

IN THE COUNTY COMMISSION OF WOOD COUNTY, WEST VIRGINIA

IN RE: MINUTES OF MEETING HELD  
MONDAY, MAY 3, 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.

On this date, the County Commission approved Exonerations for Lake Washington Club and Robert K. Tebay, Jr. and a Personal Property Improper for Jeff Givens.

Upon a motion made by Steven A. Grimm, seconded by Jean Grapes and made unanimous by Holmes R. Shaver, the County Commission approved minutes from Thursday, April 22, 1993.

At 11:00 A.M., came Michael Broadwater and Patricia Broadwater, husband and wife; Charles Mercer and Janet Mercer, husband and wife; Edna Buzzard; and Azel Pauley and Vada Pauley, husband and wife, and representing themselves in the hearing set by the County Commission of Wood County pursuant to an Order appearing in Order Book 55, at Page 336 and bearing the date of April 1, 1993. It appearing to the Commission that said Petitioners, all being aware of such hearing, had given proper notification in accordance with the Code of WV. The Petitioners caused a Notice of the time and place of such hearing to be published as a Class II legal advertisement published in The Parkersburg News, which said publication appearing on April 5, 1993 and April 12, 1993 as evidenced by an affidavit of publication hereby filed at the time of said hearing. After due consideration of the petition, the Commission does hereby find that Michael Broadwater and Patricia Broadwater, Charles Mercer and Janet H. Mercer, Edna Buzzard and Azel Pauley and Vada Pauley are owners of property abutting the undeveloped and unused road situated between Loomis

Ridge Road and Winding Road. Hearing no objections at the said public hearing, the Commissioner does further affirmatively find that said undeveloped and unused road, being shown on the plat attached hereto and made a part of this Order by reference, and crossing tracts "A-1", "F", "I" and "H" between Loomis Ridge Road and Winding Road, located in Clay District and shown on Tax Map 120, not being open and subject to public use, and that the use and rights of no persons, firms or corporations in such road will be impaired or lost by the closing and vacation thereto. It is accordingly Ordered that the undeveloped and unused road is hereby closed and vacated as a street, alley or public way, subject to such rights of way or easements, if any, to public utilities heretofore created by grant, reservation or prescription, over, across or under said undeveloped and unused road, upon a motion made by Steven A. Grimm, seconded by Jean Grapes and made unanimous by Holmes R. Shaver. It is also Ordered that a copy of the Order be certified by the Clerk of this Commission for entry in the Office of the Clerk of the County Commission of Wood County. An Order was prepared regarding this matter.

At 2:00 P.M., the County Commission met with Dan Marshall to discuss a deferred compensation plan for County employees. Upon a motion made by Steven A. Grimm, seconded by Jean Grapes and made unanimous by Holmes R. Shaver, the County Commission signed a Resolution establishing a deferred compensation plan for County employees upon the recommendation of the Employees Benefit committee. With the signing of said Resolution, it is therefore resolved that the County Commission establish a Deferred Compensation Plan pursuant to Section 457 of the Internal Revenue Code of 1954, as amended, for the benefit of its employees who elect to become participants under the Plan's provisions. Said Resolution sets forth that Ferris, Baker Watts, Inc. be appointed Financial Advisor of the Plan and further authorized the President of the County Commission to execute the Agreement establishing the Non-Qualified Deferred Public Employees Compensation Plan. An Order was prepared regarding

this matter. Mr. Marshall read the Resolution to be made a matter of record. Said Resolution is attached to these minutes and should be made a part thereof.

Mr. Marshall also discussed the Resolution in regard to Jenks Township Bonds (Abraxas). Mr. Marshall stated that the Wood County Commission would not be the issuer and there would be no adverse affects by signing the Resolution. Mr. Marshall stated that he has spoken with Charles Duffy and Abraxas will pay for his (Mr. Marshall) fees. Commissioner Grapes stated that Mr. Marshall should inform Mr. Duffy that some of the money should go towards Claywood Park water for the area around Mountwood Park.

At 3:00 P.M., the County Commission met with Steve Campbell to discuss a TEAC 911 plan. Mr. Campbell informed the County Commission that his company deals with the recording of the phone calls made to 911 and that the Commission is not yet ready for what his company offers. Mr. Campbell stated that he would get a list of vendors that his company works with so that the County Commission could talk with them.

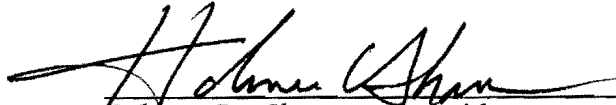
On this date, Patricia Stull and Roger Smith were sworn in to the Wood County Parks and Recreation Commission (Mountwood Park).

On this date, the County Commission was in receipt of a Petition for Appeal to the Supreme Court of Appeals, State of WV, submitted by Richard A. Bush of Bush and Trippel, Parkersburg, WV, on behalf of Alvin B. "Bruce" Schuck in regard to Civil Action No. 92-C-611 (from the Circuit Court of Wood County), S.F. Greiner, Sheriff of Wood County, Petitioner - Below, Respondent, v. The County Commission of Wood County and Alvin B. "Bruce" Schuck, Respondents - Below, Petitioner. An Order was prepared regarding this matter.

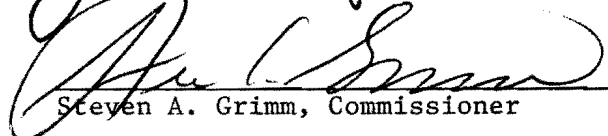
Having no scheduled appointments or further business to attend to, the County Commission adjourned at 4:00 P.M.

Approved:

THE COUNTY COMMISSION OF WOOD COUNTY

  
Holmes R. Shaver, President

  
Jean Grapes, Commissioner

  
Steven A. Grimm, Commissioner

PURCHASE ORDERS SIGNED ON MAY 3, 1993

No. 16979	Mahone Tire Service	\$ 78.00
17140	State Electric Supply	9.78
17268	Freestyle	89.12
17294	Channing L. Bete Co.	436.50
17304	Char Ann Service Co.	69.50
17316	Gall's Inc.	50.49
17333	WV Corrections Academy	1300.00
17341	AGA Gas, Inc.	22.81
17366	Sturm Supply, Inc.	62.23
17377	Broadwaters Motorcar	19.76
17382	State Electric Supply	15.76
17383	Universal Supply	109.16

RESOLUTION OF THE WOOD COUNTY COMMISSION ESTABLISHING A DEFERRED  
COMPENSATION PLAN FOR COUNTY EMPLOYEES

WHEREAS, county employees, acting through the Employees Benefit Committee, have requested the County Commission establish a Deferred Compensation Plan (the "Plan") pursuant to Section 457 of the Internal Revenue Code of 1954 and,

WHEREAS, the adoption of the Plan is found to provide substantial benefits to county employees at minimal cost to the county and,

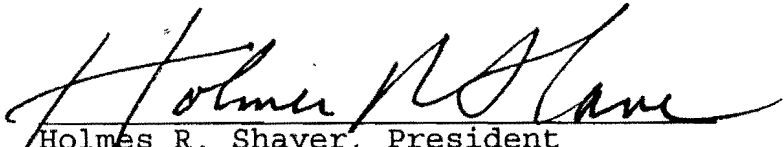
WHEREAS, the Employees Benefit Committee has recommended to the Commission the investment firm of Ferris, Baker Watts, Inc. to serve as Financial Advisor to the Plan.


NOW, THEREFORE, be it resolved that the County Commission of Wood County, West Virginia establish a Deferred Compensation Plan (the "Plan") pursuant to Section 457 of the Internal Revenue Code of 1954, as amended, for the benefit of its employees who elect to become Participants under the Plan's provisions,

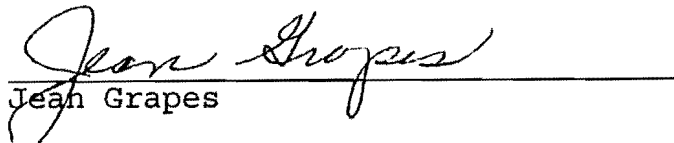
THAT Ferris, Baker Watts, Inc. is hereby appointed Financial Advisor of the Plan, and

THAT the President of the County Commission of Wood County is hereby authorized and directed to execute the Agreement, in the form attached to this Resolution as Exhibit A hereof, establishing the Non-Qualified Deferred Public Employees Compensation Plan.

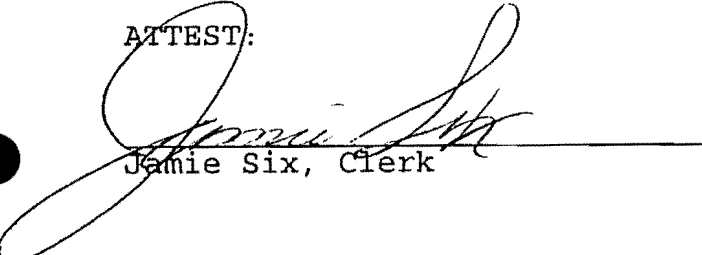
Duly adopted May 3, 1993.

  
Holmes R. Shaver, President

  
Steven Grimm

  
Jean Grapes

ATTEST:

  
Jamie Six, Clerk

## NON-QUALIFIED DEFERRED PUBLIC EMPLOYEE COMPENSATION PLAN

WHEREAS, the County Commission of Wood County, West Virginia, desires to establish a Deferred Compensation Plan (the "Plan") pursuant to a Section 457 of the Internal Revenue Code of 1954, as amended, (the "Code") for the benefit of its employees or independent contractors who elect to become Participants under the Plan's provisions;

NOW, THEREFORE, by executing this Agreement, the Employer agrees to do the following:

### ARTICLE I

#### ESTABLISH OF THE PLAN

1.01 Purpose of the Plan. The employer shall withhold the amount of compensation mutually agreed upon with each Participant for the purpose of providing periodic payments in retirement and death benefits in the event of death before or after retirement.

1.02 Separate Accounting. The Employer shall account separately or provide for separate accounting for the interest of each Participant (or of each Beneficiary) with respect to the deferred amounts and any gain or income from the investment thereof.

1.03 Deferred Amounts. Sole Property of the Employer. All amounts of compensation deferred under this Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall remain solely the property and rights of the Employer (without being restricted to the provisions of benefits under this Plan) subject only to the claims of the Employer's general creditors. The Employer is not obligated to purchase any property or rights to support the premises made under this Plan to each Participant.

1.04 Investments. The employer may invest all amounts held under this Plan in open-end investment company shares, or in any type or property or permissible investments except to the extent otherwise provided by law. The Employer agrees to promptly apply the deferred amounts, in the proportions specified in writing by each Participant, as contributions for investment in the type of property which the Employer agrees to make available for investment purposes. The Participant may, annually, by written instructions to the Employer, change the investment instructions of deferred compensation amounts or request the Employer to transfer or exchange his account for another investment alternative as provided under rules of uniform application by the Employer. The Employer reserves the power and authority to make any investment changes which it deems necessary or appropriate in any Participant's account since it is the actual owner of the property held under this Plan.

## ARTICLE II

### Definitions

2.01 Beneficiary. The trust, individual or individuals currently designated by the Participant or, where applicable, by his surviving spouse as the Beneficiary or Beneficiaries on the form provided for this purposes by and filed with the Employer, or if no such Beneficiary is alive or designated in effect at the time of distribution, the executor or other legal representative of the Participant or of his surviving spouse. If more than one designated Beneficiary survives the Participant, payments shall be made equally to all such Beneficiaries, unless otherwise provided in the Beneficiary Designation form. If no executor or administrator is appointed within six months after the death of the Participant or his surviving spouse, the Employer shall designate the Beneficiary from among the following persons surviving the Participant in the order of succession listed herein: (a) spouse; (b) children as a class; (c) parents; (d) other blood relatives.

2.02 Compensation. The total remuneration for services received by the Participant from the Employer during the Participant's taxable year. Compensation shall be taken into account at its present value.

2.03 Deferred Compensation. The amount of compensation not yet earned which the Participant and the Employer shall mutually agree to defer in accordance with the provisions of this Plan. The deferred amount shall be designated in the Participation Agreement.

2.04 Employee. Any individual who is employed by and who performs service for the Employer. Performance of service includes performance of service by an individual (not partnerships or corporations) as an independent contractor.

2.05 Employer. The state, a political subdivision of the state, an agency or instrumentality of the state or one of its political subdivisions or rural electric cooperative exempt under Section 501 (c) (12) of the Code and any affiliates which are exempt under Section 501 (c) (6).

2.06 Includible Compensation. The remuneration for service performed for the Employer which is currently includible in gross income. The amount of Includible Compensation shall be determined without regard to any community property laws.

2.07 Allowable Investments. Any investment described in Article I, Section 1.04.

2.08 Participant. Any employee who elects to defer compensation under the provisions of the Plan.

2.09 Participation Agreement. The written agreement between the Employer and Participant which sets forth certain provisions and elections relative to this Plan, which incorporates the terms of this Plan and which establishes the Participant's deferral and participation in this Plan.

2.10 Retirement. Severance of the Participant's contract or employment with the Employer on or after the Participants \_\_\_\_th birthday by reason other than death.

2.11 Termination of Service. The severance of the Participant's contract or employment with the Employer prior to his \_\_\_\_th birthday by reason other than death.

### ARTICLE III

#### Participation

3.01 Participation. Each Employee may become a Participant in the Plan by agreeing to defer compensation not yet earned. The deferred amount shall be designated in the Participation Agreement. Such Participation Agreement must be executed prior to the beginning of the calendar month in which it is to become effective.

3.02 Suspension of Participation. A Participant may revoke his Participation Agreement at any time by notifying the Employer in writing thirty (30) days prior to the effective date of the suspension. A participant who revokes his Participation Agreement may again become a Participant as of the first day of any succeeding calendar month by entering into a new Participation Agreement with the Employer.

3.03 Modification of Participation Agreement. A Participant who elects to defer compensation may modify such Participation Agreement but only with respect to compensation to be earned in the subsequent calendar month. Such modification may not occur more often than twice during any taxable year of the Participant.



3.04 Effect of Modification or Termination of Participation Agreement. Any modification or termination of the Participation Agreement under Section 3.02 or 3.03 shall not entitle the Participant to any amount by which his salary has heretofore been reduced. No distributions are permitted from the Plan except those specifically provided for in Article V, hereof.

3.05 Authorized Leave of Absence. If a Participant is on an authorized leave of absence from the Employer, his participation in the Plan will continue. Payments will not be made until the Participant has actually terminated his employment, has retired, has died, or has become eligible for a partial distribution under Section 5.02, hereof.

#### ARTICLE IV

##### Limitation on Deferred Amounts

4.01 Maximum Annual Deferral. The maximum amount that may be deferred under this Plan for an Employees taxable year (except as provided in Section 4.02 is the lesser of: (1) \$7,500 or (2) 33 1/3% of the Participant's Includible Compensation.

4.02 Catch Up Provision. For any one or more of the Participant's last three taxable years ending prior to his retirement, as defined in Section 2.11, the limitations set forth in Section 4.01 shall be the lesser of: (1) \$15,000.00 or (2) the sum of the limitation set forth in Section 4.01 and so much of that limitation which has not been used since January 1, 1992.

#### ARTICLE V

##### Distribution of Benefits

5.01 Distribution of Participants and Their Beneficiaries. Subject to the provision of Section 5.03, the balance credited to the account of a Participant shall be, or shall commence to be, distributed not later than the 60th day following the close of the calendar year in which he retires, dies, or terminates his employment with the Employer. If a Participant continues his employment beyond his retirement date but dies before actual retirement, he shall, unless he has otherwise elected in writing, have a survivor annuity payable on his death to his spouse in such amount as can be purchased with his account balance.

5.02 Partial Distribution. In the case of an unforeseeable emergency a Participant may apply to the Employer for a withdrawal of amounts under the Plan prior to retirement or other termination of the Participant's service with the Employer. If

such application for withdrawal is approved by the Employer, the withdrawal will be effective at the later of the dates specified in the Participant's application or the date of approval by the Employer and will be payable within 90 days of such effective date in a single payment.

The term "unforeseeable emergency" shall, for the purposes of this Plan, be limited to unexpected and unreimbursed major expenses resulting from illness or death of a member of the Participant's family, or certain other events, if said unexpected and unreimbursed major expenses and said other events would result in great hardship to the Employee if the withdrawal were not allowed and which may occur at any time independent of any control by the Employee. Withdrawals for foreseeable expenditures normally budgetable, such as downpayments on a home or purchase of an auto or college expenses, will not be permitted. This Plan hereby incorporates by reference any regulations issued by the Secretary of the Treasury which further define what constitutes an unforeseeable emergency.

In the event of an unforeseeable emergency, the amount of withdrawal shall be limited to an amount sufficient to meet that emergency, and in no event shall it exceed the amount of benefits which would have been payable had the Participant terminated employment at the time of withdrawal. Notwithstanding any other provision of this Plan, if a Participant makes a withdrawal hereunder, the amount of his benefits under the Plan shall be appropriately reduced to reflect such a withdrawal. The remainder of any payable benefits, if any, shall be payable according to the otherwise applicable provisions of the Plan.

**5.03 Optional Deferral of Distributions.** Notwithstanding the provisions of Section 5.01 hereof, the Employer may direct, under rules of uniform application, that payment of benefits to any Participant who terminates employment prior to his retirement date will commence when such retirement date or a later date is attained. By written statement filed with the Employer, each Participant may elect that distribution be made, or commence, in a year subsequent to that determined under Section 5.01 but no later than that tax year in which he attains age 70 1/2. Any such election shall be subject to rules of uniform application prescribed by the Employer.

**5.04 Joint and Survivor Annuity.** Unless a married Participant elects in writing to receive a distribution of his benefits under one of the forms of distribution in Section 5.05 hereof, the distribution of his interest pursuant to Section 5.01 hereof, or Section 5.03 hereof, shall be in the form of a joint and survivor annuity.

5.05 Modes of Distribution. Distribution pursuant to Section 5.01 or Section 5.03 hereof, shall be made in any one of the following ways as elected by the Participant or, if no election is made, as provided in this section: (a) in a single payment in the year in which distribution is to be made or to commence; (b) in monthly, quarterly, semi-annual or annual payments commencing in such year and made either (i) over the life of the Participant or (ii) over a period selected by the Participant not extending beyond the Participant's life expectancy; or (c) in monthly, quarterly, semi-annual or annual payments commencing in such year and made either (i) over the joint lives of the Participant and his spouse or (ii) over a period selected by the Participant not extending beyond the joint life and last survivor expectancy of the Participant and his spouse. The Participant may elect one of the foregoing modes of distribution by written notice to the Employer at least forty five (45) days prior to the date on which distribution is to be commenced, as provided in Section 5.01 and 5.03. Such election shall specify (i) a mode of distribution described in (a), (b), or (c) above; (ii) the period, if distribution is to be made under (b) (ii) or (c) (ii) above; and (iii) a form a distribution permitted by Section 5.06. If the Participant fails to make an election, distribution shall be made to him in annual installments in the form selected by the Employer based on the Participant's life expectancy.

5.06 Form of Distribution. Distribution in a single payment under Section 5.05 (a) hereof shall, as specified in an election by the Participant, be in cash or in kind. If any installment distribution is elected, distribution shall be in cash or in kind as specified by the Participant, and if no such election is made, distribution shall be made in the form selected by the Employer. The form of any distribution elected by a Participant is subject to the approval of the Employer.

5.07 Calculation of Installment Distributions. Any annual payment under (b) (i) or (c) (i) of Section 5.05 hereof, shall be determined by dividing the entire interest in the account of the participant at the beginning of the year for which the payment is to be made by either (i) the then life expectancy of the Participant or of the Participant and his spouse, as the case may be; or (ii) if the Participant so specifies, by the life expectancy of the Participant or of the Participant and his spouse in the year in which distribution commenced, reduced by the number of whole years elapsed since the beginning of such year. Life expectancies shall be calculated for this purpose by use of the expected return multiples in Section 1.72-9 of the Income Tax Regulations. If distributions are to be made in annual installments over a fixed period, pursuant to Paragraph (b) (ii) or (c) (ii) of Section 5.05, the amount of any annual

payment shall be the amount determined by dividing the Participant's interest in his account at the beginning of the year for which the payment is made by the number of years remaining in the fixed period. Monthly, quarterly or semi-annual payments pursuant to (b) or (c) of Section 5.05 will be one-twelfth, one-half or one-quarter of the relevant annual payment.

**5.08 Distribution at Death of a Participant or Surviving Spouse.**

If either (a) a Participant dies before the entire balance credited to his account by the Employer has been distributed and distribution is not then being made to such Participant and his spouse as provided in (c) of Section 5.05, or (b) distribution has commenced, as provided in (c) of Section 5.05 to the surviving spouse of a Participant and such surviving spouse dies before the entire balance has been distributed to such spouse, the entire amount credited to the account of the Participant shall be either distributed to his spouse or, if he has elected a Beneficiary other than his spouse, to such Beneficiary pursuant to one of the modes of distribution provided in Section 5.05 above. Distribution made on the death of the surviving spouse shall be made to the Beneficiary in equal installments over such Beneficiary's life or in a single sum.

**ARTICLE VI**

**Administration**

6.01 **The Employer is the Plan Administrator.** This Plan shall be administered by the Employer. The Employer may allocate all or any of the duties of Plan Administrator to an individual (Plan Administrative Office) or a committee. If the Employer appoints a committee, it shall consist of not less than three individuals. Committee members may participate in the Plan, but shall not be entitled to participate in decisions which relate solely to their own participation. A committee member or Plan Administrative Officer may resign at any time upon written notice. Upon such resignation or removal, the Employer shall appoint a successor committee member or Plan Administrative Officer.

6.02 **Plan Administrator's Powers and Duties.** The Plan Administrator shall have the power and duty to:

- a) Construe and interpret the provisions of the Plan;
- b) Adopt, amend or revoke rules and regulations for the administration of the Plan, provided they are not inconsistent with the provisions of the Plan;

- c) Provide appropriate parties with such return, reports, descriptions and statements as may be required by law, within the times prescribed by law and to make them available for examination by Participants and their Beneficiaries which required by law;
- d) Take such other action as may be reasonably required to administer the Plan in accordance with its terms or as may be provided for or required by law;
- e) Provide any Participant whose claims for benefits has been denied a reasonable opportunity for a full and fair review; and
- f) Appoint and retain such persons as may be necessary to carry out the functions of the Plan Administrator.

6.03 Administrative Expenses. Administrative expenses of the Plan shall be met on a pro-rata basis by each Participant account unless paid separately by the Employer.

#### ARTICLE VII

##### Amendment or Termination of the Plan

7.01 Amendment or Termination of the Plan. The Employer reserves the right to amend this Plan from time to time and to terminate the Plan at any time. All such amendments or terminations shall be in writing and shall be communicated to all Participants and other appropriate parties as may be required by law.

#### ARTICLE VIII

##### Miscellaneous

8.01 This Plan is Not an Employment Contract. Nothing contained in this Plan shall be deemed to constitute an employment contract between the Participant and the Employer, and no provision of this Plan shall restrict the right of the Employer to discharge a Participant or the right of a Participant to terminate his employment.

8.02 Non-Assignability Clause. Neither the Participant, or the Beneficiary nor any other designee, shall have any right to commute, sell, assign, transfer or otherwise convey the right to receive any payments provided under this Plan. Such payments and rights are expressly declared to be non-assignable and non-transferable; nor shall any unpaid benefits be subject to attachment, garnishment or execution, or be transferable by operation of law in the event of bankruptcy or insolvency except to the extent otherwise required by law.

8.03 Construction. This Plan is established with the intent that it be a non-qualified deferred compensation plan under Section 457 of the Code. All terms and provisions contained in this Plan shall be interpreted, wherever possible, so as to be in compliance with the requirements of Section 457 of the Code.

8.04 Governing Law. This Plan shall be constructed, administered and enforced according to the laws of the State of West Virginia, except to the extent superseded by any applicable provision of the Code.

8.05 Effective Date. This Plan shall be effective as of \_\_\_\_\_, 1993.

IN WITNESS WHEREOF, the undersigned Employer has caused this Plan to be signed and attested to by its duly authorized officers on the 3<sup>rd</sup> day of MAY, 1993.

ATTEST:

By:

  
\_\_\_\_\_

County Clerk  
Title

President, Wood Co. Commission

By:

  
\_\_\_\_\_

Authorized Officer