

IN THE COUNTY COMMISSION OF WOOD COUNTY, WEST VIRGINIA

IN RE: MINUTES OF MEETING HELD  
MONDAY, MARCH 22, 1993

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

On this date, the County Commission met in regular session. They signed purchase orders, invoices and other correspondence. The County Commission approved a Personal Property Improper for Kids Castle, Inc. and an Exoneration for David L. & Sandra G. Barrett.

At 10:00 A.M., the County Commission met with Charles Duffy, Attorney for Abraxas to discuss the Proposed Project of Jenks Township Municipal Authority, 1993 Revenue Bond Issue. Notice of this meeting (public hearing) was published in the Parkersburg News & Sentinel on March 8, 1993 and March 15, 1993. Mr. Duffy stated that Abraxas will not be changing the current program but they do want to move the school building and improve the gymnasium. Mr. Duffy stated that he would like for a Resolution to be executed on Thursday, March 25, 1993. President Shaver asked if the County would have any financial requirements in regard to this. Mr. Duffy stated that the County would not and there is no liability on the part of the County. Mr. Duffy stated that the lease is a twenty-year lease, which is not up yet, and would like to have it for another twenty years. Commissioner Grapes asked about the slippage. Mr. Duffy stated that the sell of the bonds could go towards the fixing of the slippage. Ed Galland, a member of the Mountwood Park Board stated that Burgess & Niple are going to do a study for the cost to fix the slippage. Mr. Galland also stated that he has heard that Abraxas will be changing the kind of people that they take in (sex offenders). Mr. Duffy stated that this has already come about. Mr. Galland stated that the Mountwood Park Board was not informed of this and that Abraxas needs to be open


with people. Mr. Duffy stated that he will discuss this after this meeting and get his concerns so that he may take them directly to Dan Heit at Abraxas. Mr. Duffy stated that he will be faxing the Resolution to Mary Rader instead of coming back on Thursday. President Shaver adjourned this meeting.

On this date, came Lawrence Ronning, Attorney, and presented to the County Commission a Complaint addressed to the WV Ethics Commission, Charleston, WV. Said complaint was accepted by the County Commission as an unsigned document. The Complainant, Garry D. Turner, is to come in at a later date to sign said Complaint. The following documents are a part of said Complaint: Exhibit A - Statement of Garry Turner to Wood County Commission dated February 8, 1993; Exhibit B - Letter of Lawrence Ronning to Wood County Commission dated March 10, 1993; Exhibit C - Statement of Garry Turner to Mountwood Park Board dated March 17, 1993; and Exhibit D - License Agreement dated May 11, 1990. Said complaint is in reference to an alleged "conflict of interest" against Jeffrey DeVol, who is Vice-President of the Board of Wood County Parks and Recreation Commission and also is President of the WV Off-Highway Vehicle Association, in regard to the All Terrain Vehicle Trail leased by Mountwood Park to the WV Off-Highway Vehicle Association. An Order was prepared regarding this matter. A copy of said Complaint is attached to these minutes.

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

  
Holmes R. Shaver, President

  
Jean Grapes, Commissioner

  
Steven A. Grimm, Commissioner

PURCHASE ORDERS SIGNED ON MARCH 22, 1993

No. 17227	Parkersburg Office Supply	\$ 182.50
17246	Parkersburg Office Supply	56.82
17258	Universal Lighting Products	519.84
17262	Broadwaters Motorcar	7.00
17263	Lowe's Home Centers	26.68
17264	Sturm Supply	40.40
17265	Broadwaters Motorcar	8.26

COPY

TO: West Virginia Ethics Commission  
1207 Quarrier Street  
Charleston, West Virginia 25305

FROM: Person Making Complaint, Garry D. Turner  
3511 Roseland Avenue  
Parkersburg, West Virginia 26104

RE: Person Complained Against, Jeffrey (Jeff) P. DeVol  
4 Kittle Street  
Williamstown, West Virginia 26187

Business: DeVol's Cycle Center  
1117 Broadway Avenue  
Parkersburg, West Virginia 26101

COMPLAINT

1. Jeff DeVol is Vice President of the Board of Wood County Parks and Recreation Commission, a public corporate body, (sometimes referred to as Mountwood Park Board) and also serves as President of West Virginia OHV Association, a corporation, (sometimes referred to as the West Virginia Off-Highway Vehicle Association).

2. There is an agreement dated May 11, 1990, between the two corporate bodies pertaining to the use of a part of Mountwood Park by the West Virginia OHV Association.

3. The following exhibits are made a part of this Complaint:

Exhibit A: Statement of Garry D. Turner to Wood County Commission dated February 8, 1993;

Exhibit B: Letter of Lawrence M. Ronning to County Commission of Wood County dated March 10, 1993;

Exhibit C: Statement of Garry D. Turner to Mountwood Park Board dated March 17, 1993; and

Exhibit D: License agreement dated May 11, 1990.

Dated this \_\_\_\_\_ day of March, 1993.

\_\_\_\_\_  
Garry D. Turner

VERIFICATION OF COMPLAINT

STATE OF WEST VIRGINIA,

COUNTY OF WOOD, TO-WIT:

GARRY D. TURNER, the Complainant named in the foregoing Complaint being duly sworn, says that the facts and allegations contained therein are true, except so far as they are therein stated to be on information, and that, so far as they are therein stated to be on information, he believes them to be true.

\_\_\_\_\_  
Garry D. Turner, Complainant

Taken, sworn to and subscribed before me this \_\_\_\_\_ day of March, 1993.

My Commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

February 8, 1993

I would like to respectfully address the Wood County Commission.

I attended the special meeting at Mountwood Park on Friday, February 5, 1993, regarding the ATV trails. When President Ball called this meeting to order, he asked that all the Board members please come to the front table and take a seat. The Vice-President of the Board, Jeff Devol, did not comply but rather stood separate from the Board. Later in the meeting, someone asked why he was not seated with this Board. President Ball informed this meeting that Vice-President Devol had elected to represent the "Pro-ATV Trail" group. Later in the meeting Mr. Devol gave a five minute presentation in the hour allotted for this same group.

It's quite obvious how Mr. Devol feels on this subject. He has a right to his opinion, just as I do. As Vice-President of the Mountwood Park Board though, he has a duty to sit and act as a Board member. President Ball stated that this was an informational meeting. There were times that people were making their presentation to this Board and Mr. Devol was talking with members of this group he elected to represent. At one point he even stepped into a separate room to talk with group members. Why should Jeff Devol be excluded from the gathering of all information on this subject? When the Board is making decisions on this subject, I'm sure then he will be sitting at this front table. It totally disgusted me that he didn't even have the courtesy of at least acting that he was at the meeting with an open mind, gathering information about Wood County's park.

This whole display from our Park Board Vice-President shows that the "good" of Mountwood Park does not come first in his mind. I believe the legal terminology in this situation is "conflict of interest."

Mr. Devol, as the rest of the Park Board, is there to work for the county and the well being of its' park. He showed this one hundred or so people at this meeting that his position as President of the WVOHVA is more important to him. Fine. But now he owes the people of this county, all visitors of this park, and this Commission an explanation. This Commission owes this county, that elected them, the decency of asking Mr. Devol for it. I as a Wood County citizen, want someone on the Park Board, whether pro or con to the ATV trails, that is going to put the "good" of Mountwood as a priority of their position!

Lastly, I'd like to thank the Park Board for holding this special meeting. President Ball handled the meeting well, except for the problem discussed in this presentation. In fact, it would be nice to have more of these meetings to discuss other problems at our beautiful park.

I would like to make this complaint part of public records and thank this Commission for this time.

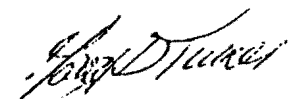
  
Garry D. Turner

EXHIBIT A

LAWRENCE M. RONNING  
ATTORNEY AT LAW  
PARKERSBURG, WV 26101

March 10, 1993

*The law offices of  
Lawrence M. Ronning  
will be located in the  
Perry and Associates Building  
1035 Murdoch Ave. Parkersburg  
Phone (304) 422-1600  
Fax (304) 428-5643  
P.O. Box 1625, Parkersburg, WV 26102  
Effective 3/1/93*

County Commission of Wood County  
Courthouse  
Parkersburg, West Virginia 26101

Lady and Gentlemen:

I acknowledge your letter of February 8, 1993, in which you enclose the letter, or statement, of Garry D. Turner, and request my opinion concerning its contents.

The factual situation relates to a so-called "special meeting" of the Board of Wood County Parks & Recreation Commission at Mountwood Park on February 5, 1993. It is my understanding that the meeting was called solely to provide information concerning the use of a part of the park by OHV enthusiasts, that no business was to be transacted nor was any transacted, and that no vote was taken concerning any matter. The purpose of the meeting was to provide the Board members, and interested citizens, with various, and possibly conflicting, points of view about the use of a part of the park for off highway vehicles.

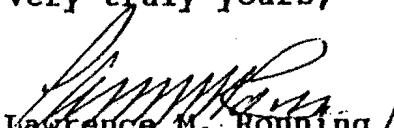
I presume that my opinion was requested because of the statements in Mr. Turner's letter that Jeff DeVol is an officer of the corporation which leases park property for OHV activities and is also a voting member of the park board, and it is suggested that this is a conflict of interest.

I am of the opinion that laws relating to conflict of interest have no application to a "meeting" such as the one held on February 5. This being an information meeting only, Mr. DeVol, or anyone else attending, could sit where he chose, stay or leave as he pleased, without being guilty of any conflict of interest.

It is not within the province of this letter to determine whether it was wise for Mr. DeVol to choose not to pay attention to all of the information made available, or whether he should listen to all sides of opposing views, or whether any of his actions were inappropriate.

In short, Mr. DeVol did not violate any law at the meeting on February 5.

Very truly yours,

  
Lawrence M. Ronning  
Attorney for Wood County Parks &  
Recreation Commission

LMR/aj

EXHIBIT B

March 17, 1993

Mountwood Park Board of Directors:

I have spoke with County Commissioners and was informed that I can make a complaint to this Board, just as I can to the Commissioners themselves.

Jeff Devol is at a conflict of interest by:  
Sitting as Vice President of Mountwood Park Board and President of the West Virginia Off-Highway Vehicle Association. This gives him the ability to sign both lines of the contract-license between this Park Board and the OHVA.

He is also the owner of Devol's Cycle Center, making the Mountwood OHVA Trails a selling factor to his business, resulting in possible personal financial gain.

It is rumored that he is also a paid lobbyist to our lawmakers in Charleston for the ORV Bill now in our State Senate (#269) and House of Delegates (#2510).

Because of the facts listed above, I ask that any decisions made on the ORV Trails at Mountwood be postponed until this complaint has been investigated and findings of this matter be reported to this Park Board, the County Commission, and myself.

I ask this Board to refer this complaint to Lawrence Ronning. I also ask this Board to refer this complaint, a copy of my original complaint of February 9, 1993 to the Wood County Commission, the response of Lawrence Ronning to my Feb. 8th complaint, and a copy of the May 11, 1990 license between Wood County Parks and Recreation Commission and WVOHVA to the West Virginia Board of Ethics for investigation.

I would like to make this part of public records.

Thank you.



Garry D. Turner  
3511 Roseland Ave.  
Parkersburg, WV 26104

Exhibit C



THIS LICENSE, Made in duplicate this 11th day of March, 1990, by and between the WOOD COUNTY PARKS AND RECREATION COMMISSION, a public corporate body, herein called "the Commission", as party of the first part, and WEST VIRGINIA OHV ASSOCIATION, a corporation, herein called "OHV", as party of the second part.

STATEMENT OF FACTS: The Commission is charged with the care, operation and maintenance of the park and recreational facilities known as Mountwood Park in Wood County, West Virginia, (herein called "the Park"). A section of said Park, (herein called "the Site"), lying between the water tank, Route #50, Volano Road and the northeast park boundary (excluding the tennis courts and other developed areas except Oak Ridge Shelter No. 6), containing approximately 290 acres, is primarily wooded and (undeveloped.) Said Site is not now, and cannot be, used for recreational or other park purposes without the expenditure of substantial amounts of money and therefore is not now of any advantage, value or use for such purposes.) OHV has agreed to improve and develop the Site for off-highway vehicle recreational purposes at no cost to the Commission.

LEASE TO OHV: The Commission does hereby grant a License to OHV and OHV does hereby accept said License from the Commission the Site consisting of approximately 290 acres of the land in Mountwood Park located in Walker District, Wood County, West Virginia, described above.

TERM: This License shall be for a term of two (2) years commencing on the first day of April, 1990, and ending on the 31st day of March, 1992. It shall automatically renew for additional one year terms unless terminated by either party by

written notice to terminate given to the other party not less than thirty (30) days prior to the end of the initial term or any renewal.

RENTAL: OHV, at its own cost, shall improve and develop the Site and maintain the same, all in accordance with the terms of this Lease, and, in addition, shall pay to Commission the sum of \$750.00 per year, in advance, on April 1st of each term year.

SITE DEVELOPMENT: OHV agrees to immediately commence the development of the Site by laying out and constructing trails and other improvements required for its purposes, provided however, that without the written consent of the Commission, (OHV shall not cut any live trees, dam or impede any stream, or make any improvement, or perform any act, which will cause erosion of the land.) Upon termination of this License, all improvements constructed and placed upon the Site shall be and become the property of the Commission at no cost to the Commission.

USE OF SITE: (a) The Site shall be used by OHV only for development, maintenance and operation of an off highway vehicles track and related facilities and activities. (b) An OHV is an off-road vehicle which travels on three or more tires, has a seat designed to be straddled by the operator and has a handlebar for steering. (c) OHV shall operate the Site in accordance with its rules of conduct, a copy of which is made a part of this License. OHV agrees to endeavor to encourage participation of Wood County residents in its programs and activities. (d) All participants shall behave in a manner that is socially acceptable and considerate of others. (e) Helmets are to be worn and secured in position on the head at all times while operating or traveling on an OHV. (f) OHV's are to be

operated on Designated Trails Only. Operating of OHV's off of said trails, on public roads, or in a manner that is unsafe will not be tolerated. (g) All participants will ride straight. Alcoholic beverages and all other drugs are prohibited. Riding while under the influence of alcohol or drugs is prohibited. (h) Standard riding apparel/gear is to include: helmet, eye protection (goggles), over-the-ankle boots, gloves, long pants, and long sleeve shirt. (i) OHV shall have the right to reserve the Site for its scheduled events, programs and activities and shall post or otherwise notify the public of its reservations. At all other times the Site shall be open and available for use by the general public, subject only to the rules, regulations and requirements of the Commission.

INSURANCE: At all times during which the Site is being used, OHV shall maintain liability insurance in the following minimum amounts: Personal injury, \$350,000.00; death, \$350,000.00; and property damage, \$5,000.00; and the Commission shall be named as an insured party as its interests appear.

MAINTENANCE: OHV agrees to maintain and keep clean and in good order and repair the Site and all of the improvements and facilities constructed and placed thereon.

TERMINATION: This License shall terminate upon the happening of any one or more of the following: (a) Written notice as provided for in this License under paragraph "Term"; (b) In the event OHV has not commenced development of the Site within 60 days from the beginning of the term of the License, or does not substantially complete construction within 180 days from the beginning of said term, then the Commission may give 30 days written notice to commence development, or complete, and if OHV does not comply within said 30 days, this License shall

terminate; (c) In the event OHV violates any other provision of this License, then after 10 days written notice to cure, the Commission may terminate this License without further notice.

MISCELLANEOUS: Access: The Commission agrees that OHV, its agents, employees and invitees, may have uninterrupted access to the Site, subject only to the rules and regulations pertaining to Mountwood Park.

NOTICES: All notices authorized or permitted by this License shall be considered delivered by a party if served in any manner provided for the service of civil process or if mailed by a party to the other party by certified or registered mail addressed as follows:

(a) Wood County Parks & Recreation Commission, c/o  
Rt 1 Box 56 WAVERLY, WV

(b) West Virginia OHV Association, c/o  
P.O. Box 1427 PARKERSBURG, WV

WITNESS the following signatures:

WOOD COUNTY PARKS AND  
RECREATION COMMISSION

By: O. J. Ball  
its Vice Cha.

WEST VIRGINIA OHV ASSOCIATION

By: John H. Kelley  
its V.P.