

IN THE COUNTY COMMISSION OF WOOD COUNTY, WEST VIRGINIA

IN RE: MINUTES OF MEETING HELD  
MONDAY, JULY 27, 1992

PRESENT: PRESIDENT STEVEN A. GRIMM  
COMMISSIONER HOLMES R. SHAVER  
COMMISSIONER JEAN GRAPES

On this date, the County Commission met in regular session. They signed purchase orders, invoices and other correspondence. The County Commission approved Personal Property Improvers for Alice D. Wilsman, Rickey N Morris, Dick Cotterman Inc., Randall J. Menear, Nashville Associates Inc. and Janine A. Pyles. Also approved were Exonerations for Paul L. & Esther M. McCuskey, L.B.T. Associates and Leslie & Audry V. Lipscomb.

At 1:30 P.M., the County Commission gave their decision on whether or not to pass an Ordinance for Wood County in regard to obscene matter. Upon a motion made by Holmes R. Shaver, seconded by Jean Grapes and made unanimous by Steven A. Grimm, the County Commission adopted Chapter 7, Article 1, Section 4 of the West Virginia Code effective August 31, 1992. Commissioner Shaver stated that the Commission had asked for an opinion from the Prosecuting Attorney's Office concerning the constitutionality of it as well as their ability, if in fact they did enact the Ordinance, if they had the legal right to dissolve the Ordinance, or take it off the books. They have been advised in writing that the Ordinance, as it is, is constitutional and this County Commission has the right, if they choose to for any reason, take the Ordinance off in its entirety. Commissioner Shaver stated that this information was important to them. Commissioner Grapes stated that the opinion from the Supreme Court, when taken to court in Nicholas County, was determined that the Ordinance, as it is written, is not against the First Amendment rights. Commissioner Grapes stated that it doesn't mean that if it is contested again and taken back to court in some other manner that it could very well be deemed unconstitutional.

Commissioner Grapes further stated that the Ordinance does not tell you what you can and cannot read, it says what can and cannot be sold in Wood County. The County has participated more than it ever has before, with letters, phone calls and input; there are two sides of the issue and there will be some people pleased and some people not pleased, but you can't go on that when you are going to make your vote. Commissioner Grapes also stated that she has stated that she would vote by what she thought the majority of the County would do if it was placed on the ballot and she personally believes that it would be two to one for the Ordinance. John Wallace asked the Commission if there was an official count on the petitions and Commissioner Grapes stated that this was never based on petitions, and that they have stated that over and over. Mr. Wallace asked if there was an official count of the letters. Commissioner Grapes stated that she thought the secretary did have a count, but the last group of letters was hard to verify, but they were still counting them this morning. Mr. Wallace asked if they could release the figures. President Grimm stated that he didn't think there was an up-to-date count. The secretary stated that the count was 1487 against the Ordinance and 987 for the Ordinance. Commissioner Grapes stated that the majority of those letters came in today, 900 and some came in in the form of a form letter. Commissioner Grapes again stated that this has never been a vote of how many letters got in, it was participation and what they ultimately have to come down to is what the Commission feels the County wants. An unknown speaker stated that according to the letters, it seems pretty specific what the people want. Commissioner Grapes stated that there have been many polls and they all say different things; no one on the Commission has ever stated that it would depend on how many people wrote letters. Ron McGuire stated that in Commissioner Grapes' letter to the editor, she stated that she wanted input from the community so that she could find out what the community wanted. Commissioner Grapes stated that she said she would ultimately vote for what she felt was the majority and read the following line from her letter to the

editor, "My vote should and will represent what I ultimately come to believe to be the wishes of the majority." (copy of letter is attached) Mr. McGuire stated that that was not how he took the letter. Mr. McGuire and Commissioner Grapes had further discussion concerning the letter. President Grimm then asked for a second vote and it was voted unanimously again, to pass the Ordinance. Said Ordinance is attached to these minutes along with the Order that was prepared regarding this matter.

At 3:37 P.M., the County Commission went into Executive Session, upon a motion made by Jean Grapes, seconded by Holmes R. Shaver and made unanimous by Steven A. Grimm. Said Executive Session was requested by Jeffrey Reed, Prosecuting Attorney under Number 9 of the West Virginia Code (Chapter 6, Article 9A, Section 4). In attendance with the Commission were Mr. Reed and William Bostic, a summer intern at the Prosecutor's Office. They adjourned from the Executive Session at 3:57 P.M.

On this date, the County Commission authorized Steven A. Grimm to sign the letter to the Criminal Justice and Highway Safety Office, Charleston, WV, requesting that funds in the amount of \$5,665.00 of the Drug Control and System Improvement Formula Grant No. 91-DC-078 be transferred to the Equipment line item. Said funds, if appropriated, would be used to purchase a Sony Pyxis Global Positioning System, a Bendix/King UX-99 Transceiver with Alkaline Battery Holder and three King Portable Radios (210 channel) with twelve-volt charger systems. Said Grant period will expire on July 31, 1992. An Order was prepared regarding this matter.

On this date, the County Commission, upon a motion made by Holmes R. Shaver, seconded by Jean Grapes and passed, adopted a Resolution in reference to Budget Revision No. 2 in the General County Fund budget for the fiscal year 1992/1993. The Request for Revision to the Approved Budget, being submitted to the Department of Tax and Revenue, Charleston, WV, was signed by Steven A. Grimm. An Order was prepared regarding this matter.

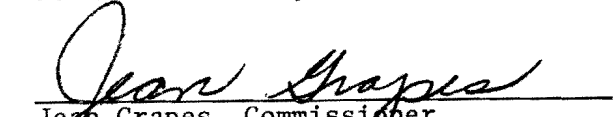
Having no scheduled appointments or further business to attend to, the  
County Commission adjourned at 4:00 P.M.

Approved:

THE COUNTY COMMISSION OF WOOD COUNTY

  
Steven A. Grimm, President

  
Holmes R. Shaver, Commissioner

  
Jean Grapes, Commissioner

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# The Pornography Proposal

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## *Commissioner Invites Letters on Porn*

Editor of The News,

Dear Sir:

The County Commission is being asked to ban the sale of pornographic materials in Wood County. We are faced with the awesome decision the supreme court, congress or the state government refuse to take a stand on.

The West Virginia legislature's idea to allow people in each county to make their own decisions was good but in their infinite wisdom they neglected to make it possible to put it on the ballot so the people could make their decision. They left it to the discretion of three county commissioners.

The people who say they have a right to buy, to view or to read whatever they choose without government interference have a valid point.

The people who say their right of dignity and the values of their children are being violated by open hard pornography have a valid opinion.

Young parents who are concerned for their childrens morals because they are exposed to TV, movies, and magazines that exploit a disregard for morality have a valid point.

I understand when people say we may not be able to stop porn, but at least we can take a stand. They say enough is enough.

The people who fear a runaway censorship should understand if this ordinance is enacted each case must be viewed by the prosecuting attorney who will determine if it should be taken to trial and decided by a jury.

As county commissioner I am concerned of the cost to the taxpayers as the issue will be tried in court as well as the costs of each individual trial case. You cannot legislate morality and we as one county cannot stop the printing and the making of pornography banning the sales in Wood County. Knowing that, I also understand the people's need to speak out. They are offended by the trash they are exposed to in their ordinary daily lives.

The duty of any elected official is to represent the wishes of the majority. This is the principle on which our government was founded. Many Americans have lost faith in the system because elected officials have not responded to their wishes. Politicians too often vote for what is politically beneficial to themselves instead of the needs of the people.

Finding what the wishes of the majority of Wood County is a problem. My vote should and will represent what I ultimately come to believe to be the wishes of the majority.

Readers who would like to voice your opinion should take the time to write a simple letter to the commission stating whether they are for the ordinance or against the ordinance. Their name and address should be included.

Sincerely,  
JEAN GRAPES  
Parkersburg

7/27/92  
55/204

JULY 27, 1992

IN THE COUNTY COMMISSION OF WOOD COUNTY, WEST VIRGINIA

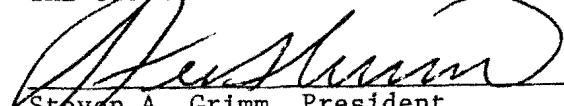
IN RE: WOOD COUNTY COMMISSION -- ANTI-OBSCENITY ORDINANCE  
ADOPTED FOR ALL OF WOOD COUNTY IN ACCORDANCE WITH WEST  
VIRGINIA CODE 7-1-4, AS AMENDED.

O R D E R

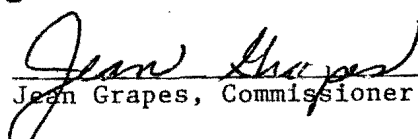
Upon motion made by Holmes R. Shaver, seconded by Jean Grapes and made unanimous by Steven A. Grimm, this day, the Wood County Commission adopted, pursuant to Chapter 7, Article 1, Section 4 of the West Virginia Code, as amended, an Anti-Obsecnity Ordinance, a copy of which is attached hereto and which further appears in Photostat Book No. 44I, page number 7 which language is hereby incorporated herein by reference. Said Ordinance adopted is in relation to obscene matter and establishes penalties for violations of said Ordinance. The effective date of this Ordinance will be August 31, 1992.

-(SEE PHOTOSTAT PAGES IN BOOK 44I FOR COPY OF ORDINANCE IN ITS ENTIRETY)

THE COUNTY COMMISSION OF WOOD COUNTY

  
\_\_\_\_\_  
Steven A. Grimm, President

  
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Holmes R. Shaver, Commissioner

  
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Jean Grapes, Commissioner

ENTERED: JULY 27, 1992.

7

AN ORDINANCE RESTRICTING CERTAIN ACTIVITIES  
IN RELATION TO OBSCENE MATTER  
FOR WOOD COUNTY

Be it ordained and enacted by the County Commission of Wood County, pursuant to West Virginia Code 7-1-4, that an Ordinance titled: "Restricting Certain Activities In Relation To Obscene Matter" read as follows:

Section 1. Definitions.

For purposes of this Ordinance:

- (1) "Knowingly" means to have knowledge of or to be aware of the content or character of obscene matter.
- (2) "Matter" means any book, magazine, newspaper or other printed or written material, or any picture, drawing or photograph, motion picture, or other visual representation, or live conduct, or any recording, transcription or mechanical, chemical or electrical reproduction, or any other articles, equipment, machines or materials.
- (3) "Individual" means any human being regardless of age.
- (4) "Obscene" means matter which the average individual applying contemporary community standards would find
  - (i) taken as a whole, appeals to the prurient interest;
  - (ii) depicts or describes in a patently offensive way ultimate sexual acts, normal or perverted, actual or simulated;and
  - (iii) the matter, taken as a whole, lacks serious literary, artistic, political or scientific value, and which either:
    - (A) Depicts or describes patently offensive representation of masturbation, excretory functions, lewd exhibition of the genitals, sodomy, fellatio, cunnilingus, bestiality, sadism, masochism;or
    - (B) Depicts or describes nudity or sexual acts of persons, male or female, below the age of eighteen years.
- (5) "Person" means any individual, partnership, firm, association, corporation or other legal entity.

- (6) "Prepare" means to produce, publish or print.
- (7) "Public display" means the placing of material on or in a billboard, viewing screen, theatre, marquee, newsstand, display rack, window, showcase, display case or similar public place so that material can be purchased or viewed by individuals.

Section 1a. Injunctive relief.

The circuit court shall have jurisdiction to issue an injunction to enforce the purposes of this Ordinance upon petition by the prosecuting attorney or any citizen of the County who can show a good faith and valid reason for making such application. No bond shall be required unless for good cause shown.

Section 2. Activities prohibited; penalties.

Any person who knowingly sends or causes to be sent or causes to be brought into the County of Wood for sale or public display, or prepares, sells or makes a public display, or in the County of Wood offers to prepare, sell or make a public display, or has in his possession with the intent to sell or make a public display of any obscene matter to any individual, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five hundred dollars or imprisoned in the county jail not more than thirty days or both fined and imprisoned. A person convicted of a second or subsequent offense under this Ordinance is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars or imprisoned in the county jail not more than six months or both fined and imprisoned.

Section 3. Prosecution by presentment or indictment.

No person may be prosecuted for an offense under this ordinance except by indictment or information.

Section 4. Employees acting within scope of employment shall not be prosecuted.

No employee shall be guilty of a violation of this Ordinance when such employee is a projectionist, ticket taker, usher, or when such employee prepares, sells or makes a public display of obscene matter while acting within the scope of his regular employment, unless such employee has a proprietary interest in such obscene matter or is a shareholder or officer of a corporation which has a proprietary interest in such obscene matter.

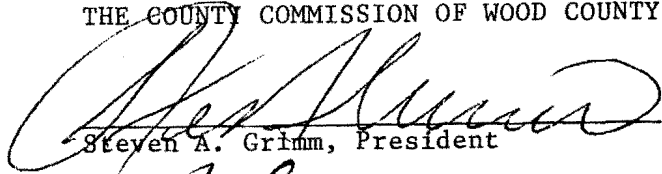
Section 5. Exceptions.

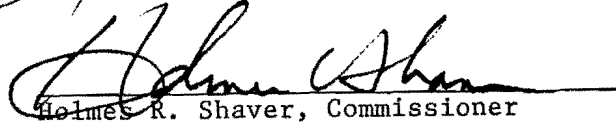
Nothing in this Ordinance shall be construed so as to apply to any person exercising a right secured by the constitution or laws of this State or of these United States.



The effective date of this Ordinance is August 31, 1992.

THE COUNTY COMMISSION OF WOOD COUNTY

  
Steven A. Grimm, President

  
Holmes R. Shaver, Commissioner

  
Jean Grapes, Commissioner

PURCHASE ORDERS SIGNED ON JULY 27, 1992

No. 16190	McClinton Chevrolet	\$ 4.80
16214	A.E. Supply Co.	22.57
16226	Best Office Machines	83.00
16228	Parkersburg Tile Co.	216.00
16231	Clark, Boardman & Callahan	314.18
16233	Investigation Management Systems	140.00
16234	CWS	94.08
16235	Chapman Printing Co. Inc.	159.00
16236	Parks Hardware & Supply, Inc.	136.80
16239	Tune-Up Centers	312.00
16240	Buckeye Sports Supply	1403.05
16241	Broadwaters Motorcar	46.48
16245	Broadwaters Motorcar	28.95
16249	Broadwaters Motorcar	10.96
16250	Broadwaters Motorcar	63.12
16252	State Electric Supply	99.30
16253	Parkersburg Office Supply	47.22
16254	Global Computer Supplies	113.50
16255	Graphic Comm. Inc.	748.56
16256	MISCO	59.98