

MARSHALL COUNTY COMMISSION
APRIL 22, 2014

NOTICE OF SPECIAL SESSION

The County Commission of Marshall County, West Virginia convened this day pursuant to the following call: Donald K. Mason, President; Bob Miller, Commissioner; Jan Pest, County Clerk; Betsy Frohnafel, County Administrator; and Jeanne Shook, Deputy Clerk.

Brian L. Schambach, Commissioner joined the meeting by speaker phone.

The County Commission of Marshall County, West Virginia will meet in Special Session at the Courthouse thereof, on Tuesday, April 22, 2014 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/Donald K. Mason, President

Posted at the front door of the Courthouse on the 17TH day of March, 2014

s/Jan Pest, County Clerk

MINUTES – On motion of Commissioner Miller, seconded by Commissioner Schambach, the Commission approved the minutes of the Special Session held April 15, 2014.

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COMMISSIONER COMMENTS –

COMMISSIONER MILLER attended the Operation Pride dinner Tuesday night at Grand Vue Park.

COMMISSIONER SCHAMBACH is traveling to Morgantown today to a doctor appointment and hopefully will be able to return next week for the Commission meeting.

COMMISSIONER MASON also attended the Operation Pride dinner Tuesday and congratulated Raymond Yoho who was honored as Volunteer of the Year.

COMMISSIONER MASON noted the OVRTA meeting scheduled for last Wednesday was cancelled.

COMMISSIONER MASON noted the passing of Monty Weaver, a long time Glen Dale Volunteer Fire Department Fire Chief. He was a good friend of Commissioner Biggie Byard.

COMMISSIONER MASON will be attending a Bel-o-Mar Regional Counsel meeting Thursday in New Martinsville.

COMMISSIONER MASON stated Thursday, at the Highlands, Business After Hours will be hosted by Hampton Inn Suites.

GRAND VUE PARK UPDATES – Craig White, General Manager of Grand Vue Park, appeared before the Commission. Craig stated April 26, Earth Day Clean up is scheduled at the Barn. West Virginia University Extension Service will be helping with a Rain Barrel Workshop and a Compost Workshop. April 27, 2014, from 1:00 pm – 5:00 pm is Grand Vue Park's 40th Birthday Celebration.

NATIONAL DAY OF PRAYER – PROCLAMATION – Rev. Jim Higginson appeared before the Commission with a Proclamation for the National Day of Prayer to be held Thursday, May 1st, 2014 at noon. This will be the 63rd Annual National Day of Prayer.

On motion of Commissioner Mason, seconded by Commissioner Schambach, the Commission adopted the following Proclamation read by Rev. Jim Higginson:

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Proclamation

WHEREAS, prayer has been recognized by our leaders in times of war and peace as vital to the maintenance of a strong national character and necessary to procure the blessing of a just and benevolent God upon our government and people.

WHEREAS, the National Day of Prayer is a vital part of our national heritage. The first call to prayer was issued in 1775 by the Continental Congress when they asked the colonies to pray for wisdom in forming a nation and in 1863 when President Abraham Lincoln issued a proclamation for a day of "humiliation, fasting, and prayer."

WHEREAS, it is appropriate to honor God with a unified expression of gratitude and humbly request divine intervention in the preservation and continuation of strong religious principles which our nation and our state have established.

WHEREAS, at this crucial time for our nation, we can do nothing more important than pray, making this spiritual discipline a personal priority as we encourage others to incorporate prayer into their lives, which will have a profound significance for this country. It is an unprecedented opportunity to see the Lord's healing and renewing power made manifest as we call on citizens to humbly come before God's throne.

WHEREAS, this year's theme is, **One Voice, United in Prayer**, emphasizing the need for individuals, corporately and individually, to place their faith in the unfailing character of their Creator, who is sovereign over all governments, authorities, and men. To further highlight our theme, we've chosen Romans 15:6 as our Scripture for this year, "So that with one mind and one voice you may glorify the God and Father of our Lord Jesus Christ."

NOW, THEREFORE, WE, the Marshall County Commissioners, hereby proclaim Thursday May 1, 2014 as the:

1,

**63rd Annual National Day of Prayer
of
Marshall County, West Virginia**

to be held on May 1, 2014 in the city of Moundsville, county of Marshall, State of West Virginia, calling every citizen to gather in their homes, our churches, places of business, and in public areas, each after his or her own manner, and pray for unity of the hearts of all mankind.

Donald K. Mason

Ben Schell
Steve A. Miller

by telephone

E-911 ROAD NAMING Larry D. Newell, E-911 Director, submitted two requests for road names. Coal Run Lane is in the Moundsville Postal District. The road starts at Middle Grave Creek Road and travels to a dead end. Generation Drive is in the Moundsville Postal District. The road starts at Waynesburg Pike Road and travels to a dead end.

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On motion of Commissioner Schambach, seconded by Commissioner Miller, the Commission approved the road names. Motion carried.

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

RESOLUTION PROPOSAL– MOUNDVILLE POWER, LLC – Don Rigby, Craig O’Leary, and Josh Jefferson of RED Partnership appeared before the Commission, as well as Curtis Wilkerson of Orion Strategies, and Andrew & Matthew Dorn of Moundville Power, LLC. Andrew Dorn spoke about the PILOT Agreement with Moundville Power LLC to construct a \$615 million 549 MW natural gas combined cycle power plant. Don Rigby stated the PILOT agreement also requires the approval of the Marshall County Board of Education. Mr. Rigby is excited about the project and the jobs it will create.

On motion of Commissioner Miller, seconded by Commissioner Schambach, the Commission agreed to adopt the following Resolution:

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MARSHALL COUNTY COMMISSION

DONALD S. VAYON, PRESIDENT

DEE WILSON, TREASURER, ADMINISTRATOR

BRIAN J. SCHUMACHER

JAN PERC, COUNTY CLERK

RODNEY A. MILLER

RESOLUTION

WHEREAS, The County Commission of Marshall County, West Virginia, has had presented to it a proposed Payment in Lieu of Taxes Agreement (the "Agreement"), by and among MOUNDSVILLE POWER, L.L.C, a Delaware limited liability company ("Moundsville Power"), THE COUNTY COMMISSION OF MARSHALL COUNTY, West Virginia (the "County Commission"), THE BOARD OF EDUCATION OF THE COUNTY OF MARSHALL, West Virginia (the "County Board"), the SHERIFF OF MARSHALL COUNTY, West Virginia (the "Sheriff") and the ASSESSOR OF MARSHALL COUNTY, West Virginia (the "Assessor");

WHEREAS, the County Commission has reviewed the proposed Agreement and has found and determined, and hereby finds and determines, that the Agreement will benefit Marshall County and its residents by facilitating the economic development of the County and that the acquisition, construction and equipping of the Project, described in the Agreement (the "Project"), will encourage investing in job producing private development and expand the public tax base of Marshall County and that the proposed Project will result in an increase in the value of the property located in the County and will encourage increased employment within such area and serve a public purpose of the County; and

WHEREAS, the County Commission and Moundsville Power acknowledge that ongoing due diligence continues and before the President executes and delivers the Agreement on behalf of the County Commission, issues associated with the due diligence need to be addressed to the complete and sole satisfaction of the County Commission. These issues include, but are not limited to, the status of any environmental issues associated with the Land that is described in the Agreement (the "Land"), indemnification of the County Commission for any issues associated with the Project, the potential liability of the County Commission as legal title holder of the real and personal property that comprises the Project, and the procurement of insurance in an amount and under terms satisfactory to the County Commission and its independent professional consultants in order to ensure that the County

0209.6.2

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P.O. DRAWER B - MOUNDSVILLE, WV 26041

REGULAR MEETINGS THIRD TUESDAY - JANUARY 4TH, 11 AM - 12:00PM TELEPHONE - 304-336-3602 FAX 304-336-1074

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Commission will be sufficiently and fully indemnified as a result of any issues arising as a result of the Project.

NOW, THEREFORE, BE IT RESOLVED, BY THE COUNTY COMMISSION OF MARSHALL COUNTY, AS FOLLOWS:

1. The County Commission hereby approves the proposed Agreement, substantially in the form submitted to this meeting, and the execution and delivery of the Agreement by the President of the County Commission on behalf of the County Commission are hereby authorized, approved and directed. The President of the County Commission shall execute and deliver the Agreement with such changes, insertions and omissions as may be approved by the President, execution of the Agreement by the President to be conclusive evidence of any approval required hereby. Provided, however, that the President of the County Commission shall not be obligated to execute the Agreement unless the terms and provisions of the final version of the Agreement are satisfactory to the President and all conditions to the Agreement becoming effective are satisfied. These conditions include, but are not limited to, the status of any environmental issues associated with the Land, indemnification of the County Commission for any issues associated with the Project, the potential liability of the County Commission as legal title holder of the real and personal property that comprises the Project, and the procurement of insurance in an amount and under terms satisfactory to the County Commission and its independent professional consultants in order to ensure that the County Commission will be sufficiently and fully indemnified as a result of any issues arising as a result of the Project. Under no circumstances will the President of the County Commission be obligated to execute the Agreement if it exposes the County Commission, its officers, employees, or agents to any risk of liability that cannot be fully insured. All costs of insurance associated with the Project shall be borne solely by Moundsville Power. Execution of the Agreement is required by certain county officials under W. Va. Code § 8-19-4 and the omission from the final version of the Agreement of signatories included in the form of proposed Agreement submitted to this meeting shall not be deemed a substantive change to the Agreement requiring further action by the County Commission.

2. The President, Clerk and other appropriate officers and employees of the County Commission are hereby authorized and directed to take all further actions necessary to assist in support of the Agreement; provided, however, that the County Commission, its officers, employees and agents shall not have any expense, financial liability or financial obligation of any kind in connection with the Project, including

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expenses associated with the procurement of insurance in an amount and under terms satisfactory to the County Commission and its independent professional consultants in order to ensure that the County Commission will be sufficiently and fully indemnified as a result of any issues arising as a result of the Project, except as shall be reimbursed by Moundsville Power.

3. This Resolution shall be effective immediately.

Adopted this April 22, 2014.

By: Donald J. Mason
President


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CERTIFICATION

The undersigned, being the duly qualified, elected and acting Clerk of The County Commission of Marshall County, West Virginia, does hereby certify that the foregoing Resolution was duly adopted by the members of The County Commission of Marshall County, West Virginia, at a regular meeting duly held, pursuant to proper notice thereof, on April 22, 2014, in Moundsville, West Virginia.

Dated: April 22, 2014.

By:



Clerk

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WEST VIRGINIA BOYS STATE - Jim Davis, Director of the WV Boys State, informed the Commission about the program. Gary Wolfe was also in attendance. The program is for boys between their Junior and Senior year of High School with a 3.0 grade point average or higher, and must be recommended by their school. Last year Michael Eskridge and Michael Conner attended. They both spoke about what a great experience it was and they were honored to have been chosen. Mr. Davis requested a contribution again this year.

On motion of Commissioner Miller, seconded by Commissioner Schambach, a donation of \$1200 was approved for two students from each of the three High Schools in the County. Motion carried.

2014 PRIMARY ELECTION – PUBLIC TEST - The Commission, along with Ballot Commissioners Cathy Jefferson and Terry McDiffitt, were present for the public test of the iVotronics and tabulating equipment to be used for the Primary Election to be held May 13, 2014.

After proving the results of the voted test deck for Precinct 20, the PEB results were merged with a test deck voted on the Early Voting equipment, which were uploaded to the flash card. Final results proved the PEB totals and flash card totals merged successfully.

FEMA ACQUISITION / DEMOLITION BID OPENINGS – Tom Hart, OEM Director and Mike Muecheck, OEM Deputy Director appeared after reviewing two bids, one from ASTAR of Sissonville, WV and one from Liberty Environmental Services LLC, Moundsville, WV, for asbestos testing on three structures. They recommended the bid from Liberty Environmental Services LLC.

On motion of Commissioner Miller, seconded by Commissioner Mason, the Commission accepted the lower bid of \$1425 for the asbestos testing. Motion carried.

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

<u>GENERAL COUNTY FUND</u>	\$	28,577.39
<u>911 FUND</u>		925.67
<u>COALSEVERANCE FUND</u>		3155.16
<u>MAGISTRATE FUND</u>		53.35
<u>HOME CONFINEMENT</u>		527.00

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

PRESIDENT