. The Commissioners asked Ms. Holly to forward copy to the Assessor's Office.

Ms. Holly informed the Commission that any precinct with 700 or more registered voters would have to have an expanded receiving board consisting of one additional team of poll clerks. Ms. Holly informed that 5 precincts had to be expanded. After reviewing the official count of registered voters per precinct, the Commission approved to expand a total of 16 precincts for the Presidential 1996 Primary Election, precincts with expanded receiving boards are as follows: 1, 8, 10, 11, 12, 13, 19, 23, 28, 29, 46, 52, 55, 60, 68, and 72. Ms. Holly informed the Commission she would prepare an order setting forth the total number and type of election boards and the number of nominations per party which may be made for poll clerks, election commissioners, alternates,

and emergency absentee ballot commissioners and asked Commissioner Lopez if it was okay for her to stamp his name to the order. Commissioner Lopez gave Ms. Holly permission to stamp his name on the order.

The Commissioners received and reviewed letter from Mountain Resources Conservation and Development Area, Inc. informing that Philip J. Tissue resigned as representative for the County Commission and asked that Kay Ballard be appointed to represent the County Commission. This was approved.

Discussion was held regarding the distribution of the hotel/motel taxes. Commissioner Witt suggested taking Cindy Whitlock's recommendation that 25% of collected hotel/motel taxes be given to the Southern West Virginia Convention and Visitors Bureau and 25% be given to The New River Convention and Visitors Bureau, Inc. Commissioner Lopez made motion to sign an agreement with each agency on a one year basis. Commissioner Witt seconded. Commissioner Carte opposed. Vote passed 2 -1. Ms. Holly informed the Commissioners that the agreements had been reviewed and approved by the Prosecuting Attorney Office; agreements signed.

The meeting was adjourned at 11:35 a.m. Next scheduled meeting is February 20, 1996.

  
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FAYETTE COUNTY COMMISSION  
SPECIAL SESSION  
BOARD OF EQUALIZATION AND REVIEW  
FEBRUARY 20, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840  
MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr. (10:45)

The Fayette County Commission met in Special Session on this 20th day of February, 1996 as Board of Equalization and Review of Property Assessment.

There were four scheduled hearings for the Board of Equalization and Review of Property Assessment.

The Commissioners met with Ronald Chapman with application for Review of Property Assessment. Present from the Assessor's Office were Eddie Young. Mr. Chapman informed the Commission that he was here to inquire as to why his property should be assessed any higher because of the recent sale of other property on his street. Mr. Young explained to Mr. Chapman the reason why is property value had increased. Discussion was held; the Commission informed Mr. Chapman they would take the matter under advisement for consideration and would make their decision at the end of the month.

Margaret Perrine with Trio Petroleum appeared before the Commission with application for Review of Property Assessment. Present from the Assessor's Office was Gloria Bozo. Donald Hebb was present from the Department of Tax and Revenue. Ms. Perrine was sworn in. Ms. Perrine informed the Commission that Trio Petroleum feel they should not be assessed for sewell coal they do not have. Mr. Hebb informed the Commission that Trio Petroleum filed assessment 6 months late and the State is not making any changes; the Commission informed Ms. Perrine they would take the matter under advisement for consideration and would make their decision at the end of the month.

Chester Walker appeared before the Commission with application for Review of Property Assessment. Present from the Assessor's Office was Gloria Bozo. Donald Hebb with the Department of Tax and Revenue was present. Mr. Walker questioned about the mineral on his property and informed the Commission he thought he only own surface land. The Commissioners asked Mr. Walker if the description in his deed says fee. Discussion was held; the Commissioners informed Mr. Walker if his deed did not say fee he should bring deed into the Assessor's Office for correction. The Commissioners informed Mr. Walker they would take the matter under advisement for consideration and would make their decision at the end of the month.

Bill Keeney with Imperial Colliery, Inc. appeared before the Commission; informed the Commission that Imperial Colliery would withdraw their application if their land values are set up as last year. Gloria Bozo was present from the Assessor's Office. Ms. Bozo informed the Commission that per Thomas Aiello, Assessor to roll back woodland values; Ms. Bozo informed the Commission that the woodland values have to meet or exceed managed timberland values to provide tax break. After discussion, Commissioner Carte made motion on the recommendation of the Assessor to reduce woodland values. Commissioner Lopez seconded. All approved. Vote passed 3 - 0. Bill Keeney withdrew application.

The meeting of the Board of Equalization and Review was adjourned at 11:50.

The Commissioners reconvened to discuss other business brought before the Commission.

The Commissioners received and reviewed letter from Department of Tax and Revenue advising them of what they should have before hearing managed timberland property owners complaints.

Ms. Holly informed the Commission that she and Carl Harris,

Assistant Prosecuting Attorney, will be meeting with the Fayette County Historic Society to talk about the plans for the jail.

The Commissioners received and reviewed letter from the Public Service Commission recommending that the consolidation petitions of Clay County Public Service District and Gauley River Public Service District be approved. The first hearing is set for April 18, 1996 at 9:30 a.m. in the Clay County Commissioners Court Room; the second hearing is being held in the Fayette County Commissioners Court Room on April 18, at 1:30 p.m.

The Commissioners received and reviewed resignation from Terry V. Salyer from the Fayette County Solid Waste Authority.

The Commissioners signed Sales Tax Report for the Fayette County Park for the month of January, 1996.

Ms. Holly informed the Commission that Earl Pauley, Park Superintendent, had sent up draft of letter regarding the park rules and regulations. The Commissioners informed Ms. Holly they would discuss at next meeting.

Ms. Holly informed the Commissioners that check had been prepared to Custom Autobody Works; informed the Commission she had talked with Earl Pauley and he informed her that the repair estimate should be reduced because Custom Autobody used replacement parts from a salvaged cruiser. Ms. Holly informed the Commissioners that Mr. Pauley approved bill too quickly; Earl will contact Custom Autobody Works for corrected estimate. Commissioner Witt informed the Commission that Custom Autobody Work would be submitting revised invoice today. Approved payment.

The Commissioners signed order as advised by Thomas Aiello, Assessor that the following values be used for the appraisal of woodland property for the 1996 taxes:

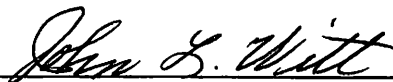


<u>Grade</u>	<u>Value Per Acre</u>
Grade A	\$500 (reduced from \$600)
Grade B	400 (reduced from \$500)
Grade C	300 (reduced from \$400)
Grade D	200 (reduced from \$300)
Grade E	100 (reduced from \$200)

The Commissioners reviewed public notice announcing there will be a Public Hearing on Thursday, March 7, 196 at 7:30 p.m. at the County Courthouse to elect a Board member in Census Tract 206 of Fayette County, for the Central Appalachia Empowerment Zone of West Virginia (CAEZWV).

Outstanding bills were approved.

The meeting was adjourned at 12:02. Next scheduled meeting is February 23, 1996.

  
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FAYETTE COUNTY COMMISSION  
SPECIAL SESSION  
BOARD OF EQUALIZATION & REVIEW  
FEBRUARY 23, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840  
MEMBER Present: John L. Witt, John H. Lopez, Gene Carte, Jr.,

The Fayette County Commission met in Special Session on this 23rd day of February, 1996 as Board of Equalization and Review of Property Assessment.

Attorney Fred Jesser representing Hampden Corporation (Louis Tabit, attorney) appeared before the Commission to discuss the acreage of the land owned by Hampden Corporation. Present from the Assessor's Office was Eddie Young. Mr. Jesser presented evidence, and asked the Commission to consider reducing valuation of property. Discussion was held Commissioner Carte informed Mr. Jesser he felt this was not a case for the Board of Equalization and Review. Mr. Young informed the Commission that as of July, 1995 property description on record was 59.15 acres and that is what the Assessor's Office based their assessment on. Mr. Young also informed the Commission that a survey of the property was done in August and was just recently recorded in County Clerk's Office. Carl Harris, Assistant Prosecuting Attorney suggested to the Commission to take under advisement and review the case and make a decision by the end of the month. Commissioner Witt made motion to take the recommendation of the Assistant Prosecuting Attorney and take under advisement and review and make a decision by the end of the month. Commission Lopez seconded.

Steve Hensley with Smithers, Ltd., Smithers Limited Partnership, II, Smithers Elderly Limited Partnership appeared before the Commission requesting relief and questions concerning property. Eddie Young from the Assessor's Office was present. Carl Harris, Assistant Prosecuting

Attorney was present. Discussion was held, Commissioners Witt informed Mr. Hensley they would look at carefully and take under advisement and a decision would be made by the end of the month.

The Commission adjourned as Board of Equalization and Review Board.

The Commission reconvened to discuss other business brought before the Commission.

Commissioner John Lopez presented the name of Roger Wagner for future consideration for appointment to Kanawha Falls Public Service District.

Carl Harris, Assistant Prosecuting Attorney informed the Commission he had checked into the matter regarding the dogs killing sheep and the request for the county to reimburse. Mr. Harris informed according to the West Virginia Code the only way the county could reimburse for the loss was if they have a line item budgeted in the General County Fund to reimburse for loss of animals but if no line item has been put in the General County Fund, the County cannot reimburse for the loss and if there is no money in Dog Tax Fund the county cannot reimburse.

John Parrish, Chief Parole Officer appeared before the Commission to request that building of the partitions in his office be postponed until they get through the docket. Commissioner Lopez informed that Billy Horrocks informed him he would start between the 1st or 2nd week of March.

The Commission recessed at 10:50 to go back into Board of Equalization and Review.

Ms. Holly asked the Commission if they wanted to make a decision on the some of the hearings.

Ms. Holly informed she talked with the Assessor's Office regarding

Lowell Payne and since the Assessor had advised the Commission to reduce the woodland values previously applied to the 1996 property appraisal of woodland property, Mr. Payne property would change. Commissioner Carte made motion that the 1996 assessed valuation of Mr. Payne property in question be--\$6,900 assessed value, and appraised value is \$11,500. Letter was prepared and signed.

Discussion was held regarding Ronald Chapman request. Commissioner Carte made motion that the valuation of the property will not change. Commissioner Lopez seconded. All approved. Letter was prepared and signed.

Discussion was held regarding Rivermont Presbyterian Homes and Oak Hill Citizens for Better Housing request. Commissioner Lopez made motion that the valuations of the properties will not change. Commissioner Carte seconded. All approved. Letter was prepared and signed.

Carl Harris, Assistant Prosecuting Attorney informed the Commission he would check with Judge John Hatcher on the pending civil hearing regarding Rivermont Presbyterian Homes and Oak Hill Citizens for Better Housing.

Commissioner Carte moved to terminate Board of Equalization and Review (10:55 a.m.). Commissioner Lopez seconded. All approved.

Commissioner Witt suggested writing a letter to the Prosecuting Attorney's Office thanking them for all their help in hearing the Board of Equalization and Review hearings and other request the Commission have asked them to review and give their opinion.

Commissioner Carte asked the Commission to give Charlotte Holly a leeway in work to take care of her family until the health problem of her daughter is solved. Approved.

Commissioner Lopez informed he had talked with Earl Pauley, Park Superintendent and he informed him that the maintenance on the Sheriff's

vehicles is sky rocketing to \$8,000 - \$10,000 per month and suggested to the Commission for this fiscal year budget not to approve the same amount for vehicles; also asked to cut Upper Kanawha Valley contribution. Commissioner Lopez asked Ms. Holly to prepare a report on the cost of maintenance on vehicles for Sheriff's Office.

The Commissioners received and reviewed minutes for February 1, February 6, and February 9, 1996. Commissioner Carte made motion to approve minutes. Commissioner Lopez seconded. All approved. Vote passed 3-0.

Ms. Holly presented to the Commission order denying tax relief for Timothy A. Keeney pursuant to hearing held on February 1, 1996; Ms. Holly informed the Commission that this was not a Board of Equalization and Review hearing. Commissioner Carte made motion that Timothy A. Keeney's request for the exoneration of property taxes be denied for tax year 1994. Commissioner Lopez seconded. All approved. Vote passed 3-0.

The Commissioners received and reviewed letter from the Office of the Attorney General regarding the Airline Antitrust Settlement informing it was approved by the court airlines and commuter carriers listed in the Notice of availability of airfare discounts to governmental entities beginning August 8, 1995 will make available to class members a ten percent discount off the purchase of any published fare or government contract fare in excess of Fifty Dollars (\$50.00) for official government travel.

The Commissioners received and reviewed invoice from the Fayette County Board of Education regarding custodial fees for the Special Election held on February 3, 1996, amount \$2,187.76. The Commission approved to pay.

The Commissioners received and reviewed from Cable Television

Advisory Board order dismissing rate proceedings for Helicon Cablevision.

The Commissioners received and reviewed letter from Public Service Commission informing the Commission of a formal complaint received from Roger Wagner, II, D. R. Vance, and Charles W. Thomas regarding the Kanawha Falls Public Service District.

The Commissioners received and reviewed letter from the Fayette Transition Team expressing their appreciation of the Commission for hiring a Community Resource Coordinator, and recommend that the County Commission include the position in the 1996-97 budget.

The Commissioners received and reviewed letter from the Department of Tax and Revenue informing of the schedule for the 1996 in-service training programs for assessors, circuit clerks, county clerks, county commissions, sheriff and their employees. Ms. Holly informed the Commissioners that the county commission's training is scheduled for August 4th through the 6th at Lakeview Resort & Conference Center in Morgantown.

The Commissioners signed resolution stating the County Dog Warden and his assistant are empowered and authorized to issue citations for violations of Chapter 19, Article 20, as the same is authorized by Section 19a thereof.

Ms. Holly informed the Commission she received fax from Delegate John Pino with copy of letter from Gus Douglass, Commissioner of the Department of Agriculture, informing that the request for funding to develop a comprehensive water resource plan for Fayette County has been approved by the State Soil Conservation Committee.

The Commissioners received and reviewed letter from Department of Tax and Revenue informing that a list of parcels that were originally certified by the Division of Forestry as managed timberland were not

keyed into the Natural Resource System and informed the Commission they would key-enter the date for the parcels to be valued as managed timberland. Fayette County had one parcel: Surf 59/belong to Georgia-Pacific with a minimum appraised value of \$150. Correction by state to be made in accordance with February 1, 1996, order.

The Commissioners signed order reappointing Sterley C. Flanagan as a member of the Danese Public Service District.

The Commissioners signed order appointing Kay Ballard a member of Mountain Resource Conservation and Development Area due to the resignation of Philip J. Tissue.

The Commissioners received and reviewed copy of minutes and reports from the Fayette County Solid Waste Authority.

The Commissioners received and reviewed a copy of a letter from Senator Shirley Love to Gus Douglass, Commissioner with the Department of Agriculture expressing his support for the request of the Southern Soil Conservation District for financial assistance for the development of a comprehensive water resource plan in Fayette County.

Ms. Holly informed the Commissioners that the State Department won't have figures for the Coal Severance distribution until about the second week in March.

Ms. Holly informed the Commissioners the maintenance crew will be stripping the woodwork around the windows in the witness room next week. Commissioner Carte asked that the chairs be done also.

Due to the cost of material and amount of time to construct by county employees, Ms. Holly asked the Commissioners if it was okay to check on purchasing computer desk instead of building desks for the front office where Herb Mann and Sue Massey work and for Thelma Kincaid. This was approved. Gene Carte directed Ms. Holly to purchase table for Judy Cottle, Court Reporter, that she needed from Lowe's for \$69.00; approved.

The Commissioners signed letter of support to VAWA Program for the

plan of the Fayette County Domestic Violence response Team to increase and improve coordination among law enforcement, prosecution and victim services for domestic violence victims and to provide education and awareness of domestic violence issues to the community.

County Clerk Kelvin Holliday advised the Commission that he had completed the work in the ballot room and had locked the vault.

Outstanding bills were approved.

The meeting was adjourned at 11:20. Next scheduled meeting is February 28, 1996.

John G. Witt



FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
BOARD OF EQUALIZATION & REVIEW  
FEBRUARY 28, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County met in regular session on this 28th day of February, 1996.

Exonerations were approved and signed.

The Commissioners signed Tax Exempt certificate for AT&T.

The Commissioners signed Federal Excise Tax Exempt for SuperAmerica.

The Commissioners signed invoice to the Division of Corrections for rent of Parole Office, amount \$300.00.

The Commissioners signed reimbursement letter to Penny Crandall, Director, Family Law Masters for reimbursement of rent for Family Law Master for the month of February.

The Commissioners received and reviewed invoices from Sheriff William Laird to the Cities of Mount Hope, Oak Hill and Smithers for the confinement of city inmates in the Southern Regional Jail for the month of January, 1996.

The Commissioners approved and signed minutes of January 31st and February 15, 1996.

Ms. Holly ask the Commission what their decision was regarding the Extension Office request for a new typewriter. Ms. Holly informed the Commission she had checked the typewriter and that typewriter is not heavy enough for office use but for personal use only. Commissioner Carte suggested getting used typewriter for the West Virginia Extension Office. Approved.

The Commissioners received and reviewed letter from the Fayette Humane Society to the municipalities (Gauley Bridge, Oak Hill, Mount Hope, Pax, and Meadow Bridge) requesting \$300.00 in order to continue improved services in their area. Ms. Holly informed the Commissioners that Gauley Bridge had paid \$50.00.

Ms. Holly informed the Commissioner she had received yearly premium cost for West Virginia Prosecuting Attorney Institute based on county assessment; annual premium will be \$4,200. The Commissioners asked that this be talked about in budget hearings.

Ms. Holly informed the Commissioners she received an official notice from the Department of Tax and Revenue informing that today is the last day for Board of Equalization and Review and not February 29th.

The Commissioners received and reviewed Certificate of Coverage from the West Virginia Workers' Compensation Division.

Ms. Holly informed the Commissioners she has prepared public notice for bid on an inclined platform lift for the Soldiers and Sailors Memorial Building and Fayette County 9-1-1 Central Answering Point, public notice for bid for construction of a handicap accessible ramp, curb cut, walk and concrete resurfacing at the Soldiers and Sailors Memorial Building/Fayetteville Library, and public notice for electrical upgrade material at the Fayette County. Ms. Holly informed the Commissioners she had advertised for the inclined platform lift in the Beckley Newspaper and the Charleston Gazette in addition to the Fayette Tribune.

Ms. Holly informed the Commissioners she and Carl Harris, Assistant Prosecuting Attorney met with members of the Fayette County Historic Society to discuss the society plans for museum in the jail.

Ms. Holly ask the Commissioners their decision on the property of Matthew Timothy Bounds and Phyllis Bounds; Ms. Holly informed the

Commissioners that Mr. Bounds and his wife purchased two parcels of property from Mr. Bound's brother; one of the parcels went back into his brother's name on the tax books and as a result, Mr. Bounds did not receive a tax ticket on the parcel for 1994; the property went delinquent and was sold to New River Holding Company at a land sale in November, 1995. Mr. Young asked the Commission to accept Matthew Timothy Bounds and Phyllis Bounds payment for the back taxes due on the property without penalty, since the problem that occurred were not the taxpayers fault. Ms. Holly advised the Commission that she could not determine whether or not such relief could be granted. The Commissioners directed Ms. Holly to give the request to the Prosecuting Attorney's Office for his review.

The Commissioners received and reviewed letter from the Assessor's Office informing that Bill and Janet Suttle overpaid 1994 Real Estate Taxes in the amount of \$213.00 due to a clerical error. The Commission approved request for tax refund.

Ms. Holly asked the Commissioners what days they wanted to meet to discuss the budget. Discussion was held; Ms. Holly asked the Commissioners if Wednesday, March 6 beginning at 1:30 p.m. would be okay to schedule the elected officials to come in to discuss their budget requests. The Commissioners agreed.

Gary Harding, Zoning Officers presented the following cases to the County Commission for disposition:

Z-418-96-1: Request of Round Eight Corporation., owner, by Nancy C. Wood, President, for a change in land classification from R-R, Agricultural and Rural Residence District, to B-3, Highway Commercial District, on approximately 12 acres off Route 19, Glen Jean exit, Plateau District.

Nancy Wood was present. The Zoning Officer informed the County

Commission that the Planning Commission did by a vote of 8 - 1 with Mr. Gannon voting no recommend this be approved. Commissioner Lopez made a motion that this be approved as recommended. Motion was seconded by Commissioner Carte and passed by a vote of 3 - 0.

Z-419-96-2: Request of Lost Paddle, Inc., owners, by Doug Proctor, for a change in land classification from R-R, Agricultural and Rural Residence District, and P-D, Planned Development District, to B-2, General Commercial District, on 16.358 acres and 7.208 acre tract located on Route 5, off Route 19, near Ames Heights, New Haven District.

The Commission was informed by Gary Harding, Zoning Officer that Mr. Proctor had withdrawn this request.

Z-416-96-1: Request of Derrick Properties, Inc., owner, by Steve Vickers, Attorney, for a change in land classification from RR-1, Agricultural and Rural Residence District, to B-2, General business District, on Lot 10, Section 4, Kimberly, and the adjoining .67 acre tract located on Route 61/24 in Kimberly, Valley District.

Mr. Harding informed the County Commission that the Planning Commission did by a vote of 7 to 1 with one member abstaining recommend that this request be denied. After a general discussion with Steve Vickers, attorney for the applicant and Bill Smith, spokesman for the opposition, a motion was made by Commissioner Carte that they uphold the Planning Commission's recommendation and deny the request. Motion was seconded by Commissioner Lopez and passed unanimously.

Mr. Harding informed the County Commission that the Planning Commission did unanimously approve lending their support to a proposed cleanup and beautification project. Joe Myers explained briefly the proposal. The Commission agreed to take this under advisement.

Payroll and outstanding bills were approved and signed. Payroll was authorized to be issued to employees as of today.

Reverend Rudell Bloomfield and several members of the Church of God Organizations appeared before the Commission to request a commitment from the Commission for three (3) weeks in succession for camping at the Fayette County Park. Reverend Bloomfield informed the Commission that the Fayette County Park is the best location for the State camp but that the need for 3 successive weeks was not absolute but would be appreciated; also, they expressed their desire to work a partnership to include the River Ranch Boys Home. Commissioner Lopez questioned when they were recommending the three weeks. Member of the Church of God informed the Commission they were looking at the schedule for 1997 and if possible for 1996; however, the Church of God holds an annual meeting the 3rd week of June and a worldwide assembly every second year the first two weeks of August and could not have camps at those times. Commissioner Witt informed the members he will try to talk with Earl Pauley, Park Superintendent about the situation and get a schedule worked out with him. Member of the Church of God asked the Commission if they would consider looking into for this year.

Ms Holly informed the Commission she had checked into getting a printer for Debbie Aliff, Payroll Clerk Office. Ms. Holly informed the Commissioners the cost would be \$516.60 for a Lexmark Dot Matrix 2391 and that a faster, heavy duty Lexmark Dot Matrix 4226 would cost \$1,644.10. Ms. Holly informed the Commission that another option was that she would give Ms. Aliff the Lexmark Dot Matrix 2391 out of her office if the Commission thought that we could use a Lexmark 150 color ink printer for \$374.00. Commissioner Witt suggested getting the \$516.60 IBM Dot Matrix. Approved. Ms. Holly asked the Commission if it was okay with them if she could upgrade the memory on her computer to 28MB. This was approved.

Discussion was held regarding the museum lease for the Fayette

County Jail. Ms. Holly informed the Commission that she and Carl Harris, Assistant Prosecuting Attorney met with the Fayette County Historic Society and discussed the utilities and maintenance of the building. The Commissioners informed Ms. Holly they would pro-rate the utilities. Ms. Holly informed the Commission that a discussion was held regarding the leaking of the roof in the building. Commissioner Carte asked Ms. Holly to inform the Society that the Commission does not have any money to put in the building. Mr. Harris informed the Commission he would put provisions in agreement. Ms. Holly informed the Commission that when the Fayette County Historic Society made their original presentation that they informed the Commission they would put the roof repair in their grant. The Commissioners agreed to pro-rate the utilities; Mr. Harris informed he would draft agreement for their approval.

Ms. Holly asked the Commissioners if they wanted to review the letters for camping at the Fayette County Park. Commissioner Witt informed the Commission that the first order of business March 6th is to consider fees and rates at the Fayette County Park.

The meeting was adjourned at 11:46 a.m. and will reconvene as Board of Equalization and Review at 1:30 p.m.

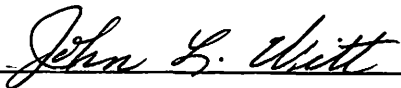
The Commission reconvening as Board of Equalization and Review, signed letters to Hampden Corporation, Trio Petroleum, Smithers, Limited, Smithers Limited Partnership, II, Smithers Elderly Limited Partnership informing applicants the valuations of the properties in question will not be changed.

The Commissioners signed letter to Chester W. Walker informing of their decision as Board of Equalization and Review that the 1996 assessed valuation of the property in question will be Assessed Value-\$18,894, Appraised Value-\$31,490.

Margaret Marchio appeared before the Commission to discuss appraisal of property. Eddie Young with the Assessor's Office was present; Carl Harris, Assistant Prosecuting Attorney was present. The Commission informed Ms. Marchio they would take matter under advisement and a decision would be made today. Commission approved values of Marchio property as recommended by Assessor.

The Commissioners signed order certifying the Board of Equalization and Review hearings.

The meeting was adjourned. Next scheduled meeting is March 6, 1996.

  
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FAYETTE COUNTY COMMISSION

REGULAR SESSION

JANUARY 3, 1996

COURTHOUSE

FAYETTEVILLE, WEST VIRGINIA 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 3rd day of January, 1996.

The Commissioners signed organization order. Commissioner Gene Carte, Jr. made motion to elect Commissioner John L. Witt as President and Commissioner John H. Lopez as Purchasing Agent and Debbie Berry designated Assistant Purchasing Agent for the year 1996.

Exonerations were approved and signed.

Attorney Pat Hamilton appeared before the Commission to request tax relief for his 1990 personal property assessment; Mr. Hamilton informed the Commission of the reason for the tax relief. Present from the Assessor's Office was Dianna Dyke, Personal Property Supervisor, she presented to the Commission copies of the tickets and assessments forms they had received from Mr. Hamilton. Ms. Dyke informed the Commission that in her opinion the tax for Mr. Hamilton was correct. Discussion was held, Commissioner Witt informed Mr. Hamilton the Commission would take all evidence under advisement and will make decision on January 12th.

Jerry Lilly appeared before the Commission with a question as to when the Commission would adopt a Leash Law for the County. Commissioner Witt informed Mr. Lilly, the Commission was still reviewing and working on the Leash Law policy and would hopefully get something worked out.

Ms. Holly presented to the Commission a list of Polling Places for the Special Election being held on February 3, 1996. Ms. Holly informed



the Commission that the Board of Education is going to open Kimberly School for the special election. The Commission approved the polling places as presented.

Ms. Holly informed the Commission she received on her desk this morning from Carl Harris, Assistant Prosecuting Attorney, a proposed lease agreement between the Fayette County Commission and the Whipple Community in ACTION, Ms. Holly informed the Commission that she hasn't had time to review the lease, but she did notice in the lease that Mr. Harris had provided for the group to present its Articles of Incorporation. Ms. Holly informed the Commission she had been advised that the group was incorporated, but she would check with Carl before agreement is signed. The agreement is from January 15, 1996 to January 15, 1998. The Commission signed the lease, but asked Ms. Holly to hold the lease until the January 12th, 1996 meeting, if the Whipple group was not incorporated.

Ms. Holly informed the Commission they needed to set dates for Board of Equalization Hearings for the month of February.

The Commissioners received and reviewed letter from the Gauley River Public Service District informing that the term of Sue Gray expired on December 31, 1995. Commissioner Lopez made motion that Sue Gray be reappointed as a member of the Gauley River Public Service District. Commissioner Carte seconded. All approved. Vote passed 3-0. Order signed.

The minutes for December 15, 1995 were approved and signed.

The Commissioners received and reviewed check in the amount of \$28,626.53 for the Emergency telephone system for the month of November, 1995.

The Commissioners received and reviewed 2nd place annual Christmas decorating contest from the Fayetteville Junior Woman's Club's.

Delegate John Pino, Senator Shirley Love, Thomas Bowen, Charles Walker, and Judson Wallace members of the Armstrong Public Service District appeared before the Commission regarding asking the Commission for a commitment to help with needs at the water treatment plant. Delegate Pino thanked the Commission for all their help in providing water to the different areas, and informed the Commission that the Armstrong Public Service District tank is leaking and is in need of immediate repair. Mr. Pino informed the Commission the cost of the project would be \$60,000.00 and asked the Commission if they would commit 1/3 of cost to help with project; Armstrong has committed to come up with \$20,000.00, and he and Senator Love would do whatever they can to get the balance. Senator Love informed the Commission that they will make it a priority to put grant in the legislative budget digest and informed that Delegate Bruce Petersen would do the same in the house. Commissioner Lopez informed he thinks the Commission could make a commitment but did not know at what level. Commissioner Witt informed he would have Ms. Holly review 1996 budget and check figures and see what can be done and advised that the Commission would be in budget session in March.

Judith Taylor appeared before the Commission regarding water for the Fayette Heights area. Discussion was held, the Commission informed Ms. Taylor that her problem should be addressed to the Town of Fayetteville.

Ms. Holly informed the Commission she received another request from the Joyce Gibson, Clay County Assessor asking to have Kenneth Cutlip and Hilma Cutlip property assessed in Clay County for the 1997 tax year. The Commission approved of transfer.

The Commissioners received and reviewed letter from Sheriff William Laird regarding the Regional Jail invoices for the month of

November for the cities of Smithers, Fayetteville and Oak Hill.

The Commissioners signed letter of support to Governor Caperton endorsing the Whipple Community in ACTION efforts to obtain funds through the Budget Digest.

Ms. Holly informed the Commission she received request from Allan Workman asking that a clean up letter be sent to Melvin Sutphin. The Commissioners signed clean-up letter to Mr. Sutphin.

Kelvin Holliday informed the Commission that the Election Supply boxes were in. Ms. Holly asked Mr. Holliday if they received any bids from other vendors for the Election Supplies; Mr. Holliday said no.

Ms. Holly informed the Commission that Canvass would be held on the Friday after the Special Election.

Ms. Holly informed the Commission she had received letter from Mr. Holliday regarding hiring part time work for his office and the Circuit Clerk's Office for the Special Election, discussion was held regarding the difference in pay for the Circuit Clerk part time help and the County Clerk's part time help. The Commission informed Mr. Holliday that they would only approve to pay Maxine Blagg out of the Election Fund \$40.00, the same as Linda Clonch; Mr. Holliday informed the Commission he would gladly pay the \$15.00 difference from the County Clerk's budget. The Commission informed Mr. Holliday that this part time help is only for the purpose of working on election.

The Commission signed documents from Abbot A. Thayer, Attorney for the County Commission of Fayette County, West Virginia Industrial Development Revenue Bond (R. F. Johnson, Inc. Project).

Discussion was held regarding the appointments to the Board of Appeals; Commissioner Lopez suggested that the Commission reappoint Roy Young. It was a unanimous decision that Mr. Young be appointed. Order signed. Commissioner Witt informed the Commission that Ann Skaggs had

recommended appointing John Hoffman; discussion was held, and it was suggested to talk with Gary Harding. Commissioner Witt suggested holding off on vacancy until January 12th meeting.

The Commission approved the cost to migrate and incorporate the current Cott Index data into the current Index System in the County Clerk's office.

The Commissioners received and reviewed accident report of Transport Officer William Webb's vehicle.

Ms. Holly informed the Commissioners she received two (2) checks made to the Fayette County Commission from Gordon Billheimer from contributors for Centennial and informed the Commission she had deposited in General County Fund. Ms. Holly asked if the Commission wanted a check issued to the Centennial Committee for the amount of the contribution. The Commission advised Ms. Holly to handle the contributions in the same manners as had been done previously. The Commissioners asked Ms. Holly if Centennial Committee was going to reimburse them for the expenses that the County had to pay for the Centennial dedication. Ms. Holly said she had not received any reimbursement but understood that this was to be done.

Ms. Holly informed the Commission she received copy of notice from State Farm Insurance claim for John Falbo vehicle; informed the Commission she forwarded claim to insurance.

Ms. Holly asked the Commission if they had made any decision on the dusk to dawn light at the West Virginia Extension Office. Commissioner Witt informed Ms. Holly that Bob Massie has taken care of request.

The Commissioners received and reviewed copy of a letter from Sheriff Bill Laird to the Payroll Clerk requesting that Deputy Sheriff Garland E. Burke be transferred from the State Grant Payroll to the

General Fund Payroll effective January 1, 1996.

The Commissioners received and reviewed audit report from Ansted Certified Fire Department, Inc. for the year ended June 30, 1995.

The Commissioners received and reviewed letter from Lisa Muckleroy thanking Ms. Berry for calling her regarding the cancellation of the meeting with Fayette Reclamation.

The Commissioners received and reviewed letter from Timothy A. Keeney regarding his tax for the 1994 tax year. Ms. Holly informed the Commission this was taken care of for 1995 by the State Tax Department and she would check to see if hearing is needed for 1994 relief of taxes.

The Commissions planned the following dates and times for the purpose of reviewing and equalizing the assessments of the County:

February 1, 1996	Thursday	10:00 A.M.
February 6, 1996	Tuesday	1:30 P.M.
February 9, 1996	Friday	1:30 P.M.
February 15, 1996	Thursday	10:30 A.M.
February 20, 1996	Tuesday	10:00 A.M.
February 23, 1996	Friday	10:00 A.M.
February 28, 1996	Wednesday	1:30 P.M.

Ms. Holly informed the Commission she received two agreements for the Hotel Tax Occupancy Tax which she had forwarded to Paul Blake, Prosecuting Attorney for review. Ms. Holly informed the Commission according to the agreements, that 25% of the money received from the Hotel Tax would go to the Visitors Center and not to the Fayette County Chamber and that 25% would go to the Southern West Virginia Visitors Bureau. Ms. Holly informed she received letter from Paul suggesting that the language of West Virginia Code §7-18-13a be inserted into both agreements. Commissioners Witt informed the Commission he would notify the Upper Kanawha Valley as to why the Fayette County Chamber Visitors Center would receive the money.

The Commissioners received and reviewed check from the Fayette County Historic Landmark Commission for repayment of loan for the completion of the S. New Haven Magisterial District Landmark Survey. Amount \$1,150.00.

The Commissioners received and reviewed a copy of a letter from Attorney Victor Flanagan to CNA Insurance informing he had received a letter from Horrocks attorney regarding a possible settlement in the case of Horrocks v. City of Fayetteville et al.

Commissioner Carte informed the Commission he had talked with Earl Pauley, Park Superintendent, informing that all parts to Deputy Carey Vickers car were in at King Coal Chevrolet, but before Earl could go and get the parts to repair the vehicle, Deputy Vickers had another wreck. Commissioners Carte asked that the county pay to have the parts restocked.

Ms. Holly informed the Commissioners she received a notice from the Department of Transportation, Division of Highways to post on bulletin board regarding Argabright Drive added to State highway system.

Ms. Holly informed the Commission she received copy of letter from Dr. N. Allen Dyer to Robert Stephens, Chairman of the Fayette County Board of Health with another request to be placed on the agenda of the Board of Health's next meeting. Discussion was held; Commissioner Witt informed the Commission that Lee Massey want to evict the Appalachian OH-9, Inc. from the building. Commissioner Lopez questioned about the payment of the roof to the building. Ms. Holly informed the Commission that this was one of the reasons why Dr. Dyer wanted to be put on the agenda of the Board of Health meeting. Commissioner Witt informed the Commission he would ask Mr. Massey about the letter.

The Commissioners received and reviewed letter from Workers' Compensation regarding Dovie Christian, claimant. Copy forwarded to the

Sheriff.

The Commissioners received and reviewed copy of the Assessor's PVC Budget for fiscal year 1996-97.

The Commissioners received and reviewed report from the Department of Health and Human Resources regarding the Kanawha Falls Public Service District sanitary survey of the water system.

Ms. Holly informed the Commission she talked with Tom Aiello, Assessor regarding the notices and forms the various hotel/motels would have to complete; Mr. Aiello had advised her that his office was in the process of notifying the various establishments affected.

Ms. Holly informed the Commission that for the Presidential Primary Election they would have to add an additional team of poll clerks in some precincts depending on how many registered voters are in a precinct. Ms. Holly informed the Commission they needed to review precincts within the next few meetings and make a decision regarding the number of expanded election boards. The Commission informed Ms. Holly they would discuss at next meeting on January 12, 1996.

Commissioner Witt informed the Commission received the title from Department of Natural Resource to the radio building on Gauley Mountain. Commissioner Witt informed that the Plateau Amateur Radio Club needs letter from the Commission saying they have permission to use tower site.

Ms. Holly informed the Commission she received letter from David R. Neal, 911 Coordinator regarding the upgrading and expanding the current National Crime Information Center (NCIC) files and service to a new system known as NCIC 2000. Ms. Holly informed the Commission she would present for budget for the 96-97 year.

The Commissioners approved for Gene Carte, Jr. and Charlotte Holly to attend the Workers Compensation Seminar and the Wrongful Discharge

Seminar in Charleston.

The Commissioners received and reviewed certificate of insurance from the West Virginia Workers Compensation Division effective October 1, 1995 to February 29, 1996.

The Commissioners received and reviewed notice from Workers' Compensation Division regarding Harold Wayne Conner.

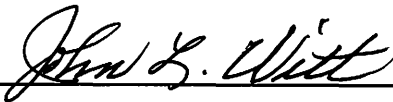
The Commissioners received and reviewed letter from Gary L. Light, Executive Director, Valley Emergency Medical Service regarding the disposal of two (2) ambulances that he has retired from service.

The Commissioners received and reviewed from the Workers' Compensation Fund report of payments made for the month of October, 1995.

The Commissioners received and reviewed copy of letter from the Fayette County Reclamation to Charles B. Wiggins, Jr. with Rush Creek Land Company, Inc. regarding their interest in property at the Fayette County Landfill in Cunard.

Outstanding bills were approved.

Commissioner Lopez made motion that meeting be adjourned. Meeting adjourned at 12:12. Next scheduled meeting is January 12, 1996.

  
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FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
JANUARY 12, 1996  
COURTHOUSE  
FAYETTEVILLE, WEST VIRGINIA 25840  
MEMBERS PRESENT: John L. Witt, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 12th day of January, 1996,

Exonerations were approved and signed.

Commissioner Carte questioned the Commission about civilians going in and out of the 911 Center and suggested putting up notices informing that the E911 Center was for official business only.

Ms. Holly informed the Commissioners she had received a call from Vada Ellison complaining about the Stanley Matthews property. Commissioner Witt suggested writing another letter to Mr. Matthews regarding the clean-up of his property.

Ms. Holly informed the Commissioners that the next Commission meeting is January 31st after payday and asked the Commission if they would approve the 2nd half payroll today. This was approved.

Ms. Holly informed the Commissioners that with the help of Cabbie Bennett and Bob Blackburn she had prepared an order as directed by the Public Service Commission with a complete description and copy of map setting forth the metes and bounds description of the revised boundary lines of the reduced Gauley River Public Service District. Order signed.

Ms. Holly informed the Commission she received notice from Tim Keeney asking the Commission to grant tax relief on his taxes for 1994. Ms. Holly suggested to the Commission that since the state made the assessment that the Commission could schedule Mr. Keeney to appear on Thursday, February 1st when the state would be here for the Board of Equalization hearings; the Commission could adjourn as a Board of

Equalization and Review for said hearing. This was approved. Letters were written to Mr. Keeney, the Prosecuting Attorney's Office, the Assessor's Office, and the State Tax Department informing them of the hearing.

Ms. Holly informed the Commissioners she talked with Tom Woodrum yesterday regarding the maintenance on the fax machine in road office. Ms. Holly informed the Commission that according to the notes in the file the Commission had agreed to purchase the supplies, but that the Fayette County Deputy Association would be responsible for maintenance. Commissioner Witt asked for fax machine for the County Administrator's Office for County Commission use. Ms. Holly informed the Commission she had checked on different prices and would check at Montgomery Ward.

Ms. Holly informed the Commissioners she received a call from Matt Edwards informing the Family Law Master wanted to rent the entire first floor. Ms. Holly informed the Commissioners she had talked yesterday with Carl Harris, Assistant Prosecuting Attorney regarding the lease; Ms. Holly presented an addendum to the May 14, 1993 lease to the Commissioners. Approved.

The Commissioners approved minutes from January 3, 1996.

Ms. Holly informed the Commissioners she was reviewing current year budget and had prepared and presented copies of expenditures through December 31, 1995 for the Commission to review.

Ms. Holly presented resolutions of Budget Revisions of the 1995-96 General County Fund and the Coal Severance Fund. Commissioner Carte made motion to adopt resolutions; Commissioner Witt seconded. Resolutions signed.

Ms. Holly informed the Commission that if they had no objection, she had prepared a legal advertisement for publication for professional services and lease of automatic tabulating equipment and services for

the conduct of the 1996 Primary and General Elections in Fayette County. Approved to advertise. County Clerk reviewed and approved legal advertisement previously.

The Commissioners received/reviewed and signed sales tax report for the Fayette County Park for the month of December.

Ms. Holly informed the Commissioners she found the Articles of Incorporation for Whipple Community in ACTION and informed the Commissioners she sent a copy of the lease to Ms. Arbutus Pell asking her to review the lease. Ms. Holly informed the Commissioners that the original is in her office for Ms. Pell to sign.

Ms. Holly asked the Commission if they had made a decision on the prior hearing for Pat Hamilton regarding his tax request. Commissioner Carte asked Ms. Holly to prepare an order informing Mr. Hamilton that the Commission had reviewed his request and tax relief is denied.

Ms. Holly reminded the Commission they would have to add an additional team of poll clerks in some precincts depending on how many registered voters are in a precinct for the Presidential Primary Election. Ms. Holly informed the Commission they needed to review precincts and make a decision regarding the number of expanded election boards. Ms. Holly gave the Commissioners copy of the West Virginia Code §3-1-29 and copy of registered voters in each precinct.

The Commissioners received and reviewed copy of letter from the Division of Natural Resources inviting them to attend the award ceremony for the 1996 recycling assistance grantees being held on Wednesday, January 17, 1996.

Ms. Holly informed the Commissioners that James Perdue had requested 2 vacuum cleaners for use at the courthouse and courthouse annex. Ms. Holly said she would check with Earl Pauley, Park Superintendent, for prices; approved.

Ms. Holly informed the Commissioners she had prepared a letter authorizing the elected officials to have sleeping rooms, meals, room guarantees, and parking fees charged to the county while they are attending the West Virginia Association of Counties meeting in Charleston. Ms. Holly informed the Commission she had received a letter from Kelvin Holliday, County Clerk regarding the meeting; Ms. Holly informed the Commission she had talked with Mr. Holliday about billing his registration to the County instead of prepaying, and he informed her that was fine.

Ms. Holly informed the Commissioners she had received documents from bond reissue with the Kroger Company.

Ms. Holly asked the Commission if they wanted her to send a copy of the inducement bond resolution for International Bio-Tech, Inc. to Ed McDevitt; Ms. Holly informed the Commission she asked Mr. McDevitt about the procedures to follow if the name of a company changes; Mr. McDevitt stated that the original resolution would stand and that a name change was a simple matter to revise. Ms. Holly informed the Commission that Mr. McDevitt said he would review document at no charge to the county and send a letter of inquiry to International Bio-Tech. The Commission asked Ms. Holly not to send resolution to Mr. McDevitt at this time but to hold for April 1, 1996 deadline.

The Commissioners received and reviewed fax from John David regarding comments at the November 29, 1995 meeting. Mr. David also apologized to Jackie Hickman regarding the minutes.

The Commissioners received and reviewed notice from the Department of Tax and Revenue informing the fee for audit services will be increased from \$38.00 to \$42.00 per hour.

The Commissioners received and reviewed budget request from Mountain Transit Authority for fiscal year 1996-97. The Commissioners

asked Ms. Holly to hold for budget session.

The Commissioners received and reviewed letter from the Fayette County Emergency Food Assistance Center requesting assistance in the purchase of a good used truck that would be used to pick-up bread items 6 days a week in the Beckley-Oak Hill area; amount requested \$2,500.00. The Commission asked Ms. Holly to hold the request for discussion at the next meeting on January 31st.

The Commissioners received and reviewed minutes from Deepwater Public Service District for the month of November.

The Commissioners received and reviewed quarterly report from Boomer Volunteer Fire Department, Inc.

The Commissioners received and reviewed the 1995 Annual Employees Absence Report from County Clerk Kelvin Holliday.

Ms. Holly reminded the Commissioners of the meeting with Kanawha Falls Public Service District on January 18 regarding grants.

Ms. Holly informed the Commission that from the copy of the letter she received from N. Allen Dyer, MD with the Appalachian OH-9, Inc. she felt that the Board of Health had finally scheduled Dr. Dyer to be placed on their agenda.

Ms. Holly asked the Commission if they wanted to discuss the appointment to replace Ann Skaggs on the Board of Zoning Appeals. The Commission asked Ms. Holly to hold until January 31, 1996.

Ms. Holly reminded the Commission she and Gene Carte are scheduled to attend the seminar in Charleston regarding the Defending of Wrongful Discharge being held on January 16th, 1996.

Ms. Holly asked the Commission to approve for her and Debbie Berry to attend Windows seminar being held in Beckley on January 26, 1996. This was approved.

Ms. Holly informed the Commission that the Sheriff sent over a

request to purchase two rolls of postage stamps for the Law Enforcement Detachments (Smithers and Danese), but the voucher had not been prepared. This was approved.

Ms. Holly informed the Commission she received a notice from Appalachian Power Company requesting who to contact first in case of an emergency. Ms. Holly asked the Commission if it was okay with them if she put Charlotte Holly, Administrator as first contact, James Perdue, maintenance, second contact and the President of the Commission as the third contact. This was approved.

Ms. Holly informed the Commission the County Clerk's Office had asked her to ask the Commission if they had any workers they might want to hire for the Special Election.

Ms. Holly inquired whether or not the Commission planned to meet in the Commission office for the Special Election returns or if it could be used by the County Clerk's Office. The Commission said that they planned to meet in the Commission room.

Aubrey Riner, Joe Myers, Bob Arthur members of the Fayette County Solid Waste Authority appeared before the Commission to give them an update as to what was happening with the Authority.

The Authority informed the Commission that Chairman Jim Murdock had resigned as of January 8, 1996, and Terry Salyer also had resigned as of October, 1995; Mr. Myers informed the Commission that Mr. Murdock should have a copy of Mr. Salyer's resignation.

The Commission asked the Authority if they had any recommendations as to whom to replace for the Commission's appointment on the Authority. Mr. Myers suggested Carlisle Bloome, Commissioner Witt suggested Wheat Wendell and Bob Arthur suggested Ernie Kincaid. The Commission asked for a few minutes recess to see if they could get in contact with any of the recommendations. Commissioner Witt informed the Commission that

Wheat Wendell declined; Bob informed the Commission that Ernie Kincaid would accept. Commissioner Carte made motion to appoint Ernie Kincaid as member of the Fayette County Solid Waste Authority; Commissioner Witt seconded. All approved.

Joe Myers informed the Commission that he had written a letter to REIC Laboratory informing them to stop all testing at the Fayette County Landfill until further notice and a letter to Division of Environmental Protection requesting Interim ELCAP Assistance or any other assistance available for expenses for hauling and treatment of leachate and for testing; Mr. Myers is also asking that the Commission assist with their liability insurance. Commissioner Witt suggested Ms. Holly to check into the Authority's current coverage. Ms. Holly informed the Commission that she would prefer that a member of the Authority check because she doesn't feel that she would have the authority to check into another agency's insurance policy. Ms. Holly also informed the Commission that according to the lease, the Commission is responsible only for the payment of the lease on the property if the Fayette County Solid Waste Authority doesn't have the funds to cover the expense and informed the Commission that the party responsible for the insurance on the property is the Fayette County Solid Waste Authority since they are the party leasing the land from Rush Creek Land Company and that is a term of the lease agreement.

The Commission informed they were very pleased with the crew for the good job of clearing the snow from the walks and parking lots after the blizzard.

Ms. Holly informed the Commission that a typographical error was made in the Special Election order regarding (on Class III property two and eighty-four hundredths cents (2.84 cents); in the order it was typed as eight-four hundredths cents. She informed the Commission that the

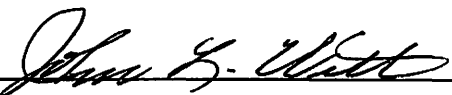
ballot and publication had been corrected.

The Commission requested Ms. Holly to forward a copy of the proposed Emergency/Inclement Weather policy to each County Elected Official for review and comment. The Commission will discuss the proposed policy at the January 31 meeting.

Ms. Holly reported to the Commission that she had checked with Beverly Oxley at Jim Lively Insurance regarding whether or not the county had coverage on its radio towers and sites; according to Ms. Oxley, the radio towers and sites are a normal extension of the duties of the Commission, and therefore the County's liability coverage extends to the radio towers and sites; however, property damage coverage is not in effect.

Payroll and outstanding bills were approved.

The meeting was adjourned at 11:22. Next scheduled meeting is January 31, 1996.

  
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FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
JANUARY 31, 1996  
COURTHOUSE

FAYETTEVILLE, WV 25840  
MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 31st day of January, 1996.

Exonerations were approved and signed.

Minutes from January 12, 1996 were reviewed. Commissioner Carte made motion that minutes be approved; Commissioner Witt seconded. Approved.

Kelvin Holliday, County Clerk asked that the Commission open ballot room at 6:30 p.m. on Saturday, February 3, 1996 for Special Levy Election.

Ms. Holly informed the Commissioners she had talked with Earl Pauley regarding Deputies Carey Vickers' and Shawn Snuffer's cruisers. Ms. Holly informed the Commissioners that Earl recommended purchasing as salvage Snuffer's vehicle at \$358 and Vicker's vehicle at \$500; insurance has been notified as approved by the Commission. Ms. Holly also informed the Commissioners that she received a check from ITT Hartford for Deputy Everette Steele's cruiser; usable parts from Vickers' cruiser are to be used to repair Steele's cruiser as recommended by Earl.

The Commissioners received and reviewed invoices from Sheriff Bill Laird to the Cities of Smithers and Oak Hill for costs paid by the Fayette County Commission for the confinement of inmates at the Southern Regional Jail for the month of January.

The Commissioners signed letter to Plateau Amateur Radio Club authorizing them to use the radio tower and building facilities owned and/or operated by the Fayette County Commission at the Gauley Mountain

tower site.

The Commissioners signed order to Pat Hamilton informing that his request for the exoneration of personal property taxes for tax year 1991 was denied.

Ms. Holly informed the Commissioners that she had talked with Ray Carson regarding the backdrop curtains at the Memorial Building; Mr. Carson informed her the curtains are in place.

Outstanding bills were approved.

Ms. Holly informed the Commission she talked with Delegate Pino regarding House Bill 4146 dealing with converting to a 2-year vehicle registration and license renewal and the financial impact on the county. Ms. Holly reported that she had advised Mr. Pino of the amount of license renewal revenue received by the county and that she did not feel that the County could afford to have this revenue reduced.

The Commissioners signed a letter to Commissioner Gus Douglass, Department of Agriculture, informing him that the Commission strongly supports the request of the Southern Soil Conservation District (SSCD) for financial assistance for the development of a comprehensive water resource plan.

The Commissioners signed a letter to Rick Powell, Superintendent Fayette County Board of Education, informing him that the Fayette County Commission wishes to donate the IBM System 36 hardware only to the Board for use by a school or vo-tech class within Fayette County.

The Commissioners signed a letter to the Fayette County Board of Health informing that upon review of various letters by and between Appalachian OH-9 and the Fayette County Board of Health that it appears that a difference of opinion exists between the two agencies over the programs and services provided through the use of the Fayette County Health Department building. The Commission requested the Board of Health

and a representative of Appalachian OH-9 to meet immediately to discuss the funding of the health department roof repair and to discuss the goals of continuous, uninterrupted and needed health care services to the citizens of Fayette County.

The Commissioners received and reviewed a letter from White Oak Public Service District informing that the term of Alfred Gannon expired on January 1, 1996 and asking that he be reappointed to service another six years. The Commissioners signed order appointing Mr. Gannon for another six year term as Board member of the White Oak Public Service District.

The Commissioners signed order appointing Ernie Kincaid as a member of the Fayette County Solid Waste Authority; Mr. Kincaid will be replacing Terry Salyer, term to expire June 30, 1998.

The Commissioners signed order reappointing Leonard Nelson as a member of the Fayette County Planning Commission, term to expire August 3, 1998.

The Commissioners signed letter to all Elected Officials and Department Heads requesting that each office, prior to March 2, 1996, submit to the Commission a detailed request for appropriations for anticipated or expected expenditures for its respective office, including the compensation for its assistances, deputies and employees for the ensuing fiscal year.

The Commissioners signed letter to Penelope Crandall, Director of the Family Law Masters requesting reimbursement for rent in the amount of \$862.00 for the month of January, 1996.

The Commissioners signed invoice to the Division of Corrections for rent of the parole office for the month of January.

The Commissioners signed letter to Patrick Park with the Abandoned Mine Lands Program asking for an extension of the deadline for

expenditure of the Abandoned Mine Lands funds dedicated to the Laurel Creek/Dempsey project since negotiations are in progress between Page-Kincaid Public Service District and West Virginia-American Water Company concerning participation in the proposed regional water plan.

The Commissioner opened bids at 10:00 a.m. for professional services and lease of automatic tabulating equipment and services for the conduct of the 1996 Primary and General Elections. Ms. Holly informed the Commission she received only one (1) bid which was from Business Records Corporation (BCR). Commissioner Lopez made motion to accept bid received from Business Records Corporation if all specifications were met; Commissioner Carte seconded motion. All approved. Vote passed unanimously 3 - 0.

Ms. Holly informed the Commissioners she received from Deepwater Public Service District two invoices totaling \$4,970.00 for reimbursement to fulfil the \$80,000.00 Grant from the County in 1991 for the Deepwater Public Service District Water Waste Project. This was approved.

The following cases were presented to the County Commission by Gary Harding, Zoning Officer for a disposition:

Z-416-96-1: Request of Derrick Properties, Inc., owner, by Steve Vickers, Attorney, for a change in land classification from RR-1, Agricultural and Rural Residence District, to B-2, General Business District, on Lot 10, Section 4, Kimberly and the adjoining .67 acre tract located on Route 61/24, in Kimberly, Valley District.

Mr. Steve Vickers was present representing the applicant. The Zoning Officer informed the Commission that on Monday the Planning Commission did by a vote of 4 to 3 recommend that this request be approved but that Mr. Massey the Chairman had something to report to the Commission about the vote. Mr. Massey informed the County Commission

that Gene Kistler stated he did not vote on the matter when a vote was called for therefore changing the vote to 3 -3. After a brief discussion a motion was made by John Lopez that this be sent back to the Planning Commission for further consideration. Motion was seconded by Gene Carte and passed 3 - 0.

Z-417-96-1: Request of Lowie E. Lilly, Contract Owner, by Paul O. Clay, Jr., Attorney, for a change in land classification from R-R, Agricultural and Rural Residence District, to B-2, General Business District, on 14.2 acres, part of a 40.72 acre tract, Summerlee Lochgelly, located off Route 38, old Summerlee Post Office Building, Plateau District.

The applicant was not present and the Zoning Officer informed the County Commission that the Planning Commission did by a vote of 8 -0 recommend that this request be denied. Gene Carte made a motion that this be denied as recommended. Motion was seconded by John Lopez and passed by a vote of 3 - 0.

Attorney Larry Losch and Steve Campbell appeared before the Commission regarding Mr. Campbell's property on Sewell Mountain-the old Lee's Tree Service Station and Restaurant. Mr. Campbell informed the Commission that the property they were referring to does not have any debris around it and as of today the property is still in litigation with the insurance company. Commissioner Carte made motion to pend any decision for six months. Commissioner Witt asked Mr. Campbell to clean up trash around the property and remnants from roof. The Commission asked Mr. Campbell to report back to them by May 1st of repairs and status of clean up of property. Mr. Campbell informed the Commission he would.

Dave Pollard, Community Resource Coordinator appeared before the Commission with presentation and materials of things the Community

Resource Coordinator has done since he was hired six month ago. Mr. Pollard informed the Commission what was going on with the Regional Water Project, informed the Commission that meetings were held on January 29 with Page-Kincaid Public Service District and one is scheduled this week with Arbuckle Public Service District. Mr. Pollard informed the Commission that West Virginia-American Water has agreed to complete the project with or without Page-Kincaid Public Service District. Mr. Pollard informed the Commission that he has obtained a commitment of \$15,000 from the 4-C Economic Development Authority for legal, engineering and bond counsel and the only expense to the Commission would be for legal advertising to request proposals. Commissioner Lopez made motion that the Commission would advertise; Commissioner Witt seconded. All approved.

Ms. Holly reminded the Commission of the canvass of the Special Election would be held on Friday, February 9, 1996. The Commission decided to convene the canvass at 9:00 a.m.

Commissioner Witt informed the Commission that Roma Lively resigned from the Central Appalachia Empowerment Zone (CAEZ) and JoLynn Tyree is to replace Mr. Lively.

Ms. Holly advised the Commission that the deadline was February 20, 1996, to notify the County executive committees of the number and types of election boards and the number of poll officials to be nominated to work the Presidential Primary Election and that a decision on the expanded receiving boards needed to be made soon. Discussion was held regarding the expanded election boards for precincts with 500 to 700 registered voters for the Presidential Primary Election. Ms. Holly informed the Commission she felt that any precinct that is close to 700 voters should be expanded to allow for voters that may be registered prior to the deadline for registration closing. The Commission

instructed Ms. Holly to use her judgement in determining which precincts should have expanded election boards.

Ms. Holly presented to the Commission the proposed Fayette County Commission Emergency Situations/Inclement Weather Policy for their review and discussion. Commissioner Lopez made motion to adopt Inclement Weather Policy; Commissioner Witt seconded. Commissioner Carte opposed the wording on Page 2 of 5, Section C, and stated that he recommended that all three Commissioners should be consulted by the Director of The Fayette County Office of Emergency Services to declare an emergency; the original wording stated "one commissioner" to allow for the inability to contact all 3 Commissioners due to communication or other problems. Discussion was held, Ms. Holly informed the Commission that the wording could be changed; Carl Harris drafted substitute wording for consultation with all three commissioners but allowing for less if unavailable because of communication problems or otherwise; revision was approved. The Inclement Weather Policy was amended and approved to be effective February 1, 1996.

The Commissioners received and reviewed list of replacement workers for the Special Election being held on February 3, 1996. Approved.

The Commissioners received and reviewed letter from Kelvin Holliday requesting waiver of rental fee of Memorial Building for April 6, 1996, and waiver of fee for Camp Kismet at the Fayette County Park for 1996. Both requests were approved.

Ms. Holly informed the Commission that Earl Pauley, Park Superintendent, had proposal to increase camp fee. Commissioner Lopez questioned if the pool had been repaired. Ms. Holly informed the last time she had talked with Earl Pauley, Park Superintendent, regarding the pool repair, he informed her the pool contained water and as of right

now the water did not seem to be leaking out.

The Commissioners received and reviewed check in the amount of \$28,582.30 for the Emergency telephone system for the month of December, 1995.

Ms. Holly presented to the Commission invoice from Rick Myles Construction for work on Fayette County Prosecuting Attorney's Office roof. Ms. Holly informed the Commission that Earl Pauley inspected roof on January 30, 1996 and informed that all work is complete and okay. The Commissioners approved invoice.

The Commissioners received and reviewed invoice from Pentree, Incorporated for Water Study. Invoice was approved.

Ms. Holly informed the Commissioners that Ardith McKinney would be returning to work on March 1st in the Prosecuting Attorney's Office, and Prosecuting Attorney had asked that another PC workstation and desk be purchased for office. The Commission approved.

The Commissioners received and reviewed reports from the Fayette County Solid Waste Authority.

The Commissioners received and reviewed recommendation from Steve Cruikshank to name David Neal as Assistant Director of Emergency Services to replace John McComas. The Commission approved recommendation.

Ms. Holly advised the Commission of the delay in sending the hotel occupancy tax returns by the Assessor's Office and of the numerous calls from hotel operators about the tax not having been collected due to not having received notice until the end of January. The Commissioners signed order informing that any establishment that is required to collect and pay the hotel occupancy tax as set forth in the hotel/motel occupancy tax order shall be granted a waiver of the payment of the tax to the County for the time period up to and including February 15, 1996,



if the tax had not been collected. Also, Ms. Holly advised the Commission that the tax would apply to renting the cabins at the Fayette County Park; the Commission said that would be ok.

The Commissioners signed order appointing John Hoffman to replace Ann Skaggs on the Fayette County Board of Zoning Appeals.

The Commissioners received and reviewed statistics from the 911-Emergency Center for the month of December, 1995.

The Commissioners received and reviewed application for employment from Ruth A. Thomas.

The Commissioners received and reviewed letter form Herbert Mann, Circuit Clerk listing a complete accounting of the vacation and sick days for his employees for the period from January 1, 1995 through December 31, 1995.

The Commissioners received and reviewed Workers' Compensation report for the period November 1 through November 30, 1995.

The Commissioners received and reviewed notice from the Workers' Compensation Office of Judges regarding Percy Lee Gilliam. Copy sent to Teresa Daniels, Assistant Prosecuting Attorney.

The Commissioners received and reviewed letter from the Workers' Compensation Division regarding Harold Wayne Conner.

Ms. Holly informed the Commissioners that Paul Blake, Prosecuting Attorney had reviewed and approved the proposed agreements regarding distribution of the hotel occupancy tax to the visitors' bureau. No action was taken on the agreements.

The Commissioners received and reviewed check from Shrine Circus for \$500.00 for rental of the Fayette County Memorial Building.

The Commissioners received and reviewed from David Neal, E-911 Coordinator, the Visitor Policy of the E-911 Center. Also, the Commission received and reviewed from Mr. Neal a letter regarding a

personnel matter at the Center.

The Commissioners received and reviewed letter from West Virginia Development Office informing that on February 16, 1996, the U. S. Department of Energy will be hosting a Town Meeting on Compressed Natural Gas (CNG) vehicles in Charleston.

The Commissioners received and reviewed letter from Department of Health and Human Resources regarding the Bellwood Community Water System sanitary survey.

Ms. Holly informed the Commission that Carl Harris, Assistant Prosecuting Attorney had prepared a draft lease agreement for the Fayette County jail but that several terms of the agreement needed to be settled; the Commission directed Carl and Ms. Holly to meet with the Fayette County Historical Society to discuss the terms and to present recommendations to the Commission

The Commissioners received and reviewed letter from Eddie Young, Chief Deputy in the Assessor's Office informing that James A. and Gertrude Browning have been doubled assessed for the tax years of 1993, 1994, and 1995 due to a clerical error. The Commission took the matter under advisement.

The Commissioners received and reviewed letter from Eddie Young, Chief Deputy in the Assessor's Office informing that Matthew Timothy Bound and Phyllis Bounds purchased two parcels of property from Mr. Bound's brother. One of the parcels went back into his brother's name on the tax books and as a result, Mr. Bounds did not receive a tax ticket on the parcel for 1994; the property went delinquent and was sold to New River Holding Company at a land sale in November, 1995. Mr. Young asked the Commission to accept Matthew Timothy Bounds and Phyllis Bounds payment for the back taxes due on the property without penalty, since the problems that occurred were not the taxpayers fault. Mr.

Young also informed the Commission that the assessor's office has taken the necessary steps to correct error. The Commission took the matter under advisement.

The Commissioners received and reviewed letter from Judith Brown asking the Commission to give credit to her 1994 taxes since the property was classed by error as Class 4. Ms. Holly informed the Commission she had forwarded a copy of letter to the Assessor's Office.

Ms. Holly informed the Commission that the West Virginia Extension Office requested a new typewriter for their office. The Commission asked Ms. Holly to check the Extension Office typewriter to see if a new typewriter was necessary. Ms. Holly asked the Commission if it was okay to purchase typewriter for Debbie Berry because an estimate of the cost to repair was approximately the cost of anew typewriter. This was approved.

Ms. Holly informed the Commission that Earl Pauley, Park Superintendent had received 3 prices for two (2) vacuum cleaners (one for the Courthouse Annex (Judge's floor), and the other for Courthouse). The Commissioners received and reviewed the 3 prices. Commissioner Carte made motion to purchase vacuum cleaners from Phillips Supply Company, cost \$466.70 each as recommended by Earl Pauley; Commissioner Lopez seconded. All approved. Vote passed 3 - 0.

The Commissioners signed request for reimbursement to the West Virginia Criminal Justice and Highway Safety for project 95-DC-004 D.A.R.E.

The Commissioners received and reviewed letter from Division of Environmental Protection informing the Commission that they had appointed Roy G. Taylor to the Fayette County Solid Waste Authority.

The Commissioners received and reviewed Dog Warden Report for the month of December, 1995.

The Commissioners received and reviewed letter from Stafford Consultants, Incorporated informing that on behalf of the Danese Public Service District they are submitting preliminary application and engineering report to the West Virginia Infrastructure and Jobs Development for Water System Improvements; also, Stafford sent a copy of a letter from Danese Public Service District authorizing submission of the pre-application and copies of the Fayette County Commission letter stating their intent not to pursue a Small Cities Block Grant for Danese Public Service District.

The Commissioners received and reviewed from Southern West Virginia Convention and Visitors Bureau copy of the 1996 Marketing Plan for the Southern West Virginia Convention and Visitors Bureau.

Ms. Holly asked the Commission if they wanted to talk about the letter they received from Fayette County Emergency Food Assistance Center requesting assistance in the purchase of a truck that would be used to pick-up bread items six days a week. The Commission asked Ms. Holly to hold the request.

The Commissioners received and reviewed letter from Herbert Mann, Circuit Clerk asking that Paul McGraw, democrat and Jess Tench, republican act as Emergency Ballot Commissioners for the Primary 1996 election.

The Commissioners received and reviewed letter from Criminal Justice and Highway Safety Division informing that certified law enforcement officers attend mandatory in-service training on a periodic basis.

The meeting was adjourned at 12:24. Next scheduled meeting is February 1, 1996.

  
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# Zoning Hearing

1/31/96

2-416-96-1

TODD WISEMAN KIMBERLY

HOIKER LUNDY "

Charles A Perdue Kimberly

Donald Dickinson Kimberly

S. Sawicki Charelster

Nova Jabit Kimberly

Mike Jabit Kimberly

Harold W. Galt Kimberly

Kathleen Smith Kimberly

Phyllis Lively Kimberly

Basil Lively Kimberly

Margaret Hartman Kimberly

Betty Dickerson Kimberly

Kay Bayes Kimberly

Laron Dickerson Kimberly

Kay Knight Montgomery

Joan Neal Kimberly

William McSwain Kimberly

FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
JULY 3, 1996  
COURTHOUSE

FAYETTEVILLE, WV 25840

MEMBER Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 3rd day of July, 1996. The meeting was called to order by President John Witt at 9:39.

Exonerations were approved and signed.

The Commissioners received and reviewed copy of letter from the Public Service Commission to the Fayette County Solid Waste Authority reappointing Joe Myers to serve as a member of the Fayette County Solid Waste Authority for the unexpired term ending June 30, 2000.

The Commissioners signed order appointing Larry Johnson to serve as a member of the Fayette County Solid Waste Authority due to the resignation of Robert Arthur.

The Commissioners received and reviewed Dog Warden Report for the month of June.

The Commissioners approved and signed Budget Revision for the Governor's Community Partnership Grant for Project #88CPGP0302 to include purchase of a computer. Computer is to be utilized by the Office of the Prosecuting Attorney in fulfilling the objectives of the Sexual Abuse Neglect Team (S.A.I.N.T.)

Ms. Holly informed the Commissioners she received from the Secretary of State Election Information for the 1996 Presidential General Election.

The Commissioners received and reviewed certificate of liability insurance from cable Equities of the Virginia's Ltd. And Rifkin Communications.

Ms. Holly informed the Commissioners she received 6 months report

for vehicle maintenance of Sheriff's Office vehicles from Earl Pauley, Park Superintendent.

Ms. Holly informed the Commissioners she had talked with Skip Mills, CPA and Barney Wade regarding the Meadow Bridge Fire Department audit. Ms. Holly informed the Commissioners of Mr. Mills and Mr. Wade request and views, feel its not necessary for the county to administer and control the funds, money should not be spent for audit fees, audit should be based on local level and not state auditor. The Commissioner suggested tabling the request.

The Commissioners received and reviewed a list of "refusals to pay" associated with the Emergency Telephone System for the month of May, 1996.

Ms. Holly informed the Commissioners she received invoice from David Neal, 911 Coordinator asking if check been received for Valley Tower struck by lightning from the insurance. Mr. Neal informed okay to pay.

Ms. Holly informed the Commissioners she received memo from the West Virginia University Extension Service requesting the Board of Education transfer funds for Fiscal Year July 1, 1996 to June 30, 1997 payroll salary.

The Commissioners received and reviewed check in the amount of \$29,951.30 for the Emergency telephone system for the month of May, 1996.

Ms. Holly informed the Commissioners she received opinion from Carl Harris, Assistant Prosecuting Attorney regarding the 1994 Sheriff's delinquent land sale of property owned by Ronnie Hall and Bobby Yoney. Mr. Harris informed the property owner would have to contract an attorney, the Commission don't have the right to cancel the sale.

The Commissioners received and reviewed from the West Virginia

Board of Investments copy of the Investment Policy and Guidelines.

The Commissioners received and reviewed letter from Worker's Compensation Division approving request from Zahir Syed of left carpal tunnel for Barbara J. Hull claimant. Copy given to David Neal, 911 Coordinator.

The Commissioners received and reviewed copy of a letter from Sheriff Bill Laird regarding the required reimbursement for Workers' Compensation Benefits received by Earnest Keith Lester.

Ms. Holly informed the Commission she had received a complaint regarding the bars of soap at the Courthouse Annex. Ms. Holly asked the Commission if she could have maintenance purchase disposable pumps. This was approved.

Commissioner Lopez informed the Commissioners that Jerry Synder, janitor at the Courthouse Annex had informed him that he had just scrubbed and waxed the floors and the next day someone had scared up the floor by either pulling or dragging something across it.

Ms. Holly informed the Commissioners she has prepared letter to Senators Shirley Love, Randy Schoonover, Delegates John Pino, Tom Louisos, Bruce Petersen asking their assistance in obtaining the formal awards and contracts no later than August 15, 1996 for funding of projects approved in the 95-96 Legislative Digest and also informed that due to the emergency status of the Valley Tower site relocation and improvements this project cannot be delayed.

Ms. Holly informed the Commissioners she has written estimates to install chair-lift in Courthouse. The Commissioners asked Ms. Holly to check to see if lift would effect the Historic of the Courthouse.

Attorney Phil Tissue appeared before the Commission with petitioner Bob Rogers regarding the Estate of Snowden T. Wagner. Mr. Tissue informed the Commission that Mr. Rogers is seeking appointment as



personal representative in place of Carolyn Wagner, his mother who is unable to continue to serve as Executrix; Mr. Tissue informed the Commission that Mr. Rogers is the sole surviving heir and son of Ms. Wager. Commissioner Carte moved that Bob Rogers be appointed as administrator/cta and to serve without bond. Commissioner Lopez seconded. All approved. Order signed.

The Commissioners signed letter to Sheriff Bill Laird informing that a public hearing has been scheduled at 10:30 on Monday, July 15, 1996 regarding the Local Law Enforcement Block Grant Program and informing that the Commission approve recommendations of appointments of William Laird, law enforcement agency, Paul Blake, Prosecutor Office, John C. Lopez, court system, John Crist public school, Phil Sundstrom, non-profit system group to the advisory board.

The Commissioners received/reviewed and signed Fire Levy Fire Protection Agreement for the Ansted Certified Fire Department for fiscal year July 1, 1996 to June 30, 1997.

Ms. Holly informed the Commissioners she received letter from Charles Toombs, Chairman of the Wolf Creek Public Service District requesting Robert Jackson be reappointed as a board member. The Commissioners signed order reappointing Robert Jackson as a member of the Wolf Creek Public Service District.

The Commissioners signed letter to Penelope Crandall, Director, Family Law Masters requesting reimbursement for rent in the amount of \$990.00 for the month of July.

The Commissioners signed invoice to the Division of Corrections for rent of office space for the parole office for the month of July.

Ms. Holly informed the Commissioners she has prepared letter to Mike Cobb, with the Department of Highways regarding the Kingston-Kincaid road. Discussion was held, the Commission asked Ms. Holly to

hold off sending letter.

Ms. Holly informed the Commissioners she received letter from Lee Massey, Administrator with the Fayette County Health Department asking that Russell Matthew be reappointed for a five year term as a member of the Fayette County Board of Health. The Commission signed order reappointing Russell Matthew a member of the Fayette County Board of Health.

The Commissioners received copy of invoice to the Fayette County Board of Health from Appalachian OH-9, Inc. regarding the cost of their utilities for the month of June, 1996.

The Commissioners met with Randy Huff, Don Hebb, Senator Randy Schoonover, John Perdue, Joe Shelton, Delegate John Pino and members of the Fayette County Solid Waste Authority to discuss the recapping of Landfill in Cunard, the leachate and hooking up with the Fayetteville Water Sewer System. Mr. Perdue informed the Commission he will help to get landfill capped and will try to keep the line on schedule for capping. Mr. Perdue informed the Commission he would help in anyway possible. Commissioner Witt thanked everyone for coming. No decision made.

Commissioner Carte made motion to participate in inmates program. Commissioner Lopez seconded. All approved. The Commission signed request for inmate Labor asking that the West Virginia Regional Jail and Correctional Facility Authority's Regional Jail to release into the custody of Larry Parsons inmates to tear down abandoned houses, cleaning open dumps, little control, cut branch and clean streams.

Discussion was held regarding the Minden Community Project. The Commission asked Ms. Holly to get list of the equipment they are requesting to start project. Commissioner Carte made motion to contribute no more than \$500.00. Commissioner Lopez seconded. All

approved.

The Commissioners asked Ms. Holly to hold letter to Charles Toombs regarding his request that the Commission issued check for engineering feasibility study.

The Commissioners signed maintenance agreement for copier for the County Clerk's Office.

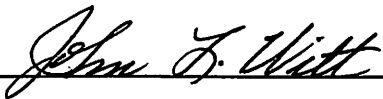
The Commissioners signed Sales Tax Report for the Fayette County Park for the month of June. Ms. Holly informed the Commissioners she also had 3 amended Sales Report Tax were over looked.

The Commissioners signed application for incinerator permit for July 1, 1996 to June 30, 1997.

The Commissioners signed Appalachian Power Company service agreement.

Outstanding bills were approved.

The meeting was adjourned at 11:55. Next scheduled meeting is July 15, 1996.

  
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FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
JULY 15, 1996  
COURTHOUSE

FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez

The Fayette county Commission met in regular session on this 15th day of July, 1996.

Exonerations were approved and signed.

Ms. Holly presented to the Commission for their approval request for revision of the 1996-97 Coal Severance Fund budget and General County Fund budget. Commissioner Lopez made motion to adopt resolution of the 1996-97 Coal Severance Fund budget and General Fund budget. Commissioner Witt seconded. All approved.

The Commissioners asked Ms. Holly to have John David and Floyd McKnight meet with them on August 15th at 10:30 a.m. to review and discuss expenditures of the Beards Fork Community for the past year.

Ms. Holly informed the Commissioners she had talked with Norma Rose, Minden Community Project and asked her to submit a list of the equipment needed to do clean-up.

Ms. Holly informed the Commissioners they would need telephone for Precinct #46, Kimberly for the Special Election.

The Commissioners received and reviewed confirmation on securities to secure deposits with the Fayette County National Bank.

Ms. Holly informed the Commissioners that Registration for the County Commission Annual meeting is due by July 24th. Commissioner Witt will attend room reservation are made.

The Commissioners signed clean-up letters to James and Claudia Watkins, Jr., Riccardi and Ramsey Realty, Lewis Bibbs, heirs and Theresa Stanley.

The Commissioners signed letters to Paul Blake, Prosecuting

Attorney, Steptoe and Johnson, Kings, Betts and Allen and Cleek, Knopf, Flower and Flanagan informing of audit being conducted for Fayette County for fiscal year ended June 30, 1995, requesting they provide the Department of Tax and revenue with information concerning any pending litigation, claims, or assessments currently pending against the county.

The Commissioners received and reviewed invoices from Sheriff Bill Laird for the confinement of inmates in the Southern and South Central Regional Jails for the month of June, also prepared are invoices for payments to the Town of Fayetteville, City of Smithers, city of Mount Hope, and City of Oak Hill.

The Commissioners received and reviewed notice from the Public Service Commission informing that a hearing has been scheduled for Tuesday, July 16, 1996 at 10:00 a.m. for the Kanawha Falls Public Service District.

The Commissioners received and reviewed notice from the Public Service Commission informing that the Kanawha Falls Public Service District is required to file an appropriate petition seeking the Commission's consent to take the deposition of Robert Wagner, II and secure such approval prior to deposing the complaint.

The Commissioners received and reviewed notice from the Public Service Commission informing that the Kanawha Falls Public Service District's motion to depose Roger Wagner, II is denied.

The Commissioners received and reviewed memorandum from the Criminal Justice and Highway Safety Division informing that a Drug and Violent Crime Control Policy meeting is scheduled for July 18, 1996 at 9:00 at the Charleston Civic Center. Copy of memorandum forwarded to the Sheriff.

Sheriff William Laird appeared before the Commission to conduct public hearing of the Local Law Enforcement Block Grant Program.

Sheriff Laird explained the purpose of this public hearing is to receive public input and comment concerning the proposed use of the \$12,211.00 in funding. Sheriff Laird informed the Commission that he has prepared letter for his signature to each individual asked to serve on the Advisory Board. There were no opposition, Public hearing adjourned.

Kelvin Holliday, County Clerk appeared before the Commission. Mr. Holliday informed the Commission that Pauline Hagar was in his office and asked if she could take original records from office to use and make copies. Commissioner Witt and Commissioner Lopez informed Mr. Holliday they object to any original records leaving courthouse. Commissioner Witt recommended making copies in County Clerk's office. Mr. Holliday talked about the handling of the deed books, the votomatic room and storage space.

The Commissioner held public hearing to change the location of polling places for the General Election. No citizens were present to speak for or against change. Ms. Holly informed the Commissioners notices were published in the Montgomery Herald and The Fayette Tribune. Commissioner Lopez made motion to change Precinct #17 (Pax) from Pax Elementary School (Kindergarten room) to Pax City Hall and Precinct #18 (Dothan/Kingston) from Roma Lively Garage Building to T & C Midway, Inc. for the upcoming Presidential General Election being held November 5, 1996. Commissioner Witt seconded. Motion passed. 2-0.

The Commissioners signed request for reimbursement for second half grant for the Juvenile Justice Delinquency Program.

The Commissioners received and reviewed Certificate of Liability Insurance from Rifkin Communication Partners, L.P. and Cable Equities of the Virginia's, Ltd.

The Commissioners received and reviewed quarterly report from Boomer Volunteer Fire Department.

The Commissioners signed letter to Black Diamond Girl Scout advising them of the rules and regulations at the Fayette County Park.

The Commissioners signed Business Registration Certificate License for Fayette County Park for fiscal year July 1, 1996 to June 30, 1997. The original given to Earl Pauley, park Superintendent.

The Commissioners received fax from Bedminster Cobb Corporation informing they are not associated with any individuals or proposed composting projects in Fayette County.

The Commissioners received and reviewed copy of a letter to Appalachian OH-9 from the Fayette County Health Department informing OH-9 they have had billing of utilities changed to their name.

The Commissioners received and reviewed letter from the National Park Service informing they are in the process of developing specifications for contracting the work for the restoration of the Fayette Station Bridge.

The Commissioner received and reviewed Fire Marshal Safety Inspection Report on Memorial Building. Ms. Holly informed the Commission copy has been sent to Dale Watkins at the Fayette County Board of Education.

The Commissioners received and reviewed claim from the Workers' Compensation Division.

Ms. Holly informed the Commissioners she talked with David Neal, 911 Coordinator was told that Oak Hill Post Office have completed naming of some of the streets, Mr. Neal to check further.

Ms. Holly informed the Commissioners the Central Appalachia Empowerment Zone (CAEZ) will hold public hearing on July 31, 1996.

The Commission suggested discussing the leash Law on August 28, 1996.

The Commissioners approved to pay the African American Heritage

contribution for fiscal year 1996-97, amount \$1,500.00.

Commissioner Witt informed the Commissioners he had spoke with Ray Coleman regarding the cost of pipe railing for the memorial Building. Commissioner Witt informed the Commission he was told by Mr. Coleman that Fayette Awning cost is \$20.00 a foot; Mr. Coleman thinks he could get it somewhere else cheaper. The Commissioners approved to allow change in contract and authorized to offset cost of rails. The Commissioners asked that Roy take care of purchase. Cost would be approximately \$1500 to \$1600 more. Approved.

The Commissioners asked Ms. Holly to prepare letter to John Parrish an advise him that the Division of Highways informed us that to change Fayette Road and rename to Cafego Road a petition signed by 60 percent of the people living on the road would have to agree to the name change.

The Commissioners asked Ms. Holly to prepare a letter to Valley Emergency Medical Service requesting a proposal to the Commissioners for their organization to provide Medical Service to the Danese and surrounding area.

The Commissioners received and reviewed memo from Sheriff Bill Laird informing all outside employment which evolves the use of police cares and uniform personnel will end.

The Commissioners received and reviewed letter from Fayetteville Municipal Water Works and Sanitary Board informing that it is not interested in accepting leachate from the Fayette County Landfill in Cunard for treatment at the Wastewater plant.

The Commissioners received/reviewed and signed letter from the Department of Tax and Revenue confirming the audit for fiscal year ended June 30, 1995.

The Commissioners signed management representation letter to Lisa



Stanley, Director, Department of Tax and Revenue for audit ended June 30, 1995.

The meeting was adjourned at 11:40. Next scheduled meeting is July 31, 1996.

*John L. Witt*

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FAYETTE COUNTY COMMISSION  
EMERGENCY SPECIAL SESSION  
JULY 19, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840  
MEMBER Present: John L. Witt, Gene Carte, Jr.

The Fayette County Commission met in an Emergency Special Session on this 19th day of July, 1996.

Commissioner Witt called meeting to order and explained the purpose of the Emergency Special Session.

Commissioner Witt informed that as a result of the July 17, 1996 Supreme Court decision which held the issuance of tax increment obligations pursuant to West Virginia Code 7-11B-1, et seq, to be unconstitutional, the Fayette County Commission has been advised that to proceed to conduct the Special Election on August 3, 1996, with respect to Tax Increment Financing in Fayette County would be an exercise in futility.

Commissioner Carte offered motion to cancel Special Tax Increment Financing Election scheduled to be held August 3, 1996 based upon a review of the Supreme Court decision by the Commission, legal counsel, and the Secretary of the State of West Virginia, and finding that the statute was nullified and that further conduct of the election was a useless, inappropriate, meaningless expense to the taxpayers; John Witt seconded; unanimous.

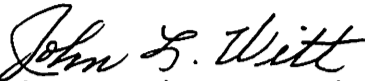
The Clerks of the Fayette County Commission and Circuit Court of Fayette County were directed to proceed to immediately take whatever action is necessary to cancel the Special Election and to preserve the sealed packages of ballots, absent voter ballots, registration records, pollbooks, tally sheets and precinct certificates for twenty-two months in accordance with West Virginia Code 3-6-9.

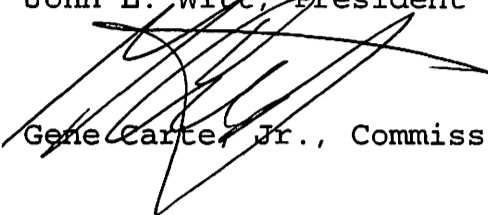
West Virginia-American Water Company (project developer) shall reimburse the County Commission of Fayette County within 30 days of receipt of an invoice from the County, for all costs incurred to date related to the election and all costs associated with the cancellation of said election.

The meeting was adjourned. Next scheduled meeting is July 31, 1996.

John L. Witt

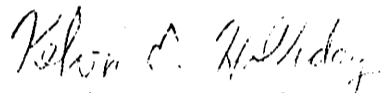
for all costs incurred to date related to the election and all costs associated with the cancellation of said election.

  
John L. Witt, President

  
Gene Carter, Jr., Commissioner

Given under our hand the 19th day of July, 1996.

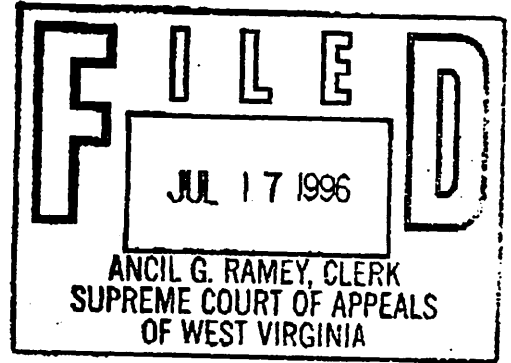
ATTEST:

  
Kelvin E. Holliday, Clerk  
County Commission of Fayette County

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

January 1996 Term

\_\_\_\_\_  
No. 23375  
\_\_\_\_\_



STATE OF WEST VIRGINIA EX REL.  
THE COUNTY COMMISSION OF BOONE COUNTY,  
A PUBLIC BODY CORPORATE OF THE  
STATE OF WEST VIRGINIA,  
Petitioner

v.

ED COOKE, CLERK OF THE  
COUNTY COMMISSION OF BOONE COUNTY,  
Respondent

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Petition for Writ of Mandamus

WRIT DENIED

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Submitted: May 28, 1996  
Filed: July 17, 1996

James K. Brown  
Lee O. Hill  
Lee van Egmond  
Jackson & Kelly  
Charleston, West Virginia  
Attorneys for the Petitioner

L. Lee Javins, II  
Shaffer & Shaffer  
Madison, West Virginia  
Attorney for the Respondent

Joseph W. Powell  
President  
West Virginia AFL-CIO  
Charleston, West Virginia  
Amicus Curiae

Michael L. Clowser  
Executive Director  
Contractors Association of West Virginia  
Charleston, West Virginia  
Amicus Curiae

CHIEF JUSTICE McHUGH delivered the Opinion of the Court.

## SYLLABUS BY THE COURT

1. When tax increment obligations are issued pursuant to W. Va. Code, 7-11B-1, et seq. [1995], The Tax Increment Financing Act, to finance a county development project authorized therein, a debt is created within the meaning of article X, § 8 of the Constitution of West Virginia and such tax increment obligations may only be issued in accordance with article X, § 8.

2. The issuance of tax increment obligations pursuant to W. Va. Code, 7-11B-1, et seq. [1995], The Tax Increment Financing Act, is not in accordance with W. Va. Const. art. X, § 8 because W. Va. Code, 7-11B-1, et seq. [1995] does not provide “for the collection of a direct annual tax on all taxable property therein, in the ratio, as between the several classes or types of such taxable property, specified in section one of this article [W. Va. Const. art. X, § 1], separate and apart from and in addition to all other taxes for all other purposes” in order to pay the principal of and interest on such tax increment obligations and is, therefore, unconstitutional.

3. “A writ of mandamus will not issue unless three elements coexist--(1) a clear legal right in the petitioner to the relief sought; (2) a legal duty on the part of respondent to do the thing which the petitioner seeks to compel; and (3) the absence of another adequate remedy.” Syl. pt. 2, State ex rel. Kucera v. City of Wheeling, 153 W. Va. 538, 170 S.E.2d 367 (1969).

McHugh, Chief Justice:

The petitioner, the County Commission of Boone County (hereinafter the "County Commission"), seeks a writ of mandamus to compel the respondent, Ed Cooke, the Clerk of the County Commission of Boone County (hereinafter the "Clerk"), to publish notice of a public hearing, pursuant to The Tax Increment Financing Act found in W. Va. Code, 7-11B-1, et seq. [1995], regarding the issuance of tax increment bonds for the purpose of financing a county water project which will be referred to as the Boone County Development Project. The Clerk refused to publish the notice of the hearing because he asserts that the Tax Increment Financing Act is unconstitutional on many grounds. For reasons explained below, we decline to issue a writ of mandamus.

I.

In order to facilitate an understanding of this case, it is necessary to initially analyze the Tax Increment Financing Act. That analysis will be applied to the Boone County Development Project.

A.

**The Tax Increment Financing Act**

The Tax Increment Financing Act allows a private project developer and a county commission to jointly make capital improvements or build facilities which result "in the increase in the value of property located in the area or encourage



increased employment within the area[.]” W. Va. Code, 7-11B-2 [1995]. More specifically, the act authorizes a county commission to issue tax increment obligations<sup>1</sup> in order to finance “development projects to foster economic development, including infrastructure and other public improvements prerequisite to private improvements[.]” W. Va. Code, 7-11B-4(c) [1995].

The objective of the Tax Increment Financing Act is to use the increased ad valorem tax revenue which is generated as a result of the development project to pay the principal of and interest on the tax increment obligations. The underlying premise of the tax increment financing scheme is the assumption that the assessed property value of the private project will increase as a result of the development project thereby increasing the amount of ad valorem taxes collected. Thus, in order to measure the increased assessed property value, the act initially requires a base assessed value to be established on the private project property. W. Va. Code, 7-11B-4(a) [1995]. The base assessed value is the taxable assessed value of the private project property in the year preceding the county's adoption of a tax increment financing plan. W. Va. Code, 7-11B-3(b) [1995].<sup>2</sup> After the tax increment financing

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<sup>1</sup>W. Va. Code, 7-11B-3(j) [1995] defines tax increment obligation as follows: “Tax increment obligation’ means any bond or note issued by a county commission in accordance with section six [§ 7-11B-6] of this article.”

<sup>2</sup>W. Va. Code, 7-11B-3(b) [1995] defines base assessed value as follows:

‘Base assessed value’ means the taxable assessed

(continued...)

plan is adopted by the county commission "the amount of tax attributable to the amount by which the current assessed value of a private project in a development project area exceeds the base assessed value, if any, of such private project, less the portion of tax allocated to the state[.]" is called the "tax increment." W. Va. Code, 7-11B-3(i) [1995]. The tax increment is paid to the tax increment financing fund which, in turn, is used to pay the principal of and interest on tax increment obligations. W. Va. Code, 7-11B-4(a)(3) [1995]. Thus, the tax increment is the amount of additional ad valorem taxes collected as a result of the increase in the value of the private project property.

The process by which a county commission finances a project using tax increment financing begins when an agency or project developer requests the county commission to adopt a tax increment financing plan<sup>3</sup> "with respect to a development

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<sup>2</sup>(...continued)

value of real and tangible personal property of a project developer within a development project area as shown upon the land book and personal property records of the assessor on the first day of July of the year preceding the effective date of the order authorizing the tax increment financing plan.

<sup>3</sup>W. Va. Code, 7-11B-3(k) [1995] defines tax increment financing plan as follows:

'Tax increment financing plan' means a plan proposed by either an agency or a project developer requesting that a specific development project be developed in conjunction with a private project of such

(continued...)

project to be developed [by the county] in conjunction with a private project of a project developer." W. Va. Code, 7-11B-4(a) [1995]. Before the county commission may enter an order approving a tax increment financing plan, the county commission must hold a public hearing regarding the proposed plan. W. Va. Code, 7-11B-4(b) [1995]. The county commission must also submit the tax increment financing plan to the voters and receive an approving vote of three-fifths of the participating voters. W. Va. Code, 7-11B-6(b) [1995].

Once approved by the voters, the county commission is authorized to issue the tax increment obligations. W. Va. Code, 7-11B-6(a) [1995]. The county commission is also authorized to dedicate the tax increment, if any, to the tax increment financing fund. W. Va. Code, 7-11B-4(a)(3) [1995]. The moneys in the tax increment financing fund are then "used to pay the principal of and interest on tax increment obligations issued to finance the costs of such development project." Id. The Tax Increment Financing Act does not change the rate of taxation; however, when a tax increment financing plan is adopted the allocation of a portion of the ad valorem tax assessed on the private project property is changed. The increase in

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<sup>3</sup>(...continued)

project developer, which plan is approved by the county commission for the county in which the development project area is located in accordance with the procedures set forth in section four [§ 7-11B-4] of this article.

assessed property value of the private project property does not directly inure to the benefit of other levying bodies such as the board of education.

The county's development project is to "be sold, leased with an option by the lessee to purchase, leased or otherwise disposed of to a project developer."

W. Va. Code, 7-11B-6(a) [1995]. In the event the moneys collected from the tax increment are insufficient to pay the principal of and interest on the tax increment obligations,

then such bonds or notes shall be payable out of the revenues derived from the lease, lease with an option by the lessee to purchase, sale or other disposition in connection with the development project for which the bonds or notes are issued, or any other revenue derived from such project.

W. Va. Code, 7-11B-6(a) [1995]. The legislature has by reference to W. Va. Code, 13-2C-7 [1975] in the Tax Increment Financing Act stated that the bonds do not constitute an indebtedness of the county issuing them within the meaning of the Constitution of West Virginia. W. Va. Code, 7-11B-6(a) [1995].<sup>4</sup> Additionally, the

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<sup>4</sup>W. Va. Code, 7-11B-6(a) [1995] cross-references several sections of chapter 13, article 2C of the W. Va. Code, known as the Industrial Development and Commercial Development Bond Act, stating that the tax increment obligations "shall be issued and the payment of such . . . [tax increment obligations] secured in the manner provided by the applicable provisions [in W. Va. Code, 13-2C-7 to 13-2C-15 and W. Va. Code, 13-2C-17, 13-2C-19, and 13-2C-20.]" In particular, W. Va. Code, 13-2C-7 [1975] states, in relevant part, that "[t]he bonds and interest coupons issued under the authority of this article shall never constitute an indebtedness of the county, or of the municipality issuing the same, within the meaning of any constitutional provision or statutory limitation[.]" However, we have stated that "[a] (continued...)

Tax Increment Financing Act makes clear "that the portion of property taxes allocable to the state shall be paid over to the state in accordance with law."<sup>5</sup> W. Va. Code, 7-11B-4(a)(3) [1995].

When the tax increment obligations are retired, the tax increment financing fund is to be dissolved and the tax increment is to be "paid into the general fund of the taxing units in proportion to their respective contributions to the fund." W. Va. Code, 7-11B-7(a) [1995]. The act further states that upon the dissolution of the tax increment financing fund the "real and tangible personal property shall be assessed and taxes collected and allocated in the same manner as applicable in the

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<sup>4</sup>(...continued)

mere legislative declaration that a state debt is not created by the statute is not conclusive or binding upon a court. Whether a state debt is created by the statute is a judicial question, rather than a legislative question." State ex rel. Hall v. Taylor, 154 W. Va. 659, 674, 178 S.E.2d 48, 57 (1970)(citations omitted), overruled on other grounds, State ex rel. West Virginia Resource Recovery--Solid Waste Disposal Authority v. Gill, 174 W. Va. 109, 323 S.E.2d 590 (1984). See n. 11, infra.

<sup>5</sup>By assuring that the State receives its allocated share of the ad valorem taxes assessed, the legislature implicitly recognized that W. Va. Const. art. X, § 6 prohibits the State from granting its credit to a county:

The credit of the State shall not be granted to, or in aid of any county, city, township, corporation or person; nor shall the State ever assume, or become responsible for the debts or liabilities of any county, city, township, corporation or person; nor shall the State ever hereafter become a joint owner, or stockholder in any company or association in this State or elsewhere, formed for any purpose whatever.

year preceding the adoption of the tax increment financing order." W. Va. Code, 7-11B-7(b) [1995].

B.

**The Boone County Development Project**

Sometime in 1995 the West Virginia-American Water Company (hereinafter the "Water Company") requested the County Commission to adopt a tax increment financing plan pursuant to the Tax Increment Financing Act in order to improve water service in Boone County. The plan would require the County Commission to work in conjunction with the Water Company in order to implement the improvements in water service. More specifically, the Water Company would agree to undertake certain company projects such as constructing water mains, and the County Commission likewise would agree to undertake a county project of constructing other water mains. The estimated cost to the Water Company for the company project is \$9,430,000.00. The estimated cost to the County Commission for the county project is \$5,396,000.00.

The Water Company informed the County Commission that the project by the county was not likely to occur without tax increment financing. See W. Va. Code, 7-11B-4(c) [1995]. Therefore, the Water Company requested the County Commission to approve a tax increment financing plan in order to finance the county project through the issuance of tax increment obligations (bonds). The principal amount of the tax increment obligations (bonds) was not to exceed \$5,500,000.00, the

interest rate was not to exceed 10%, and the obligations (bonds) were to mature no later than thirty years. The Water Company estimates that due to an increase in property values from the project, an extra \$141,800.00 in taxes per year could be placed into the tax increment financing fund to pay the principal of and interest on the tax increment obligations (bonds) issued by the County Commission to finance the cost of the county project.

Furthermore, the Water Company agreed to enter into a lease agreement regarding the county project with the County Commission whereby the Water Company will operate, maintain and pay rent on the county project in an amount necessary to pay the principal of and interest on the obligations (bonds) in the event the moneys in the tax increment financing fund are inadequate to make such payments. See W. Va. Code, 7-11B-6(a) [1995].

Because the County Commission must hold a public hearing pursuant to W. Va. Code, 7-11B-4(b) [1995] regarding the issuance of the tax increment obligations (bonds) prior to entering an order approving the tax increment financing plan, the County Commission directed the Clerk to publish the notice of the public hearing. As indicated above, the Clerk refused to publish notice of the public hearing because he maintains the Tax Increment Financing Act is unconstitutional.

More specifically, the Clerk asserts that the Tax Increment Financing Act creates an unconstitutional debt in violation of W. Va. Const. art. X, § 8; unconstitutionally extends the credit of the State to aid a county in violation of W. Va. Const. art. X,

§ 6; unconstitutionally reduces expenditures for public education; violates a citizen's right to equal protection of the laws and due process pursuant to U.S. Const. amend. XIV and W. Va. Const. art. III, § 10; and creates unequal taxation of county property in violation of W. Va. Const. art. X, § 1.

## II.

We stress that the desirability of the proposed water project is not the issue. Increasing the property values, encouraging increased employment, and seeking better delivery of water within Boone County are laudable goals. Therefore, we do not doubt the salutary purposes of the Tax Increment Financing Act. The role of this Court, however, is not to recognize the benefits of statutory enactments. We must "determine 'the constitutionality of the law.'" Farley v. Graney, 146 W. Va. 22, 32, 119 S.E.2d 833, 840 (1960) (citing W. Va. Const. art. VIII, § 3). We recognize the legislature's power is almost plenary and may not be questioned by this Court unless the legislature's actions violate the Constitution of West Virginia or the Constitution of the United States. See syl. pt. 3, State ex rel. Lambert v. County Comm'n, 192 W. Va. 448, 452 S.E.2d 906 (1994) (This Court must use every reasonable construction of a legislative enactment in order to sustain its constitutionality). However, no matter how commendable the goals of the Boone County Commission or how great the power of the legislature, this Court is obligated to follow the mandates of the West Virginia Constitution. Id.



A.

Obviously a primary issue raised in this mandamus proceeding is whether the Tax Increment Financing Act creates a debt in violation of W. Va. Const. art. X, § 8.<sup>6</sup> Article X, § 8 of the Constitution of West Virginia limits the amount of debt that may be incurred by a county, city, school district or municipal corporation.<sup>7</sup>

The County Commission, however, maintains that the tax increment obligations issued pursuant to the Tax Increment Financing Act are exempt from the debt restrictions set forth in W. Va. Const. art. X, § 8. More specifically, the County

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<sup>6</sup>The Clerk argues that the Tax Increment Financing Act creates an unconstitutional debt of the State pursuant to W. Va. Const. art. X, § 4. Although §§ 4 and 8 of article X of our constitution have similar underlying objectives of limiting the power to incur debt and defining the circumstances of when debt is acceptable, they are not the same. See State v. Spelsberg, 191 W. Va. 553, 556 n. 6, 447 S.E.2d 16, 19 n. 6 (1994). W. Va. Const. art. X, § 4 deals with restrictions on the bonded indebtedness of the State, whereas W. Va. Const. art. X, § 8 concerns the restrictions on the bonded indebtedness of counties, cities, school districts and municipal corporations. Id. In that the Tax Increment Financing Act gives county commissions the authority to implement a tax increment financing plan, W. Va. Const. art. X, § 8 is the applicable constitutional provision in the case before us.

<sup>7</sup>W. Va. Const. art. X, § 1, known as the Tax Limitation Amendment, also limits the authority of counties to incur debt. See State ex rel. County Court v. Partlow, 130 W. Va. 777, 783, 45 S.E.2d 506, 509 (1947). More specifically, W. Va. Const. art. X, § 1, among other things, establishes maximum rates at which each class of property may be taxed. See Killen v. Logan County Comm'n, 170 W. Va. 602, 295 S.E.2d 689 (1982) (Provides a cogent discussion on W. Va. Const. art. X, § 1 and on the legislature's enactment of W. Va. Code, 11-8-1, et seq. to implement W. Va. Const. art. X, § 1). In that the Tax Increment Financing Act does not change the rates at which each class of property is taxed, the act does not directly implicate W. Va. Const. art. X, § 1. However, as we will explain later in this opinion, W. Va. Const. art. X, § 8 implicates W. Va. Const. art. X, § 1. See section II, B, infra.

Commission asserts that because the tax increment obligations will be paid out of a special fund, that is, the tax increment financing fund, the debt restrictions in W. Va. Const. art. X, § 8 are inapplicable.

We are mindful that the underlying purpose of constitutional debt restrictions is to protect the fiscal integrity of our governmental entities. See State v. Spelsberg, 191 W. Va. 553, 556, 447 S.E.2d 16, 19 (1994). Thus, the common thread linking the various financing schemes which we have approved of as not implicating our constitutional restrictions on debt is that they do not impair "the financial integrity of the State's existing tax structure[.]" State ex rel. Marockie v. Wagoner, 190 W. Va. 467, 472, 438 S.E.2d 810, 815 (1993).<sup>8</sup>

Generally, this Court has recognized three categories of bonds which do not implicate our constitutional restrictions on debt.<sup>9</sup> The first category of bonds is

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<sup>8</sup>We will not attempt to determine whether the tax increment obligation is a general obligation bond or revenue bond because those terms are not used in our constitutional provisions limiting debt. See Winkler v. School Building Authority, 189 W. Va. 748, 766 n. 28, 434 S.E.2d 420, 438 n. 28 (1993). The County Commission refers to the obligation as a bond. The label of the bond is unimportant. Instead, the critical issue is whether the issuance of the obligations will affect the financial integrity of our existing tax structure. Id.

<sup>9</sup>Many of the cases cited in our discussion of what is a debt that is subject to our constitutional restrictions on debt relate to W. Va. Const. art. X, § 4. Although, as we have previously explained, article X, § 4 is not at issue, because the underlying purpose of §§ 4 and 8 in article X is the same, we find our discussion of what is a debt which is subject to the restrictions set forth in § 4 to be useful in determining what is a debt subject to the restrictions expressed in § 8. See n.6 supra.

those issued pursuant to W. Va. Const. art. XIV, § 2, relating to constitutional amendments. We have concluded that those bonds “override the more general bond limit restrictions because they were approved by the voters for the specific purposes contained in the amendment.”<sup>10</sup> Winkler, 189 W. Va. at 755, 434 S.E.2d at 427.

The second category of bonds is those which are “payable from lease rental payments or similar contract arrangements for a necessary service on the part of the public agency.” Id. at 760, 434 S.E.2d at 432. We have given our approval to this financing arrangement because of the state agencies’ “recurring needs for services, such as rental space and utility services. . . . In such a situation, the lease payments are used to retire revenue bonds that were issued to construct [a] building.” Id. at 756, 434 S.E.2d at 428. See, e.g., State ex rel. State Building Comm’n v. Moore, 155 W. Va. 212, 184 S.E.2d 94 (1971). As noted in Winkler, the rationale of the lease-financing arrangement formed the basis for our approval of contract arrangements for a necessary service on the part of a public agency even though the contract was not a lease. Winkler, 189 W. Va. at 756-57, 434 S.E.2d at 428-29. The rationale behind the lease-financing arrangement also formed the basis for “our approval of the issuance of industrial and commercial revenue bonds under

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<sup>10</sup>Winkler provides a list of the amendments to the Constitution of West Virginia that have authorized the issuance of the bonds along with the year they were ratified. Winkler, 189 W. Va. at 754-55 n. 10, 434 S.E.2d at 426-27 n. 10.

..." the Industrial Development and Commercial Development Bond Act found in W. Va. Code, 13-2C-1, et seq. Id. at 757, 434 S.E.2d at 429. Under this act, "a county acquires land and contracts with a private corporation to lease the land for a rental sufficient to retire the bonds that are issued by the county to secure the funds to build the facility." Id. See, e.g., State ex rel. Ohio County Comm'n v. Samol, 165 W. Va. 714, 275 S.E.2d 2 (1980); State ex rel. County Court of Marion County v. Demus, 148 W. Va. 398, 135 S.E.2d 352 (1964).

The County Commission does not argue that the tax increment obligations fall within the two categories of bonds described above. Instead, as previously indicated, the County Commission relies on a third category of bonds.

The third category of bonds are bonds which are liquidated out of a special fund. Winkler, 189 W. Va. at 757, 434 S.E.2d at 429. We have explained that "[t]his concept is related to the lease-financing arrangement, but differs because the special fund is ordinarily a tax or a fee generated from the facility itself, such as tolls for the use of a bridge or road, or parking-garage fees." Id. The general basis for the special fund concept was expressed in State ex rel. Hall v. Taylor, 154 W. Va. 659, 672, 178 S.E.2d 48, 56 (1970):<sup>11</sup>

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<sup>11</sup>State ex rel. Hall, supra, was overruled by State ex rel. West Virginia Resource Recovery-Solid Waste Disposal Authority v. Gill, 174 W. Va. 109, 323 S.E.2d 590 (1984); however, as will be explained below, it does not affect the principle we quoted above from Hall. In syllabus point 2 of Gill, supra, this Court  
(continued...)

It is difficult to state the 'separate fund doctrine' precisely. Its application varies somewhat among appellate courts of various states. It is applied uniformly in relation to projects or facilities which are self-liquidating, such as the toll bridge cases. Some courts hold that the doctrine applies in any case of a fund created by a special excise tax as distinguished from property taxes.

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<sup>11</sup>(...continued)

held:

State ex rel. Hall v. Taylor, 154 W. Va. 659, 178 S.E.2d 48 (1970), is hereby overruled insofar as it finds any agreement whereby bonds of a state agency are to be discharged from a fund created in whole or in part by legislative appropriations of the general revenue funds of the State to be unconstitutional.

As we explained in Winkler,

[t]he obvious import of Gill was to loosen the rather harsh restrictions created in State ex rel. Hall v. Taylor, supra, as to the use of lease contracts to finance the retirement of revenue bonds. . . . [In Hall] [w]e concluded that because the agencies were funded by general revenue appropriations from the Legislature, that the Legislature would thus be required to pay the agencies' rents from such funds. [We held in Hall that] [t]his arrangement would create a state debt in violation of Section 4 of Article X of our Constitution.

Winkler, 189 W. Va. at 759, 434 S.E.2d at 431. In Winkler we overruled Gill, supra, to the extent it implied that the payment of the principal of and interest on bonds could come from the general revenue of the State without creating a debt within the meaning of W. Va. Const. art. X, § 4 as long as the bonds stated that successive legislatures are not obligated to make an appropriation to pay the principal of and interest on such bonds. See syl. pt. 7, Winkler, supra. See also Winkler, 189 W. Va. at 759, 434 S.E.2d at 430-31.

See Winkler, 189 W. Va. at 757, 434 S.E.2d at 429. More recently, we stated that "the special fund doctrine is based on the fact that a specific source of revenue is required to be identified and committed to the repayment of the bonds beyond mere annual appropriations from the general revenue fund." Winkler, 189 W. Va. at 758, 434 S.E.2d at 430. The legislature may accomplish this by creating a new tax source or increasing the amount to be paid on an existing tax account. State ex rel. Marockie, 190 W. Va. at 472, 438 S.E.2d at 815. This Court has also used language that the legislature may also "utilize an existing special revenue source to liquidate revenue bonds so long as that source of funds has not gone into the general revenue fund." Id. (footnote omitted).

The special fund concept was the basis of our approval of the funding mechanism utilized in State ex rel. State Building Comm'n v. Moore, 155 W. Va. 212, 184 S.E.2d 94 (1971). In Moore the profits accruing from the sale of alcoholic liquors were dedicated to paying the principal of and interest on the "State Building Revenue Bonds." This Court concluded that the issuance of the revenue bonds did not implicate our constitutional restrictions on debt because the use of a portion of the profits from the sale of alcoholic liquors to pay the principal of and interest on the bonds did not affect the general revenue appropriations or taxes imposed upon the taxpayers. Id. at 234, 184 S.E.2d at 106-107.

Likewise, in State ex rel. State Road Commission v. O'Brien, 140 W. Va. 114, 82 S.E.2d 903 (1954) we found our constitutional restrictions on debt were not implicated when the principal of and interest on bonds used to finance the construction of a bridge were paid from revenue provided by the tolls from the bridge. We emphasized in O'Brien that the reason our constitutional restrictions on debt were not implicated is because neither the general revenue nor any other revenue of the State was committed to fund the bonds. Id. at 126, 82 S.E.2d at 909.

Similarly, in State ex rel. The Board of Governors of West Virginia University v. O'Brien, 142 W. Va. 88, 94 S.E.2d 446 (1956) this Court was confronted with the question whether the issuance of revenue bonds in order to fund the construction of new buildings at West Virginia University violated our constitutional restrictions on debt. The principal of and interest on the revenue bonds were to be paid from fees collected from the students at the university and put into a special fund. This Court concluded that the bonds did not implicate our constitutional restrictions on debt because

[t]he promise made is to pay solely out of the special fund to be created, not out of general or property tax revenues but from fees collected from students at the university. . . . No taxes or properties of the State are pledged or in any way made liable for the payment of the bonds. As already made clear, a debt to be paid in such manner does not constitute a debt within the meaning of that constitutional provision [W. Va. Const. art. X, § 4]. That provision, as previously pointed out, was intended to prohibit the

creation of debts, by the State, required to be repaid by a public tax.

Id. at 96-97, 94 S.E.2d at 451 (emphasis added). \*

More recently, we found that the use of monies allocated from the net profits of the West Virginia Lottery to liquidate the School Building Authority's revenue bonds did not implicate the constitutional restrictions on debt because the net profits of the lottery were a new source of revenue that had not been treated as a part of the general revenue of the State. Syl. pt. 3, State ex rel. Marockie v. Wagoner, 191 W. Va. 458, 446 S.E.2d 680 (1994). See also syl. pt. 1, in relevant part, State ex rel. Council of the City of Charleston v. Hall, 190 W. Va. 665, 441 S.E.2d 386 (1994) (We held that W. Va. Const. art. X, § 8 was not implicated by "a contract for a term of twenty-five years whereby a city is obligated to pay a fee for solid waste disposal when that fee comes from a special fund collected by the city for such solid waste disposal.").

In the cases noted above, various financing schemes passed constitutional muster because a new tax source was utilized, the amount to be paid on an existing tax account was increased, or an existing special revenue source was used which had not been placed into the general revenue funds, thus "the financial integrity of the State's existing tax structure . . ." had not been impaired. State ex rel. Marockie, 190 W. Va. at 472, 438 S.E.2d at 815. Clearly, the special fund concept has been held not



to violate constitutional restrictions on incurring debt only when the general tax revenue of the State or county has not been affected.

In the case before us, the County Commission argues that the increase in the property taxes collected as a result of the increase in the value of the property creates a new source of revenue because those taxes would not exist but for the development project. The County Commission concludes that the issuance of tax increment obligations which are paid from the tax increment financing fund, a special fund, does not create a debt which is subject to the restrictions set forth in W. Va. Const. art. X, § 8. We find this argument to be illusory.

As our discussion above reveals, the critical issue in determining whether our constitutional restrictions on debt are implicated is whether the funds used to pay the principal of and interest on tax increment obligations affect the general revenue of the county. None of the cases discussed above in which this Court held that the use of a special fund did not implicate our constitutional restrictions on debt involved the use of ad valorem taxes to pay the principal of and interest on the bonds.

The ad valorem tax is the most fundamental tax imposed upon the citizens of this State to fund local government, including schools. See State ex rel. Ayers v. Cline, 176 W. Va. 123, 128, 342 S.E.2d 89, 94 (1985) (We noted that property taxes were a principal source of revenue for local governments). Our constitution has established strict parameters governing the implementation and use

of the ad valorem tax. For instance, W. Va. Const. art. X, § 1 mandates that all taxes levied on property must be equal and uniform and must not exceed certain maximum rates.<sup>12</sup> See n. 7, supra. W. Va. Const. art. X, § 8 restricts a county's authority to incur a debt that must be paid from the county's share of ad valorem taxes. The very purpose of these two constitutional provisions is to insure the county

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<sup>12</sup>There are two basic components of taxation: valuation and levying. Killen v. Logan County Comm'n, 170 W. Va. 602, 607, 295 S.E.2d 689, 694 (1982). This Court, in Killen, provided a good summary of how the two basic components affect taxation:

Valuation is the act of placing a value on each piece of property. This phase of the process is sometimes referred to as assessment. . . . Levying is the establishment and application of a rate of taxation upon the valuation of property, the result being the determination of the amount of the tax owed. . . . In property taxation, the levy rate is the total amount set by the various levying bodies: the state, county commissions, local school boards, and municipalities.

Id. at 607-08, 295 S.E.2d at 694-95 (citations and footnotes omitted).

The levy rate, however, must not exceed the maximum rate established in W. Va. Const. art. X, § 1. Once the levy rate has been determined pursuant to W. Va. Const. art. X, § 1, each of the levying bodies receives an allocated share of the taxes collected pursuant to that levy rate. To accomplish this goal the legislature has statutorily set maximum levy rates which may be laid by each of the taxing units in W. Va. Code, 11-8-1, et seq. See W. Va. Code, 11-8-3 [1933]. See also Killen, 170 W. Va. at 606, 295 S.E.2d at 693 (Pursuant to W. Va. Const. art X, § 1 the legislature is to prescribe a system by which property is valued). The levy rates the legislature statutorily allows each of the levying bodies to lay collectively may not exceed the levy rate established by W. Va. Const. art. X, § 1. Thus, the County Commission is not the only levying body that receives a portion of the property taxes assessed.

has sufficient funds to operate government, yet do so in a fiscally sound manner. Thus, it is clear that the tax increment financing fund is not a special fund because it clearly implicates the ad valorem taxing power of the county. Our conclusion is supported by cases from other jurisdictions.<sup>13</sup>

For instance, the Supreme Court of Wisconsin was confronted with deciding whether the tax increment bonds issued by the City of Hartford in order to rehabilitate parts of the city were debt within the meaning of Wisconsin's constitutional debt limitation provision.<sup>14</sup> City of Hartford v. Kirley, 493 N.W.2d 45

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<sup>13</sup>Our conclusion is also supported by the statutes governing ad valorem taxation. See W. Va. Code, 11-8-1, et seq. For instance, W. Va. Code, 11-8-10a [1961] implements W. Va. Const. art. X, §1 by providing that a county commission must first levy for its bonded debt and only after doing so may it then levy for the general current expenses of the county. As we have previously noted, the Tax Increment Financing Act provides that when the tax increment is insufficient to pay the principal of and interest on tax increment obligations, then the tax increment obligations "shall be payable out of revenues derived from the lease, lease with an option by the lessee to purchase, [or] sale . . ." of the county project to the private project developer. W. Va. Code, 7-11B-6(a) [1995]. We question whether this provision protects the fiscal integrity of a county.

For example, if the tax increment is insufficient to pay the principal of and interest on tax increment obligations and if a private project developer is financially unable to buy or lease the county's project development, then the county would be forced to pay the principal of and interest on the tax increment obligations from funds intended to pay for its general current expenses. Obviously, in this scenario the fiscal integrity of the county's existing tax structure would be impaired.

<sup>14</sup>Wisconsin's constitutional debt limitation provision is found in article XI, section 3 of the Constitution of Wisconsin and is similar to our constitutional debt limitation provisions.

(Wis. 1992). The Supreme Court of Wisconsin concluded that the tax increment bonds were debt:

Even assuming, arguendo, that the tax increments would not have existed but for the district's creation, we conclude that the City's . . . [tax increment financing] bonds . . . constitute debt because they are payable solely from general property tax revenue. This Court has in the past recognized a distinction between the pledging of general tax revenues and the pledging of project revenues.

Id. at 54 (emphasis added). See also City of Tucson v. Corbin, 623 P.2d 1239 (Ariz. Ct. App. 1980) (Even though the tax increment is placed into a special fund, the use of tax increment bonds creates a debt which is subject to the constitutional debt limitation); Richards v. City of Muscatine, 237 N.W.2d 48 (Iowa 1975) (Tax increment bonds are a debt subject to the constitutional debt limitation even though the bonds are paid from a special fund because the fund is made up of the city's general revenue); Muskogee Urban Renewal Authority v. Excise Board of Muskogee County, 899 P.2d 624 (Okla. 1995). But see State v. Miami Beach Redevelopment Agency, 392 So.2d 875 (Fla. 1980).<sup>15</sup>

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<sup>15</sup>The County Commission relies on cases from other jurisdictions to support its conclusion that the tax increment bonds do not create a debt within the meaning of W. Va. Const. art. X, § 8. We find the County Commission's reliance on the following cases to be misplaced.

For instance, in South Bend Public Transportation Corp. v. City of South Bend, 428 N.E.2d 217 (Ind. 1981) and Tribe v. Salt Lake City Corporation, 540 P.2d 499 (Utah 1975), the respective courts determined that the governmental entities involved were not subject to the constitutional debt limitation provisions.

(continued...)

In arriving at its conclusion, the Supreme Court of Wisconsin focused on the purpose behind the constitutional debt limitation provision:

The very fact that the constitutional debt limit is calculated as a percentage of the taxable property located within a municipality's boundaries shows that the drafters of the constitutional provision were concerned about a municipality's incurring excessive obligations to be paid out of general property tax revenues. To hold that . . . [tax increment financing] bonds payable from the general property tax revenues are not debt would permit the City to commit large portions of its general property tax revenues to special funds without regard to the constitutional debt limitation . . . . Such a holding would virtually nullify the constitutional debt limitation.

City of Hartford, 493 N.W.2d at 55-56 (citation omitted). As another court has succinctly stated, by using tax increment financing "a city could divide its general revenues into several special funds, each with a bond issue restricted to recourse against its own fund -- and thus commit large portions of the city's revenues without

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<sup>15</sup>(...continued)

Additionally, in Wolper v. City Council of the City of Charleston, 336 S.E.2d 871 (S.C. 1985) the Supreme Court of South Carolina noted that the South Carolina constitution explicitly authorized the issuance of tax increment bonds which were liquidated by ad valorem taxes. See also City of Hartford, 493 N.W.2d at 55 n. 18 (Lists the cases such as those above and explains how they are distinguishable from the line of cases which hold that the use of tax increment bonds creates a debt which is subject to a state's constitutional debt limits). We conclude, as did the Supreme Court of Wisconsin in City of Hartford, that the weight of relevant authority supports our position of finding the use of tax increment bonds which are liquidated by the tax increment to be subject to our state constitutional limits on debt. City of Hartford, 493 N.W.2d at 55, n. 18.

regard to . . . [the constitutional debt limitation provision]. The constitutional debt limitation could thus be virtually nullified." Richards, 237 N.W.2d at 64.

We share the same concerns as other courts have expressed above. Accordingly, we hold that when tax increment obligations are issued pursuant to W. Va. Code, 7-11B-1, et seq. [1995], The Tax Increment Financing Act, to finance a county development project authorized therein, a debt is created within the meaning of article X, § 8 of the Constitution of West Virginia and such tax increment obligations may only be issued in accordance with article X, § 8.

B.

Because we have concluded that the Tax Increment Financing Act creates a debt within the meaning of W. Va. Const. art. X, § 8, we must determine whether the Tax Increment Financing Act and the proposed tax increment financing plan for the Boone County Development project satisfy the restrictions in W. Va. Const. art. X, § 8. W. Va. Const. art. X, § 8 sets forth three conditions which must be satisfied before a county, city, or municipal corporation may incur debt.<sup>16</sup> First,

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<sup>16</sup>W. Va. Const. art. X, § 8 states in full:

No county, city, school district, or municipal corporation, except in cases where such corporations have already authorized their bonds to be issued, shall hereafter be allowed to become indebted, in any manner, or for any purpose to an amount, including existing indebtedness, in the aggregate, exceeding five per centum on the value of

(continued...)

a county, city or municipal corporation may not incur an indebtedness "in any manner, or for any purpose . . . , including existing indebtedness, in . . . [an aggregate amount] exceeding five per centum on the value of the taxable property therein to

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<sup>16</sup>(...continued)

the taxable property therein to be ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness; nor without, at the same time, providing for the collection of a direct annual tax on all taxable property therein, in the ratio, as between the several classes or types of such taxable property, specified in section one of this article, separate and apart from and in addition to all other taxes for all other purposes, sufficient to pay, annually, the interest on such debt, and the principal thereof, within, and not exceeding thirty-four years. Such tax, in an amount sufficient to pay the interest and principal on bonds issued by any school district not exceeding in the aggregate three per centum of such assessed value, may be levied outside the limits fixed by section one of this article: Provided, that no debt shall be contracted under this section, unless all questions connected with the same, shall have been first submitted to a vote of the people, and have received three fifths of all the votes cast for and against the same.

Additionally, we note that W. Va. Const. art. X, § 7 states:

County authorities shall never assess taxes, in any one year, the aggregate of which shall exceed ninety-five cents per one hundred dollars valuation, except for the support of free schools; payment of indebtedness existing at the time of the adoption of this Constitution; and for the payment of any indebtedness with the interest thereon, created under the succeeding section, unless such assessment, with all questions involving the increase of such aggregate, shall have been submitted to the vote of the people of the county, and have received three fifths of all the votes cast for and against it.

be ascertained by the last assessment for State and county taxes[.]” W. Va. Const. art.

X, § 8. Second, the county, city, or municipal corporation to incur debt must provide

for the collection of a direct annual tax on all taxable property therein, in the ratio, as between the several classes or types of such taxable property, specified in section one of this article [W. Va. Const. art. X, § 1], separate and apart from and in addition to all other taxes for all other purposes, sufficient to pay, annually, the interest on such debt, and the principal thereof, within, and not exceeding thirty-four years.

Id. (emphasis added). Third, “no debt shall be contracted under this section, unless all questions connected with the same, shall have been first submitted to a vote of the people, and have received three fifths of all the votes cast for and against the same.”

Id.

The County Commission maintains that even if the tax increment obligations are debt the Tax Increment Financing Act meets all of the conditions set forth in W. Va. Const. art. X, § 8. More specifically, the County Commission asserts that the first condition relating to debt not exceeding five percent of the taxable property ascertained by the last assessment is satisfied because Boone County currently has no general obligation bonded indebtedness outstanding. If the County Commission's assertion is true, which we will assume that it is for purposes of this opinion, then the County Commission is correct in asserting that the first condition set forth in W. Va. Const. art. X, § 8 has been met.



Although the County Commission's argument is unclear, it asserts that the second condition set forth in W. Va. Const. art. X, § 8 is "not implicated here, since the commitment of tax revenues is limited to the amount derived from existing regular levies applied to the additional assessed values resulting from the private project." (citing W. Va. Code, 7-11B-4(a)(4), footnote omitted and emphasis added). The County Commission's assertion ignores the clear language of the constitution.

As noted above, W. Va. Const. art. X, § 8 explicitly states that a county, city, or municipal corporation may not incur a debt unless it provides "for the collection of a direct annual tax on all taxable property therein, in the ratio, as between the several classes or types of such taxable property, specified in section one of this article [W. Va. Const. art. X, § 1], separate and apart from and in addition to all other taxes for all other purposes" in order to pay off the debt. (emphasis added). The above language indicates that if a county increases its current debt or creates a new debt, it must also adjust its taxes accordingly in order to pay the principal of and interest on such debt. Generally, this is accomplished by adjusting the county's levy rate. However, as is explicit in W. Va. Const. art. X, § 8, if the levy rate is adjusted, the new rate must not exceed the maximum rate established in W. Va. Const. art. X, § 1. See also W. Va. Code, 11-8-6b [1953] (Sets the maximum levies a county commission may assess on each classification of property).

As previously explained, the Tax Increment Financing Act provides that ad valorem taxes collected as a result of the increase in the property value of the private project property are to be used to pay the principal of and interest on the tax increment obligations. Using revenue generated from the increased valuation of the private project property, however, does not satisfy the constitutional requirement that a "direct annual tax on all taxable property . . . separate and apart from and in addition to all other taxes for all other purposes" be assessed to pay the principal of and interest on the increased or new debt. Instead, using revenue generated from the increased valuation of the private project property is using an existing tax to pay the principal of and interest on the increased or new debt. Therefore, the very fact the Tax Increment Financing Act commits tax revenues which are "derived from existing regular levies applied to the additional assessed values resulting from the private project" makes the act unconstitutional.<sup>17</sup>

Accordingly, we hold that the issuance of tax increment obligations pursuant to W. Va. Code, 7-11B-1, et seq. [1995], The Tax Increment Financing Act, is not in accordance with W. Va. Const. art. X, § 8 because W. Va. Code, 7-11B-1, et seq. [1995] does not provide "for the collection of a direct annual tax on all taxable

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<sup>17</sup>We note that the Tax Increment Financing Act satisfies the third condition in W. Va. Const. art. X, § 8 that must be satisfied before debt is incurred by requiring that a tax increment financing plan be submitted to the voters and receive an approving vote of three-fifths of the participating voters before it is implemented. See W. Va. Code, 7-11B-6(b) [1995].

property therein, in the ratio, as between the several classes or types of such taxable property, specified in section one of this article [W. Va. Const. art. X, § 1], separate and apart from and in addition to all other taxes for all other purposes" in order to pay the principal of and interest on such tax increment obligations and is, therefore, unconstitutional. We need not address the other issues raised by the Clerk since the Tax Increment Financing Act does not survive this initial constitutional barrier.

### III.

In conclusion, this Court held the following in syllabus point 2 of State ex rel. Kucera v. City of Wheeling, 153 W. Va. 538, 170 S.E.2d 367 (1969): "A writ of mandamus will not issue unless three elements coexist--(1) a clear legal right in the petitioner to the relief sought; (2) a legal duty on the part of respondent to do the thing which the petitioner seeks to compel; and (3) the absence of another adequate remedy." In the case before us, the County Commission has failed to meet the first of the three elements necessary for the issuance of a writ of mandamus. As we explained above, the Tax Increment Financing Act violates W. Va. Const. art. X, § 8. Thus, the County Commission does not have a legal right to continue the process outlined under the act in order to fund the county project. We, therefore, decline to issue a writ of mandamus.

Writ denied.

FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
JULY 31, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840  
MEMBERS Present: John L. Witt, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 31st day of July, 1996.

The Commissioners approved to unlock Election Room for Kelvin Holliday, County Clerk.

Exonerations were approved and signed.

Commissioner Carte informed the Commission that Mr. and Mr. Green from Mount Hope informed him that they were against composter along the Sun Mine Road.

Ms. Holly informed the Commissioners she checked for space for Parole Office informed unable to find. Commissioner Witt approved six (6) months extension of the Parole Office space. Commissioner Carte seconded. All approved.

The Commissioners received/reviewed and signed Fire Levy Fire Protection Agreements for Pax Fire Department, Mount Hope Fire Department and Armstrong Creek Fire Department for fiscal year July 1, 1996 to June 30, 1997.

Ms. Holly informed the Commission she has prepared letter to John Parrish regarding Senator Shirley Love response as to renaming road from "Fayette Road" to "Cafego Road". Letter approved.

Ms. Holly informed the Commission she has prepared letter to Valley Emergency Medical Service asking them to send a proposal to us for consideration for providing emergency medical service to the Danese and surrounding area.

The Commissioners received and reviewed letter from Appalachian OH-9 giving an inventory of their personal property at the Fayette

County Health Department. The Commission informed Ms. Holly they have the right to remove property, but asked Ms. Holly to hold letter until Ms. Holly talk to Paul Blake, Prosecuting Attorney.

The Commissioners received/reviewed and signed maintenance agreement for copier in the Law Enforcement Office.

Ms. Holly informed the Commission she had faxed memos to WOAY-TV, Charleston Gazette, Beckley Herald, and the Fayette Tribune informing them the Composting Hearing was rescheduled for Thursday, August 15, 1996 at 10;30 a.m.

The Commissioners received and reviewed letter from Gary Harding, Zoning Officer recommending that Gene Kistler, Charles "Shad" Dummitt, Jack Wood and Al Gannon be reappointed members of the Fayette County Planning Commission. Commissioner Witt asked Ms. Holly to hold.

The Commissioners received and reviewed fax from Steve Cruikshank, Emergency Service Coordinator asking if the Commission would like to attend the Flood Recovery Program Briefing being held, Monday, August 5, 1996 at 1:00 p.m. to discuss benefits for the county. The Commissioners informed Ms. Holly they do not plan to attend.

Commissioner Witt informed the Commission that Commissioner Lopez absent taking wife for radiation treatment.

Ms. Holly presented list of items the Minden Community Association need. Ms. Holly also informed the Commission that Ms. Jones had called and questioned decision of the Commission to tear down old houses in the Minden area. Ms. Holly informed the Commission that Jackie Hickman has not been here to research files to see who sent letters; Larry Parsons been there but has to have the permission from the Commission regarding the tearing down of old houses. Commissioner Witt suggested contributing \$500.00 and let them work out. Commissioner Carte suggested holding until next week when Commissioner Lopez is present.

Ms. Holly informed the Commission she received from Earl Pauley, Park Superintendent information from Gator-Fil to resurface and fill holes in road at the Fayette County Park, the cost for 4-5 gallon pails is \$13.60 a gallon. Commissioner Carte approved for Earl to purchase 4-5 gallon pails to fill holes in road at the Fayette County Park.

Ms. Holly informed the Commissioners that Judge John Hatcher's ceiling is leaking in Court Room. Ms. Holly reported that James Perdue and Bob Massey informed her that the drain is stopped up has been corrected for now; Ms. Holly informed the Commissioners that drain pan not sitting right and will not hold all the water, was told by Bob Massey he felt new drip pan needs to be made. The Commissioners asked Ms. Holly to have Bob get cost estimates. Commissioner Witt asked Ms. Holly to do what's necessary to get problem corrected.

The Commissioners received memorandum from Sheriff Bill Laird informing he had received salary reimbursement for the deputy sheriff currently employed under the COPS Fast Grant for the first year.

The Commissioners received and reviewed Application for Employment from William Billy Blume.

The Commissioners received and reviewed from Jim Lively Insurance Policy Binders for the Fayette County Commission.

The Commissioners received and reviewed the 911 statistics for the month of June.

The Commissioners received and reviewed two (2) letters from Meadow River Coal Company notifying the Commission that due to necessary work related to the closure of the New River Mine, notice is being extended for certain employees for a short period of time, employer will now be laid off during a 14-day period beginning on July 31, 1996 and a 14-day period beginning on August 30, 1996.

The Commissioners signed letters to James Albert, Director, Office

of Criminal Justice and Highways Safety and letter to Fred Cutlip, Director West Virginia Development Office forwarding Local Application Form for funds that are available through the Bureau of Justice Assistance under their Local Law Enforcement Block Grant Program.

The Commissioners received and reviewed from the Circuit Clerk's Office a list of interest earned from checking account from July, 1995 through June, 1996.

The Commissioners received and reviewed from the Secretary of State Office information regarding Third Party Information, 1996 General Election calendar and the 1996 General Election calendar for absentee voting.

The Commissioners received and reviewed letter from the West Virginia Development Office informing they approved the extension of two Partnership Grants (Smithers Detachment and the Memorial Building.)

Ms. Holly informed the Commissioners she received information sheet from the West Virginia Development Office regarding the Capitol Improvement Grant. Ms. Holly informed the Commission they need to make decision regarding the walk ways.

The Commissioners received and reviewed letter from Larry Shortridge asking for assistance in having run down wooden garage torn down belonging to Mrs. Lois Syms. The Commission asked ms. Holly to give to Gary Harding, Zoning Officer and have him review complaint and report back his findings.

The Commissioners received and reviewed franchise tax for the period April 1, 1996 through June 30, 1996 for Cables Equities of the Virginias, Ltd and Rifkin Communications Partners, L.P.

The Commissioners received and reviewed memorandum from David Neal, E-911 Coordinator informing that Tina Boyd has requested to be change from full-time employment to part-time effective July 30, 1996.

Mr. Neal informed the Commission that vacated position will not be filled immediately due to the fact that none of the part-time employees that are interested meet the training requirements at the present time.

The Commissioners received and reviewed a list of "refusals to pay" associated with the Emergency Telephone System for the month of June, 1996.

The Commissioners received and reviewed check in the amount of \$28,958.57 for the Emergency Telephone System for the month of June, 1996.

Ms. Holly presented letters from Dave Pollard, Fayette Transition Team to Charles Felton, Director West Virginia Division of Natural Resources and Denise Hughes, Manager, Georgia-Pacific Corporation.

The Commissioners received and reviewed notice regarding the liquidation of Integrity Insurance Company. Commissioner Carte asked that this be filed.

Ms. Holly informed the Commissioners that Casto Technical Service have agreed to review the heating and air system in the courthouse. Ms. Holly informed the Commission they have only reviewed the Circuit Clerk's floor, they will come back and do entire building.

Commissioner Witt informed everyone before the Zoning Hearings began that he had received a call from Jim Keenan, Attorney for the Fayette County Haulers requesting a delay for a continuance of his clients for August 15, 1996 informing that additional time is needed to prepare the applicants presentation.

Gary Harding presented to the County the following cases for a disposition:

Z-424-96-3: Request of FCH, Inc. Owners, Joseph Hutchens, President, by James W. Keenan, Attorney for a change in land classification from R-R Agricultural and Rural Residence District, to



P-D, Planned Development District, on 140.905 acres, Bend Branch, located on Route 19 at Sun Hollow Road near Mount Hope, Plateau District.

Mr. Keenan informed the Commission that he was requesting a postponement on behalf of his clients to allow him more time for his presentation. Mr. Witt explained to those present that it was customary for the continuance to be granted when requested. George Bragg submitted some information on the Raleigh County landfill and Al Gannon along with several others in attendance addressed the Commission. The Commission assured those present that this would be heard at 9:30 a.m. on August 15, 1996, on the second floor in the Court Room.

Z-421-96-1: Request of Jessie H. And Beulah Scruggs, owners, for a change in land classification from R-R, Agricultural and Rural Residence, to I-2, heavy Industrial on 2 acres of a 114.80 acre tract, Sugar Creek located off of the 4-H Camp Road for the purpose of operating a salvage yard, Beckwith, New Haven District.

The Commission was informed by the Zoning Office that the Planning Commission did on Monday recommend by a 10-0 vote that 2 acres be rezoned to Planned Development to allow Mr. Scruggs to operate a salvage yard as defined by the state. There was no opposition. Commissioner Gene Carte made motion that they accept the Planning Commission's motion and approve the request. Motion was seconded by Commissioner John Witt and passed 2-0.

Z-422-96-1: Request of Larry W. Pruitt, owner, for a change in land classification from R-2, Residence District, to B-2, General Business District, on Lots 131 and 132, Park Heights Subdivision, located on Mill Creek Road near Mount Hope, Plateau District.

The Commission was informed that this was a request to locate a used car lot on Mill Creek Road near Mount Hope and that the Planning

Commission did by a 10-0 vote recommend that this request be approved. After a brief discussion a motion was made by Commissioner Gene Carte that this be approved as recommended. Motion was seconded by Commissioner John Witt and passed 2-0.

Z-423-96-1: Request of Melvin and Mildred Lewis, owners, for a change in land classification from R-R, Agricultural and Rural Residence District, to R-2, Residence District, on .364 acres, surface Tpik, Martha Treadway, Route 16, Beckwith, New Haven District.

The County Commission was informed that they had converted the old Treadway nursing home into apartments and that the Planning Commission did by a vote of 10-0 recommend that this be approved. Commissioner Gene Carte made a motion that they accept the Planning Commission's recommendation. Motion was seconded by Commissioner John Witt and passed 2-0.

The Commissioners signed order subject to the approval of the Assessor, that Paul Hellkemp be afforded tax relief for tax year 1994 and 1995 in the amount of \$559.51 in the form of a credit against taxes owing for the following year or years with said tax relief being spread over the year or years until the debt is paid.

The Commissioners signed order subject to the approval of the Assessor, that Moses L. and Rita Shrewsbury be afforded tax relief for tax years 1991, 1992, 1993, 1994 and 1995 in the total amount of \$683.62 (530.96 Acct. #6045594 and \$152.66 Acct. #6045585) in the form of a credit against taxes owing for the following year or years with said tax relief being spread over the year or years until the debt is paid.

The Commissioners received and reviewed letter from Criminal Justice and Highway Safety Division acknowledging receipt of the Local Law Enforcement Block grant application for the Fayette County Sheriff Department in the amount of \$12,211.

The Commissioners received and reviewed letter from the West Virginia Human Rights Commission dated July 29, 1996.

Ms. Holly presented to the Commission Report of the Hotel/Motel Occupancy Tax for the months of April, May and June.

The Commissioners received and reviewed letter from the Fayette County Deputy Sheriff Association advising the members to fill out the "affidavit" acknowledging receipt of compensation.

The Commissioners received and reviewed from Congressman Nick J. Rahall letter informing that the community may be eligible to receive funding through the Local Law Enforcement Block Grant Program.

The Commissioners approved to pay 1996 contribution to Mountain resource Conservation and Development Area from the General County Fund.

Letter was written to West Virginia Power for Larry Wheeler requesting that the West Virginia Power extend gas service to his residence.

Ms. Holly informed the Commissioners that Christy Workman, Magistrate Clerk is requesting for the telephone in Magistrate Court and doors be changed.

Ms. Holly informed the Commissioners that 2 ports are available if single liens switched out to a multi-line. Commissioner Carte asked to delay the changes until Ms. Holly receive the cost.

Commissioner Witt questioned about the Health Department equipment, feel that maybe the Commission shouldn't get involved should be between the two agencies Fayette County Health Department and Appalachian OH-9.

Ms. Holly informed the Commission that the agreement is between the Fayette County Commission and Appalachian OH-9.

Commissioner Carte asked Deborah Berry to make a note that the clock in Fayette County Commission room needs to be changed.

Outstanding bills were approved.

Public Hearing for an application on behalf of the Central Appalachia Empowerment Zone of West Virginia (CAEZWV) for fiscal year 1996 HUD-SCBG fund was called to order. No public comments were received. Commissioner Carte made motion to accept application. Commissioner Witt seconded. Commissioner Witt will sign cooperative agreement in 5-county applications.

The meeting was adjourned at 12:00. Next scheduled meeting is August 7, 1996.

John L. Witt

FCC

7/31/96

# Zoning Hearing

Melanie Dragan

Carol Lewis

Sydney Green

Tom Wagoner

Dery Wood

George Bragg

Morgan Bragg

Scott Vargo

Towenn Perry

Charles W. Clise

Brenda Kay Vargo

Helen Vento

Jean M Walker

Kristi Marie Lively

A. J. Lerner

Bud Scott

Joe L. Harvey

Karin Wells

James Wells

Pat. Wells

Jamie Wells

FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
JUNE 5, 1996  
COURTHOUSE

FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 5th day of June, 1996.

Exonerations were approved and signed.

A member of the Fayette County Historic Society appeared before the Commission asking the Commission to add handi-cap accessible ramp at the jail. Discussion was held, Ms. Holly informed she was against putting up concrete ramp. Commissioner Witt agreed that one is needed. Commission Lopez suggested getting Billy Horrocks to check ramp. Commission Witt informed the Commission would talk with Billy Horrocks and get back with the Fayette Historic Society regarding their decision.

Steve Cruikshank appeared before the Commission to give an update on the Valley Tower. Mr. Cruikshank informed the Commission of the suggestions Tom Johnson want to add in lease; that is, if anyone else who want service can be connected to unit they would have same term of lease and pay rent. Commissioner Witt informed he see no problem in letting someone connect to tower as long as the service won't interfere with Emergency Service. Commissioner Carte suggested leaving that section out. Ms. Holly asked who would be held harmless and informed the Commission she will give to Carl Harris, Assistant Prosecuting Attorney for his review. Ms. Holly informed the Commissioners and Steve that bid should not be awarded until lease is signed.

Lee Massey appeared before the Commission informed the Commission he had discharged the janitor who worked for Appalachian OH-9, informed the Commission that OH-9 had sent two (2) people in yesterday to work clinic.

Commissioner Lopez suggested asking the Prosecuting Attorney to write letter to Appalachian OH-9 for their share of the cost of the roof for the Health Department. Commissioner Carte suggested turning over to the Prosecuting Attorney's Office. Commissioner Witt asked Mr. Massey to get all the information to the Prosecutor and the Commission will get back with him. Mr. Massey informed the Commission that anything they need he would furnish from his office.

WOAY-TV appeared before the Commission to ask about the ambulance service in Danese area. The Commissioners informed they did not give permission for Herma Cook to use the Commission when asking for money for the Danese ambulance service. The Commission informed WOAY-TV they had talked with Herma and she informed them that she was not saying the Commission would match any money, an informed she was not collecting any money only soliciting for pledges.

Attorney Jamie Blankenship appeared before the Commission with petition of annexation by minor boundary adjustment of the Old Court Street/Goose Creek Road areas adjoining the Town of Fayetteville. The Commissioners asked if their were any opposition, no opposition, order signed.

Nancy Ferrell appeared before the Commission with complaint about the Kanawha Falls Public Service District. Ms. Ferrell asked the Commission for help with the problem of the sewer treatment plant. Commissioner Lopez informed the Commission he think the problem is the operator of the sewer treatment plant not having enough experience. Discussion was held, Commissioner Lopez suggested writing letters to Howard Cunningham with the Public Service Commission, Ghosh Engineer and Kanawha Falls Public Service District Commissioners to ask what could be done to solve the overflow problem. The Commissioners asked that Ms. Ferrell be place on the agenda for June 14, 1996 at 10:30 a.m.

The Commissioners signed Fire Levy Protection Agreement for fiscal year July 1, 1996 through June 30, 1997 for Loop Creek Volunteer Fire Department, Meadow Bridge Fire Department and Gauley River Fire Department.

The Commissioners signed two letters to Jeanna Bailes with the West Virginia Development Office requesting extension of contract for Community Partnership grant #96-145 for the Valley Detachment expansion and extension of contract for Community Partnership grant #96-123 for the memorial Building and Fayette County Park.

Ms. Holly asked the Commissioners if they had time after meeting to walk with her up to the Memorial Building to check on ramp since school is out.

The Commissioners signed letters to the Secretary of State Office and the Public Service Commission giving them a list of public service districts and current board members for each district in Fayette County.

The Commissioners met with Bob Arthur, Chairman and members of the Fayette County Solid Waste Authority. Bob Arthur presented letter to the Commission requesting that the Commission fund \$50,00 to assist in paying for the required hauling, treatment of leachate and testing at the Landfill. Mr. Arthur informed the Commission they had received notice of violations by the Department of Natural Resources, informed the Commission the landfill supposed to have been capped in the spring of 1995 now it has been moved to 1997. Discussion was held regarding checking into the \$48,000 that was sent to help with getting the landfill capped. It was suggested by the Commissioners to write a letter to Senator Love regarding the money and getting the landfill capped as soon as possible.

Commissioner Carte made motion to give written denial and siting forth their reason as to why the Commission is denying their request of



\$50,000. Commissioner Lopez seconded. Motion passed 3-0.

Commissioner Witt asked the Fayette County Solid Waste Authority to keep the Commission abreast of the situation.

Carlyle Blomme member of the Fayette County Solid Waste Authority suggested shutting down the Authority. Commission Witt suggested checking with Earl Pauley, Park Superintendent to see if he has the equipment to haul leachate. Commissioner Lopez informed he would talk with Tom Woodrum, Mayor of the Town of Fayetteville regarding lowering the cost of hauling leachate from landfill.

The commissioners signed order transferring the sum of \$50,000.00 for fiscal year 1995-96 from Magistrate Court Fund to the Fayette County General Fund.

The Commissioner signed budget revisions orders for fiscal year 1995-96 General County Fund budget and Coal Severance Fund budget.

Ms. Holly informed the Commissioners of the different expenditures that are over budgeted.

The Commissioners signed letter to Penelope Crandall, Director Family Law Masters requesting for reimbursement for rent in the amount of \$990.00 for the Office of the Family Law Master for the month of June.

Ms. Holly informed the Commissioners she sent letter to each elected official with a print-out of the Statement of Expenditures, Encumbrance and Appropriation as of May 31, 1996.

Ms. Holly informed the Commissioners she received two (2) titles from the Fayette County Solid Waste Authority. Ms. Holly signed letter to the Department of Transportation requesting they issue 2 County license plates.

Ms. Holly informed the Commissioners she haven't received word from the Governor's Summer Youth Program (GSYP) but would like to hire

Michelle LaRocco and John Ramsey for Supervisors for Park and Jill Crouser and Tom Watkins supervisors for page/Kincaid Beards Fork area. This was approved.

Ms. Holly informed the Commissioners the Executive List for Special Election in August is due Friday.

The Commissioners approved Polling Places for Special Election on August 3, 1996.

Commissioner Witt asked Ms. Holly to write letter to Senator Shirley Love informing of the complaints regarding the highway sign "Fayette Road" on U S Route 19 south would like for it to be renamed to "Cafego Road". Commissioner Witt asked that copy of letter be sent to the Division of Highways.

The Commissioners signed invoice to the Division of Corrections for rent for the month of July.

Ms. Holly informed the Commissioners she has checked with the Secretary of State Office and Prosecuting Attorney's Office regarding changing the locations of polling place for Precinct #17 (Pax) and Precinct #18 (Dothan/Kingston and informed the Commissioners she has prepared public notice to be advertised in the Fayette Tribune and Montgomery Herald.

Ms. Holly informed the Commissioners she received letter from the Town of Fayetteville regarding privacy fence around dumpsters, asked Dee Lively, maintenance to check.

Commissioners Carte suggested putting lines in courthouse drive way. It was suggested by Commissioner Witt to put up sign "Please use Sidewalk".

Ms. Holly informed the Commissioners she had been told about terrible odor at the Extension Office. Commissioner Witt suggested putting dye in the commodes.

The Commissioners received and reviewed check in the amount of \$28,827.53 for the Emergency telephone system for the month of April, 1996.

The Commissioners received and reviewed letter from Gary D. Farren, Tax Mapping Technician confirming conversation on May 29, 1996 granting permission to place two (2) drafting tables on the third floor; an inventory of the items to be placed upstairs were attached.

The Commissioners received and reviewed a letter from the Department of Health and Human Resources asking them to renew the CWEP Contract for next year. The Commissioners informed Ms. Holly they do not wish to participate due to previous problems.

The Commissioners received and reviewed letter from the Division of Environmental Protection thanking the Commission for their letter regarding the proposed Imperial Colliery Company coal preparation plant at Jodie, and informed the Commission the public comment period for this surface mine application ended May 14, 1996 and that the letter submitted will not be considered as an official protest.

Ms. Holly reminded Commissioner Witt and Commissioner Carte of the Community Resource Seminar in Charleston.

The Commissioners received and reviewed application for payment for Local Health Services for fiscal year 1995-96 from the Fayette County Health Department; allotment amount \$10,000.00.

Ms. Holly informed the Commissioners she received letter from Mary Lou Schmidt requesting a new basic laser printer with extended memory and a slide projector. Ms. Schmidt informed the Commission she would like to use the money that is left over from Bob Arthur's salary to be used for the purchase of needed equipment. The Commissioners informed Ms. Schmidt if it can be done it would be okay.

The Commissioners received and reviewed letter from Steven and

Deborah Hatcher requesting a refund of 1994 property taxes.

The Commissioners approved to write check to the Fayette County Sheriff for returned check fee from the bank, amount \$14.31.

Ms. Holly informed the Commissioners she received letter from Ann Berry questioning the penalty fee on the Hotel/Motel Occupancy Tax, Ms. Berry asked the Commissioners if they had any problem with changing the penalty fee. Discussion was held, the Commission informed they had no problem, but would treat all the same.

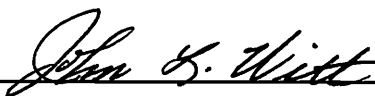
The Commissioners received and reviewed check from State Treasury for reimbursement for contributions to West Virginia University Extension Office.

The Commissioners received and reviewed Annual Report from Sheriff Bill Laird for the period June 1, 1995 through May 30, 1996.

The Commissioners received and reviewed funds for Deposit to the Fire Levy Fund.

The Commissioners received and reviewed a letter from the West Virginia-American Water Company informing that due to the retiring of its Oak Hill treatment plant as part of building the new Fayette Plateau Regional Treatment Plant will cause a reduction in the property taxes to Fayette County currently paid by West Virginia-American Water Company of over \$100,000.

The meeting was adjourned at 2:10. Next scheduled meeting is June 14, 1996.

  
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FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
JUNE 14, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840  
MEMBERS Present: John L. Witt, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 14th day of June, 1996.

Discussion was held regarding raising camp fees at the Fayette County park. Ms. Holly presented to the Commissioners total cost for a weeks stay at the Park from Earl Pauley, Park Superintendent. The Commissioners reviewed and approved to raise all camp fees to \$650.00 a week.

The Commissioners approved and signed exonerations.

The Commissioners received and reviewed list of the Democratic and Republican Poll Workers for the Tax Increment Financing Special Election being held August 3, 1996; received from Herbert Mann, Circuit Clerk emergency absentee ballot commissioners. Commissioner Carte moved appointed list of poll workers and emergency absentee ballot commissioners be approved. Commissioner Witt seconded. All approved.

The Commissioners received and reviewed a letter from Katheryne J. Hoffman informing she cannot accept the appointment to the Fayette County Solid Waste Authority.

The Commissioners received and reviewed from Kelvin Holliday, County Clerk and Herbert Mann, Circuit Clerk bids obtained for printing of ballots, poll slips and kits for Water Levy Election being held August 3, 1996. The Commissioners approved lower bids. Kelvin to notify vendor.

The Commissioners signed order to Steven B. and Deborah Hatcher informing that the 1994 real property tax classification was incorrect due to a clerical error and that subject to the approval of the

Assessor, Steve and Deborah Hatcher be afforded tax relief for tax year 1994, in the total amount of \$1,827.02 in the form of a credit against taxes owing for 1996 and the following year or years with said tax relief being spread over the year and years until the debt is paid.

The Commissioners signed a letter to Senator Shirley Love informing him of the complaints regarding the highway sign "Fayette Road" on U S Route 19 South near White Dodge, the Commissioners have been requested to assist in having road renamed to Cafego Road.

The Commissioners signed letter to George Kitchen, President of the West Virginia Power requesting that West Virginia Power work cooperatively with West Virginia American Water in conjunction with the Fayette Regional Water Plan to install gas lines to those areas of Fayette County currently do not have gas service.

The Commissioners signed order, ordering a sum from the Fayette County General School Fund in the amount of 474,806.04 to be transferred to the Fayette County General Fund to defray the balance due said fund for the cost of care and feeding of misdemeanor prisoners incarcerated by magistrate.

The Commissioners signed sales Tax Report for the month of May for the Fayette County Park.

The Commissioners received and reviewed from Sheriff Bill Laird copies of invoices for Regional Jail expenses for reimbursement from the cities of Fayetteville, Oak Hill, and Smithers for the month of April, 1996.

The Commissioners signed request for reimbursement for the month of March, April, May for the Juvenile Justice Delinquency Program social worker.

Ms. Holly informed the Commissioners she received letter from the West Virginia University Extension Office this morning informing that

the local portion of funding, normally sent to West Virginia University to match the faculty position responsible for 4-H was to be retained in the County to employ a 4-H Program Assistant during the faculty/agency vacancy (approximately \$1,800.00). The West Virginia University Extension office requested that these monies be made available for the purchase of needed equipment. (Laser printer with color capability; or a Laser printer with extended memory and a slide projector).

Ms. Holly informed the Commissioners of a deficit in the Fayette County Dog Tax Fund and asked the Commission if they would sign order transferring \$800.00 from the Fayette County General Fund to Dog Tax Fund. Commissioner Carte made motion that \$800.00 be transferred from the Fayette County General Fund to the Dog Tax Fund. Commissioner Witt seconded the motion. Motion passed 2-0. Order signed.

Ms. Holly informed the Commissioners she received request form the maintenance department asking if they could trade the park the van for a Chevy s-10 pick-up with a camper top. Ms. Holly informed the Commissioners she had talked with Earl Pauley, Park Superintendent and it was okay with him to trade, van would be given to Daniel Pauley for his use at the park. Ms. Holly informed the Commissioners the cost of a camper top would be \$349.00. This was approved.

The Commissioners opened bids at 10:00 a.m. for the purchase assembly and erection of a one hundred, eight foot (180') 45G guyed tower complete with 45G concrete base plate, foundation work. The Commissioners only received 2 bids (Tri-Star and Two-Way Radio). David Neal, 911 Coordinator informed the Commissioners he had met with a representative from Appalachian Power and he recommended service be under ground and they would provide the labor, conduit and ditch at no cost. Commissioner Witt made motion to award contract to lower bid (Two-Way Radio) after lease is settled. Commissioner Carte seconded.

All approved. The Commissioners authorized Commissioner Witt to sign lease when prepared.

Steve Curikshank, Emergency Coordinator, David Neal 911 Coordinator and Herma Cook appeared before the Commission to discuss ambulance service in the Danese area. Commissioner Witt informed Ms. Cook he had received several phone calls from people in the Danese area asking if the Commission would match funds for the ambulance service in the area. Commissioner Witt asked Ms. Cook at anytime when she talked with the people if shed had told them the County would match fund. Ms. Cook informed the Commission that at no time did she tell the people the county would match funds.

Steve presented to the Commissioners a study of the viability of a new service in the area. The Commissioners suggested to Ms. Cook to hold off soliciting until she get her charter. Steve recommended to Ms. Cook to have public hearing to see what kind of support she would receive from the public for ambulance service in the area. The Commissioners asked Ms. Cook to continue working with Steve and hope they could get something worked out. Commissioner Witt suggested to Ms. Cook to get an attorney to get advice regarding soliciting for money. Ms. Cook informed the Commissioners she have application in for a grant. Commissioner Witt suggested to Ms. Cook to keep the Commission abreast of everything that's going on over there.

Nancy Ferrell appeared before the Commission with pictures regarding the over flow of the storage tanks at Kanawha Falls Public Service District. Ms. Ferrell informed she had asked the Kanawha Falls Public Service District to clean up and treat the grounds. Commissioner Carte informed Ms. Ferrell that since her last meeting before the Commission, Commissioner Lopez has done an on-site inspection of the site. Commissioner Witt asked Ms. Ferrell when the overflow began Ms.



Ferrell informed since March. Commissioner Witt suggested to Ms. Ferrell to get on the next meeting of the Kanawha Falls Public Service District meeting and ask Senator Shirley Love and Commissioner and Commissioner Lopez to attend. The Commissioners thanked Ms. Ferrell and asked her to keep the Commission abreast as to what is going on.

Harold Bragg appeared before the Commission with complaint regarding the Fayette County Board of Appeal decision for John D. Kees request for a personal care home for 10 patients on Lot 13, Glen Jean Subdivision. Mr. Bragg request to the Commission that the decision of the Fayette County Zoning Appeals Board be declared void and that the Commission consider investigating prior illegal actions by the Zoning Appeals Board. Mr. Bragg also asked that the Commission consider firing Gary Harding, Zoning Officer from his position and asked to have Fred Waugh, member of the Board of Zoning Appeals resign his position.

Commissioner Witt informed that Gary Harding was present and asked Mr. Harding for his comments. Mr. Harding informed the Commission the Board of Zoning Appeals had requested an opinion from the Prosecuting Attorney's Office and they advised that if the special use permit requested by Mr. Kees is denied, that it must be denied on specific issues and clearly spelled out in order to avoid the Court's interpreting it as a discriminatory decision based upon community sentiment. Discussion was held, Commissioner Carte moved to ask the Prosecuting Attorney's Office to file a writ in the Circuit Clerk's office. Commissioner Witt agreed. Commissioner Witt informed the Commission would have to look at the entire Zoning Ordinance. The Commissioner asked to hold until Carl Harris, Assistant Prosecuting Attorney reviewed.

Outstanding bills and payroll were approved.

Ms. Holly reminded the Commissioners that retirement party for

Ruth Dodd is being held today at 1:00 p.m.

Payroll for June 30th were approved.

William Laird, Sheriff submitted list of delinquent property.

The Commissioners received/reviewed and signed Fire levy Fire Protection Agreements for the fiscal year July, 1995 to June 30, 1996 and July 1, 1996 to June 30, 1997.

The Commissioners received and reviewed certificate of insurance from Plateau medical Center bond issue.

The Commissioners received and reviewed audit report of the Fayette County Board of Health for the fiscal Year ended June 30, 1994.

The Commissioners received and reviewed application of employment from Rebecca Jean Arrington.

The Commissioners reviewed vehicle repair expenditures for the Month of May.

The Commissioners received and reviewed resignation letter from Virginia M. Hundley from the Emergency Medical Service. Commissioner Carte made motion to appoint David Neal to replace Virginia Hundley to the EMSOR 3/4 Board of Directors. Commissioner Witt seconded. All approved.

The Commissioners asked that Clint Gallaher be appointed a director to the Fayette County Public Defender Corporation due to the death of Raymond C. McVey.

The Commissioners signed order transferring \$15,726.03 from the Worthless Check Fund to the General County Fund for reimbursement of previous expenditures as set forth in the order entered to record on June 15, 1995.

Ms. Holly informed the Commissioners that lightning hit Valley Tower damages has been given to insurance carrier.

The commissioners received and reviewed ambulance responses for

the month of May.

The Commissioners received and reviewed memo from Dave Pollard informing he has obtained a commitment from West Virginia-American Water Company to contribute \$10,000 toward the \$25,000 match on the Water Resources Grant.

The Commissioners received and reviewed letter from Donald L. Pitts, Attorney for Wolf Creek Public Service District requesting that the Commission commitment of \$7,500.00 as part of the cost for the engineering feasibility study be deposited in the Wolf Creek Public Service District account no later than July, 1, 1996.

The Commissioners received and reviewed letter from Robert J. Arthur member of the Fayette County Solid Waste Authority informing that he would not be available for reappointment.

The Commissioners received and reviewed minutes from Salem-Gatewood Public Service District for the month of May.

Ms. Holly informed the Commissioners she has received rate schedule from the West Virginia Public Employees Insurance Agency effective July 1, 1996.

Ms. Holly informed the Commissioners she has talked with Tex Hall about moving dumpster to other side of the annex parking lot.

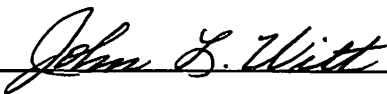
Commissioner Carte made motion that budget revisions of the 1995-96 Coal Severance Fund and General County Fund budgets be adopted. Commissioner Witt seconded. All approved.

Ms. Holly asked the Commission if they wanted the same telephone arrangements they had for Kimberly during the Primary Election or if they wanted Bell Atlantic to install an extension for the Tax Increment Financial Election. The Commission suggested to Ms. Holly to check with Commissioner Lopez.

Ms. Holly informed the Commissioners they have been approved to have 14 positions and 2 supervisors for the Governor's Summery Youth Program.

Ms. Holly informed the Commissioners that Bert Horrocks, Dog Warden want permission to let Mark Campbell drive the dog truck from time to time. Commissioner Carte and Commissioner Witt informed they had no objection but asked Ms. Holly to check with insurance.

The meeting was adjourned at 12:15. Next scheduled meeting is June 26, 1996.

  
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FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
JUNE 26, 1996  
COURTHOUSE

FAYETTEVILLE, WV 25840  
MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 26th day of June, 1996.

Exonerations were approved and signed.

The Commissioners received and signed oath and certificates for personal and real property Land books from the Assessor's Office.

The Commissioners signed order giving Leonard Burks tax relief for the year 1995 in the total amount of \$434.65 in the form of a credit against taxes owing for 1996 and the following year or years with said tax relief being spread over the year or years until the debt is paid.

Ms. Holly informed the Commissioners she prepared and order for Ronnie Hall and Bobby Yoney dismissing and canceling sale as a result of clerical error by the Sheriff of Fayette County for delinquent 1973 taxes of Parcel 10-02-2-440. Discussion was held, the Commission asked Ms. Holly to refer the order to the Prosecuting Attorney's Office.

Ms. Holly presented invoices for approval, informed the Commissioners she would write checks later this afternoon. This was approved.

The Commissioners signed order appointing Clint Gallaher a director to the Fayette County Public Defender Corporation.

The Commissioners signed letter to the West Virginia Development Office with copies of the monthly report and invoices for work completed and paid for during the period of June, 1996, letter also served as certification of 100% completion of Project SAINT.

The Commissioners signed letter to the West Virginia Development

Office regarding Grant #88-102 Project SAINT requesting that a budget revision to transfer all unexpended line item balances to the equipment line item for a personal computer to be utilized by the Office of the Prosecuting Attorney of Fayette County in fulfilling the objections of the SAINT program.

The Commissioners signed order reappointing Leon Newman a member of the Deepwater Public Service District.

Ms. Holly presented to the Commissioners the Coal Severance Tax Fund comparison of current and previous fiscal year collection report . Ms. Holly informed the Commission of the decrease.

Ms. Holly presented to the Commission budget revision of the Fiscal Year 1995-96 General County Fund budget and Coal Severance Fund budget. Commissioner Carte move to adopt budget revisions for General County Fund and Coal Severance Fund for Fiscal Year 1995-96.

Commissioner Lopez seconded. All approved.

The Commissioners informed they have received several inquiries as to the status of the replacement of the Fayette Station Bridge. The Commission asked Ms. Holly to prepare letter to Senator Robert C. Byrd, the National Park Service and the West Virginia Department of Transportation to inquire about the status. Letter prepared and signed.

The Commissioners signed letter to the Division of Highways informing they approve their request for approval of the proposed road name designation of "Whitewater Avenue" on U S 19 at the intersection located at the Western Pancake House in Fayette County.

The Commissioners received/reviewed and approved from Earl Pauley, Park Superintendent estimate from Rick Myles for the cost for paving a concrete 6" thick and approximately 24 yards for the Fayette County Park, cost \$1,440.00

The Commissioners received and reviewed invoices from Sheriff Bill

Laird for the cost of confinement of Fayette County inmates at the Southern Regional Jail for the month of May, also attached were invoices for the cities of Fayetteville, Oak Hill, Mount Hope and Smithers.

The Commissioners signed letter to the United Community services, Inc. informing they support the endeavors of the United Community Services, Inc. in their efforts to acquire the Cannelton No. 4 School Building to be used in part for Work Force Training, Youth Leadership and Community Services projects.

Steve Cruikshank appeared before the Commission informed the Commissioners that a meeting was held with David Neal, Herma Cook and Gary Light. Mr. Cruikshank informed the Commission that a copy of a draft of new regulations (Senate Bill 262) were distributed to each party; discussion was held, regarding providing Emergency Medical Services to Eastern New Haven area. Mr. Cruikshank informed the Commissioners it was agreed that Herma Cook would set up a meeting in the Danese area to see how many would support an ambulance service in the community. Valley Ambulance is to be represented at that meeting. Mr. Cruikshank informed that Valley Ambulance is interested in determining the amount of volunteer support that could be counted on from the citizens. Mr. Cruikshank informed the Commissioners that Valley Ambulance would be willing to consider taking the operation under their organization if volunteer manpower would be sufficient to operate. Ms. Cruikshank informed the Commission it was made clear to all parties that the meeting was not to be considered a public hearing nor an endorsement of any specific plan. Mr. Cruikshank also informed the Commissioners it appears with the new regulations that a lot of work would have to be done to license any new services.

Mr. Cruikshank presented to the Commissioners a copy of lease for Valley Tower sight. Mr. Cruikshank informed the Commissioners of the

changes in lease and informed the Commissioners that Carl Harris, Assistant Prosecuting Attorney see nothing wrong with changes. The Commissioners informed that lease would be effective July 1st and payment would be made on July 15, 1996.

Ms. Holly informed she would send copy of lease to David Neal and Steve Cruikshank for their review, but informed the Commissioners that right now they're waiting to hear from the Legislative Digest.

James Blankenship, attorney for the Town of Thurmond, Mayor Dorothy Wells and Susan Akins, Town Recorder appeared before the Commissioner for final hearing on a proposed annexation by minor boundary adjustment of 39.10 acres adjoining the Town of Thurmond and commonly known as the Subdivision of the McKell Development. No opposition. Commissioner Carte moved to approve annexation. Commissioner Lopez seconded. Unanimous decision annexation approved. Order signed.

The Commissioners signed order designating and approving incorporated banking institutions within the County to act as County depositories for the Fiscal Year beginning July 1, 1996 (Fayette County National Bank, Bank of Mount Hope, Inc., Bank One Beckley, WV, N.A. (formerly Merchant and Miners Bank), One Valley Bank of Oak Hill, Inc., United National Bank (formerly Montgomery National Bank), Merchants National Bank, Merchants National Bank (formerly Gauley National Bank), United National Bank (formerly National Bank of Ansted), United National Bank (formerly First Empire Federal Bank). Ms. Holly informed the Commissioners copies were sent to the Prosecuting Attorney's Office for their review. Letters signed.

Outstanding bills and part-time overtime payroll were approved.

The Commissioners approved payment of supplemental salary for Thomas Aiello for Dog Tax collected for fiscal year 1995-96, amount



\$870.90.

The Commissioners received and reviewed from Ann Berry, Chief Office Deputy four checks that have been outstanding for a year or more and asked the Commission to have checks canceled.

The Commissioners signed order requesting that Sheriff Bill Laird take what action is necessary and proper to cancel the 4 checks that were presented.

Steve Cruikshank appeared before the Commission to inform them that six ambulance services had applied for the fleet Fire levy Pumper replacement program and that the contract was awarded to Nuttall Volunteer Fire Department, Ansted Volunteer Fire Department, Oak Hill Fire Department, Boomer Fire Department and Gauley Bridge Volunteer Fire Department.

Mr. Cruikshank presented to the Commissioners Fire Levy Fire Protection Agreements from City of Oak Hill, Town of Fayetteville, Smithers Fire Department and Boomer Fire Department for the fiscal year July 1, 1996 to June 30, 1997. The Commissioners signed.

Ms. Holly presented letter to the Commissioners from the New River Gorge Heritage Festival requesting permission to use the Courthouse lawn on July 3rd for town picnic. The Commissioners signed letter to the New River Gorge Heritage Festival giving permission to use the courthouse lawn for town picnic; the Commission asked that no-port-pots be place on courthouse properties.

Mr. Witt informed the Commission that Carolyn O'Dell would like to be considered for a raise. Discussion was held, the Commission asked Ms. Holly to call Ms. O'Dell and explain to her the Coal Severance problem and inform her she can request again later--possible after January 1, 1997.

Ms. Holly presented to the Commissioners letter prepared by Dave

Pollard, Community Resource Coordinator to Charles Toombs, Chairman of the Wolf Creek Public Service District informing that the Public Service Commission was pleased and satisfied with the letter of commitment of the Commission of the \$7,500.00 to the Wolf Creek Public Service District for the engineering feasibility study.

The Commissioners asked Ms. Holly to hold off sending the letter.

Ms. Holly informed the Commissioners she was told by James Perdue, Maintenance (6/17/96) that the Town of Fayetteville had dug up sewer line at the West Virginia Extension Office was informed they had flushed line out and fixed crack, should take care of the problem.

Commissioner Witt informed the Commission he had received several telephone calls regarding the holes and branches on the old road to Kingston and Kincaid. Ms. Holly informed the Commission they had written letter in 1993 to the Division of Highway asking that they make improvement but nothings had been done. The Commissioners ask Ms. Holly to prepare letter of inquiry to ask about the status of the repairs.

Carolyn Jones and Norma Rose appeared before the Commission regarding the Minden Community Project. Ms. Rose asked the Commission for assistance and equipment to clean up in the area. Commission Witt asked Ms. Rose what have been done so far. Ms. Rose informed that Larry Parsons and his crew have done cleaning around the school area. Commissioner Witt informed Ms. Rose the Commission would do some budget checking and get back with her; will review situation for next week and contact the Minden Community members. Ms. Jones asked the Commission if they would help with cleaning of several old abandoned houses in the area. The Commission informed they would send Larry Parsons down to check out.

The Commissioners received and reviewed Dog Warden Report for the months of April and May.

The Commissioners received and reviewed letter from the Prosecuting Attorney's Office regarding the legal ownership of certain personal property which had been acquired and is presently situated at the Fayette County Health Department.

Commissioner Carte informed the Commission he had spoken with Matt Edward regarding Plan 457-Tax Deferred Employee Benefit. Ms. Holly informed the Commission she need to check what the Internal Revenue Service requirements are. Commissioner Carte informed Mr. Edwards was to send more information. Ms. Holly informed she had received calls from Metro Insurance a couple a weeks ago asking if the Commission would like to participate. Ms. Holly informed each employee would have to be contacted. Commissioner Carte informed he thinks everyone would participate. Ms. Holly informed the Commission that Mr. Edwards need to present a proposal.

The Commissioners received and reviewed letter from James R. Maynor, City Manager for the City of Mount Hope informing that effective June 30, 1996 the Council has eliminated the position of City Manager.

The Commissioners received and reviewed rate notification for fiscal year ending June 30, 1997 from the West Virginia Workers' Compensation Insurance.

The Commissioners received and reviewed notice from the Public Service Commission approving petition to reduce boundaries of Gauley River Public Service District.

The Commissioners received and reviewed from the Public Service Commission copies of a Procedural Order entered by the Commission which schedules a hearing to be held on Tuesday, July 16, 1996 regarding complaint filed against the Kanawha Falls Public Service District.

The Commissioners received and reviewed letter from the Criminal Justice and Highway Safety Division informing the preapplication for

funds under the Juvenile Justice and Delinquency Prevention Program (JJPD) in the amount of \$25,00 was not approved.

Ms. Holly reminded the Commission that the Annual County Commissioners meeting is being held August 4 at Lakeview Resort in Morgantown. Commissioner Carte and Commissioner Witt to attend.

Ms. Holly informed the Commissioners the Legislative Digest Grant for the stair-lift for the Memorial Building is in progress and should be installed by mid August.

Ms. Holly informed the Commission she has been told verbally that the County has been granted an Extension on the grants.

Ms. Holly informed the Commission the Whipple Community in Action has requested the \$700 the Commission said they would match for installing a basketball court in the Whipple area.

The Commissioner received and reviewed letter asking the Commission to see if anything can be done about a house that is falling down, the house is located just off Pea Ridge Road outside of Oak Hill down a road opposite Shirley Donnally Road. The Commission asked to check with Gloria Bozo in the Assessor's Office to see who the property owner is and send a clean-up letter.

Ms. Holly informed the Commissioners that Lee Massey informed her that he has to submit his budget for the Fayette County Health Department to the State for approval before July 1st and submitted contract and agreement for signature. Commissioner Carte made motion to decrease contribution from \$10,000.00 to \$5,000.00. Commissioner Lopez seconded. Vote was passed unanimously, the Commission asked Ms. Holly to change amount on contract; discussion was held, the Commission decided to reverse motion and not decrease contribution. Contract signed, contribution \$10,000.00 approved.

The Commission signed order transferring the sum of \$50,000.00 for

the fiscal year 1995-96 from the Magistrate Court Fund to the Fayette county General Fund.

The Commission recessed for lunch; the Commission reconvened at 1:15 and voted to go into executive session at 1:15.

The Commission reconvened at 1:25 from executive session.

The Commission signed budget for the Fayette county Commission for Fiscal Year 1996-97.

Sheriff Bill Laird informed the Commission he would be preparing grant application for a Local Law Enforcement Block grant Program, informed the Commission that part of the grant will require that the Commission hold public hearing and a Advisory Board.

The Commissioners signed order ordering the balance in the sum of \$74.63 for the fiscal year 1995-96 to be transferred from the Magistrate Court Fund to the Fayette County General Fund in reimbursement of long distance telephone expenses made on behalf of the Magistrate Court System and previously paid from the General Fund.

The Commissioners signed two orders, ordering the sum of (1) \$800.00 and (2) \$1,100.00 be transferred from the Fayette County General Fund to the Dog Tax Fund due to the existence of a deficit in the Fayette County Dog Tax Fund.

The Commissioners signed statement of Mailing of Meter or Precanceled Postage Affixed First Class Mail for the Assessor's Office.

Commissioner Witt asked the Commission what are they going to decide about the lot on Wiseman Avenue. Commissioner Lopez suggested talking about at next meeting.

The Commissioners signed letter to Roger L. Beverly with the Soil Conservation Service requesting the assistance of the Natural Resource Conservation Service in conducting a Water Resources Study for Fayette County, this request is for assistance under the PL-566 River Basin

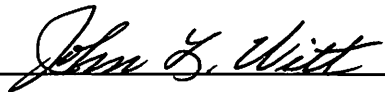
Program.

The Commissioners signed request for approval for the establishment of a group with the utilization of the 4-H name/emblem for the Fayette County Park.

The Commissioners received and reviewed copy of the press release and information booklet relating to the Zoning request of the Fayette County Haulers, Inc.

The Commissioners received and reviewed letter from the Criminal Justice and Highway Safety Division acknowledging receipt of the request for \$7,486 in Drug and Violet Crime Control formula Grant Funds for a D.A.R.E. Project.

The meeting was adjourned at 1:40. Next scheduled meeting is July 3, 1996.

  
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FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
MARCH 6, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840  
MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 6th day of March, 1996.

Ms. Holly informed the Commissioners that all letters have been signed and approved for the Board of Equalization and Review except for Margaret Marchio.

Ms. Holly presented letter to the Commissioners for Margaret Marchio informing her of their decision as a Board of Equalization and Review that the total assessed valuation of her property in question for Tax Year 1996 will be as follows: \$63,360 (1995 Tax Year for comparative purpose only), \$62,280 (1996 Tax Year). Letter signed.

Exonerations were approved and signed.

Ms. Holly presented order for James A. and Gertrude Browning for request for tax refund for 1993 and 1994 real property tax assessment that was incorrect due to a clerical error which resulted in a double assessment of taxes (for 1993 tax year \$209.50 and for 1994 tax year \$203.32), to be in the form of a credit against taxes owing for the following year or years with said tax relief being spread over the year or years until the debt is paid. The Commissioners approved; order signed.

Ms. Holly presented order for Bill and Janet Suttle for request for tax refund for 1994 real property tax classification that was incorrect due to a clerical error which resulted in an overstatement of taxes in the amount of \$213.00, to be in the form of a credit against taxes owing for the following year or years with said tax relief being spread over the year or years until the debt is paid. The Commissioners

approved;, order signed.

Payroll for March 15th was approved. Ms. Holly informed the Commissioners that Gary Harding will be on vacation next week and would like to have his payroll check before leaving. This was approved.

The Commissioners received and reviewed Dog Warden Report for the month of February, 1996.

The Commissioners received and reviewed from the Public Service Commission a copy of an Answer to the Complaint of Roger Wagner, II, D. R. Vance, II and Charles W. Thomas from Gordon Billheimer, Attorney for the Kanawha Falls Public Service District.

The Commissioners received and reviewed from Kevin Burgess one executed original of the agreement between the County Commission and the New River Convention & Visitors Bureau, Inc., regarding the disbursement and use of the 1996 county hotel/motel occupancy tax.

The Commissioners received and reviewed Workers' Compensation report for the month of January.

The Commissioners signed letter to Vance Akers informing him that his request for recovery from the Fayette County Commission for the loss of his four sheep is denied; the Commission informed Mr. Akers that funds are not available in the Dog Tax Fund nor have funds been appropriated in the General Fund for this purpose.

The Commissioners signed letters to One Valley Bank informing said bank that its request for approval to pay lost Bond #5556, 5692 Coupon #27 @ \$181.25 each totaling \$362.50 due 02/01/1993 Cusip #751080AV4 has been approved and request for approval to replace lost Bond R-16225 @\$5,000 due 09/01/2010 Cusip #084112CT6 registered in the name of Edward W. Schroeder has been approved.

The Commissioners received and reviewed copy of a letter from Southern Soil Conservation District to Carlyle Blomme informing him that



at their regular board meeting they voted to appoint Mr. Blomme to the Fayette County Solid Waste Authority as their representative to replace Aubrey Riner.

The Commissioners received and reviewed check in the amount of \$28,584.05 for the Emergency telephone system for the month of January, 1996.

The Commissioners received a letter from Paul M. Blake, Prosecuting Attorney, informing them that effective March 1, 1996, Ardith McKinney will return from medical leave of absence to full-time employment.

The Commissioners received and reviewed a letter from West Virginia Development Office informing them that the state expects to receive over \$34 Million from the U. S. Department of Housing and Urban Development (HUD) for housing and community development activities for the program year starting July, 1996, and asking the Commission for their comments on the Proposed Action Plan for the use of 1996 HUD funds.

The Commissioners received and reviewed a letter from Sheriff William Laird requesting that the invoice be approved for Secretarial Services of Beverly Hundley for preparing his 1996-1997 Budget Request. This was approved.

The Commissioners received and reviewed from Criminal Justice and Highway Safety Division, Juvenile Justice and Delinquency Prevention Program, approval of grant period adjustment notice from 09-1-94 - 11-30-95 to 09-1-94 - 12-31-95.

The Commissioners received, reviewed, and approved payment of an invoice from the Coal Severance Fund to Motorola in the amount of \$8,724.18 for the purchase of hand held radios for use at the E-9-1-1 Center, the Fayette County Park, Dog Warden, Sheriff's Department, and

West Virginia Department of Natural Resources Officers.

Ms. Holly reminded the Commissioners of a Public Hearing on Thursday, March 7, 1996 at 7:30 p.m. at the County Courthouse to elect a Board member in Census Tract 206 of Fayette County, for the Central Appalachia Empowerment Zone of West Virginia (CAEZWV).

The Commissioners received and reviewed a sanitary survey of the Montgomery Heights Water Treatment and Distribution System from the Department of Health and Human Resources.

Ms. Holly informed the Commissioners she had advertised for bids for the 1995-96 Legislative Digest grants and informed the Commissioners the bids were due on Monday, March 11, 1996. Ms. Holly informed the Commissioners that she talked with Earl Pauley, Park Superintendent; he informed her that he had talked with Appalachian Power Company regarding updating the electrical system to underground that the cost would be \$66.00 for the County. Agreement was approved and signed. Ms. Holly informed the Commission that this work falls in line with the electrical upgrade at the Fayette County Park; the Commissioners asked Ms. Holly to hold the agreement until all electrical material bids are received.

Ms. Holly asked the Commissioners if they had reviewed the fax from the West Virginia Association of Counties regarding Senate Bill 382 (County Reclassification & Salary Reform Bill).

Outstanding bills were approved.

Ms. Holly asked the Commission if they wanted to send any requests to be included in the Legislative Digest for 1996-97. Ms. Holly informed the Commission that Steve Cruikshank, Emergency Services Director, and David Neal, E-911 Coordinator, have previously submitted cost to upgrade NCIC Computer System at 911 Center as advised by the West Virginia State Police.

Ms. Holly asked the Commission to consider the possibility of

submitting a request for the Legislative Digest to fund the cost for a chairlift at the Courthouse.

Commissioner Witt asked the Commission if they would consider Wolf Creek Public Service District sewer projects in the fiscal year 1996-97 budget. Commissioner Carte asked that \$15,000 for a Sewer Project feasibility study for the Wolf Creek Public Service District be included in budget. After a discussion, it was suggested to write letter to the West Virginia Legislature requesting that the Legislative Digest fund \$12,500 to help pay for an engineering feasibility study and informing that the Fayette County Commission has pledged \$7,500 toward an estimated \$20,000 for this study. Letter signed.

Commissioner Witt informed the Commission that the Wolf Creek Public Service District is requesting funding from the Legislative Digest for \$12,500 to help pay for an engineering feasibility study.

The Commissioners met with each elected official to discuss his budget request for fiscal year 1996-97:

Prosecuting Attorney Paul Blake appeared before the Commission to discuss his budget for fiscal year 1996-97.

Mr. Blake informed the Commissioners his current budget was \$397,000.00 and he was requesting an increase for a total budget of \$418,000 for salaries, benefits and other expenditures for fiscal year 1996-97 to include 4 lawyers, 5 legal secretaries and 1 investigator. Mr. Blake informed the Commissioners that instead of hiring another Attorney he considers pay raise to the assistants to be more cost effective due to the workload. He has 2 secretaries doing Paralegal work and is requesting senior legal secretaries salary increases, an increase in investigation expense, an increase in dues and subscriptions, and travel expenses.

Mr. Blake informed the Commissioners that there has been a 10

percent increase in workload due to the opening of the prison.

Commissioner Lopez asked Mr. Blake if he was turning funds back in this year. Mr. Blake answered yes. Commissioner Carte asked Mr. Blake that if the Commissioners give across-the-board raises would he still request the increase. Mr. Blake answered yes; he explained that an across-the-board pay raise will not cut it, and that his office budget needs special consideration.

Ms. Holly informed the Commissioners and Mr. Blake that the West Virginia Public Employees Insurance Agency premiums will increase by 4.2% to 5% on July 1 1996.

Commissioner Witt informed Mr. Blake that the Commission appreciates the help his office has given the Commission; discussion was held regarding the upgrade of the Computer System in the Prosecuting Attorney Office.

Sheriff William Laird appeared before the Commission to discuss his budget for the fiscal year 1996-97.

Sheriff Laird thanked the Commission for their assistance in the past.

Sheriff Laird informed the Commission that his current budget was \$596,261.37, and he requesting the following for fiscal year budget 1996-97: replacement cycle of vehicles-5 new vehicles under the statewide contract, increase the Law Enforcement Levy to \$296,269.84; Sheriff Laird informed the Commissioners he has 2 deputies under General Fund Service of Process amount requested \$47,945.80, one under the Cop Fast Federal Grant requested \$24,715.61, and 2 Transport and Security Officers amount requested \$52,069.37. The Sheriff informed the Commissioners he projected that the Regional Jail Fees per diem would increase to \$37.00 a day; the Commission advised Ms. Holly to project these costs at \$38.00 per diem. The Sheriff requested \$193,633.00 for

the Tax Office. The Sheriff informed the Commissioners that the West Virginia State Police have received a 16% increase in pay, and asked the Commission to consider secretarial assistance for the new Sheriff.

Sheriff Laird informed the Commissioners he had received a Governor's Grant of \$15,000.00 to upgrade the Valley Detachment, but that the estimates were approximately \$30,000 for completion. Ms. Holly suggested that the Commission ask the Legislative Digest for the additional \$15,000.00 to upgrade Valley Detachment. It was by a unanimous decision that the Commission request additional funds for the upgrade to the Valley Detachment through the Legislative Digest.

Sheriff Laird also asked the Commission to increase overtime for deputies to \$55,000.00; upgrade fire arms, radios, data processing, PBT units, radar units, and vests.

Kelvin Holliday appeared before the Commission to discuss his budget for the fiscal year 1996-97:

Mr. Holliday informed the Commission that he is requesting the same as last year, but would like for the employees to have a 5.3% increase in pay.

Mr. Holliday informed the Commissioners he received a bid for poll book binders from Dayton Legal Blank. Commissioner Witt asked Mr. Holliday if he would furnish other bids. Mr. Holliday informed the Commissioners he had contacted Casto and Harris for a bid and as soon as he receive it he would give copy of the bid to Ms. Holly. Mr. Holliday informed the Commissioners that Dayton Legal Blank has the lower bid. Commissioner Lopez made motion to approve bid from Dayton Legal Blank for poll book binders. Commissioner Carte seconded. All approved.

Herbert Mann appeared before the Commission to discuss his budget for the fiscal year 1996-97.

Mr. Mann informed the Commissioners he is requesting that his

employees receive a \$100.00 a month salary increase and informed the Commissioners that this request is an increase of \$10,432.00 (salary and benefits) over last year's budget.

Thomas Aiello appeared before the Commission to discuss his budget for the fiscal year 1996-97.

Mr. Aiello informed the Commissioners he is requesting the same as last year, but would like for each of his employees to receive a \$100.00 a month salary increase.

The Commissioners received and reviewed budget requests from the West Virginia Extension Office and the Zoning and Planning Commission.

The Commissioners decided to cancel March 15th meeting and scheduled meeting for March 11, 1996 at 10:00 to discuss park budget for fiscal year with Earl Pauley, Park Superintendent and at 10:30 to discuss other budget requests.

As requested, Ms. Holly presented to the Commissioners an updated report of the cost for Vehicle Maintenance.

Commission approved for Charlotte Holly to work on the budget at home on March 7, 1996.

Commissioner Carte made motion to recess until 1:30 p.m.

The Fayette County Commissioners met with several concerned citizens regarding the Wolf creek Public Service District.

Commission President John Witt informed that a meeting held recently at Summerlee, he voiced some opinions concerning other County Commissioners. He informed he felt he owed the other Commissioners an explanation of the opinion he voiced when asked why he was the only Commissioner at the meeting he attended. He stated that he attends various meetings when matters concern his district while the other Commissioners don't always follow this pattern.

Wolf Creek PSD Chairman Chuck Toombs informed he welcomed

attendance at their PSD meetings. He informed that Engineer bids had been received by the Public Service District and that the Public Service District had voted by paper ballot and selected Woolpert Engineering. He informed that the contract had been forwarded to the PSC to receive a Certificate of Need. He informed that they have run into a snag and no work has been done on the contract since 2/20/96.

W. D. Smith was present from Region IV and informed that the Fayette County Commission would need to be the applicant and not Wolf Creek PSD. The Commission would need to go through the bid process to select an Engineer. Mr. Smith advised Wolf Creek PSD Members to work with the Fayette County Commission to be a sponsor of the application.

Mr. Toombs informed he would have to discuss this with all members of the Wolf Creek PSD.

Mr. Dave Bragg questioned if a feasibility study had already been done in the past.

Commissioner Gene Carte advised Chuck Toombs to request funding through Delegate Petersen and Senator Shirley Love in the Legislative Digest. No funds would be available until 7/1/96.

Commissioner President John Witt suggested writing a letter of support for the request for funding to West Virginia Legislature through the legislative digest. This would be a joint effort through the Fayette County Commission and the Wolf Creek PSD.

W. D. Smith informed he feels that the only way to be cost effective is with a new plant in Oak Hill or Fayetteville. He felt that they had two choices: these would be to either go along with Fayette County Commission as the sponsor or to fight for a hearing. He also informed that studies done in the past probably would not work now.

Commission President John Witt informed that the Commission would do everything they can to assist. Commissioner John Lopez informed the Commission would commit \$7,500.00 to do a study; he informed they were in the middle of the budget session and that this was all he felt they could do at this time. He felt maybe this would be an incentive to get others to help.

The meeting was adjourned. Next scheduled meeting is March 11, 1996.

John L. Witt



FCC

3/6/96

Wolf Creek PSD

Sadie Handyide

Troy Handyide

Shirley Chamber

Virginia Beckett Morgan

Alma King

Drene Kade

Karon Elder

Kenneth Elder

Tresu Jackson

Robert Jackson PSD

~~Howard K. Johnson~~

Carol & Luth Lester

Mr. E. S. Hall

Sheila Holbrook

Tex Holbrook

Paul Holbrook

Dock Holbrook

Robin Holbrook

Terry Holbrook

Donna Puggs

Timmy Holbrook

Chis Cressy

Ellis Walton

Deanna Stafford

David M. Biagg

26- Sandra K. Biagg

Tom Woodrum

W.C. Smith Region 4 PDC

FAYETTE COUNTY COMMISSION

SPECIAL SESSION

MARCH 11, 1996

COURTHOUSE

FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.,

The Fayette County Commission met in special session on this 11th day of March, 1996.

Outstanding bills and part-time payroll were approved.

Earl Pauley, Park Superintendent met with the Commission to discuss his proposal regarding raising rent on shelters at the Fayette County Park.

Mr. Pauley informed the Commissioners he would like to charge the 2 larger shelters an additional \$10.00, and smaller shelters an additional \$5.00, for rental of the dining hall charge \$150.00 per day, flat rate on camps \$500.00, informed the Commissioners this would be for next year.

Commissioner Witt expressed his concern that an increase in camp fees might cause some of the kids not to be able to attend due to the expense.

Mr. Pauley questioned what the 4-H was doing with the money they make from the Haunted House.

Commissioner Carte suggested leaving it up to Earl and let him go ahead with increase.

Commissioner Lopez informed he saw nothing wrong with raising camp fees.

The Commissioners approved Tammy Gill and Lawrence Jenkins as full time employees at the Fayette County Park.

The Commissioners received and reviewed regulation letters prepared by Earl Pauley for camping at the Fayette County Park.

Earl asked the Commissioners if a lift for the garage could be installed. No action taken.

Earl informed the Commissioners he received two (2) bids for a

chlorine feeder for the Fayette County Park Pool, -- 1) PB & S Chemical Company, Inc. and 2) Phillips Supply Company. Earl informed the Commissioners he would like to go with Phillips Supply and everything is included in the contract for 3 months of operation. Commissioner Carte moved to accept the Phillips Supply Company bid; Commissioner Lopez seconded. All approved.

Earl gave the Commission an update on the pool repairs.

The Commission advised Earl that they had met with members of the Church of God regarding camping at the Park.

Earl presented a list of positions he is considering for part time work at the park. Mr. Pauley informed the Commissioners that if they had any names they wanted to include or exclude to let him know. Mr. Pauley asked the Commission if Tommy Jones and Johnny Mann could start work as soon as the weather breaks. This was approved.

Mr. Pauley informed the Commissioners he would like for Ms. Holly to prepare a letter to Patriot Ford regarding a disputed bill. Ms. Holly informed Mr. Pauley that before she could prepare a letter that he would have to give her all the information regarding this matter.

Mr. Pauley asked the Commissioners if he could purchase a micro-wave for the Fayette County Park canteen; he informed the Commissioners they would be selling pizza and they needed the micro-wave to prepare pizzas. This was approved. Mr. Pauley requested approval to purchase 26 skimmer baskets @\$29.83 each for the pool; approved.

The Commissioners approved budget request for fiscal year 1996-97 as submitted for Paul Blake, Prosecuting Attorney.

Ms. Holly informed the Commissioners she had advertised for the electrical upgrade in the cabin areas of the Fayette County Park and had received two (2) bids: one from State Electric Supply and the other from Fayco Lumber and Supply Company. The Commissioners approved the lower bid of State Electric Supply subject to review of the bid.

Ms. Holly informed the Commissioners that she had advertised for

bids for the construction of a handicap accessible ramp, curb cut, walk and concrete resurfacing at the Soldiers and Sailors Memorial Building/Fayetteville Library and had received one bid; bid to be reviewed. Ms. Holly informed the Commissioners that she had advertised for bids for the inclined platform lift for the Soldiers and Sailors Memorial Building and Fayette County 9-1-1 Central Answering Point and had received one bid; bid to be reviewed.

The Commissioners approved budget for fiscal year 1996-97 to include \$75 monthly raise per employee and PEIA premium increase for Thomas Aiello, Assessor.

Dave Pollard appeared before the Commission to inform them of the plans for the Regional Water Project; Mr. Pollard informed the Commission that the next step they needed to decide on was who to select for our professional team and informed the Commission that he had sealed proposals in hand. The Commissioners accepted the proposals and suggested to Mr. Pollard that W. D. Smith and Mr. Pollard review the proposals and make recommendations to the Commission.

Mr. Pollard informed the Commission he has scheduled a public hearing for the Small Cities Block Grant on Wednesday, March 27, 1996 at 1:30 in the County Commission chambers. Mr. Pollard informed the Commission that Beckwith will have water by the fall, and that Page-Kincaid Public Service District is not necessary for the project. The Commission informed Mr. Pollard they had received a letter from John David asking for the Commission's assistance with the Page-Kincaid wastewater operations. Commissioner Lopez suggested leaving Page-Kincaid Public Service District out of the project. Commissioner Carte suggested to Mr. Pollard to draft a letter to Page-Kincaid Public Service District and inform them that the Commission is very supportive of their efforts to obtain answers to their wastewater questions and for them to become involved in the regional water plan, but to inform them that the Commission cannot accept responsibility for their plant and

operations at this time and that the Commission cannot make a commitment now.

The Commission asked Ms. Holly if she had included the dues for the West Virginia Institute for Prosecuting Attorney's in their budget. Ms. Holly informed yes.

The Commissioners approved budget for fiscal year 1996-97 to include \$75 monthly raise per employee and PEIA premium increase for Herbert Mann, Circuit Clerk.

The Commissioners approved budget for fiscal year 1996-97 to include \$75 monthly raise per employee and PEIA premium increase for Kelvin Holliday, County Clerk. The Commissioners asked that \$4,000 be allowed for overtime and part-time worker. The Commission directed that \$2,000.00 be specifically allotted for Linda Johnson's overtime and \$2,000.00 be specifically allotted for part-time help. Ms. Holly informed the Commission that Mr. Holliday had asked that \$6,281.00 be allotted for record books for his office; Ms. Holly informed the Commission that in his budget, they had allotted \$6,650 last year and asked the Commission if they wanted to approve Mr. Holliday's requested amount or to approve the previous year's amount. The Commissioners asked Ms. Holly to allot \$6,650--the same amount allotted last year.

The Commissioners approved budget for fiscal year 1996-97 to include \$75 monthly raise per employee, \$5 monthly incremental salary for deputies, PEIA premium increase, and funding for four vehicles, vehicle equipment, and markings for Law Enforcement (to be budgeted in the Commission's line item) for William R. Laird, Sheriff; secretarial position was not approved; deputy position previously funded by grant for Law Enforcement (Sizemore) to be moved to Law Enforcement Excess Levy. Additional funding for Smithers Detachment upgrade to be reviewed for possible transfer from Coal Severance to Building Improvement.

The Commissioners approved West Virginia Extension Office budget request for fiscal year 1996-97 to include \$75 monthly raise and PEIA

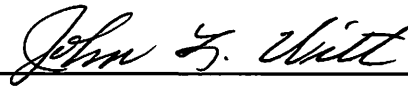
premium increase.

The Commissioners approved Zoning Office budget request for fiscal year 1996-97 to include \$75 monthly raise and PEIA premium increase for Gary Harding. Discussion was held regarding hourly raise for part-time worker Tim Richardson.

The Commission signed requests for reimbursement to the West Virginia Criminal Justice and Highway Safety for Project #94-JJ-3-001 for Juvenile Justice and Delinquency Prevention Grant (July 1, 1995 to August 31, 1995, December 1, 1995 to December 31, 1995, January 1, 1996 to January 31, 1996, and February 1, 1996 to February 29, 1996).

The Commissioners suggested meeting on Wednesday, March 13, 1996, to continue to discuss the budget for fiscal year 1996-97.

The meeting was adjourned at 12:15. Next scheduled meeting is March 13, 1996 at 10:00 a.m.

  
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FAYETTE COUNTY COMMISSION  
SPECIAL SESSION  
MARCH 13, 1996  
COURTHOUSE

FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in special session on this 13th day of March, 1996.

Dave Pollard, Community Resource Coordinator appeared before the Commission. Mr. Pollard asked the Commission if they would open a checking account for the Fayette Transition Team; Mr. Pollard informed they had been receiving donations and with the grants coming in the Transition Team would need an account. Ms. Holly explained to Mr. Pollard that each agency opens its own account, and he would have to get in touch with the Fayette Transition Team and ask them about setting up account. Commissioner Witt informed Mr. Pollard that the only thing the Commission requests is that the Fayette Transition Team submit a copy of its annual audit to the Commission.

The Commission discussed the Zoning and Planning Commission budget request and approved it the same as last year but with a \$75.00 raise for Gary Harding. Discussion was held regarding hourly raise for Tim Richardson, part-time worker in Zoning Office.

Ms. Holly informed the Commission that she has not received any information on the status of our Coal Severance quarterly allotments.

Discussion was held regarding request for the Legislative Digest to assist with the tower erection of the tower in the Valley including a small building for storing equipment and to run small amount of power and transmission lines. Also, requests were submitted for funding for a mapping system NCIC Computer upgrade, additional cost of Valley Detachment upgrade, an interior stair-lift for the Courthouse, and Wolf Creek Public Service District engineering study.

Commissioner Witt questioned about the amount of acreage the Solid

Waste Authority is leasing at the Fayette County Landfill. Ms. Holly informed Commissioner Witt she would check the lease.

Commissioner Witt made motion that subject to notification of Coal Severance Fund allotment, the Commission approved the same contributions to agencies that they approved last year; contributions for Fair Association and Upper Kanawha Valley Economic Development Council (UKVEDC) were not approved. Also approved in contributions that were requested were Beards Fork Community, Inc. for \$5,000.00 and the African American Family Tree for \$1,500.00. Commissioner Lopez and Commissioner Carte approved. Ms. Holly informed the Commissioners that she has not received a request from the Fayette County Humane Society; Commission approved same amount as last year.

Discussion was held regarding the part time pay of the 911 Dispatchers. Commissioner Witt informed the Commission they received a letter from the Firefighters Association requesting that Steve Cruikshank and Lynn Holstine be given \$2,000.00 increase for fiscal year 1996-97; the Commission also received a letter from Steve Cruikshank, Director, OES, recommending \$2,000 annual increase for David Neal and \$100 monthly raise for telecommunicators. Discussion was held regarding Steve's and David's salaries; Commissioner Lopez informed he would stick with Firefighters and Steve's requests. Commissioner Carte informed he opposed the increases. Commissioner Witt made motion to accept the request of the Firefighters to give Steve Cruikshank and request of Steve Cruikshank to give David Neal increases for fiscal year 1996-97 and that Lynn Holstine and telecommunicators would receive \$75.00 increase as given to the other employees; Commissioner Lopez seconded; Commissioner Carte opposed. Vote passed 2 - 1.

Ms. Holly informed the Commissioners that she had not received any requests from the Fayette County Solid Waste Authority but informed the Commissioners that Joe Myers had mentioned something to her regarding payments of the liability insurance.



The Commissioners scheduled a Budget meeting for Friday, March 22, 1996 at 10:00 a.m.

The Commissioners approved bid of Boll Medical, Inc. for installation of an inclined platform lift for the Soldiers and Sailors Memorial Building and Fayette County 9-1-1 Central Answering Point. Ms. Holly informed the Commissioners this bid included a five year warranty for parts and labor.

The Commissioners approved bid of Coleman's Construction for construction of a handicap accessible ramp, curb cut, walk and concrete resurfacing at the Soldiers and Sailors Memorial Building/Fayetteville Library.

The Commissioners approved bid of State Electric Supply Company, Inc. for electrical materials for upgrading of the Fayette County Park. Outstanding bills and payroll were approved.

The Commissioners signed Maintenance Agreement for copier for the Circuit Clerk's Office.

The Commissioners received and reviewed 911 responses for the month of February, 1996.

The Commissioners signed order certifying the Board of Equalization and Review Hearings for the month of February.


The Commissioners received and reviewed Law Suit regarding New River Holdings Limited Liability Company vs. Kelvin E. Holliday. Ms. Holly informed the Commissioners that Assistant Prosecuting Attorney Carl Harris had been forwarded a copy to review.

Ms. Holly informed the Commissioners she was notified by Judge John Hatcher that the ladies juror's cold water in bathroom did not have adequate flow. Ms. Holly informed the Commissioners that she had spoken with maintenance regarding the problem and that due to the age of the plumbing that the pipe was probably partially blocked. Also, the water pressure decreased in the line whenever water in the bathrooms in the Circuit Clerk's Office or the Probation Office was used. It was

suggested that a new pipe be installed. Ms. Holly told the Commissioners that part of the lines are sealed in the walls in the ballot room.

Ms. Holly informed the Commissioners that Attorney Herschel Rose had requested a copy of hearings from Board of Equalization and Review for Rivermont and Oak Hill Citizens for Better Housing. Ms. Holly informed the Commissioners she has referred request to Carl Harris, Assistant Prosecuting Attorney.

The meeting was adjourned at 11:45. Next scheduled meeting is March 22, 1996.

  
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FAYETTE COUNTY COMMISSION

SPECIAL SESSION

MARCH 22, 1996

COURTHOUSE

FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in Special Session on this 22nd day of March, 1996.

Commissioner Witt proposed that Ann Skaggs be added as a member of the Fayette Transition Team. Commissioner Lopez made motion that Ann Skaggs be added as a member of the Fayette Transition Team. Commissioner Carte seconded. All approved. Vote passed 3-0.

Discussion was held regarding the salary of David Neal, E-911 Coordinator and Steve Cruikshank, Emergency Coordinator.

The Commissioners received and reviewed overtime for the months of January and February for David Neal and Steve Cruikshank.

Ms. Holly informed the Commissioners she found out just before the meeting that state officials believe two coal companies were doubly assessed and they want the county to pay back some Coal Severance money it had received. Ms. Holly informed the Commissioners that the Coal Severance allotment would not be as much as she had hoped for. Ms. Holly informed the Commission she would check to see if they would have to pay back the money in lump sum or if they could pay back quarterly. Commissioner Carte suggested getting in touch with Senator Shirley Love to see if he could check into the matter.

Ms. Holly informed the Commissioners that the Public Employees Insurance Agency (PEIA) has approved 4.2% premium increase for July 1, 1996 and advised the County to put 5% increase in their budget for fiscal year 1996-97. Ms. Holly informed the Commission that this did included the HMO. Ms. Holly informed the Commissioner the Administrative Fee for the insurance will increase from \$20.00 to

\$22.00.

The Commissioners approved and signed order informing they received from the Chairman of the Democratic Executive Committee and the Chairman of the Republican Executive Committee the lists of Election Officials, including Poll Clerks, Election Commissioners, Alternates, and Emergency Absentee Voting Commissioners, Democrats and Republican, they desire to have appointed for holding the Primary Election.

Ms. Holly informed the Commission that the Chairman of the Republic Executive Committee informed her she could not find five (5) alternates for the expanded board. Ms. Holly asked the Commission if it was okay to take 5 alternates from the Republican list to fill extra workers for the Primary Election. This was approved.

Commissioner Witt asked Ms. Holly what was their policy on taking vacation days and asked to go into executive session to discuss personnel matter.

Upon return from executive session Commissioner Witt informed no action was taken at this time regarding personnel matter.

The Commissioners signed clean-up letter to Polly June Breeden.

The Commissioners signed letter to Penelope Crandall, Director with the Family Law Masters requesting reimbursement for rent in the amount of \$990.00 for rent for the month of March, 1996.

The Commissioners signed invoice to the Division of Correction for lease of parole office space for the month of March, amount \$300.00.

The Commissioners signed letter to the Department of Tax and Revenue informing they did allocate funds for fiscal year 1997 to the 4-C Economic Development Authority in the amount of \$50,350.

John Witt, President of the Commission and all elected officials signed letter certifying to the State Tax Department that for the purchase of commodities for various Fayette County Departments the

Commission will be the central purchasing office.

Ms. Holly informed the Commission she had started calling to confirm polling places for the Primary Election and was informed by Roma Lively he feel the T and C Midway Motel (Ted Gray) is a better polling place than the Garage Building he owned. The Commissioners asked Ms. Holly to follow through on Mr. Lively suggestion and to check to see if the motel has handi-cap accessibility.

Ms. Holly informed the Commissioners she had followed through on Earl Pauley, Park Superintendent regarding Patriot Ford bill, she informed the Commissioners she had talked with Wanda on March 14th and explained that Earl felt charges should be covered under warranty and that radio had been checked by Two Way Radio and they had determined the radio was okay, Wanda informed Ms. Holly that adjustment of \$257.05 will be made on account.

Ms. Holly informed the Commissioners that Earl Pauley, Park Superintendent got estimate to prepare a footer for shed they received from the Fayette County Landfill, estimated cost labor only, would be \$1,750.00. Ms. Holly informed the Commissioners she told Earl that the pool has priority over everything. Ms. Holly suggested to the Commissioners that Earl needed to start on the electrical upgrade work during the summer so it won't interfere with campers. The Commission approved for Earl to put footer in.

Ms. Holly informed the Commissioners she talked with the salesman who would be putting stairlift in Memorial Building, informed he would be sending a diagram of plans within the next ten days. Ms. Holly also informed the Commissioners she asked him to give an estimate on chairlift at the Courthouse.

Ms. Holly informed the Commissioners that two residents of the Hilltop area stopped by her office and informed her that the State Road

(Division of Highways) Department had informed them that the County would buy gravel for them to spread on Old Turnpike Road at Hilltop. Ms. Holly informed the Commissioners that she did tell the residents that the County was not responsible for road repairs. Commissioner Witt asked Ms. Holly to write letter of support to the Department of Highways and explain situation to them.

The Commissioners received and reviewed letter from Workers' Compensation Office of Judges informing that Harold W. Conner is scheduled for hearing on Monday April 1, 1996 at 1:00 P.M. Ms. Holly informed the Commission that copy of letter has been sent to Sheriff Bill Laird and Assistant Prosecuting Attorney Carl Harris.

Ms. Holly informed the Commissioners she received a recommendation on her desk asking that the Public Service Commission appoint Frank Kessler as their representative to the Fayette County Solid Waste Authority Board. Discussion was held, the Commission asked Ms. Holly to contact the Public Service Commission and send letter of support for Joe Myers.

The Commissioners received and reviewed petition from the citizens of the Community of Bellwood asking for help and relief from the excessive flooding of the Sewell Creek overflowing it's banks in the past years and January, 1996. Ms. Holly informed the Commissioners that Steve Cruikshank, Emergency Coordinator has been working with the Soil Conservation Office regarding this matter.

The Commissioners received and reviewed agreement made by and between The New River Travel Council, Inc., doing business as The Southern West Virginia Convention and Visitors Bureau, and the County Commission of Fayette County regarding the hotel/motel occupancy tax.

The Commissioners received and reviewed letter from Meadow River Coal Company giving notice of their intent to permanently layoff all

employees from Meadow River Coal Company's New River Mine due to its closure.

The Commissioners received and reviewed order from Judge John Hatcher denying New River Holding Limited Liability Company petition.

The Commissioners received and reviewed copy of letter to Michael Miller with the West Virginia-American Water Company from Page-Kincaid Public Service District.

The Commissioners received and reviewed copy of a Social Service Grant (Juvenile Justice and Delinquency Prevention Program) from the Criminal Justice and Highway Safety Division.

The Commissioners received and reviewed a list of "refusals to pay" associated with the Emergency Telephone System for the month of January, 1996.

The Commissioners received and reviewed minutes from Gauley River Public Service District for the months of September, 1995, October, 1995, November, 1995, December, 1995 and February, 1996.

The Commissioners received and reviewed Debt Service Payment Reports March 15, 1996 from One Valley Bank.

The Commissioners received and reviewed copy of letter to Alan F. Hess from State Tax Department informing they received his request for data concerning the correct taxable valuations of three parcels in Fayette County.

The Commissioners received and reviewed recommendation of the Assessor's regarding Judith Bowen property. Ms. Holly informed the Commissioners she would prepare order for their signature.

The Commissioners received and reviewed minutes from Salem-Gatewood Public Service District for the month of February.

Ms. Holly informed the Commissioners she reviewed the Lease Agreement for the Landfill, and the amount of land that is being leased

is 42.015 acres.

Outstanding bills were approved.

Commissioner Witt moved to adjourn until 1:30 p.m.

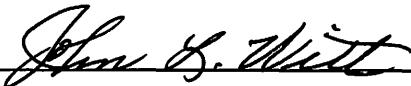
The County Commission reconvened, Ms. Holly informed the Commissioners that the Coal Severance Allotment for the fiscal year 1996-97 would be less, informed the Commission that the State Tax Commission has given the Commissioners options on how they wanted to pay; in one lump sum or quarterly. Ms. Holly informed the Commission that they could make it up, but there would be no cushion for next year. The Commissioners asked Ms. Holly to inquire for an explanation regarding this reduction. The Commissioners also asked Ms. Holly to check to see if they could pay back quarterly. The Commissioners informed with this reduction they may not be able to fund all the projects they originally hoped to fund, asked Ms. Holly to check figures and get back with them.

The Commissioners signed letter to Clarence Shepard regarding the Riccardi Real Estate, Inc. property Lots 1, 2 Amanda Proctor Subdivision located in Boomer.

The Commissioners signed letter to the West Virginia Infrastructure and Jobs Development Council enclosing revised June, 1995, Pre-Application of the Fayette Plateau Regional Water System to the West Virginia Infrastructure and Jobs Development Council.

The Commissioners signed letter to the West Virginia Infrastructure and Jobs Development Council recommending \$1,250,000 to be applied for from the HUD Small Cities CDBG Program in regard to our Regional Water Plan pre-application.

The meeting was adjourned at 1:45. Next scheduled meeting is March 27, 1996.

  
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FAYETTE COUNTY COMMISSION

REGULAR SESSION

MARCH 27, 1996

COURTHOUSE

FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in Regular Session on this 27th day of March, 1996.

Exoneration were approved and signed.

Ms. Holly informed the Commissioners that Gary Farren with the State Tax Department informed her that he would be here until December, 1996 asked her if the Commission had any problem with the State installing phone on the third floor of courthouse where he is working. Ms. Holly informed the Commission that Mr. Farren informed her that the State would pay for installation. The Commission approved to have phone installed but asked Ms. Holly to have something in writing saying that the State would be responsible for the installation.

The Commissioners received and reviewed letter from the Fayette County Sheriff's Association requesting that rental fee for the Fayette County Memorial Building be waived. Commissioner Witt made motion to waive rental fee for Country Music Show. Commissioner Carted seconded, all approved, vote passed 3-0.

The Commissioners signed letter to Ray Carson informing that rental fee of \$500.00 of Fayette County Memorial Building on April 12, 1996 for the Fayette County Deputy Sheriff's Association Country Music Show has been waived.

The Commissioners received and reviewed from Sheriff Bill Laird invoices received from the Regional Jail and Correctional Facility Authority for the confinement of Fayette County inmates in the Southern Regional Jail and the South Central Regional Jail during the month of

February, 1996, also prepared are invoices for the cities of Oak Hill, Fayetteville, Smithers, and Mount Hope for the confinement of city ordered commitments at the Southern Regional Jail.

Ms. Holly informed the Commissioners that Lee Massey called and informed her that Dr. Mark D. White has resigned effective March 31, 1996 as State Health Director of the Fayette County Board of Health. The Commission accepted Dr. White's resignation.

Ms. Holly informed the Commissioners that Mr. Massey sent contract signed by Dr. Donald Newell replacing Dr. White. The Commissioners approved of the replacement and reviewed and signed contract.

The Commissioners received and reviewed letter from the Fayette County Health Department informing the Commission they had received a request from Appalachian OH-9 asking if they could occupy the Health Center for five days a week. Mr. Massey informed OH-9 they did not have the space for their people, nor the extra parking and suggested to OH-9 they lease another building or rent a mobile trailer. Mr. Massey also informed the Commission they had made a motion to write a letter to Appalachian OH-9 to vacate the building entirely by April 1, 1997. Discussion was held, the Commission recommend looking into the matter and to reschedule for later Commission meeting. Ms. Holly informed the Commissioners that the County have the contract with Appalachian. The Commissioners informed they would review contract between County Commission and Appalachian OH-9.

The Commissioners received/reviewed and signed grant application prepared by the Mountain Resource Conservation and Development Area, the money is to be used for the Fayette County Jail renovation and roof repairs for the Fayette County Historical Society Museum.

The Commissioners received and reviewed letter from WV Cable Television Advisory Board acknowledging receipt of a cable television

franchise transfer application from Tell-Media Company.

The Commissioners received and reviewed Cable Television Franchise Transfer Application for Cable Franchises, Inc. to TWFanch-one Co. and Cable Television Franchise Transfer Application for Cedar Grove Cablevision Associates, LTD to TWAFanch-one Co. The Commissioners informed that based upon the review of the WV Cable Television Advisory Board and subject to receipt of a \$250 application fee the transfer application appears to be complete and has been accepted. Letter signed. Ms. Holly informed the Commissioners she would check code regarding when to hold the Public Hearings

Ms. Holly informed the Commissioners she had talked with the State Tax Department regarding the payment of the Coal Severance Allotment and they informed her that it could be paid on quarterly basis.

Ms. Holly informed the Commissioners the budget for fiscal year 1996-97 has been prepared, no changes have been made in the Elected Officials budget. Commissioner Witt asked if there were any questions regarding the budget. Commissioner Lopez made motion to adopt. budget for fiscal year 1996-97. Commissioner Witt seconded. All approved. Ms. Holly informed the Commissioners that Public Notice was posted on March 11, 1996.

The Commissioners signed order stating that the assessed valuation of property of all classes in Fayette County for the assessment year 1995 was \$826,679,120 as certified on March 1, 1996 by Thomas E. Aiello, Assessor, does hereby order that the classification of Fayette County be changed from Class I to Class IV as requested by Chapter 7, Article 7, Section of the Code of West Virginia.

Ms. Holly informed the Commissioners she received telephone call from Norma Isaacs requesting the Commission to put down gravel for parking in Clifftop polling place. The Commissioners approved, but

asked Ms. Holly to check with the Division of Highways and Earl Pauley, Park Superintendent.

Commissioner Lopez suggested to the Commissioners to check into the Camp Abbot property.

Gary Harding presented the following case to the County for a disposition: Z-420-96-1: Request of North American River Runners/Frank Lukas, owner, for a change in land classification from R-R, Agricultural and Rural Residence District, to B-2, General Business District, on part of 31.467 acres, Turnpike, located on Route 60, Hico, next to the Post Office, New Haven District.

The Zoning Officer informed the County Commission that this was heard by the Planning Commission on Monday March 25th and that they did by a vote of 9-0 recommend that this request be approved. Doug Butler was present and informed the Commission briefly that this was a request to expand their present facilities and build a new restaurant and maintenance building. After a brief discussion a motion was made by Commissioner Lopez that this request be approved as recommended. Motion was seconded by Commissioner Witt and pass by a vote of 2 - 0.

Commissioner Witt informed the Commissioners he wanted to talk about the tower in the Valley. Ms. Holly informed the approximate cost would be \$17,000, tower would be moved to another location, alternate right property owner agreed verbally rental fee will get power from Bell Atlantic. Commissioner Witt informed he would like to offer motion that when funds are available go ahead and start project. Commissioner Lopez seconded. Commissioner Carte opposed. Commissioner Carte informed he would give tentative approval but not formal approval. Commissioner Carte feel that Steve Cruikshank, Emergency Coordinator and David Neal, E911 Coordinator need to recommend, subject to notification of Legislature Digest fund. Commissioner Carte asked if they were going to

ask the Fire Levy.

Commissioner Carte moved that vouchers and payroll be approved and that the payroll checks be issued today. Commissioner Lopez seconded. All approved. Vote passed 3 - 0.

Russell Deering, Chairman of the Gauley River Public Service District appeared before the Commission to discuss waiver of easement recording fees. Mr. Deering informed the Commission that Nicholas County has agreed to the waiver.

Mr. Deering thanked the Commission for their part on the rest of the funding for water project. Commissioner Witt asked Mr. Deering if there was any time frame when the project would begin. Mr. Deering informed as soon as Public Service Commission get certified hopefully this summer. Discussion was held regarding the waiver of easement recording fees. The Commissioners informed Mr. Deering they would take his request under advisement, will take action on after they hear from the Prosecuting Attorney and State Tax Department.

Joseph Richardson, Shirley Richardson, and Mr. and Mrs. Patton with the Fayette County Emergency Food Assistance Center appeared before the Commission to request funding for their program. Commissioner Witt informed the citizens the Commission have already discussed but due to the lack of Coal Severance Fund the Commission have approved \$1,500.00 in fiscal year budget 1996-97. Commissioner Witt informed the Fayette County Emergency Food Assistance Center group they can receive funds after July 1, 1996. Commissioner Witt commented on what a great job their program is doing.

Attorney Jamie Blankenship, Fiduciary Commissioner for Fayette County appeared before the Commission with a petition for the Commission to decide whether the Clerk should accept Will for recordation for the Estate of Mary L. Harris. Discussion was held, the Commission

suggested that Mr. Willie McGee get an Attorney and get back with them on April 3, 1996. No decision made.

The Commissioners signed letter to Lisa Stanley, Director, Department of Tax and Revenue informing that the Fayette County Commission has budgeted \$9,284 Oil and Gas Tax revenue for expenditure in General Fund account 401-68 (County Commission-Other Contributions).

The Commissioners received and reviewed checks from the City of Smithers (\$175.00) and the City of Mount Hope (\$280.00) for cost paid by the Fayette County Commission for the confinement of inmates at the Southern Regional Jail in Raleigh County.

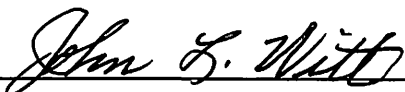
Commissioner Carte moved to adjourn until 1:30 p.m.

The County Commission reconvened for Small Cities Community Development Block Grant (SCBG), the purpose of the meeting was to discuss and receive citizens input relating to community development, the needs of low and moderate income persons and the Small Cities Community Development Block Grant Projects.

Commissioner Witt called meeting to order. Alice King, with Region IV explained the purpose of the meeting. Commissioner Witt asked for comments.

Kathryn Hoffman, John Hoffman, Imogene Pennington, Jim Thompson, Brenda Thompson, Beverly Walkup, Howard Campbell and Mrs Hayslett all expressed their concerns regarding getting water in the New Haven District area. No opposition. Commissioner Witt informed the citizens the County Commission would consider their request and make a decision shortly.

The meeting was adjourned. Next scheduled meeting is April 3, 1996.

  
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FAYETTE COUNTY COMMISSION  
SPECIAL SESSION  
MAY 3, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840  
MEMBERS Present: John L. Witt, Gene Carte, Jr.

The Fayette County Commission met in special session on this 3rd day of May, 1996.

Mike Miller, Vice President/Treasurer of the West Virginia American Water Company, staff members and several concerned citizens were present.

Commissioner Witt informed everyone that since this was Know Your Government Day he felt that instead of moving the High School students to another area he felt that sitting in on a Commission meeting would be most interesting. The first group were Fayetteville High School and Midland trail High School.

Commissioner Witt asked Mr. Mike Miller to give an explanation of the Tax Increment Financing Hearing (TIF) for the proposed Regional Water Plan for Fayette County.

Mr. Miller informed the Commission that the TIF is a funding mechanism passed by the West Virginia Legislature in 1995, it allows local governments to set aside taxes assessed on new property of a private industry to pay for specific defined infrastructure projects. Mr. Miller informed that this is not an additional tax on the people. Mr. Miller told the Commission that an election would be held. Discussion was held, several concerned citizens voiced their opinion regarding the project.

David Pollard, Resource Coordinator presented the book value and assessed value of taxes for the project.

Commissioner Witt informed the people that the Commission would advertise and a special election would be held on August 3, 1996.

Commissioner Carte moved the Commission call special election for the TIF plan for August 3, 1996. Commissioner Witt seconded. All approved. Hearing adjourned.

The Commissioners signed order to use paper ballots in lieu of electronic voting equipment for Special Election to be held on August 3, 1996.

The Commissioners signed order designating the total number and type of election boards for various precincts an order informing the county executive committee of the Democratic and Republican parties the number of nomination for each party which may be made for poll clerks, election commissioners, alternates and emergency absentee ballot commissioners.

Outstanding bills were approved.

Christy Workman presented check for \$2,000.00 to the County Commission to be used by the Fayette County Youth Soccer Association for field preparation, repairs and additions. Commissioner Witt and Commissioner Carte accepted the check.

The Commissioner signed budget letter to each elected official for fiscal year 1996-97.

Ms. Holly informed the Commissioners she received application to participate in the Governor's Summer Youth Program.

Commissioner Witt asked about status on Valley Tower. Ms. Holly informed the Commission that David Neal will be here Tuesday to make report.

The Commissioner received franchise tax for the period January 1, 1996 through March 31, 1996 for \$352.94 from Rifkin Communications Partners, L.P.

The Commissioners signed authorization letters to Ramada Inn, Pipestem State Park and Lakeview Resort for Thomas Aiello, Gloria Bozo,



Dianna Dyke, Mary Weatherford, and Eddie Young to have their sleeping rooms, meals, room guarantees charged while they are attending the Annual Assessor's Meeting and 1996 Spring Board of Directors meeting.

The meeting was adjourned at 12.01. Next scheduled meeting is May 7, 1996.

*John L. Witt*

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J.W.  
H.C.

# TIF Hearing

05-03-96

Dolores Kinder  
Betsy McClure  
Don Munn  
Barton Ellis  
Jan Bickerton  
Harry Stumps  
C. Grant

Auguste Pennington  
Mike Miller  
Lee D. Hill  
John R. Hoffman  
Auguste Hoffman  
Chris Dyer  
Bud Hill

FAYETTE COUNTY COMMISSION  
REGULAR SPECIAL  
MAY 7, 1996  
COURTHOUSE

FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 7th day of May, 1996 to inspect votomatics and tabulator for the Primary Presidential Election being held May 14, 1996.

Mary Lou Schmidt appeared before the Commission and presented to the Commissioners the legal she would be advertising for the position of 4-H Program Assistant for the West Virginia Extension Office. Ms. Schmidt asked the Commission if it was okay for her to advertise and she would make formal recommendation to the Commission of their decision. The Commission approved.

The Commissioners received and reviewed letter regarding clean-up of property in Boomer. Ms. Holly gave Commissioner Lopez copy of letter that was sent to David Chapman regarding the clean-up of his property. No decision was made.

Ms. Holly informed the Commissioners she had advertised for a public hearing to consider and to receive written and oral public comment on transfer application for cable television franchise for Cedar Grove Cablevision Associates, Ltd to TWFanch-one Company and Cable Franchises, Inc. To TWFanch-one Company. Commissioner Witt asked if there were any opposition. No opposition. Ms. Holly informed the Commissioners that the Cable Television Advisory Board had no problem with the change and the \$250.00 franchise fee has been paid.

Commissioner Carte moved the approval of the transfer of Cedar Grove Cablevision Associates, Ltd to TWFanch-one Company and Cable Franchises, Inc. to TWFanch-one Company. Commissioner Lopez seconded. All approved. Vote passed 3 - 0. Ms. Holly presented order; order

signed. Hearing adjourned.

The Commissioner signed orders adapting the Tax Increment Financing (TIF), order to use paper ballots, order informing of the number of election boards for Special Election being held August 3, 1996.

Discussion was held regarding the Sheriff contract bid for cruisers. Ms. Holly informed the Commissioners that the bid for the cruisers had to be in by November but price of cars have increased. Commissioner Lopez and Commissioner Carte informed they don't agree with the increase since increase was made after contract bid was submitted for the fiscal year 1996-97 budget. No decision was made.

The Commissioners held public hearing on behalf of the Central Appalachian Empowerment Zone of WV (CAEZ) to consider the use of 1996 HUD-SCBG funds. The purpose of this public hearing is to obtain the views and comments of residents of the CAEZWV on housing and community development needs, as well as the needs of low and moderate income persons. No opposition, and no comments. Hearing adjourned.

Dave Pollard presented before the Commissioners a copy of his May Quarterly Report. Commissioner Carte asked Dave to give an update on the Gus Douglass Project. Dave suggested to the Commission to form a committee for the project. Delegate John Pino commented about the plan of the Soil Conservation informed the Commission he felt this would be a wonderful opportunity. Dave informed that he felt monies is available through Economic Development Authority, West Virginia Tech and Marshall University but will check with the municipalities. Mr. Pollard asked the Commission to let himself and the Fayette Transition explore the different opportunities. Commissioner Witt asked Dave if there were a time frame; Dave informed there is a dropdead date but he didn't know what it was. Commissioner Witt suggested putting in the hands of the

Fayette Transition Team. Mr. Pollard informed that Susan Hayes, Delegate John Pino, Mike Sales, Tom Oxley, Cecil Gibson, Loren Fox, Ancil Schmidt, Imogene Pennington, Gordon Billheimer, Lori Lilly to be the committee members. Commissioner Lopez made motion to approve committee members. Commissioner Witt seconded. All approved. Vote passed 3 - 0.

Earl Pauley, Park Superintendent appeared before the Commission to informed the Commission of what he would have the Governor's Summer Youth Program kids doing.

Mr. Pauley presented list of kids interviewed for part time work at the park for their approval, Mr. Pauley informed the Commission he had cut back on some of the part time help. Commissioner Carte moved that part time workers at the Fayette County Park be approved. Commissioner Witt seconded. All approved. Vote passed 3-0.

Mr. Pauley informed the Commissioners that the Health Department would be having surprised inspections at the Park; Earl informed the Commissioners he see no problem.

Mr. Pauley informed the Commissioners that Bill Webb's 1987 Diplomat have to have tires on every three weeks, and suggested to the Commissioners he would be getting bids to rebuild 1989 cruiser for Deputy Webb. This was approved.

Mr. Pauley informed the Commissioners that pool is complete but need painting and informed the Commission that park is scheduled to be opened on May 25th.

Mr. Pauley informed the Commissioners that Parking lot at Clifftop is just about completed for Primary Presidential Election.

David Neal, E911 Coordinator appeared before the Commission to present estimated costs for the various options for Valley Tower.

Mr. Neal presented to the Commissioners three (3) options. 1)

Increase the height of the existing tower and provide commercial power to existing site. 2) Leasing tower space on the Bell Atlantic paging tower. 3) Construction of new tower and building adjacent to Bell Atlantic Site. Mr. Neal informed the Commissioner that Bell Atlantic are putting poles in ground, right-of-way has been cleared. Mr. Neal informed he has a firm verbal agreement about the lease and Appalachian Power Company is putting in the power. Commissioner Witt informed the Commissioners and David they need to get written lease from W. R. Johnson. Commissioner Witt informed that Steve Cruishank, Emergency Coordinator and David Neal work on lease agreement and wait for price bid from State Electric Company. The Commissioners asked Ms. Holly to advertise for the Valley Tower. Commissioner Lopes made motion to go with option 3- Construction of new tower and building adjacent to Bell Atlantic Site. Commissioner Carte seconded. All approved; vote passed 3-0. The Commissioners asked that the preceding begin immediately after purchase of bid. Ms. Holly informed the Commissioners they needed specification of bid, written lease, Ms. Holly asked when power going to be there and when they plan to start. Ms. Holly informed the Commissioners once they get these things in motion they can advertise for tower.

Payroll and outstanding bills were approved and any part time that haven't been written is approved.

The Commissioners received and reviewed letter from Tom Muncy, Operation Manger with the West Virginia-American Water Company informing that the Bay heights area water extension has been completed (December, 1995), also informed that they made an extension on Ponderosa lane off of bay's Heights Road.

The Commissioners signed letter to the Department of Public Safety and the State of West Virginia Leasing Section informing them the

Commissioners received and reviewed letter regarding the renewal of their lease on the parole office at Fayetteville. The Commissioners informed that by a unanimous decision not to renew lease; Lease is to be canceled as of midnight on August 31, 1996.

The Commissioners signed order and letters designating incorporated banking institutions in the County of Fayette as Depositories of Public Monies for the Fayette County National Bank, Bank One Beckley, WV, N.A., Bank of Mount Hope, Inc., One Valley Bank of Oak Hill, Inc., United National Bank (formerly Montgomery National), Merchant National Bank, Merchant National Bank (formerly Gauley National Bank), United National Bank (formerly National Bank of Ansted), United National Bank (formerly First Empire Federal Bank). Ms. Holly informed that Paul Blake, Prosecuting Attorney had reviewed and approved.

The Commissioners signed letter to the Elected Officials with attached Annual Report form for their use in filing report with the Commission and the State Tax Commissioner as required on the first day of June of each year.

The Commissioners signed renewal for maintenance for copier in the Extension Office.

The Commissioners received and reviewed from the West Virginia Association of Counties material for the NACO's Annual Meeting being held in Houston, Texas, July 12-16.

The Commissioners received and reviewed letter from the Citizen's Advisory Board informing that the next scheduled meeting of the Citizen's Advisory Board will be May 21, 1996 in the front lobby of the Southern Regional Juvenile Detention Center at 4:00 p.m.

Ms. Holly informed the Commissioners she received application for the Governor's Summery Youth Program and that she forwarded copy to Earl Pauley, Park Supervisor and John David. Ms. Holly informed the

Commission that she is asking for 25 enrollees and 4 supervisors. The Commissioners signed and approved application.

Ms. Holly informed the Commissioners she received request for the \$5,000.00 the Commission allotted to the Fayette Senior Program for the Fiscal Year beginning July 1st.

The Commissioners received and reviewed letter from Judge John Hatcher informing he appreciate the work the Maintenance Crew did in refurbishing the jury room, refinishing the bailiff's chair, and the cleaning of his office from top to bottom.

The Commissioners received and reviewed letter from the West Virginia Department of Tax and Revenue informing they would be responsible for the arrangements, cost of installation, maintenance and monthly fees for the phone/fax communication line that will be installed on the Third Floor in Courthouse.

The Commissioners received and reviewed from the Public Service Commission complaint from the Kanawha Falls Public Service District.

The Commissioners received and reviewed maintenance report on county vehicles for the month of April.

The Commissioners received and reviewed check in the amount of \$28,777.63 for Emergency telephone system for the month of March, 1996.

The Commissioners received and reviewed thank you letter from Mountain Transit Authority (MTA) for their commitment of \$2,500 for fiscal year 96-97.

The Commissioners received and reviewed letter from Senator Shirley Love and copy of letter from Senator Oshel B. Craig acknowledging receipt of the request of Senator Love for the Commission for \$12,500 for the Wolf Creek Public Service District engineering feasibility study.

The Commissioners received and reviewed minutes of the Deepwater



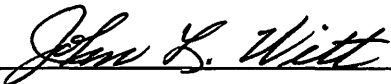
Public Service District for the month of Mar.

The Commissioners received and reviewed letter from T. Scott King, Principal of Valley High School informing of long term residential treatment of psychiatric problems for adolescents.

The Commissioners received and reviewed copy of letter from Marcie L. Dooley regarding the Estate of Robert E. Beckelheimer from Stephanie Harrah, Deputy Clerk; Ms. Harrah informed the Commissioners this has been referred to the Fiduciary Commissioner.

Ms. Holly reminded the Commission that canvass would be conducted on Friday, May 17, 1996.

The meeting was adjourned. Next scheduled meeting is May 17, 1996.

  
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FAYETTE COUNTY COMMISSION  
SPECIAL ELECTION  
MAY 17, 1996  
COURTHOUSE

FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in Special Session on this 17th day of May, 1996.

The Commission convened as Board of Canvassers to conduct Canvass of Presidential Primary Election held on May 14, 1996. Absentee ballots were received from the Circuit Clerk and counted as directed by Bill Harrington of the Secretary of State Office. The Statements of Ballots Used were verified, the challenged ballots were determined, and the results of the election were declared. Results are to be certified on Wednesday, May 22, 1996. The Commissioners adjourned as Board of Canvassers.

The Commissioners reconvened to discuss other business brought before the Commission.

The Commissioners received and reviewed letter from the Criminal Justice and Highway Safety Division informing that monthly progress and financial reports for grants are due by the 20th of each month. Ms. Holly informed the Commissioners that copy of letter has been forwarded to the Sheriff's Office.

The Commissioners received and reviewed letter from Jean Friend, Clerk of Circuit Court in Monongalia informing of the County and Circuit Clerks annual in-service training conference being held August 7-10, 1996 at Lakeview Resort and Conference Center.

Letter was signed to the Wolf Creek Public Service District to reaffirm the commitment of \$7,500 to the Wolf Creek Public Service District to pay costs for performing a engineering feasibility study on the proposed Wolf Creek sewage system.

The Commissioners received and reviewed amended certificate of valuations from the Assessor's Office.

The Commission signed order approving amended Valuation to be included in the 1996 Tax year books.

The Commissioners received and reviewed minutes from Salem-Gatewood Public Service District for the month of April.

The Commissioners received and reviewed from the Workers' Compensation Fund claims filed for the month of March.

The Commissioners received and reviewed from David Neal, E911 Emergency Coordinator ambulance responses for the month of April.

The Commissioners received and reviewed franchise fee checks for the period January 1, 1996 to March 31, 1996 for Tele-Media Corporation (\$5,911.26) and Helicon Group, L.P. (\$5,085.34).

The Commissioners approved for County Clerk Kelvin Holliday to purchase the (4) debtor index for financing statements and (1) power of attorney index.

The Commissionaires signed letter to West Virginia Housing Development Fund informing that since they are considering expanding the Construction Assistance Program (CAP) into areas or counties other than Raleigh the Commission informed they feel this program should be expanded to the Fayette County area.

Jamie Blankenship, attorney presented to the Commissioners annexation by minor boundary adjustment of 39.10 acres adjoining the Town of Thurmond and commonly known as the subdivision of the McKell Development. The Commissioners approved annexation.

The Commissioners received and reviewed memorandum from Dave Pollard Community Resource Coordinator informing that the Fayette Transition Team is in the process of preparing a grant application to support the cost of hiring an assistant to the Community Resource

Coordinator. Mr. Pollard asked the Commission if it was okay to prepare. The Commission informed Mr. Pollard it was okay for him to prepare grant.

The meeting was adjourned . Next scheduled meeting is May 22, 1996.

John G. Witt

FAYETTE COUNTY COMMISSION  
SPECIAL SESSION  
MAY 22, 1996  
COURTHOUSE

FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in special session on this 22nd day of May, 1996.

The Commissioners signed letter to Tom Aiello, Assessor, William Laird, Sheriff, and George Mitchell, Director of the Division of Finance officially transmitting to them a copy of the tax increment financing order adopted May 3, 1996.

The Commissioners signed letter to the Fayette County Board of Health Members and Dr. N. Allen Dyer, with the Southern West Virginia Regional Health Council informing that the Commission has scheduled a meeting at 11:30 a.m. on Wednesday, May 29, 1996 to discuss the use and occupancy of the Fayette County Health Center Facility.

Commissioner Lopez questioned Kelvin Holliday, County Clerk procedures of handling challenged ballots in vault.

Ms. Holly informed the Commissioners that Shirley Noble with the City of Ansted called and want to know if they could borrow votomatic stand for their city election on June 15, 1996 , informed they have used in the past. Ms. Holly informed she felt as long as its with the understanding to pick up the day before the election and return the day after. The Commissioners informed they have no problem in letting Ms. Noble use the votomatic stand for Ansted's election. Commissioner Witt asked Ms. Holly to give Earl Pauley a call and have him check the old voting booths stored at the Park. Ms. Holly informed the Commissioners she would check with Secretary of State Office.

The Commissioners signed order certifying the results of the canvass for the Primary Election.

Ms. Holly informed the Commissioners she talked with Earl Pauley, Park Superintendent, big pool has been filled, will open Saturday. Notices have been sent.

Ron Walton appeared before the Commission to request funds for basketball court for the Whipple Community in Action. Mr. Walton informed he is willing to pay \$700 half of the cost from his own pocket if the Commission would contribute the other \$700.00. Commissioner Witt informed he would take request under advisement and asked the Commission to talk with the Whipple Community In Action members which has been scheduled for an appointment with the Commission. Commission Lopez suggested giving the \$7000 to build basketball court. This was approved.

The Commissioners received and reviewed copy of letter form Sheriff Bill Laird to the U. S. Department of Justice with Request for Payment for the COPS Grant (95FWX6362) for the first year of operation.

The Commissioners signed sales tax report for the Fayette County Park for the month of April.

The Commission approved to extend sidewalk at the Courthouse Annex.

The Commissioners received/reviewed and signed pre-application form for Governor's Committee on Crime, Delinquency and Correction for 1996/1997 grant year.

The Commissioners approved for Charlotte Holly and Gene Carte to attend Violence and Protection seminar on Thursday, June 6th in Charleston.

Joe Myers informed the Commissioners that the Recycling Coordinator started Monday May 20th and asked the Commission if they had office space for him.

The Commissioners reminded Ms. Holly to prepare letter to the

Public Service Commission recommending that Joe Myers be reappointed to serve as a member of the Fayette County Solid Waste Authority.

The Commissioners asked Ms. Holly to schedule the Fayette County Solid Waste Authority to come in.

The Commissioners approved purchase of Air condition for Payroll Office.

The Commissioners received and reviewed certificate of coverage from West Virginia Workers' Compensation Division.

Ms. Holly informed the Commissioners she received a call from Valerie Ritter of Gravey House Bed and Breakfast asking that the penalty fee for the Hotel/Motel taxes be waived. The Commissioners informed no, ample time has been given.

The Commissioners received and reviewed Annual Report for the period June 1, 1995 through May 30, 1996 from the County Clerk's Office and the Circuit Clerk's Office.

Ms. Holly reminded the Commissioners they had promised voters that Precinct No. 17 Pax would be moved from Pax Elementary School to Pax City Hall and Precinct No. 18 Dothan/Kingston from Roma Lively Garage to T & C. Midway Hotel. Ms. Holly informed the Commission she would have to have approval to prepare notice for paper. Ms. Holly informed the Commissioners that Mount Hope Elementary would be moved to the Gymnasium where it's more convenient and handi-cap accessibility. The Commission approved for Ms. Holly to get notices ready and asked Ms. Holly to contact school board regarding Gymnasium at Mount Hope.

The Commissioners received and reviewed invoices from Sheriff Bill Laird for City commitments to the Southern Regional Jail for the period of March, 1996 for (Oak Hill, Ansted, Fayetteville and Smithers).

The Commissioners received and reviewed from the Public Service Commission proposal to expand the boundaries of the Clay County Public

Services and the Gauley River Public Service District.

The Commissioners received and reviewed letter from Clerk, Pullin, Knopf, Flower and Flanagan regarding (Horrocks v. City of Fayetteville, et al) accident was not the fault of the City of Fayetteville, driver just used poor judgment in crossing intersection.

The Commissioners received and reviewed letter from Meadow River Coal Company informing that the close has been delayed for a month.

Ms. Holly informed the Commission she would be taking a vacation day on Friday, May 24. This was approved.

The Commissioners received and reviewed reimbursement for deposit to the Fire Levy Funds.

Ms. Holly presented copy of a letter the Commissioners sent to Paul Blake, Prosecuting Attorney informing him that the Commission feel that an Amicus Brief should be filed with the West Virginia Supreme Court of Appeals in the deputy sheriff's suit in said court.

The Commissioners received and reviewed copy of letter from Dave Pollard, Community Resource Coordinator informing that Fayette County was selected as one of two counties in West Virginia to receive a \$500,000 water resources grant through the west Virginia Department of Agriculture.

The Commissioners informed Ms. Holly they had received many inquires regarding the status of the Fayette Station Bridge and asked Ms. Holly to prepare letter to Senator Robert C. Byrd, Fred VanKirk, Commissioner with the Division of Highways, and Pete Hart, superintendent with the National Park Service to request that they provide this office with a status report on the Fayette Station Bridge replacement project.

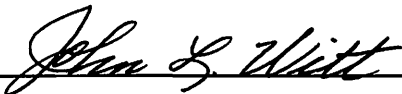
The Commissioners received and reviewed copy of deposit reimbursing the Fire Levy Funds.



Ms. Holly presented copy of letter to the Commissioners sent to Paul Blake, Prosecuting Attorney informing him that the Commission feel that an Amicus Brief should be filed with the West Virginia Supreme Court of Appeals in the deputy sheriff's suit in said court.

The Commissioners received and reviewed copy of letter from Dave Pollard, Community Resource Coordinator informing that Fayette County was selected as one of two counties in West Virginia to receive a \$500,000 water resources grant through the West Virginia Department of Agriculture.

The meeting was adjourned at 11:54. Next scheduled meeting is May 29, 1996.

  
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FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
MAY 29, 1996  
COURTHOUSE

FAYETTVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 29th day of May, 1996.

Gloria Bozo appeared before the Commission with Exonerations. Ms. Bozo advised the Commission of a clerical error made in the Assessor's Office which resulted in the sale by the Sheriff of Fayette County for delinquent 1973 taxes of Parcel 10-02-2-440 owned by Ronnie Hale and Bobby Yoney. Ms. Bozo asked the Commission to dismiss and cancel said sale. Commissioner Carte move that relief be granted. Commissioner Witt seconded.

The Commissioners received and reviewed letter from Susan William, reporter with the Charleston Gazette complimenting the employees at the courthouse of the excellent work on Election night.

Ms. Holly informed the Commissioners the pool at the Fayette County Park is open. Commissioner Witt commented on how well the pool looked.

The Commissioners signed Fire Levy Protection Agreements for Nuttall Fire Department and Montgomery Fire Department.

Ms. Holly presented to the Commissioners invoices to be paid from the Fire Levy Fund, Ms. holly informed the Commissioners the checks would be prepared this afternoon.

Ms. Holly informed the Commissioners that Kelvin Holliday, County Clerk has requested that reservations to the Annual Clerks' Conference be taken out of his this years budget. The Commissioners informed they had no objections. This was approved.

Ms. Holly informed the Commissioners she had stopped by Sheriff

Bill Laird's Office, he informed her that the overtime for the deputies are quite high and if the Commissioners need to talk with him regarding this expense to give him a call.

The Commissioners signed renewal application for registration certificate for business licenses at the Fayette County park/swimming pool.

The Commissioners received and reviewed copy of letter to Kathryn Hoffman from the Division of Environmental Protection informing she has been appointed as a member of the Fayette County Solid Waste Authority.

Ms. Holly informed the Commissioners she has received several letter from Ann Berry, Chief Office Deputy in Tax Office today; Ms. Holly informed the Commissioners she hasn't had a chance to review, will hold until next meeting.

The Commissioners met with Phyllis Gray and concerned citizens of the Jodie community concerning the permit application of Imperial Colliery to install a coal washing plant in their community. Ms. Gray informed the Commissioners they oppose to the coal washing plant; the road is narrow and winding and its over an old one lane bridge and they are extremely concerned about the safety and transportation. Commissioner Carte asked if Imperial Colliery had advertised regarding he permit. The citizens informed yes, the citizens of Jodie informed the Commissioners they were concerned over the environmental issues relating to noise pollution and the pollution of Rich Creek, a popular trout stream. The Commissioner informed Ms. Gray and the citizens of Jodie they would prepare letter to the Director of the Division of Environmental Protection requesting them to disapprove the application of Imperial Colliery for a coal washing plant at Jodie. The Commissioner suggested sending letter to our Senators and Delegates.

Attorney Ralph young appeared before the Commissioners with final

petition of two (2) annexations; 1) Annexation by minor boundary adjustment of 4.277 acres area owned by Victoria Norosky (Burns), Helen Norosky Wriston and Paul Lively situated in Plateau District adjoining the City of Oak Hill, Fayette County, West Virginia; 2) Annexation by minor boundary adjustment of 14.98 acre tract owned by Calvin Manning, situated in Plateau District adjoining the City of Oak Hill, Fayette County West Virginia. No opposition. The Commissioners approved of the annexations.

Commissioners Witt informed Joe Myers, member of the Fayette County Solid Waste Authority that the Commission have agreed to write letter of support to the Division of Environmental protection to reappoint him to the Fayette County Solid Waste Authority Board.

Joe Myers introduced David Frercks, Recycling Coordinator with the Fayette County Solid Waste Authority to the Commission. Mr. Frercks gave a brief description of his duties.

Joe Myers asked the Commission for assistance with the liability at the Landfill, informed the Commissioners they had been written up by the Division of Environmental Protection. The Commission informed they would take under advisement and suggested setting meeting with the Fayette County Solid Waste Authority on June 5, 1996 at 11:00 to discuss. The Commissioners asked Ms. Holly to inform the Prosecuting Attorney's Office of the meeting.

Unanimous decision was made by the Commission that Gary Harding, Zoning Officer is to maintain office hours from 8:00 a.m. to 12:00 noon for visitation and to go out in the field in the afternoon.

Herma Cook appeared before the Commission regarding getting ambulance service back in the Danese are. Commissioner Witt asked Ms. Cook if she had any qualified people to help run operation. Steve Cruiskank, Emergency Coordinator and David Neal, 911 Emergency

Coordinator were present. Mr. Cruikshank informed the Commissioners that service is needed in area, would have to be a non-profit organization. Commissioner Witt asked Steve to explore thoroughly and come back with recommendation. Commissioner Witt questioned about the condition of the 2 vehicles that were used and asked what is required of the Commission. Suggested evaluation the whole thing and asked Steve and David to report back with the Commission on June 14, 1996 at 10:00 a.m.

Arbutus Pell, Delbert Cole with the Whipple Community in Action appeared before the Commission to discuss getting fire hydrants for the Whipple, Scarbro and Carlisle area. Ms. Pell informed the Commission that the community had fire hydrants and the Health Department had them taken out. The Commission suggested they talk with Tom Muncy with the West Virginia-American Water Company.

Mary Lou Schmidt introduced to the Commission Douglas Hurst the new 4-H Leader to replace Robert Arthur.

Lee Massey, Jack Tamplin, John Eades, Dr. Donald Newell members of the Fayette County Board of Health and Dr. Allen Dyer, Richard Flanagan, Debbie Howington and other members of the Appalachian OH-9 appeared before the Commission.

Ms. Holly gave the Commissioners an update of several letters and conversation regarding the use of the Fayette County Health Department building.

Mr. Massey informed the Commission the Board members would like Appalachian Oh-9 to vacate building immediately. Commissioner Witt asked Mr. Massey what is his concern regarding Oh-9 using the building. Mr. Massey informed he feel that OH-9 don't want to share the cost of the utilities for the building and they are asking for space to set up WIC Program. Dr. Dyer informed the Commissioners OH-9 do not use 40% of

the building and asked Richard Flanagan to give update on WIC Program. Mr. Flanagan inform the Commissioners that the distribution of the WIC for Fayette County could increase to 70% if they had more space. Dr. Dyer informed the Commissioners they needed to know about the extra space for the program since deadline is the end of May. Commissioner Witt asked Paul Blake, Prosecuting Attorney about the use of the American Legion building. Mr. Blake informed the Commission that this would create a problem for the Legion. Ms. Holly questioned about the status of the roof. The Commissioners suggested that OH-9 use Health Department building for 5 days a week for 60 days temporarily to see how it would work out. Lee Massey did not agree with this decision. Commission Witt informed that this situation seem like a personal difference with the Fayette County Health Department and Appalachian OH-9. The Commissioners suggested getting letter out to the Health Department and OH-9 informing them of the Commission's next meeting. No decision was made regarding this matter.

Floyd McKnight met with the Commissioners to question about the \$5,000.00 contribution to the Beards Fork Community, Inc. Mr. McKnight wanted to know if the check would be issued to SALS. Commissioner Witt suggested before distribution of check to contact SALS and get together with Beard Fork Community to discuss.

Commissioner Carte moved to go into Executive Session to discuss Deputies Law Suit. Commissioner Lopez seconded.

Commissioner Carte made motion to go back into regular session and asked that a Amicus Brief be filed with the West Virginia Supreme Court of Appeals in the deputy sheriffs suit. Commission Lopez seconded. Unanimous decision 3-0.

The Commissioners approved to purchase fax machine for the Prosecuting Attorney's Office.

Ms. Holly informed the Commissioners that Earl Pauley, Park Superintendent had sent up break-down on cost of camps for the Fayette County Park. The Commissioners asked Ms. Holly to hold until next meeting.

The Commissioners approved of purchase of an air condition and small water fountain for Fayette County Park.

Payroll and outstanding bills were approved.

The Commissioners signed letter opposing the permit application of Imperial Colliery to the Division of Environmental Protection on behalf of the Community of Jodie in Fayette County.

The Commissioners received and reviewed letter from Jackson and Kelly asking the Commission to post notice regarding Special Election of the Town of Ansted.

The Commissioners received and reviewed letter from Bell Atlantic with list of "refusals to pay associated with the Emergency Telephone System for the month of April, 1996."

The Commissioners signed letter to the Public Service Commission recommending the reappointment of Joe Myers to serve as a member of the Fayette County Solid Waste Authority.

The Commissioners signed blanket federal excise tax exemption certificate for Chevron Products Company.

The Commissioners signed invoice to the Division of Corrections for office space for Parole Office for the month of May.

The Commissioners signed letter to the Family Law Master requesting reimbursement for rent in the amount of \$990.00 for the month of May.

The Commissioners signed letter authorizing Lakeview Resort to have sleeping rooms, meals, room guarantees and parking fees for Herbert Mann, Linda Johnson and Sherry Davis charged while they are attending

the Annual County and Circuit Clerk's convention being held August 7th, 8th, 9th and 10th.

The Commissioners received and reviewed letter from Virginia Thomas Gamble, Division Leader with the West Virginia University Extension Service requesting authorization for travel reimbursement for Ancil Schmidt for his work with 4-H Programming in Fayette County. Ms. Gamble informed the Commission that this reimbursement should be funded from that portion of travel normally maintained for Extension Agent (Robert Arthur).

The meeting was adjourned. Next scheduled meeting is June 5, 1996.

  
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Jodie Community 5/29/96  
Re: Coal Working Slates

L.D Thomas

Randall Kise

ERNIE NESTER

John Piro

John Hess

Peggy Braun

Jim Ward

Garland Graves

Christopher

James McCloud

Karl Gray

Don Braannon

Pat Cal D'Almeida

Crickell Sunning

Angela Lacey

Jennifer Thomas

Mary Grace

FAYETTE COUNTY COMMISSION  
SPECIAL SESSION  
NOVEMBER 12, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in special session on this 12th day of November, 1996 to canvass results of the Presidential General Election held on November 5, 1996.

Exonerations were approved and signed.

Sheriff Bill Laird appeared before the Commission to formally announce his resignation as Sheriff of Fayette County.

Commissioner Lopez made motion to appoint Howard E. Janney to serve as Sheriff of Fayette County for the remaining 6 weeks until the completion of the unexpired term ending December 31, 1996; Gene Carte seconded; vote unanimous.

The Commissioners signed order from Jamie Blankenship correcting order of June 26, 1996 regarding the annexation by minor boundary adjustment of 39.10 acres adjoining the Town of Thurmond and commonly known as the subdivision of the McKell Development; the Town Recorder was erroneously designated as "Susan" Akins when in fact her correct name is Sandra Akins. (See attached)

The Commissioners approved for Earl Pauley, Park Superintendent to purchase EasyVac 5 HP motor for Fayette County Park, cost \$1,535.00.

The meeting was adjourned. Next scheduled meeting is November 15, 1996.

John L. Witt

IN THE COUNTY COMMISSION OF FAYETTE COUNTY, WEST VIRGINIA

TOWN OF THURMOND,  
a municipal corporation,  
PETITIONER

ANNEXATION BY MINOR BOUNDARY ADJUSTMENT OF  
39.10 ACRES ADJOINING THE TOWN OF THURMOND AND COMMONLY  
KNOWN AS THE SUBDIVISION OF THE MCKELL DEVELOPMENT

O R D E R

Whereas, by Order entered herein on the 26th day of June, 1996, the Town Recorder was erroneously designated as "Susan" Akins, when in fact her correct name is Sandra Akins, and by the entry hereof the County Commission intends to correct said erroneous designation.

NOW, THEREFORE;

On this the 26th day of June, 1996, came the Petitioner, the Town of Thurmond, a municipal corporation of Fayette County, West Virginia, by Sandra Akins, Town Recorder, and its Attorney, James C. Blankenship, III, upon Petition heretofore filed and pursuant to the Order of the Commission setting this proceeding for hearing on this date, all by authority of the provisions of Chapter 8, Article 6, Section 5, of the West Virginia Code, as amended.

Pursuant to the terms of said Order heretofore entered, the Petitioner asked leave to file herein a notice of hearing to be held on this date, bearing thereon the certificate of Sandra Akins, Town Recorder of the Town of Thurmond, duly sworn, and attesting to the fact that said notice had been posted in five public places in the area proposed to be annexed. Whereupon, said notice, bearing said return of posting, was ORDERED filed.

The Petitioner then asked leave to file a certificate of publication issued by the Fayette Tribune, Inc., attesting that said notice was duly published in The Fayette Tribune, a newspaper of general circulation in the municipality and the area proposed to be annexed, and which said notice sets forth an accurate description of the area to be annexed and gives due notice of this hearing, which said certificate of publication being in compliance with the Order of the Commission and the law, the same is likewise ORDERED filed.

Whereupon, the Court proceeded to hear and did hear the evidence adduced in behalf of the Petition and on the matters arising therefrom, there being no persons or corporations appearing in opposition thereto, the Court finds the annexation applied for constitutes a minor boundary adjustment and Petitioner is entitled to the relief prayed for in its Petition.

It is, therefore, ORDERED that the corporate limits of the Town of Thurmond, a municipal corporation in the State of West Virginia, be changed so as to embrace within its corporate limits the real estate described in the Petition filed heretofore.

Entered this 12<sup>th</sup> day of November, 1996.

  
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PRESIDENT

  
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COMMISSIONER

  
\_\_\_\_\_  
COMMISSIONER

FAYETTE COUNTY COMMISSION

REGULAR SESSION

NOVEMBER 15, 1996

COURTHOUSE

FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 15th day of November, 1996.

Commissioner Witt called meeting to ~~an~~ order as Board of Canvassers to verify the hand count with the tabulator results for the 1996 Presidential General Election.

Ms. Holly explained to the Commission the reason for the hand count. Ms. Holly informed that there was an error in addition of the tally of two hand counted precincts; it was beyond the 1% allotted. Ms. Holly informed the Commissioners she talked with the Secretary of State Office, and explained to them that she felt the error was made in hand counting the multiple candidates races for the Supreme Court Justice, Magistrates, and the House of Delegate due to inaccurate hand counting of over votes, straight tickets, etc. Ms. Holly informed the Commissioners the Secretary of State gave permission to verify the hand counted precincts and only recount the three multiple candidate races for these 2 precincts.

Ms. Holly informed the Commissioners she had advertised for a new Mailing Postage Machine; only received one bid from Pitney Bowes. The Commissioners opened bid; Commissioner Lopez made motion to accept bid from Pitney Bowes. Commissioner Carte seconded. Approved by unanimous decision.

Payroll and outstanding bills were approved.

The Commissioners approved to purchase 140,000 BTU Waste Oil Heater from Camco for the Fayette County Park with a 2 year labor

warranty plus factory warranty, cost would be \$3,750.00 plus freight, minus \$200.00 for old heater, net price \$3,550.00.

Ms. Holly informed the Commissioners that Earl Pauley, Park Superintendent informed he is holding off on purchasing the EasyVac for the park; the salesman have changed prices on the purchase.

The Commissioners approved to pay Fire Levy invoices from Meadow Bridge Volunteer Fire Department.

The Commissioners approved for Charlotte Holly, County Administrator to prepare Library Levy check.

The Commissioners signed order accepting the resignation of William R. Laird, IV, Sheriff of Fayette effective 12:00 midnight on November 15, 1996 and appointing Howard E. Janney, Democrat to serve as Sheriff of Fayette County beginning at 12:01 a.m. on November 16, 1996 until the completion of the unexpired term ending 12:00 midnight on the thirty-first day of December, 1996.

The Commissioners signed letter to Philip Tissue, President of the Fayette County Board of Education, Board members and Superintendent Ray Carson requesting that they postpone the scheduled auction of the Kimberly School building until the County Commission, a citizens group in Kimberly, our legislative delegation and Board of Education representatives can put together a plan and funding package to keep the facility in public ownership.

The Commissioners received and reviewed letter from Kelvin Holliday, County Clerk informing that Kay Smith would be hired as a full-time employee effective two weeks from now. To replace Barbara McGuffin.

The Commissioners received and reviewed letter from Kelvin informing the Commission of the salary increases of his full-time employees effective November 16, 1996. Kaye Smith to start employment

as of November 27th; Linda Tury as part-time deputy salary \$7.15 an hour.

The Commissioners received and reviewed minutes from Salem-Gatewood Public Service District for the month of October.

The Commissioners signed letter to Penelope Crandall, Director Family Law Masters requesting reimbursement for rent in the amount of \$990.00 for the month of November.

The Commissioners signed invoice to the Division of Correction for the Parole Office rent for the month of November.

The Commissioners received and reviewed copy of a letter from David Frercks, Recycling Coordinator informing the residents of Montgomery that a meeting is scheduled for November 16th at 10:00 a.m. to inform them more about curbside recycling program.

The Commissioners received/reviewed and approved to pay invoice for services delivered by attorney Travis Harrington in regard to the Regional Water Project.

The Commissioners received/reviewed and approved to pay invoices for services of Paul O. Clay, Jr. in regard to the law suit filed by the Fayette County Haulers, Inc.

Ms. Holly informed the Commissioners she received 2 adjustments reports from the insurance one for Deputy John Wriston cruiser and one for James Sizemore's cruisers. Earl Pauley, Park Superintendent is to use parts he has at garage to repair vehicles, cost to repair vehicles would be cut in half.

Ms. Holly informed the Commissioners that Governor Gaston Caperton has given the state employees Friday the day after Thanksgiving off. Commissioner Lopez made motion to give the county employees Friday, November 29th off for Thanksgiving Holiday. Commissioner Carte seconded. All approved. Vote passed 3-0.

The Commissioners received and reviewed 911 Ambulance response report for the month of October.

The Commissioners received and reviewed requested copy of the Overtime Report of the 911 employees from Steve Cruikshank.

The Commissioners asked to leave payroll meeting for December 13th open, and agreed to cancel regular meeting for December 25, 1996.

Exonerations were approved and signed.

The Commissioners received/reviewed and signed Fayette County 6½% Environmental Improvement Revenue Bond (Union Carbide Corporation Project Series 19976).

Ms. Holly informed the Commissioners she had received survey of easement of Camp Abbot from Ben Hudnall but did not know the dollar amount for easement. Commission agreed to \$500.00 consideration.

The Commissioners received and reviewed application for employment from Connie J. Taylor, Joyce Dooley, and resume from Antoinette C. Martin.

The Commissioners received and reviewed audit report from Ansted Certified Fire Department, Inc. For the year ended June 30, 1996.

Ms. Holly presented the Commissioners with Roy Coleman's proposal to fix sidewalk on the Maple Avenue side of the courthouse which he could commence after the Thanksgiving Holiday. Commissioner Witt suggested waiting until the spring.

The Commissioners received and reviewed letter from the Workers' Compensation Division regarding claim of William C. Hamilton, a copy of claim was given to the Sheriff.

The Commissioners received and reviewed Annual Report and Audit Report from White Oak Public Service District.

The Commissioners received and reviewed Workers' Compensation Report claims filed for the month of September.



The Commissioners received and reviewed franchise fees from TWFranch-One Company for the third quarter of 1996. Ms. Holly informed the Commissioners that this is the year they could change the percentage of the amount each franchise have to pay. The Commissioners informed Ms. Holly they would discuss this at a future meeting.

The Commissioners received/reviewed and signed invoices to Mount Hope, Town of Fayetteville and City of Oak Hill for the confinement of inmates at the Southern Regional Jail.

The Commissioners received and reviewed from Steve Cruikshank a copy of reimbursements from the Federal Emergency Management Agency, money to be deposit in General County Fund and Fire Levy Fund.

The Commissioners received and reviewed thank you letter from Fayette County Solid Waste Authority for their financial assistance.

The Commissioners received and reviewed a letter from the Fayette County Libraries Board informing that Debbie Ferri has resigned from the Board and asked the Commission to appoint Felice Stark to fill unexpired term. Commissioner signed order appointing Felice Stark to fill the unexpired term of Debbie Ferri.

The Commissioners received and reviewed letter from Pullin, Knopf, Fowler and Flanagan informing that the law suit-Horrocks v. City of Fayetteville, etal has been dismissed.

Ms. Holly informed the Commissioners the County Commission Association of West Virginia will be holding a meeting on December 1, 1996 to December 2, 1996. Commissioner Witt informed Ms. Holly he would be attending. Ms. Holly informed the Commission she has prepared letter authorizing that Commissioner Witt's sleeping room, meals, room guarantees and parking fees be charged.

Ms. Holly informed the Commissioners that Public Employees Insurance Agency (PEIA) premium contribution scheduled for January 1,

1997 to raise is not for non state agency but for State Employees only.

Ms. Holly informed the Commissioners she would be attending an ADA Seminar on Tuesday, November 19, 1996.

The Commissioners received and reviewed letter from Alan Hess writing to petition the Commission for a credit on the overpayment of taxes. Ms. Holly informed the Commissioners she forwarded a copy to the Assessor's office.

The Commissioners approved travel voucher for Ann Berry, Chief Deputy in Tax Office.

The Commissioners received and reviewed letters from John Shumate, informing he would be the attorney for claimant for Donald Williams, II in the Workers' Compensation hearing.

The Commissioners received and reviewed letter from the Board of Investments regarding the improvements in processing investments activity.

The Commissioners received and reviewed letter from Ford Motor Company informing of defect which relates to motor vehicle safety exists in Ford cars, Ms. Holly informed the Commission original has been given to Earl Pauley, Park Superintendent for his review.

The Commissioners received and reviewed a letter from the Department of Tax and Revenue certifying that Thomas E. Aeillo has substantially complied with the "Assessor's additional duties" and is entitled to the addition compensation of \$15,000. The Commissioners approved to pay.

The Commissioners received and reviewed letter from Dell Dimension Products enclosing a replacement battery and a revised battery socket assembly to make the computer system and battery compatible in the Prosecuting Attorney Office, copy sent to the Prosecuting Attorney Office.

The Commissioners received and reviewed letter from Moody's Inventors Service.

The Commissioners received and reviewed letter from the Division of Environmental Protection informing that the Public Service District/townships or group can receive assistance from the Office of Abandoned Mine Lands and Reclamation Program to assist in extending or repairing there water system if the water quality/quantity is predominately impacted by coal mines abandoned in our state prior to August 3, 1977, a copy of letter was forwarded to Dave Pollard, Resource Coordinator.

The Commissioners received and reviewed letter from the Department of Health and Human Resources regarding Construction Permit Application for the proposed Water Facilities in Ansted and Oak Hill areas of Fayette County, a copy was forwarded to Dave Pollard, Resource Coordinator.

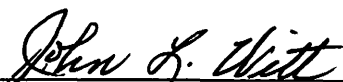
The Commission asked Ms. Holly to pursue the AT&T upgrade on telephone system.

Ms. Holly informed the Commissioners she talked with Earl Pauley and he informed that the gas line going to the park was owned by Ashland and they have sold out. The Commissioners asked Ms. Holly to check with West Virginia Power and Gas to see if they own it.

The Commissioners asked about the status of Ron Walton's request for Fire Hydrants in the Whipple are. Commissioner Witt informed that Dave Pollard is working on plan with West Virginia Water.

Ms. Holly informed the Commissioners that after recounting the 2 hand counted precincts from the canvass held on November 12th, the count is within the 1% allowed by the Secretary of State's Office.

The meeting was adjourned. Next scheduled meeting is November 20, 1996.

  
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FAYETTE COUNTY COMMISSION  
SPECIAL SESSION  
NOVEMBER 20, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.,

The Fayette County Commission met in special session on this 20th day of Novebmer, 1996.

Ms. Holly informed the Commissioners the roof in the Circuit Clerk's Office was leaking again, talked with maintenance, James Perdue is going to put seam repair on roof.

Commissioner Witt read order certifying canvass of the General Election held November 5, 1996. Orders signed.

The Commissioners received and reviewed letter from William Laird former Sheriff of Fayette County informing of office desk currently located in the Office of the Sheriff. Mr. Laird informed the Commission that this desk is his personal property and asked that a proper record be made of the fact that this is his personal property and that it is his intention to remove this desk from that office at some future date.

Ms. Holly informed the Commissioners she received fax from David Neal, 911 Coordinator informing that effective November 30, 1996 Scott Tygrett is resigning as telecommunicator operator.

The Commissioners signed letter to 4-C Economic Development Authority reappointing John Carrier and John L. Witt to the 4-C Economic Development Authority Board of Directors.

The Commissioners received and reviewed notice from the Fayette County Board of Education informing the public auction of the former Kimberly Elementary School has been canceled.

The Commissioners received letter from auditor asking the Commission to prepare a management representation letter for audit for

fiscal year ended June 30, 1996.

The Commissioners received and reviewed letter from Allegheny Power informing they have selected a contractor Geo Research, Inc. to perform a field inventory of all our electric poles.

Ms. Holly informed the Commissioners that the tower is up and complete except waiting on antennas to arrive. Ms. Holly informed the Commissioners that the Power Company is waiting on lease from Thomas Johnson before they install power. Ms. Holly also informed the Commissioners that we are still waiting for Thomas Johnson to sign our lease.

Ms. Holly informed the Commissioners that the building has minor things to be done, David talked about the possibility of replacing D8 batteries with gel cell batteries talked with Earl Pauley about using the other batteries at the Park. Commissioner Witt suggested using old batteries since they are still working.

Ms. Holly informed the Commissioners that Valley Emergency Service had to make arrangements to remove their equipment from the old sight to the new tower sight. Commissioner Witt asked that Valley Emergency Medical Services be notified that the old tower would be dismantled and they would have to make some arrangements, Commissioner Witt asked that Steve Cruikshank and David Neal to help assist.

Ms. Holly informed the Commissioners they received documents on the Local Law Enforcement Block Grant (overtime). Grant signed. The Commissioners signed letter to Nancy Gist, Director of the Local Law Enforcement Block Grant Control Desk informing that effective November 16, 1996 through December 31, 1996 the project Director for the grant is Sheriff Howard E. Janney and effective January 1, 1997 the Project Director would Sheriff Larry G. Dotson.

The Commissioners recessed until 10:30 a.m.

The Commissioners reconvened at 10:45 a.m., Commissioner Witt asked to go into Executive Session to discuss the operation of the Sheriff Deputy overtime and irresponsible use of the vehicles.

Unanimous.

The Commissioners reconvened to go back into special session.

Commissioner Witt asked for a motion regarding advertising for 2-used 1994 Chevy Caprice vehicles for Law Enforcement.

Commissioner Carte made motion that the county advertise for 2-used 1994 Chevy Caprice with police package. Commissioner Lopez seconded. All approved. Unanimous decision. Sheriff Howard Janney, Larry Dotson, Chief Deputy Everette Steele and Commissioner Witt are to go to Ashland, Kentucky to check used cruisers.

Outstanding bills were approved.

The meeting was adjourned at 12:00. Next scheduled meeting is November 27, 1996.

  
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FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
NOVEMBER 27, 1996  
COURTHOUSE

FAYETTEVILLE, WV 25840

MEMBERS Present; John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 27th day of November, 1996.

Ms. Holly informed the Commissioners that Kelvin Holliday, County clerk wants to open the ballot room at 9:30 a.m. to get names and addresses of challenged voters to send notices to them as required by election law.

The Commissioners signed order approving grant as originally approved in the 1996-97 budget in the amount of \$15,000 for Armstrong Public Service District contingent upon the funding for the entire project is achieved and the timely progress of the project toward a successful completion.

The commissioners received and reviewed letter from Beards Fork Community Organization requesting release of contribution of \$2,000.00 from fiscal year 1996-97 budget. Approved.

Payroll and outstanding bills were approved.

The Commissioners signed notice to the Department Heads and Employees regarding legal holiday schedule for 1997.

The Commissioners signed letter to Last Day Ministries, Inc. informing they are not able to approve their request for funds due to the reduced County revenues, especially Coal Severance Funds.

Ms. Holly informed the Commissioners she received signed lease agreement from Thomas Johnson with Kanawha Gauley Coal and Coke; lease has been recorded.

Ms. Holly informed the Commissioners she talked with Steve

Cruikshank, Emergency Coordinator, regarding Valley Emergency Medical Services moving their radio equipment to the new site. Ms. Holly informed the Commissioners that Steve said he would take care of. The Commissioners asked Ms. Holly to prepare a letter to Kanawha-Gauley Coal and Coke Company informing them that the Commissioners approve Valley Emergency Medical Services request to move its radio equipment and antennas to the Valley Tower site from the existing tower location. The Commissioners asked Ms. Holly to have David Neal, 911 Coordinator get a letter from Valley Emergency Medical Services requesting to remove radio equipment and antennas to the Valley site. The Commissioners informed that Valley Emergency Medical Services is responsible for the cost of moving equipment.

The Commissioners received and reviewed quarterly report from David Pollard, Community Resource Coordinator.

The Commissioners received and reviewed application for employment from Shirley Lynn Lucas.

The Commissioners received and reviewed minutes from the Deepwater Public Service District for the month of November.

The Commissioners received and reviewed Dog Warden Report for the month of October; Ms. Holly informed the Commissioners that she received a call from Bert Horrocks, Dog Warden, informing that his dog trap had been stolen.

Ms. Holly informed the Commissioners she had received a call from Kelvin Holliday, County Clerk, informing that Barbara McGuffin had called about her vacation. Ms. Holly informed the Commission that according to our Vacation/Sick Leave Policy Ms. McGuffin is due to be paid for her unused vacations days. Mr. Holliday informed the Commission he would pass this information on to the Payroll Clerk.

The Commissioners received and reviewed franchise fees from The



Helicon Group, L.P. and Master Telecable, Inc. for the period July 1, 1996 to September 30, 1996.

The Commissioners read notice from the Helicon Group informing that basic and variety channel package rates will be changing in January, 1997.

The commissioners received and reviewed notice informing of the Fayette County Bar Association Christmas dinner being held Friday, December 13, 1996 at 1:00 p.m. at the Elliott's Restaurant.

The Commissioners received and reviewed a letter from John Shumate, Jr. attorney for Donald Williams, II in Workers' Compensation hearing.

The Commissioners received and reviewed Memorandum In Support of Respondent's Motion To Dismiss And In Opposition of Plaintiff's Motion For Discovery for filing in the Fayette County Haulers v. The County Commission of Fayette County, Civil Action #96-C-0256(V) from attorney Paul Clay, Jr.

The Commissioners received and reviewed audit report from Nuttall Volunteer Fire Department for fiscal year ending June 30, 1996.

Ms. Holly informed the Commissioners that the bids for the purchase of two (2) full size police cruisers, 1994 or newer model, low mileage with police package, are due Wednesday, December 4, 1996 at 10:00 a.m.

The Commissioners received and reviewed letter from Governor Gaston Caperton approving request of \$20,000.00 to make improvements to the Valley Detachment of the Fayette County Sheriff's Department and the Fayette County Courthouse.

Ms. Holly asked the Commission if they wanted to discuss the Whipple Community in Action request regarding the fire hydrants in the area. Commissioner Witt informed he is still working with the West

Virginia-American Water Company on this matter.

The Commissioners approved to pay invoice from Leon Spencer for survey of easement to County Commission from Benjamin Hudnall.

Kelvin Holliday, County Clerk asked the Commission if they would approve for him to attend the Special Workshop-Improving Services to Voters being held February 13-14, 1997 at Hilton Head, South Carolina. Mr. Holliday asked that this be paid out of the Election Expense. Commissioner Lopez made motion for Kelvin to attend Improving Services to Voters Workshop in Hilton Head, South Carolina and expense would be paid out of Election Expense; Commissioner Carte seconded. Unanimous decision.

The Commissioners approved for Charlotte Holly, County Administrator to attend Interpersonal Communication Skills being held December 17 at Beckley or December 18 in Charleston and How to Manage Multiple Projects, meet Deadlines and Achieve Objectives being held December 13 in Beckley or December 12 in Charleston.

Ms. Holly informed the Commissioners she was told by the County Clerk's Office that several votomatics need to be repaired; Ms. Holly asked the Commission if the maintenance crew could repair the votomatics. This was approved.

Commissioner Witt informed the Commission Sheriff Elect Dotson and interim Sheriff Janney had driven down to Ashland to check on used police cruisers as recommended by Earl Pauley; Mr. Witt informed the cruisers were in terrible shape and would not do the county any good.

Members from the West Virginia-American Water and New Haven Public Service District appeared before the Commission. Commissioner Witt asked Mike Miller representing WV-American Water to give update on the water project.

Mike informed the Commissioners that they were here today to ask

the Commission to make a motion to sign resolution authorizing West Virginia American Water Company to pursue a Public Service Commission application for the proposed \$44 million Fayette Plateau Regional Water System. Commissioner Witt asked Travers Harrington to check resolution before the Commission make motion. Commissioner Carte asked about the fire hydrants. Mr. Harrington informed he see no problem with resolution. Commission Carte moved that resolution with WV-American Water Company be approved. Commissioner Lopez seconded. Unanimous decision, Resolution signed. New Haven Public Service District, Kenneth Hayes signed an operating and maintenance agreement with WV-American Water Company, under the plan the New Have Public Service District will own a portion of the regional water system built from public funds, WV-American will build system and operate it.

Gary Reese, Danielle Reese, Rebecca Reese appeared before the Commission with complaint regarding the Terry Holbrook property in Summerlee. Danielle informed the Commission that they were upset with the Fayette County Board of Zoning Appeals for allowing a pool room to be next door to their home. Ms. Reese informed the Commission that the Board of Zoning Appeals had given Mr. Holbrook a permit to operate a grocery store but instead he put in pool room; after the residents complained, Mr. Holbrook went back to the Zoning Board and filed an amended application to operate pool room. The Zoning Board approved the permit with conditions on operating hours; Ms. Reese informed the Commission she had brought videos in for them to review. Ken Elder pool room manager entered the Commission room with his video camera. Ms. Reese informed the Commission she did not want Mr. Elder to video session; a heated discussion ensued and the Commissioners asked Ms. Holly to have deputies come over to help maintain order. Commissioners told the Reese that the Commission had no authority to overrule the

Zoning Board. Commissioners Carte suggested to the Reese's that their only recourse was to file a criminal complaint for public nuisance.

Charles Toombs appeared before the Commission requesting enlargement of the Wolf Creek Public Service District to expand the boundaries to Garten, Gatewood Road, Cunard and Brooklyn so they could be included in sewer project; Mr. Toombs informed the Commission that Wolf Creek Public Service District is in the process of completing a \$20,000 plan for sewer but that another \$60,000 will be needed for a more detailed engineering study; Mr. Toombs informed the Commission that over 80% of the study is completed. Woolpert informed the Commission that study should be complete by the end of the year.

Mr. Toombs also requested the Commission's support for the Wolf Creek Public Service District against possible encroachment by the Town of Fayetteville.

Commissioner Lopez informed Mr. Toombs of the Coal Severance budget revenues shortfall and informed Mr. Toombs that the Commission has a hold on all spending except critical expenditures and as for the Commission making any kind of commitment the Commission could not because all unbudgeted grants to outside agencies were on the backburner at this time. Commissioner Lopez informed Mr. Toombs it would be better for him to come back in mid February; there would be a possibility of committing some funds, if any available.

Mr. Toombs asked the Commission to write a letter to the Town of Fayetteville regarding their plans on expanding the Wolf Creek Public Service District and informed the Commission that they would continue working toward their goals in getting the money for the engineering study. Ms. Virginia Beckett asked the Commission if it would be legal for the Public Service District to accept funds from the community. Ms. Holly suggested to Ms. Beckett to ask the Public Service Commission

regarding accepting funds from the community.

Carolyn Jones with the Minden Community, Inc. appeared before the Commission to ask the Commission if they would help with cleaning up around or tearing down old dilapidated houses in the Minden area. The Commissioners asked Ms. Jones to leave names of the 4 property owners in question and they would give to Gary Harding, Zoning Officer for him to investigate and report back to the Commission.

The Commissioners received and reviewed letter from John David, Commissioner for the Page-Kincaid Public Service District requesting funds to replace telemetering equipment. The Commissioners asked Ms. Holly to send letter to Mr. Kenneth Fox, President and inform him that due to the reduced revenue receipts by the County during recent months the commission are unable to approve request.

The Commissioners received and reviewed introduction notice from Keith Webster, with K. C. Pressure Washing.

Ms. Holly informed the Commissioners that she received from Judge Vickers a copy of the study done by the Supreme Court regarding the Court Security. Ms. Holly informed the Commissioners that the grant application for the Court Security funds is due by noon on December 31, 1996.

The Commissioners signed letter to Southern Appalachian Labor School (SALS) regarding the distribution of funds and complaints by the Beards Fork Community Association.

The Commissioners received and reviewed letter form Attorney James Keenan regarding the request by Dr. Lewis Cook to establish and operate garbage and refuse collection and disposal services.

The Commissioners signed Certificates of Votes Cast for Bob Phillips for the Presidential General Election.

The Commissioners signed letter to the Board of Investments asking

that Sheriff William R. Laird, IV be removed as authorized person to sign necessary withdrawal and confirmation forms for Fayette County Commission and replace with Sheriff Howard E. Janney effective November 15, 1996.

The Commissioners signed invoices to the Town of Fayetteville, City of Montgomery, City of Oak Hill and City of Mount Hope for the confinement of inmates at the Southern Regional Jail for the month of October.

The Commissioners received and reviewed funds for deposit to the Fire Levy Fund.

Ms. Holly signed letter authorizing that Commissioner John Witt's sleeping room, meals, room guarantees and parking fees be billed to the Fayette County Commission while he is attending the County Commission Association meeting on December 1st and December 2nd, 1996.

The Commissioners received and reviewed Financial Focus newsletter.

The meeting was adjourned. Next scheduled meeting is December 4, 1996.

  
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FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
OCTOBER 9, 1996  
COURTHOUSE

FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 9th day of October, 1996.

Mary Lou Schmidt, Extension Agent introduced Yvonne Snyder of Grant County as the new 4-H Agent to the Commission.

Exonerations were approved and signed.

Carl Harris, Assistant Prosecuting Attorney appeared before the Commission to discuss the Lease for the Valley Tower. Mr. Harris informed the Commissioners that Tom Johnson is requesting \$500.00 a year for leasing of the property. Mr. Harris suggested to the Commission to fax copy of liability insurance to Mr. Johnson. The Commission asked Carl to make changes to Lease and fax to Mr. Johnson for his approval. Commissioner Witt suggested awarding bids for Valley Tower. Commissioner Lopez made motion to accept Two-Way Radio bids as submitted. Commissioner Carte seconded. All approved. Vote passed 3-0.

Ms. Holly informed the Commissioners that Earl Pauley, Park Superintendent said he had 2 men that could remove the trees; and Steve Cruikshank suggested asking the Volunteer Fire Department to assist. The Commissioners asked Ms. Holly to get Earl and his crew to remove trees. Ms. Holly informed the Commissioners they need to build building on property to store batteries. Commissioner Lopez asked about dimensions of building. Commissioner Lopez agreed for the Commission to order the material for the building but informed that anything over \$5,000.00 would have to be bid out. Ms. Holly informed the

Commissioners that this probably would have to be paid out of Building and Improvement Fund. Ms. Holly questioned about upgrading the antennas. David Neal, E911 Coordinator informed Ms. Holly they have received upgrade, would be paid out of 911 Fund.

Mr. Neal informed the Commission that Tom Davis, Quinwood Emergency Services want to know date he could pick up ambulance from Danese. The Commission asked Mr. Neal to make arrangements provided that Mr. Davis give proof of insurance.

The Commissioners signed order subject to the approval of the Assessor that Delph Mathews be afforded tax relief for tax year 1995, in the total amount of \$325.68 in the form of a credit against taxes owing for the following year or years with said tax relief being spread over the year or years until debt is paid.

The Commissioner received and reviewed letter from the City of Oak Hill regarding the Fayette County Fire Pumper Replacement Agreement. The Commission has agreed by unanimous decision to approve the \$25,000 pumper replacement payment to the City of Oak Hill for fiscal year 1996-97.

The Commissioners received and reviewed letter from Kevin Burgess, Attorney asking that the Fayette County Wage and Benefit Review Board promptly meet and undertake to fulfill its obligation.

Commissioner Lopez made motion to dissolve Fayette County Wage and Benefit Review Board due to the inactivity of said Review Board since December 9, 1987; Commissioner Carte seconded. All approved. Unanimous decision.

The Commissioners signed order that the Fayette County Wage and Benefit Review Board be dissolved as of October 9, 1996, due to the inactivity of said Review Board.

Ms. Holly informed the Commissioners she received call from Debbie



Aliff, Payroll Clerk regarding the minimum wage; Ms. Holly informed the Commissioners per Debbie the minimum wage has increased to \$4.75 effective October 1, 1996.

The Commissioners received and reviewed from the Governor's Community Partnership Grant executed grant award and state/local contract for Valley/Lick Emergency Radio Tower, amount \$20,000. Ms. Holly informed the Commissioners that presentation of the grant has been scheduled for October 15th same day auction has been scheduled. The Commissioners decided to ask Dave Pollard to accept check from the Governor's Community Partnership Grant Program for the Valley/Lick Emergency Radio Tower.

Ms. Holly reminded the Commissioners the auction is scheduled for 10:30 today, presented to the Commission the list of things to be auctioned off.

Ms. Holly reminded the Commissioners that testing of tabulator and devices are scheduled for October 29, 1996.

The Commissioners decided to change their October 30th regular meeting to October 29, 1996.

Ms. Holly informed the Commissioners she had met with a salesman from Pitney Bowes regarding the postage machine. Ms. Holly informed the Commissioners that the postage machine is 20 years old and needed to be replaced to accept and meet the postal services changes requiring electronic postage meters. Ms. Holly informed the Commissioners we are currently paying \$142.00 a month for meter lease and equipment maintenance. Ms. Holly informed the Commissioners the salesman from Pitney Bowes is to give us a purchase cost. The Commissioners agreed to let Ms. Holly handle purchasing postal machine.

The Commissioners received and reviewed letter from the Fayette County Public Library Board requesting that Philip Tissue be reappointed

as member of the Library Board. Commissioner Lopez made motion to reappoint Philip Tissue a member of the Library Board. Commissioner Witt seconded. All approved. The Commissioners signed order reappointing Philip Tissue to the Fayette County Public Libraries.

The Commissioners signed Fire Levy Pumper Replacement Agreement for Ansted Certified Fire Department.

The Commissioners received and reviewed a copy of a summons from Sheriff Bill Laird regarding Civil Action 96-C-0275, Patrick J. Adkins. Ms. Holly informed the Commissioners she has forward claim to County insurance agent.

The Commissioners received and reviewed letter from the Fayette County Water Resource Committee informing that study has been scheduled for Wednesday, October 16, 1996 at 10:00 a.m.; this study will cover all of Fayette County and will address water supply, wastewater, water quality and flood problems. Commissioner Witt asked that Dave Pollard, Resource Coordinator attend.

The Commissioners received and reviewed from the Criminal Justice and Highway Safety Division a Court Security Fund-General Grant Information and Requirements Booklet and Grant Application. Ms. Holly informed the Commission she forwarded a copy to Sheriff Bill Laird.

The Commissioners received and reviewed letter from the Department of Transportation giving approval to change road name to "Cafego Road".

The Commissioners received and reviewed letter from Pullin, Knopf, Fowler and Flanagan informing that regarding the Horrocks v. City of Fayetteville case has been settled.

The Commissioners received and reviewed a list of "refusals to pay" associated with the Emergency Telephone System for the month of August, 1996.

The Commissioners received and reviewed a check in the amount of

\$29,114.43 for the Emergency Telephone System for the month of August, 1996.

The Commissioners received and reviewed letter from John Shumate, attorney informing he has been retained to represent Donald Williams, II in his claim for Workers' Compensation benefits. Copy forwarded to Sheriff Bill Laird.

The Commissioners received and reviewed vehicle maintenance repair for the month of September.

Ms. Holly informed the Commissioner that the telephone line to accommodate the computer modem and computer system for the Magistrate Court has been installed as of October 7, 1996.

Ms. Holly informed the Commissioners she received from Casto Technical Services a technical evaluation of the heating, ventilating, and air conditioning (HVAC) equipment serving the Judicial Annex facility's ground Floor and First Floor areas. The Commissioners agreed to let Bob Massey attend Casto Technical Services seminars.

The Commissioners received and reviewed Quarterly Report from Boomer Volunteer Fire Department for period July 1, 1996 through September 30, 1996.

The Commissioners received and reviewed reimbursement from Criminal Justice and Highway Safety Division for Project D.A.R.E., amount \$2,131.41.

The Commissioners received and reviewed checks for payment for land or interest therein acquired by the United States for addition to the National Park System on National Forest Wilderness area after December 31, 1970 authorized by Section 6904 for distribution.

The Commissioners received and reviewed checks for payment in lieu of taxes for federally owned entitlement land as authorized by public law 97-258, Section 6902 not for distribution.

The Commissioners received and reviewed letter from REACT Team 2594 requesting \$1,800.00 for the purpose of purchasing new equipment and repair of existing equipment. The Commissioners asked Ms. Holly to hold for Coal Severance allotment.

The Commissioners received and reviewed 911 statistics for the month of September, 1996.

The Commissioners received and reviewed a copy of a letter written to Kevin Burgess from Paul Blake, Prosecuting Attorney regarding the termination of agreement between the Fayette County Commission and Appalachian OH-9.

The Commissioners received and reviewed Audit Report of Fayette County for the fiscal year ended June 30, 1994.

The Commissioners received and reviewed letter from Appalachian Small Business EXPO informing the West Virginia Small Business Development Center and the Center for Economic Options is having their first annual Appalachian Small Business Expo Regional Trade Show and Business Development workshops at the Charleston Civic Center on Monday, November 18, 1996.

The Commissioners received and reviewed from Central Appalachia Empowerment Zone (CAEZ) the first annual report (1995-1996).

The Commissioners received and reviewed letter from the Marshall University Procurement Technical Assistance Center asking the Commission to add them to their project mailing list. The Commission asked Ms. Holly to give copy to Dave Pollard Resource Community Coordinator.

The Commissioners received and reviewed order from the Workers' Compensation Office denying the extension of time from for claimant Fred Sizemore.

The Commissioners received and reviewed letter from Workers' Compensation Division informing that claimant Fred Sizemore (Kay

Sizemore, widow) has hired Attorney Thomas P. Maroney to represent her.

The Commissioners received and reviewed minutes from the Deepwater Public Service District for the month of July.

Commissioner Lopez asked Ms. Holly if we received minutes from the Kanawha Falls Public Service District. Ms. Holly informed Commissioner Lopez she would have to check file. Commissioners Lopez also asked about getting annual reports from all Public Service District's.

The Commissioners received a copy of a letter from Secretary of State Ken Hechler informing of the changes in the Election Law that were passed during the 1995 and 1996 Legislative Sessions.

The Commissioners received and reviewed memorandum from Dave Pollard informing that inquires have been sent to different foundations concerning funds for needed repairs to the Courthouse roof and sidewalks.

The Commissioners received and reviewed resume's for employment from Letha R. Martin and Kester C. Jones.

Ms. Holly informed the Commissioners she had readvertised for Circuit Clerk roof repair; Ms. Holly informed the Commissioners that James Perdue and Bob Massey had repaired the leaks. The Commissioners asked James if they could hold off until spring to get roof repaired. Mr. Perdue informed the Commissioners he see no problem waiting until spring but felt it should be done then. The Commissioners agreed to wait until spring to repair.

Ms. Holly informed the Commissioners she had missed an appointment to meet with Casto Technical on a day she was sick, but he left report; informed unit for ground floor of Courthouse Annex appears to be under sized.

Ms. Holly informed the Commissioners no progress has been made regarding the administrative fee with West Virginia-American Water

Company.

Ms. Holly informed the Commissioners she has submitted request for grant reimbursement for the Memorial Building and the Fayette County Park. Ms. Holly asked about the progress of the Smithers detachment.

The Commissioners agreed to fix the Fayette County Solid Waste Authority truck for Larry Parsons, Littler Control Director.

Ms. Holly informed the Commissioners that Deputy James Sizemore cruiser was wrecked again; and she received from Earl Pauley, Park Superintendent bids to repair Deputy Robert Godsey's cruiser.

Commissioner Lopez informed the Commission he had talked with Camco regarding the Smithers Detachment; asked what the Commission would do with old building, Ms. Holly suggested auctioning off. Commissioner Lopez suggested to Ms. Holly to get specifications from Sheriff Bill Laird to advertise.

Ms. Holly informed the Commissioners she received a bid from Earl Pauley, Park Superintendent for replacing roof on canteen, leaking in the recreation area in the back. Discussion was held, the Commission asked Ms. Holly to have Earl get more bids.

The Commissioners received and reviewed letters from the Fayette County Solid Waste Authority recommending John Arthur replace Carlyle Blomme and recommend that Frank Lee Kessler to replace Roy G. Taylor. The Commissioners asked Ms. Holly to have Debbie Berry, Secretary for the Fayette County Solid Waste Authority to prepare letter to Division of Environmental Protection recommending Dave Pollard per Larry Johnson.

Ms. Holly informed the Commissioners she had talked with Bill Hannabass with American Family Life Assurance Company (AFLAC); Mr. Hannabass would meet with employees again to explain what new services are available, this would be no cost to the county and would be at the convenience of each employee.

Ms. Holly informed the Commissioners that Steve Cruikshank, Emergency Coordinator had asked her to ask if part of the Emergency reception area could be used for the Domestic Violence Advocate. The Commissioners informed no due to office traffic and lack of private meeting area for confidentiality with clients.

The Commissioners received and reviewed letter from the Department of Tax and Revenue informing of there new fax machine number (304) 558-5327.

The Commissioners received and reviewed letter form David Neal, E911 Coordinator informing that Forrest Bragg, Leslie Leake have been enrolled in an Association of Public Communications Officers dispatch course, October 21-25 at Summersville Fire Department.

The Commissioners received and reviewed letter from Economic Development Corporation inviting them to attend a presentation by Hammer, Siler George and Associates on Monday, October 7, 1996 at 7:00 p.m.

The meeting was adjourned at 11:56. Next scheduled meeting is October 15, 1996.

  
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FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
OCTOBER 15, 1996  
COURTHOUSE

FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 15th day of October, 1996.

Outstanding bills and payroll were approved.

Ms. Holly informed the Commissioners she talked with Gary Harding, Zoning Office and informed him that the meeting for October 30th had been changed to October 29th.

Ms. Holly informed the Commissioners she haven't heard anything from Tom Johnson regarding the Valley Tower Lease.

Ms. Holly informed the Commissioners she has prepared 1996-97 Legislative Digest Community Partnership Grant for Capitol Improvements. Ms. Holly informed the Commissioners a copy of the grant has been sent to Senator Shirley Love and Delegate John Pino.

The Commissioners received and reviewed a letter from Gordon Billheimer regarding the Kanawha Falls Public Service District odor problem at the Boomer treatment plant.

The Commissioners received and reviewed grant application for funding to enhance court security from Judge Charles Vickers. Ms. Holly informed the Commissioners she sent copy to the Sheriff. The Commissioners asked Ms. Holly to prepare letter to Judge Vickers to arrange meeting to discuss.

Commissioner Witt read legal for Public Hearing regarding the Regional Water Project. W. D. Smith, Director for Region 4 Planning and Development gave explanation of project. No opposition.

Commissioner Lopez made motion to adopt Fair Housing Resolution for the



Fayette County Commission. Commissioner Witt seconded. All approved. Commissioner Lopez made motion to adopt citizen participating plan resolution. Commissioner Witt seconded. All approved. W. D. submitted transmittal letter from Regional 4 to the Commission. W. D. presented resolution to authorize Commissioner Witt as President to sign. Commissioner Lopez made motion to authorize Commissioner Witt to sign. Commissioner Witt seconded. All approved. Public Hearing adjourned at 10:25 a.m.

The Commissioners signed Sales Tax Report for the month of September.

The Commissioners signed letter to Penelope Crandall, Director, Family Law Masters requesting reimbursement for rent in the amount of \$990.00 for the month of October, 1996.

The Commissioners signed invoice to the Division of Corrections for rent of office space for the month of October, 1996.

The Commissioners received and reviewed letter from the Workers' Compensation Office of Judges regarding claimant Donald W. Williams, II.

Ms. Holly informed the Commissioners she received Certificate of Insurance from Quinnwood Emergency Ambulance; and informed the Commissioners that ambulance from the Valley Emergency Medical Services has been picked up.

Ms. Holly presented to the Commissioners estimates to repair Deputy James Sizemore cruiser.

The Commissioners received and reviewed Workers' Compensation Report for the period August 1, 1996 thru August 31, 1996.

The Commissioners received and reviewed letter from Division of Environmental Protection appointing Dave Pollard a member of the Fayette County Solid Waste Authority.

The Commissioners received and reviewed letter from the Criminal

Justice and Highway Safety Division informing they have not receive the required reports for Project D.A.R.E. grant for the month of August. Ms. Holly informed the Commissioners that copy of letter has been sent to the Sheriff.

The Commissioners received and reviewed letter from the Last Day Ministries, Inc. requesting assistance in the purchase of a truck. The Commission informed they would have to deny this request.

The Commissioners received and reviewed Assessing the Economic Imparts of Water Provision a case study prepared for the West Virginia-American Water Company.

Ms. Holly informed the Commission she received recreational trails grant application and forwarded a copy to Dave Pollard, Resource Coordinator and Earl Pauley, Park Superintendent, Ms. Holly informed the Commission Earl was interested in applying for grant for the trails at the park.

Ms. Holly informed the Commission that Larry Johnson, Chairman of the Fayette County Solid Waste Authority had received notice of cancellation of insurance; want to know if Commission would assist. Commissioner Carte made motion to pay liability insurance (\$2,805.00) and landfill lease (\$4,500.00) for the Fayette County Solid Waste Authority. Commissioner Lopez seconded. All approved.

Ms. Holly informed the Commission that as of today Coal Severance balance is \$1,660.27; that quarterly allotment will be \$77,933.30, according to State Tax Department. Discussion was held regarding purchasing police cruisers for the Sheriff Office; no decision made. Ms. Holly informed the Commission she would try to get some figures together before deciding on anything.

The Commissioners received and reviewed minutes from Salem-Gatewood Public Service District for the month of September.

The Commissioners received and reviewed a copy of a letter to Earl Pauley from Dave Pollard regarding needing information to prepare recreational trails grant application.

The Commissioners moved to adjourn for auction at 10:45 a.m.

The meeting was adjourned. Next scheduled meeting is October 29, 1996.

John R. Witt

FAYETTE COUNTY COMMISSION  
SPECIAL SESSION  
OCTOBER 29, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in special session on this 29th day of October, 1996.

Commissioner Witt called meeting to order at 9:35 a.m.

Exonerations were approved and signed.

Ms. Holly reminded the Commissioners they are to test tabulator and inspect votomatics devices today. The Commissioners tested tabulator and inspected votomatics; order signed.

Eddie Young member of the Upper Kanawha Valley Baseball League appeared before the Commission to ask them for assistance in helping to keep the Upper Kanawha Valley Baseball field. Discussion was held, Commissioner Lopez informed Mr. Young that a group of citizens had approached the Commission once before for assistance but nothing ever happen. Commissioner Witt suggested to Mr. Young to get chartered organization and get back with them.

It was a unanimous decision to approve and distribute payroll. Commissioners Witt informed he will go through and check bills.

Commissioner Witt made motion to appoint Priscilla Asbury to the Central Appalachia Empowerment Zone (CAEZ). Commissioner Carte seconded. All Approved. Vote passed 3-0.

Discussion was held regarding the Board of Education putting the Kimberly School up for sale. Commissioner Lopez suggested to the Commission to have Ms. Holly prepare a letter to the Board of Education asking them to give the local organization some consideration before selling and suggested to Ms. Holly to have Ray Carson, Acting Superintendent and members of the Board meet with them to discuss.

Commissioner Witt informed the Commissioners he presented check for \$4,000.00 grant to the Fayette County Emergency Food Center from Governor Gaston Caperton's contingency fund for truck repairs yesterday.

Commissioner Witt informed the Commission that the group's other truck has broken down and asked the Commission if they had a problem with the food center towing the truck to the Fayette County Park for repairs; Commissioner Witt informed the Commission the Fayette County Emergency Food Center would buy all the parts if the Commission would donate the mechanic labor to the volunteer non-profit organization. Commissioner Lopez made motion for the Fayette County Emergency Food Center to tow truck down to the Fayette County Park to be repaired as requested; Commissioner Carte seconded. All approved. Vote passed 3-0.

Ms. Holly presented to the Commissioners a map of the property for the Valley Tower. Ms. Holly informed the Commissioners that she did fax a copy of the map to Thomas Johnson for his approval. Ms. Holly also informed the Commissioners that as of today, Mr. Johnson has verbally approved the lease for the Valley Tower site and has given David Neal, E911 Coordinator, approval to remove the trees. Ms. Holly told the Commissioners that David, Earl Pauley, Park Superintendent, and his crew are in the process of removing trees today. Ms. Holly told the Commissioners she had talked with Earl regarding constructing the building to store batteries and equipment on the property; Earl informed he and his crew could build; it would take approximately 2 weeks. The Commissioners approved that Earl and his crew construct building.

Gary Harding, Zoning Officer presented the following case to the County Commission for disposition: Z-425-96-1: Request of Shirley and Audrey Love, owners, for a change in land classification from RR-1, Agricultural and Rural Residence District, to B-1, Neighborhood Business District, on .836 acres, Wolf Creek, located on Salem-Gatewood Road, New

Haven District.

Gary Harding, the Zoning Officer informed the County Commission that the Planning Commission met on this Monday and did by a vote of 8-0 recommend that this request be approved to Planned Development to allow the construction of greenhouses and related sales. Mr. Oscar Neal spoke to the Commission and asked that his grand-daughter be allowed to read a statement on his behalf. Kathy Kincaid read that and then read a statement she had presented to the Planning Commission.

After a general discussion a motion was made by Commissioner John Lopez that this be approved as recommended by the Planning Commission. Motion was seconded by Commissioner Gene Carte and passed by a vote of 2-0 with Commissioner John Witt abstaining because of personal reasons.

The Commissioners received and reviewed request from the Town of Gauley Bridge (Senior Center) for \$2,500.00 contribution that was budgeted for fiscal year 1996-97.

The Commissioners approved to release money budgeted for Senior Center for fiscal year 1996-97.

Ms. Holly presented to the Commissioners the total amount of Hotel/Motel Occupancy Tax collected for the 3rd Quarter (Jul-Aug-Sep), amount \$12,888.71. The Commissioners approved payment to the New River Convention and Visitors Bureau and Southern West Virginia Convention and Visitors Bureau as per current agreements.

The Commissioners approved for Joetta Armstrong, janitor to work Thursday and Friday with the County Clerk's Office to help distribute election supplies for Presidential General Election.

Ron Walton and citizens with the Whipple Community in Action appeared before the Commission to ask for a commitment from the Commission to help purchase fire hydrants for the area. Ron informed the Commission that West Virginia American Water is upgrading the water

system in the area; informed the Commission that Tom Muncy and Greg Nunn informed them they should try to get financial assistance in getting fire hydrants. The cost would be \$1500 per fire hydrant.

Commissioner Witt informed Ron the Commission would get back with West Virginia-American Water and see what their intent might be on the fire hydrants. Commissioner Witt informed Ron and the citizens of Whipple Community In Action that at this time the Commission cannot make any kind of commitment. Commissioner Witt told Ron the Commission would contact the Whipple Community in Action and let them know of any decision made. Ms. Holly asked Ron to get something in writing to her regarding his proposal.

Dr. Lewis Cook, President of Keep America Beautiful appeared before the Commission with a proposal for Universal Garbage Pick-Up for Fayette County. Commissioner Witt suggested to Dr. Cook this should be presented to the Fayette County Solid Waste Authority. David Pollard member of the Fayette County Solid Waste Authority was present and informed Dr. Cook that this is an idea worth exploring and told Dr. Cook he would present proposal to the Authority.

Ms. Holly presented to the Commissioners (2) estimates from Coleman's Construction-1 for repairing courthouse sidewalk facing Maple Avenue, cost \$1,375.00; 2 to install steps from parking meters in front of the Fayette County Library, cost \$3,640.00. Commissioner Lopez made motion to accept estimates for repairs to courthouse sidewalk facing Maple Avenue and to install steps at the Fayette County Library. Commissioner Carte seconded. All approved. Vote passed 3-0.

Commissioners Lopez asked Ms. Holly to give the local reporters a short history as to why its taken so long to get Valley Tower up and working.

The Commissioners received and reviewed audit from the Gauley

River Volunteer Fire Department for fiscal years ending June 30, 1994, 1995 and 1996.

Commissioner Carte made motion to cancel Wednesday November 6, 1996, Commissioners meeting. Commissioner Lopez seconded. Unanimous decision; meeting canceled.

Ms. Holly asked the Commissioners what time to start canvass on November 12, 1996. The Commissioners informed 8:30 a.m. and to have workers to report at 8:00 a.m.

Ms. Holly informed the Commissioners that Kelvin Holliday, County Clerk would like Ballot room to be unlocked at 5:30 p.m. Election Day to set up tabulator and test equipment for election night processing. Approved.

Ms. Holly informed the Commissioners she received phone call from Norma Isaacs regarding the Clifftop parking area and was told that the parking area needed to be done before the General Election. Commissioner Witt suggested confirming status of parking lot with Earl Pauley before making any decision regarding the parking area and that the Commission would take Earl's recommendation.

Ms. Holly informed the Commissioners that the auction held on October 15th made \$7,750.00.

The Commissioners approved for Charlotte Holly to attend the Basic Wage and Hour Law seminar in Charleston, December 18, 1996.

The Commissioners received and reviewed letter from Sheriff Bill Laird informing that Fayette County has been awarded \$12,211 under the Local Law Enforcement Block Grant Program

The Commissioners signed 2 grant applications for the Valley Emergency Medical Services, Inc. for funds to pay balance of cost of replacement vehicle and for radio equipment.

The Commissioners received and reviewed letter from ITT Specialty



Risk Service, Inc. denying that there is no coverage nor is there a duty to defend the Commission under the Public Entity General Liability Insurance Policy or under the errors and Omissions Insurance Policy with Hartford against the Fayette County Haulers.

Ms. Holly asked the Commissioners if they wanted a right-of-way or easement to Camp Abbot. Discussion was held; the Commissioners asked Ms. Holly to call and inform Leon Spencer, Surveyor, they would prefer right-of-way if agreeable with Mr. Hudnall.

The Commissioners received and reviewed release of claims and indemnity agreement from Pullin, Knopf, Fowler and Flanagan regarding Horrocks v. City of Fayetteville et al.

The Commissioners received and reviewed Certificate of Insurance from the TWFanch-one Company.

The Commissioners received and reviewed letter from West Virginia Development Office acknowledging receipt of the Small Cities Block Grant application for the New Haven Public Service District water extension project.

The Commissioners received and reviewed final decision of the Public Service Commission regarding case #96-0213 and case #960345.

The Commissioners received and reviewed copy of a letter from the Fayette County Health Department to Robert F. Williams, Deputy Chief Administrative Law Judge with the Public Service Commission regarding the problem the citizens of Boomer are encountering due to the odor arising from sewage overflow of two pre-treatment tanks located in Boomer.

Ms. Holly reminded the Commissioners of invitation to the Opening Ceremony of the West Virginia Corrections Academy at Maclin Hall at West Virginia University Institute of Technology. The Commissioners informed they would not be able to attend; Kelvin Holliday , County Clerk

informed the Commissioners he would be attending and he would be glad to represent the Commission.

The Commissioners received and reviewed request from Ruth Thomas to change shift on Tuesdays and Thursdays from 12:00-8:00 p.m. to 8:00 a.m.-4:00 p.m. Commissioner Lopez and Commissioner Carte approved. Commissioner Witt suggested leaving up to Ms. Holly. Ms. Holly informed the Commissioners it was okay but would be on trial basis.

Ms. Holly informed the Commissioners that the carpet has been installed in Ladies Juror Lounge.

The Commissioners received and reviewed letter from Steptoe and Johnson regarding Adkins v. Kauff, Civil Action #96-C-0275, Motion to Dismiss hearing scheduled for December 6, 1996 at 10:00 a.m.

The Commissioners received and reviewed notice from the Department of Agriculture informing that Thomas Aiello has completed the Farm Census of 1996 and has satisfactorily complied with the requirements of the Farm Statistics Law and is eligible to receive compensation of \$3,300.00. Approved.

The Commissioners received and reviewed request from the Retired Senior Volunteer Program for release of matching funds as approved for period July 1, 1996 thru June 30, 1997. Approved.

The Commissioners received and reviewed letter from the Cable Equities of the Virginias, Ltd remitting franchise tax for the period July 1, 1996 through September 30, 1996.

The Commissioners received and reviewed check in the amount of \$29,148.04 for the Emergency telephone system for the month of September, 1996.

The Commissioners received and reviewed reimbursement for \$40,000.00 from the Governor's Partnership grant for the Memorial Building Improvements and the Fayette County park electrical upgrade.

Ms. Holly informed the Commissioners that when she mailed check to Cindy Whitlock for the Hotel Occupancy taxes she would include a note informing Ms. Whitlock that the Hotel/Motel Occupancy Agreement expires December 31, 1996.

The Commissioners received and reviewed letter from the Board of Health to Shelby Johnson regarding the pig pen she has on her property, informed Ms. Johnson she was in violation of Chapter 16-9-3 of the West Virginia Public Health Laws.

The Commissioners received and reviewed list of participating Doctors in the Vision Service Plan.

The Commissioners received and reviewed memorandum from the Criminal Justice and Highway Safety Division regarding the Juvenile Justice Delinquent Program informing that the mathematical error was corrected but request for reimbursement for the twenty cents has been denied.

The Commissioners received and reviewed Dog Warden Report for the month of September.

The Commissioners received and reviewed letter from Philip Tissue informing that Joseph McCoy the Fiduciary of the Estate of John Rogers is deceased and Mr. Tissue has been appointed.

The Commissioners received and reviewed letter from Tina Brown informing she is in the process of cleaning up around property on Lot 30, Tourism Subdivision.

The Commissioners received and reviewed survey of Compensation Time and Overtime for Deputy Sheriff's from the County Commissioners Association of West Virginia.

Commissioner Carte made motion to recess until 1:45. Motion granted.

The Commissioners reconvened to discuss the West Virginia Court

Security Fund Proposal with the Elected Officials.

Janet Steele appeared and presented suggestions for security in the Family Law Master Office.

Ms. Holly informed the Commissioners that Sheriff Bill Laird has volunteered to prepare a rough draft application for review and comment by court officials. Ms. Holly suggested that he contact each Court Official on a one-on-one basis for input pertaining to security for each official's office. No objection.

The Commissioners informed that Judge John Hatcher is for Court Security.

The Commissioners informed that since no other Elected Officials appeared, the Commission decided to postpone further grant discussion until later date.

The meeting was adjourned at 1:50. Next scheduled meeting is November 12, 1996, at 8:30 a.m.

  
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FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
SEPTEMBER 4, 1996  
COURTHOUSE

FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 4th day of September, 1996.

Tar Rexroad with Mountain Cap appeared before the Commission to inform them of the Micro-Loan Program. Ms. Rexroad explained how the program worked and left literature for the Commissioner to review. Commissioner Witt thanked Ms. Rexroad for coming and informing them of the Micro-Loan Program.

Exonerations were approved and signed.

Ms. Holly informed the Commissioner she received this morning invoices from Coleman Construction for work done at front door of Tax Office. The Commissioners approved to pay invoice, amount \$450.00.

The Commissioners signed clean-up letters to Tina Brown, James and Jacqueline Wriston, Cora Tolley and Willie Hill.

Ms. Holly informed the Commissioners that several calls had been received regarding the property of Ray N. Clark in East Kingston; Ms. Holly informed the Commissioners that a clean-up letter had been sent. It was recommended by the Commissioners to have the Prosecuting Attorney's Office send a letter to Mr. Clark. Discussion was held, the Commission suggested looking into getting an ordinance regarding clean up of property.

Ms. Holly informed the Commissioners she received notification from the Internal Revenue Service regarding electronic federal tax payments which will begin in January, 1997. Ms. Holly asked the Commission if they wanted to have the deposits made through the Internal Revenue Service or through the Fayette County National Bank; Ms. Holly

informed the Commissioners that if they wanted to have it done with the Fayette County National Bank they would have to open a separate checking account. The Commissioners asked ms. Holly to set up separate checking account with the Fayette County National Bank to make federal tax payments.

The Commissioners signed invoice to the Division of Corrections for rental of office space for the month of September. The Commissioners signed an addendum to lease (6 months) one additional period beginning September 1, 1996 and ending at midnight on February 28, 1997.

The Commissioners signed letter to Penelope Crandall, Director, Family Law Masters requesting reimbursement for rent in the amount of \$990.00 for the month of September.

Ms. Holly informed the Commissioners she received notice from the Criminal Justice and Highway Safety Division congratulating the Commission on their award for a Drug Control and Systems Improvement grant, Project D.A.R.E. approved funding of \$7,486.00. Ms. Holly presented Grant Contract agreement to be signed and resolution to be signed. Commissioner Carte made motion that Commissioner Witt be authorized to act on its behalf to enter into a contractual agreement with the Criminal Justice and Highway Safety Division. Commissioner Lopez seconded. All approved. Contract agreement and resolution signed.

Ms. Holly informed the Commissioners she received from West Virginia Development Office a Community Partnership grant for the Valley and Lick Emergency Radio Tower, amount \$20,000. Ms. Holly informed the Commissioners she had forwarded copy of agreement to the Prosecuting Attorney Office for their review. Commissioner Carte made motion that Commissioner Witt be authorized to act on its behalf to enter into

contractual agreement with the West Virginia Development Office. Commissioner Lopez seconded. All approved; contract agreement and resolution signed. Ms. Holly informed the Commission that when she advertised the first time she did not include the wording about the West Virginia Wage Rates and asked the Commissioners if this should be included. The Commissioner asked Ms. Holly to include wording and readvertise.

Dave Pollard, Community Resource Coordinator presented check from the Fayette Transition Team for \$12,000.00 contribution for the Soil Conservation local match for water study. Mr. Pollard informed the Commissioners that \$10,000.00 was contributed by the West Virginia-American Water Company, \$1,000.00 was contributed by Class Vi and \$1,000.00 was contributed by Northern American River Runner.

The Commissioners signed letter to Bob Baker, Traffic Engineer with the Division of Highways asking for his review and approval of a copy of a petition signed by local residents requesting that the name of the road currently called "Fayette Exit" off Route 19 near White Dodge be changed to "Cafego Road"; the Commissioners also forward to Mr. Baker a copy of a letter from David Neal, Fayette County Enhanced 911 Coordinator approving of the change.

The Commissioners received and reviewed letter from Larry Johnson, Chairman Fayette County Solid Waste Authority recommending Elwood Maples to replace Ernest Kincaid on the Fayette County Solid Waste Authority. The commissioners asked to hold off on recommendation.

Discussion was regarding the Circuit Clerk's Office roof. Ms. Holly informed the Commission she has not received any bids for repairing the roof. Commissioner Witt informed the Commissioners he would check with the Board of Education to get person they usually get to repair roofs on the schools, but suggested investigating any company

before they hiring any contractors.

The Commissioners received and reviewed copy of letter to the Fayette County Solid Waste Authority informing they had been awarded \$20,000.00 grant to continue employment of county litter control supervisor, award ceremony is September 11, 1996 at 11:30 a.m. in Charleston.

Ms. Holly informed the Commissioners that at the July 31, 1996 meeting they had signed order for Paul Helkamp for exonerations of taxes for 1994 and 1995, incorrect classification. Ms. Holly informed the Commissioners she received letter form the Assessor's office informing they had missed giving Mr. Helkamp credit for 1993 taxes because name listed in land book is misspelled, therefore a credit for the amount of \$236.61 is due. Ms. Holly informed the Commission she has prepared order. Order signed.

The Commissioners received and reviewed letter form Geneva Meadows informing the is for the Leash Law.

The Commissioners received and reviewed check in the amount of \$29,2229.21 for the Emergency Telephone System for the month of July, 1996.

The Commissioners received and reviewed notice from the Department of Tax and Revenue informing they would be continuing their audit for the fiscal year ended June 30, 1996. Commissioner Witt signed engagement letter.

Discussion was held regarding hiring Billy Horrocks at the same hourly rate paid before to do work on louvers in bell tower. The Commissioners asked Ms. Holly to rearrange Forrest "Moose" Bragg schedule so he could assist. Commissioner Witt informed he would check with Billy as to when he would start.

Ms. Holly informed the Commission she received check for



\$12,500.00 for Wolf Creek Public Service District, called to check to see what grant or fund the check was issued was informed that this check was from the Governor's Contingency Fund and there were no guidelines. The Commissioners asked Ms. Holly to deposit and issue check to Wolf Creek Public Service District and write letter informing them they would have to provide to the Commission copies of the invoices, an annual financial statements for this engineering feasibility study. Letter signed.

The Commissioners received invoice for chairlift at the Memorial Building, amount \$22,500.00.

The Commissioners received from Coleman's Construction an estimation for cost of steps at the Library using same railing, cost \$4,800.00. The Commissioners suggested using pipe for the railing would be cheaper.

The Commissioners received and reviewed letters from Tele-Media confirming that effective August 30, 1996 the cable television franchise was transferred from the present holder, Tele-Media Company or an affiliate, to Fanch Cablevision of Indiana, L.P. and subsequently was transferred on the same date from Fanch Cablevision of Indiana, L. P. To TWFanch-one Company.

The Commissioners approved for Charlotte Holly to attend Workers' Compensation Risk Management hearing scheduled for September 27, 1996.

The Commissioners approved for Charlotte Holly to attend the west Virginia Employment and Labor Law Seminar being held at Charleston, Tuesday, September 17, 1996.

The Commissioners received and reviewed law suit regarding General Motors Corporation, Ms. Holly informed the Commission she sent to Paul Blake, Prosecuting Attorney to review, per Paul no action necessary, file.

The Commissioners received and reviewed audit of Salem-Gatewood Public Service District for fiscal year ended June 30, 1996.

The Commissioners received and reviewed letter from the U S Department of Agriculture informing that a one day forum to discuss the Regional Telecommunications Act is scheduled for September 5, 1996.

The Commissioners received and reviewed application for employment from Tamara Leah Hundley.

The Commissioners received and reviewed minutes from the Fayette County Water Resource meeting held August 23, 1996.

Ms. Holly informed the Commissioners she received call from Ron Walton asking if the Commission going to contribute their share of \$700.00 to the Whipple Community in Action for basketball court. The Commissioners informed Ms. Holly to tell Ron when he delivery his check for his share of the cost, the Commission would write check.

Ms. Holly informed the Commissioners that Steve Cruikshank, Emergency Coordinator left a copy of a letter from the Town of Pax to delegate John Pino regarding funding for flood control on Paint Creek.

Ms. Holly informed the Commissioners she had Dee Lively, maintenance to check on the water run-off from the Prosecuting Attorney's Office building. Ms. Holly informed the Commissioners they would have to dig up Belinda Morton's parking lot to repair run-off.

The Commissioners met with Floyd McKnight and Reverend William Johnson regarding the \$5,000.00 contribution for this fiscal year 96-97. The Commissioners informed Mr. McKnight and Reverend Johnson that this was not an on-going appropriation due to the Coal Severance Fund. The Commissioners made a unanimous decision that \$3,000.00 be given to John David for the Southern Appalachian labor School (SALS) and \$2,000.00 be given to the Beard Fork Community Organization.

Commissioner Lopez made motion to go into Executive Session to

discuss personnel matter. Commissioner Witt seconded.

The Commissioners informed no action taken regarding personnel matter during Executive Session.

Mr. and Mrs. Charles Carleton appeared before the Commission with a complaint on their neighbor having a pig pen on there adjoining property. Ms. Carleton informed the Commission the stench from the pigs are terrible and the flies from the cows they put on the property are terrible. Discussion was held, Commissioner Carte suggested to the Carleton's to obtain a Nuisance Ordinance. Commissioner Witt suggested getting with Gary Harding, Zoning Officer and the Health Department and ask them to check out the situation. Commissioner Lopez suggested to the Carleton's to talk with Magistrate John Lopez to see if something could be done through Magistrate Court.

The Commissioners received and reviewed reimbursement from Gauley Bridge Volunteer Fire Department to the Fire Levy Fund.

The Commissioners received and reviewed memorandum from Deb DellaMae, Executive Director with the United Way informing that the Fayette County Kickoff has been changed from Wednesday, September 4th to Friday September 6th.

The Commissioners signed order that subject to the approval of the Assessor, Michael L. Matheny for Sylvia A. Matheny be afforded tax relief for tax years 1990, 1991, 1992, 1993 and 1994 in the total amount of \$160.13 in the form of a credit against taxes owing for the following year or years with said tax relief being spread over the year or years until the debt is paid.

The meeting was adjourned at 12:15. Next scheduled meeting is September 13, 1996.

*John L Witt*

FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
SEPTEMBER 13, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840  
MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 13th day of September, 1996.

Exonerations were approved and signed.

Ms. Holly presented list of poll workers she received from the Chairman's of the Democrat and Republican Executive Committees for the Presidential General Election. Ms. Holly informed the Commissioners that Tom Woodrum was out of town and asked if he could submit the list of poll workers he submitted for the Primary Election. This was approved. Order signed.

The Commissioners received/reviewed and approved Polling Places for the Presidential General Election.

The Commissioners received and reviewed letter from Judge Charles Vickers with suggested changes from the Magistrate Court Clerk (Christy Workman) for improvements to the work space area of the Magistrate Court Clerk's Office.

Ms. Holly informed the Commissioners that the Memorial Building project is completed, but rust is already forming around the rails, Coleman Construction has submitted his final invoice, have copy of his release from State Tax Department. Ms. Holly informed the Commissioners she has prepared Certificate of Project completion for request for payment.

The Commissioners received and reviewed thank you note from the family of Ben T. Akers.

Ms. Holly gave an update on the Valley Tower; informed the Commissioners she readvertised for bids, they are due by September 20,

1996. Ms. Holly informed the Commissioners a special meeting has been scheduled to receive bids on Tower. Ms. Holly informed the Commissioners they do not have a signed lease as of today.

The Commissioners approved to pay out of the General County Fund to the Whipple Community in Action \$700.00 contribution to help build a basketball court in the Whipple area.

The Commissioners discussed repairing sidewalk on Maple Avenue side of the Courthouse. No decision made.

The Commissioners received and reviewed letter from the Fayette County Solid Waste Authority recommending that Bill Toney replace Ernest Kincaid who resigned August 27, 1996 as a member of the Authority. Commissioner Carte moved that Bill Toney be appointed to the Fayette County Solid Waste Authority. Commissioner Lopez seconded. All approved. Vote passed 3-0. Order signed.

Dave Pollard, Mike Miller, Tom Muncy, W. D. Smith, Tom Stafford, Lee Hill appeared before the Commission to discuss other option for the Regional Water Project. Commissioner Witt asked Mike Miller to present his presentation. Mr. Miller asked the Commissioners if the county would issue Industrial Development Bonds. Mr. Miller informed the entire project will not effect county taxes, entire \$44 million would be tax exempt. Discussion was held, Commissioner Witt asked Lee Hill to explain how the Industrial Development Bonds would be handled. Commissioner Witt asked Mr. Miller if there would be a change in the plan. Mr. Miller informed no, West Virginia American Water Company would build same facility, same structure. Mr. Miller informed liability insurance would be covered by West Virginia American Water Company. After Mr. Miller presented his presentation, the Commissioners agreed to entertain a resolution of inducement concerning the issuance of Industrial Development Bonds to assist in the financing of West

Virginia America Fayette Plateau Regional Water System. The Commissioners would consider action on Wednesday, September 25, 1996 at 10:30 a.m.

Payroll and outstanding bills were approved.

Paul Blake, Prosecuting Attorney appeared before the Commission to inform them that the Fayette County Health Department and Appalachian OH-9 has no written contractual agreement regarding sharing the cost of the building, would have had to been an oral agreement. Mr. Blake informed the Commission he found nothing in writing about sharing the 60/40 percent cost of the building. The Commissioners asked that notice of termination be sent. Mr. Blake informed the Commissioners he would contact Kevin Burgess, Attorney for Appalachian OH-9 and get back with them.

Discussion was held regarding Circuit Clerk's roof. Ms. Holly informed the Commissioners she would readvertise. This was approved, decision would be made on September 20, 1996 regarding roof.

Earl Pauley, Park Superintendent presented to the Commission a list of items he has prepared for auction before the end of October.

Earl Pauley asked the Commissioners about closing down park for Cypress reservation for Memorial Day, 1997. Ms. Holly suggested to the Commission to get opinion of the Prosecuting Attorney. Commissioner Carte informed Mr. Pauley they would run this by the Prosecuting Attorney and get back with him.

Mr. Pauley informed the Commissioners that the Dining Hall back porch is falling down. Mr. Pauley presented to the Commission cost of repair for enclosed porch and lumber from Means Lumber (\$1,313.75). Commissioner Carte made motion to purchase from Means Lumber supply to repair back porch. Commissioner Witt seconded. All approved. Vote passed 3-0.

Commissioner Witt suggested to Earl to have Daniel Pauley paint county vehicles.

The Commissioners received/reviewed and signed Fire Levy Pumper Replacement Agreements for Oak Hill Volunteer Fire Department and Gauley Bridge Volunteer Fire Department.

The Commissioners received and reviewed Dog Warden Report for the month of August.

The Commissioners received/reviewed and signed Sales Tax Report for the Fayette County Park for the month of August.

The Commissioners received and reviewed letter from Public Service Commission informing that M. L. Scarbro has been appointed to serve as a member of the Fayette County Solid Waste Authority replacing Josephine Thornton.

The Commissioners received and reviewed audit from Boomer Volunteer Fire Department for fiscal year ending June 30, 1996.

Ms. Holly informed the Commissioners that the Supreme Court has purchased Computers for Magistrate Court; Butch Evans has faxed her the cost from General Information System to pull cable. Ms. Holly asked the Commissioners if they wanted General Information System to pull cable or have the maintenance crew to pull cable. The Commissioners approved to have county maintenance employees pull cable.

The Commissioners received and reviewed 911 responses for the month of August.

The Commissioners received and reviewed reimbursement of long distance calls from Sean D. Snuffer.

The Commissioners received and reviewed letter from Attorney Jim Keen requesting copy of Jim Fowler letter that John Hunt referred to during his comment at the Fayette County Haulers, Inc. hearing held on August 15, 1996.

Ms. Holly informed the Commissioners she had received two messages from Carolyn Jones regarding tearing down old house in Minden. Ms. Holly informed the Commission that per Jackie Hickman, Larry Parsons informed he could not do nothing with houses until the Commission tells him.

The Commissioners received and reviewed minutes of Salem-Gatewood Public Service District for the month of August.

The Commissioners received and reviewed franchise fees from Tele-Media Corporation for the period April 1, 1996 through June 30, 1996.

Ms. Holly informed the Commissioners that Earl Pauley, Park Superintendent checked at the Prosecuting Attorney's Office on re-routing water and re-elevating down drain and putting in drain to stop the water from entering onto Belinda Morton's parking lot. The cost would run about \$300 or more.

The Commissioners received and reviewed check in the amount of \$15,00.00 from 4-C Economic Development Authority for the Fayette Water Project.

The Commissioners received and reviewed letter from Pullin, Knopf, Fowler and Flanagan regarding Horrocks v. City of Fayetteville, et al.

The Commissioners signed affidavit of Duplicate title for vehicle to the Fayette County Board of Education.

The Commissioners signed letter to Chris Jarrett, President, West Virginia-American Water Company informing that following a presentation made by Mike Miller the Commission has agreed to entertain a resolution of inducement concerning the issuance of an Industrial Development Bonds to assist in the financing of West Virginia-American's Fayette Plateau Regional Water System.

The meeting was adjourned at 12:23. Next scheduled meeting is September 25, 1996.

  
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FAYETTE COUNTY COMMISSION  
REGULAR SESSION  
SEPTEMBER 25, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840

MEMBERS Present: John L. Witt, John H. Lopez, Gene Carte, Jr.

The Fayette County Commission met in regular session on this 25th day of September, 1996.

Commissioner Witt called meeting to order.

The Commissioners opened bids for the Valley Tower.

Exonerations were approved and signed.

The Commissioners received and reviewed Fire Levy Pumper Replacement Agreement from Boomer Volunteer Fire Department for the period July 1, 1996 to June 30, 1997.

Ms. Holly informed the Commissioners she had been told by Debbie Berry, the travel reimbursement had been increased to \$.31 effective July 1, 1996. Ms. Holly informed the Commissioners that the Solid Waste Management Board informed Ms. Berry of the increase, but the Commission has never received any information regarding the increase. Ms. Holly informed the Commissioners she had called Lavada, Chief Inspection Division at the State Tax Department to verify. Ms. Holly informed the Commissioners she has prepared order. Order signed.

Ms. Holly informed the Commissioners she had received a call from Christy Workman requesting a dedicated telephone line for a computer modem. Ms. Holly informed the Commissioners she suggested to Ms. Workman to use Fax Line, Ms. Workman informed she could not use fax line, it had to be separate. The Commissioners approved to install telephone line for computer modem.

The Commissioners received and reviewed West Virginia Code Cable Regulations from the West Virginia Cable Television Advisory Board.

Ms. Holly informed the Commissioners she received proposal from

American Office System for new copier for Circuit Clerk's Office. Ms. Holly informed the Commissioners that no request for a new copier had been received from Herbert Mann, Circuit Clerk. The Commissioners asked Ms. Holly to hold.

The Commissioners received and reviewed invoice from County Commissioners' Association regarding special assessment for reimbursement to Mercer County in their legal battle regarding the Deputy Sheriff's suit. Commissioner Witt moved to pay \$430.00 for Deputy Sheriff's suit to Mercer County. Commissioner Carte seconded. All approved.

Ms. Holly informed the Commissioners she received from the Sheriff's Office a copy of the state bid for police cruisers. Ms. Holly informed the Commission she informed the Sheriff of the Coal Severance Fund. Ms. Holly informed the Commissioners the cost of each police cruiser is \$19,370.00 plus spot light \$180.00 total cost of cruisers would be \$19,550.00. Ms. Holly presented to the Commissioners comparative balance sheet as of September 25, 1996 for Coal Severance, as of this morning cash balance is \$2,700.00. The Commissioners informed Ms. Holly they would talk with the Sheriff regarding the Coal Severance Fund; the Commission asked Ms. Holly to hold off ordering cruisers.

Ms. Holly presented to the Commissioners a request from Larry Johnson, Chairman Fayette County Solid waste Authority asking for financial assistance from the Commission to pay lease agreement (\$4,500) and insurance premium (\$2,805). Discussion was held, the Commission asked Ms. Holly to hold until October to see how much coal Severance they would receive before they consider request.

The Commissioners received and reviewed a sanitary survey from the Department of Health and Human Resources regarding Deepwater Public

Service District's Water System.

The Commissioners received and reviewed a copy of the D.A.R.E. Grant Awards for the period October 1, 1996 through May 31, 1997.

The Commissioners received and reviewed reports from One Valley Bank for the Debit Service Payment for Family Mortgage issues.

The Commissioners received and reviewed letter from the Citizen's Advisory Board informing the meeting scheduled for October 1, 1996 has been rescheduled to October 3, 1996 at 4:00 p.m. in the front lobby of the Southern Regional Juvenile Detention Center.

The Commissioners received and reviewed Order from Attorney Phil Tissue regarding the Polly June Breeden property. Mr. Tissue asked that clean-up letter not be sent.

Ms. Holly informed the Commissioners she received from Ford Motor Company recalls on the 95 Crown Victoria cars. Ms. Holly informed the Commissioners that Earl Pauley, Park Superintendent is in the process of having this taken care of.

The Commissioners received and reviewed memorandum regarding the Workers' Compensation Status of William Hamilton.

Ms. Holly informed the Commissioners she received letter from Belinda S. Morton, attorney accepting proposal of digging ditch across her parking lot.

Ms. Holly informed the Commissioners she received accident report of Deputy Sean D. Snuffer. Ms. Holly informed the Commissioners she did forward to our insurance, but there were no damage to the County cruiser and minor damage to the other vehicle.

The commissioners signed letter to Kelvin Holiday, Clerk and the payroll clerk informing that effective September 16, 1996 Ruth Thomas will be employed as janitor maintenance at \$10,400.00 plus benefits.

The Commissioners approved for Charlotte Holly to attend the ADA

Training Conference being held in Charleston on November 19, 1996.

Ms. Holly presented to the Commissioners pictures the maintenance crew had taken of the Circuit Clerk Office roof. Ms. Holly informed the Commissioners the bids for the roof are due in Friday, September 27, 1996.

Earl Pauley and Charlotte Holly informed the Commissioners they had met with Paul Blake, Prosecuting Attorney to discuss closing park for Cypress picnic being held Memorial Day weekend. Ms. Holly informed the Commissioners that Mr. Blake sees no problem, but if the Commission decided to open for one group that policy would have to open to all groups. The Commissioners informed they see no problem as long as the gates are open for the public. Ms. Holly suggested to the Commission to establish some guidelines and informed the Commission she felt the county should charge a fee sufficient for the county to realize a profit if the Park is closed to the public during such events. The Commissioners approved for Cypress to have picnic only if gates are open to the public.

Members of the West Virginia-American Water met with the Commission to discuss the issuance of Industrial Development Revenue Bonds for the purpose of assisting in the development of water facilities in Fayette County. Vince Collins was present, gave explanation of Industrial Development Revenue Bonds. Commissioner Carte asked Mr. Collins about the administrative fee in resolution. Discussion was held regarding the administrative fee, Travers Harrington suggested deleting No. 6 from the document regarding the administrative fee. Commissioners Carte moved to approve inducement resolution amended to delete No. 6 from document. Commissioner Lopez seconded. All approved. Motion passed unanimously.

Virgil Berry with REACT appeared before the Commission to request

funds for the REACT Program. Commissioner Witt informed Mr. Berry the Commission would take request under advisement and informed Mr. Berry the Commission want know how they stand with Coal Severance until mid October. Commissioner Carte suggested to Mr. Berry to prepare request on letter head in writing and submit to the Commission. Commissioner Witt informed Mr. Berry that Steve Cruikshank would be instructed to work with REACT and that REACT could look over and have any equipment not in use and with no planned use.

The Commissioners gave Dave Pollard, Resource Coordinator permission to accept \$20,000.00 ARC grant for the Corridor "L" project which requires \$500 matching hours of Dave's time over the next year and up to \$500 mailing expenses

Dave Pollard advised Commission that he is looking for possible sources of historic preservation grants as requested by Ms. Holly for the Courthouse and was looking into possible private foundation grants. He also reported that he was seeking 501C designation for the Transition Team

Thomas R. Davis, President, Quinwood Emergency Ambulance appeared before the Commission with a proposal to station an ambulance in the Danese area. The Commissioners informed Mr. Davis this would be fine. Commissioner Witt suggested to Mr. Davis to have David Neal, E911 Coordinator check regarding the Danese ambulance on loan to the Valley Medical Emergency Service and see what's all involved in getting ambulance back to the Danese area, Mr. Witt also asked Mr. Neal to work with Mr. Davis on getting everything worked out.

The Commissioners signed letter to Kanawha Falls Public Service District informing they have been advised that the problem still exist with odor and tank overflow from the Public Service District sewage treatment located in Boomer; and urged members of the Kanawha Falls

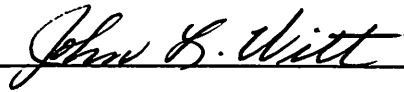
Public Service District to work with residents and your engineering counsel to find solutions to the continuing problem.

The Commissioners received and reviewed notice from Kelvin Holliday, County Clerk requesting that the ballot room be open for the Circuit Clerk to get gray envelopes for the General Election.

The Commissioners received and reviewed letter from Harvey E. Young, Chief Deputy, Assessor's Office informing that due to a clerical error in their office Delph Mathews is due tax relief for the tax year 1995.

The Commissioners received and reviewed the 1995 West Virginia University Extension Service Annual Report.

The meeting was adjourned at 12:10. Next scheduled meeting is October 9, 1996

  
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FAYETTE COUNTY COMMISSION  
EMERGENCY SESSION  
SEPTEMBER 26, 1996  
COURTHOUSE  
FAYETTEVILLE, WV 25840  
MEMBERS Present: John L. Witt, Gene Carte, Jr.

The Fayette County Commission met in an Emergency Session on this 26th day of September 1, 1996.

The purpose for the emergency meeting is to approve hiring of outside legal counsel for the Fayette County Commission in Civil Action #96-C-256, Fayette County Haulers, Inc. vs The County Commission of Fayette County.

Commissioner Witt informed the Commission that he had talked with the Prosecuting Attorney Office they declined to take case due to conflict.

Commissioner Carte moved that the Commission hire outside counsel in Civil Action #96-C-256. Commissioner Witt seconded. All approved. Vote passed 2-0.

  
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