

**MARSHALL COUNTY COMMISSION
DECEMBER 18, 2012**

The Commission convened this day pursuant to the following call: Donald K. Mason and Brian L. Schambach, Commissioners; Jan Pest, County Clerk; Betsy Frohnafel, County Administrator. Winnie Turner, Chief Deputy of the County Clerk's Office.

Absent: Jason E. Padlow, President.

At a Special Session of the Commission of Marshall County, West Virginia, held at 9:30 A.M., the Notice of the time and purpose of this Special Session had been posted at the front door of the courthouse for more than two days before the commencement of the Special Session, it is ordered that said Notice together with the certification of the Clerk of the time when it was posted, be entered of record, which is done accordingly in words and figures as follows:

NOTICE OF SPECIAL SESSION

The County Commission of Marshall County, West Virginia will meet in Special Session at the Courthouse thereof, on Tuesday, December 18, 2012, at 9:30 A.M. for the following purposes, that is to say:

To Audit Claims
To Act upon Rebates
To consider any other matters
Which may properly come before
The Commission.

Called by the President of the Commission with the Concurrence of the other two members.

s/ Jason E. Padlow, President

Posted at the front door of the Courthouse on the 13th day of December, 2012.

s/ Jan Pest, County Clerk

ACTING PRESIDENT – On motion of Commissioner Schambach, seconded by Commissioner Mason, Commissioner Mason will serve as Acting President in the absence of Commissioner Padlow. Motion carried.

MOMENT OF SILENCE- The Commission observed a moment of silence for those lost at Sandy Hook Elementary School in Newtown, Connecticut.

MINUTES – On motion of Commissioner Schambach, seconded by Commissioner Mason, the Commission approved the minutes of the Canvass of the 2012 General Election held November 13 and 14, 2012. Motion carried.

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On motion of Commissioner Schambach, seconded by Commissioner Mason, the Commission approved the minutes of the Special Sessions held November 20; November 27; December 4; and December 11, 2012. Motion carried.

On motion of Commissioner Schambach, seconded by Commissioner Mason, the Commission approved the minutes of the Recount of the 2012 General Election held November 27, 2012. Motion carried.

COMMISSIONER COMMENTS:

COMMISSIONER SCHAMBACH congratulated the Marshall County School Board on the passing of the operating levy held December 15, 2012; and thanked those helping with the election.

Commissioner Schambach thanked Commissioner Jake Padlow for his support over the past two years; however, Commissioner Schambach did not appreciate his handling of the election.

Commissioner Schambach has been busy spending time with his best friend who is sick and in the hospital in Columbus.

Commissioner Schambach's son Carson graduated over the weekend from Marshall University, with honors.

COMMISSIONER MASON also congratulated the Marshall School Board on the passing of the levy. This means a lot to the school system.

Commissioner Mason commented on the passing of two great Marshall County citizens. Dr. Tom Dickey was the Medical Director for the Health Department and taught Commissioner Mason a lot of those operations.

Also, Chuck Garvick, a surveyor and active in the Marshall County community passed. Mr. Garvick was the father of a former Marshall County Deputy Sheriff, Dan, who is now with the FBI. Both gentlemen will be sadly missed.

Commissioner Mason had a busy week starting with the Health Board meeting Friday morning; and the Bel-O-Mar Regional Executive meeting on Monday.

The School Board will be responsible for canvassing the December 15, 2012, election, which should start Friday.

Commissioner Mason wished everyone at the Courthouse a Merry Christmas and Happy New Year! Commissioner Schambach also joined in the holiday wishes.

MEMORANDUM OF UNDERSTANDING – On motion of Commissioner Schambach, seconded by Commissioner Mason, the Commission approved a Memorandum of Understanding, which is on file for public review. Motion carried.

Also on motion of Commissioner Schambach, seconded by Commissioner Mason, the Commission made the following comments a part of the permanent record:

The Memorandum of Understanding is to improve some procedural matters. County Clerk Jan Pest at all times followed the Election Codes. We are convinced that every vote has been properly counted.

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We support and applaud Jan Pest and her staff for their efforts in the Election process.

GRAND VUE PARK – GRANT INFORMATION – Craig White, General Manager at Grand Vue Park, appeared before the Commission with great news. The Park has been a recipient of a Grant funded by Rain CII Carbon LLC, granted through the National Recreation and Park Association. Grand Vue Park received \$9,500 which was used for 11 benches and 8 message centers throughout the Park.

Rain CII contributed \$100,000 for grants distributed to nine park and recreation agencies in close proximity to Rain CII plants and employees. In keeping with Rain CII's commitment to environmental responsibility, employees will be involved in park improvement efforts locally through volunteer and other opportunities in each of the nine communities.

CORRESPONDENCE:

MC SEWERAGE DIST – highlights for Dec 2012

PSD#4 – minutes for November 2012 meeting

FIRST TIME HOME BUYERS PROGRAM – RELEASE – The Commission received a letter from Vickey Battista, HOME Program Administrator, stating Sarah Burge has fulfilled her obligation for the First Time Homebuyer Program. Mrs. Battista submitted a Release of Deed of Trust for Commission approval.

On motion of Commissioner Schambach, seconded by Commissioner Mason, the Acting Commission President was authorized to sign the Release of Deed of Trust for Sarah Burge. Motion carried.

COUNTY CELL PROVIDER – Betsy Frohnafel, County Administrator, submitted a proposal from AT&T for cell phones for County employees. Mrs. Frohnafel explained currently the cell service is through Verizon. However, with the completion of the AT&T tower site, a proposal was received for Iphone 4S with 16 GB from AT&T. Cell service for county employees was included in the plans for the new tower site.

Mrs. Frohnafel further explained the Iphone 4S with 16 GB will have more memory and will benefit Sheriff Deputies while on patrol throughout the County.

On motion of Commissioner Schambach, seconded by Commissioner Mason, the Commission gave authorization to convert to Iphone 4S with 16 GB with service through AT&T. Motion carried.

JAMES W. WHIPKEY ESTATE – ORDER – Jan Pest, County Clerk, stated she had been contacted by an attorney in Iowa concerning the estate of James W. Whipkey. The Estate is being probated in Iowa and is clearly insolvent. There is property located in Marshall County that the Executrix is requesting to sell free of liens.

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Mrs. Pest stated an Assistant from the Prosecuting Attorney's Office reviewed the file and has no objections to the request.

On motion of Commissioner Schambach, seconded by Commissioner Mason, the Commission approved the Application and Order which will allow Stephanie Settle, Executrix, to sell property owned by James W. Whipkey, deceased, at 5 Upton Avenue in Cameron. Motion carried.

CIRCUIT CLERK'S OFFICE – NEW EMPLOYEE – The Commission received a letter from Dave Ealy, Circuit Clerk, requesting consent to employ Shannon Fahey as a Circuit Court Deputy. The vacancy exists due to the retirement of Becky Fahey.

On motion of Commissioner Schambach, seconded by Commissioner Mason, the Commission gave their consent to the Circuit Clerk to employ Shannon Fahey. Motion carried.

FIDUCIARY MATTER – ELIZABETH ROSE BONITATIBUS ESTATE - PETITION FOR REMOVAL – The Commission proceeded with a Petition for Removal of Personal Representative filed by J. Christopher Gardill, Counsel for Ernest and William Bonitatibus, in the estate of Elizabeth Rose Bonitatibus. Mr. Gardill and Ernest and William Bonitatibus appeared before the commission. Also present were: Kevin Bonitatibus, Executor; Robyn Ruttenberg, his Counsel; and J. K. Chase, IV, Fiduciary Commissioner.

Mr. Gardill stated the concerns of his clients. Mrs. Ruttenberg stated she felt the concerns were for assets in the father's estate, not the estate of Mrs. Bonitatibus. Mr. Chase stated at the hearing he found no wrong doing in the estate of Mrs. Bonitatibus. Mr. Chase also felt the concerns of Mr. Gardill's clients should be addressed in another Court, not before the Commission.

On motion of Commissioner Schambach, seconded by Commissioner Mason, the Commission denied the request to remove Kevin J. Bonitatibus as Executor of the estate of Elizabeth Rose Bonitatibus. Motion carried.

ASSESSOR'S OFFICE – PERSONNEL MATTER – Chris Kessler, Assessor, appeared before the Commission requesting consideration in providing additional funding after January 1, 2013 for an additional Deputy Assessor to monitor/address the booming Marcellus Shale Gas Industry in Marshall County. Mr. Kessler stated he has personally been visiting well sites and plant construction sites; however, the rapidly growing industry is making it harder to keep up.

Mr. Kessler requested additional funding for the remainder of the 2012-13 Fiscal Year in the amount of \$40,000. The Commission felt at the starting salary, with full benefits, that the funding needed would not exceed \$25,000.

On motion of Commissioner Schambach, seconded by Commissioner Mason, the Commission approved the request for an additional position in the Assessor's

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Office; not to exceed the starting salary, and Mr. Kessler will come back to the Commission for advice and consent to hire the person chosen for the position.

RECESS – On motion of Commissioner Schambach, seconded by Commissioner Mason, the Commission took a short recess. Commission reconvened.

ZITKO TERRACE – ADDRESSING COMPLAINT – The Commission addressed the complaint of Zitko Terrace residents concerning their 911 addressing changes. Several residents appeared at the Commission meeting last week requesting the addresses remain the same.

The Commission feels Zitko Terrace is a unique situation with no room for expanding. The Commission also stated Larry Newell, E-911 Director, agreed.

On motion of Commissioner Schambach, seconded by Commissioner Mason, the Commission approved keeping Zitko Terrace and Arcadian Acres at the current addresses. Motion carried.

E-911 – ROAD NAME – Larry Newell, E-911 Director, appeared before the Commission with 5 suggested road names for a right-of-way in the Fish Creek Road area. Mr. Newell stated there is not a clear owner of the property, however, one resident has been maintaining the right-of-way for several years.

On motion of Commissioner Schambach, seconded by Commissioner Mason, the Commission approved the road name of Catfish Lane for the road in the Proctor Postal District. Motion carried.

FAMILY RESOURCE NETWORK – CONTRIBUTION – The Commission received a request from The Marshall County Family Resource Network for funding to support the data collection and data-driven planning efforts of the FRN. The data generated through their efforts will benefit partners throughout the County as well as businesses and industries making Marshall County home.

On motion of Commissioner Schambach, seconded by Commissioner Mason, the Commission approved a contribution to the Family Resource Network in the amount of \$10,000. Motion carried.

COMMISSION MEETING – Due to the Holiday Season, the next meeting of this Commission will be Wednesday, January 2, 2012, at 9:30 A.M.

CLAIMS AUDITED – The Commission, this day, approved the following claims:

<u>GENERAL COUNTY FUND</u>	147,711.72
<u>COAL SEVERANCE FUND</u>	42,660.61
<u>E-911 FUND</u>	5,393.57

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MAGISTRATE COURT FUND

63.84

ADJOURNMENT – There being no further business to come before the Commission, on motion of Commissioner Schambach, seconded by Commissioner Mason, the meeting was adjourned.

PRESIDENT