

IN THE COUNTY COMMISSION OF WOOD COUNTY

IN RE: MINUTES OF MEETING HELD
THURSDAY, NOVEMBER 14, 2002

PRESENT: ROBERT K. TEBAY, PRESIDENT
RICK MODESITT, COMMISSIONER
K.D. MERRITT, COMMISSIONER

On this date, the County Commission of Wood County met in regular session. They signed invoices and other correspondence.

The County Commission, upon a motion duly made, seconded and passed, approved an Erroneous Assessment Application in regard to personal property for Daniel McGraw – Vienna District (2002) and Erroneous Assessment Applications in regard to real property for Patrick Walker – Vienna District (2001 and 2002).

At 10:30 A.M., the County Commission held a public hearing in regard to the Annexation of Property by Minor Boundary Adjustment, Parkersburg District. Attorney for the City of Parkersburg was Joseph Santer. Also in attendance was Donna Spurgeon-Davis from the City of Parkersburg. After testimony and discussion, the County Commission ORDERED that the property, formerly situate in Parkersburg District, be and the same are, hereby annexed, by minor boundary adjustment, to the petitioner herein and, accordingly, the corporate limits of the City of Parkersburg be, and the same are, hereby changed by virtue of such annexation, to include said property.

At this time, the County Commission met with Ginny Conley, Prosecuting Attorney to discuss an agreement with Westbrook. After discussion, the County Commission of Wood County, upon a motion made by K.D. Merritt, seconded by Rick Modesitt and made unanimous by Robert K. Tebay, did hereby REQUEST Ginny Conley, Prosecuting Attorney for Wood

County, to prepare an Agreement by and between Westbrook Health Services, 2121 Seventh Street, Parkersburg, West Virginia, and the County Commission of Wood County, Wood County, West Virginia in regard to the mental hygiene commitments for Wood County. The annual fees to be as follows: fifty thousand dollars and 00/100ths cents (\$50,000.00) for the fiscal year 2002/2003 (This corrects an earlier Order appearing in Order Book 65, at Page 244 and bearing the date of June 24, 2000, in the amount of thirty thousand dollars and 00/100ths cents (\$30,000.00); fifty-five thousand dollars and 00/100ths cents (\$55,000.00) for the fiscal year 2003/2004 PROVIDED there is a seven percent (7%) increase in cases; and sixty-thousand dollars and 00/100ths cents (\$60,000.00) for the fiscal year 2004/2005 provided there is a seven percent (7%) increase in cases over the previous year. An Order was prepared regarding this matter.

At 11:00 A.M., the County Commission of Wood County, opened sealed bids in regard to the removal of three (3) concrete walls at the former recreation area of the Wood County Correctional Center (now the Wood County Holding Center), and the removal of two (2) concrete benches from the concrete floor of the former recreation area. Receipt of the aforementioned sealed bids is pursuant to an ORDER appearing in Order Book 65, at Page 385 and bearing the date of October 17, 2002, at which time the County Commission ORDERED that the bid be let; and further pursuant to a Legal Notice appearing in both The Parkersburg News and The Parkersburg Sentinel on October 28, 2002 and on November 4, 2002. Sealed bids were received from the following:

1. WCI, Inc
621 Dutch Ridge Road
Parkersburg, WV 26104-7041
Bid: \$21,000.00
2. Matcon Diamond

2846 East Carson Street
Pittsburgh, PA 15203
Bid: \$56,760.00

The County Commission of Wood County, upon a motion made by Rick Modesitt, seconded by K.D. Merritt and made unanimous by Robert K. Tebay, did hereby take the aforementioned bids under advisement. An Order was prepared regarding this matter.

Larry Stephens from Camden Clark Memorial Hospital Ambulance met with the County Commission and told them he has called about the cases to keep the defibrillators in; someone should be contacting the Administrator's Office.

At 11:15 A.M., the County Commission met with Terry L. Brown, Emergency Services/E-911 Director to discuss a proposal from R.L. Kimbal. Larry Stephens was present for this meeting also.

Terry L. Brown, Director of Wood County Emergency Services/E-9-1-1, presented to the County Commission of Wood County, a New Road Name Request Form from Gary L. Fleak to name the road to his residence. The said Request does not interfere with the scheduled readdressing and mapping for the E-9-1-1 Master Street Addressing Guide. Gary L. Fleak, along with residents Pearl L. Fleak, Jr. and Mike Fleak requested the road be named FLEAK LANE. The road to be known as FLEAK LANE provides access to the aforementioned residences as stated in Gary L. Fleak's Form. The road to be known as FLEAK LANE is located off Route 68 South, the fourth driveway on right just past the race track in Harris Taxing District, Tax Map 110, Parcel Number 12. The request by Gary L. Fleak is in accordance with Chapter 7, Article 1, Section 3 of the Code of West Virginia, 1931, as amended, which deals, in part, with the County Commission naming or renaming thereof of roads, ways, streets, avenues, drives and the like, to assure uniform, nonduplicative conversion

of all rural routes to city-type addressing on a permanent basis. The County Commission does hereby find that the request, made in writing, by Gary L. Fleak, and the approval from the Wood County Emergency Services/E-9-1-1 is in proper form and is hereby ORDERED to be filed. NOW, THEREFORE, the County Commission of Wood County, upon a motion made by Rick Modesitt, seconded by K.D. Merritt and made unanimous by Robert K. Tebay, does hereby ORDER that the aforementioned road be named FLEAK LANE. The County Commission does further ORDER that a copy of the ORDER along with the New Road Name Request Form, be certified by the Clerk of the County Commission for entry in the Office of the Clerk of the County Commission.

The County Commission met with Noah Bird, a Williamstown resident who feels the proposal to change the Williamstown charter to allow for elections in even-numbered years may be unconstitutional. (The tape was not on and Mr. Bird didn't sign in.)

The County Commission of Wood County, announced to all concerned that a vacancy will exist on the Wood County Parks and Recreation Commission Board due to the expiration of the term of J.B. Wilson on December 16, 2002. The County Commission, upon a motion made by K.D. Merritt, seconded by Rick Modesitt and made unanimous by Robert K. Tebay, placed J.B. Wilson in nomination for reappointment. An Order was prepared regarding this matter.

The County Commission of Wood County, upon a motion made by Rick Modesitt, seconded by K.D. Merritt and made unanimous by Robert K. Tebay, reappointed Ronald J. Mullenix to the Union Williams Public Service District Board. Said announcement is pursuant to an Order appearing in Order Book 65, at Page 349 putting Mr. Mullenix in nomination. Said announcement is further pursuant to an Order appearing in Order Book 51, at Page 433 and

bearing the date of April 1, 1991, which deals with the procedure policy for appointments to boards and authorities. Mr. Mullenix's new term will expire November 1, 2008. An Order was prepared regarding this matter.

The County Commission of Wood County was in receipt of a check in the amount of ten thousand dollars and 00/100ths cents (\$10,000.00) from the United States Treasury in regard to the Community Gun Violence Prosecution Grant Number 2002-GP-CX-0127. Receipt of the aforementioned check is pursuant to an ORDER appearing in Order Book 65, at Page 349 and bearing the date of November 4, 2002, at which time the request was made by a phone activated paperless request system. Documentation pertaining to the Community Gun Violence Prosecution Grant is on file in the Office of the County Administrator. An Order was prepared regarding this matter.

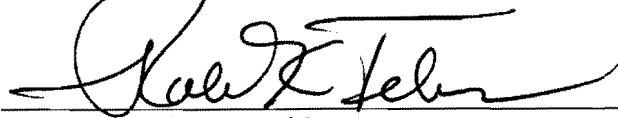
The County Commission of Wood County, upon a motion made by Rick Modesitt, seconded by K.D. Merritt and made unanimous by Robert K. Tebay, did hereby APPROVE the purchase of a lectern, with sound, from Hertz Furniture Systems, P.O. Box 890, Mahwah, NJ, in the amount of nine hundred twenty-three dollars and forty-three cents (\$923.43). An Order was prepared regarding this matter.

The County Commission was in receipt of the Cash Statements and Asset Lists for the Escrow Account – Expense Fund, the Expense Fund, the Rebate Fund, the Bond Fund, the Principal Account Fund and the Principal Prepayment Fund from The Bank of New York, Church Street Station, New York, New York, in regard to the Wood County, West Virginia Single Family Mortgage Revenue Bond Issue, 1997 Series. The said Cash Statements and Asset Lists are for the period ending April 30, 2002. An Order was prepared regarding this matter.

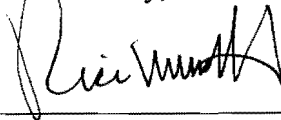
Having no further scheduled appointments or business to attend to, the County Commission adjourned at 12:00 Noon.

APPROVED:

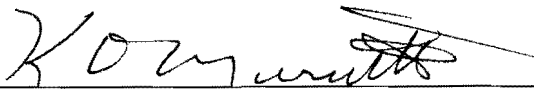
THE COUNTY COMMISSION OF WOOD COUNTY



Robert K. Tebay, President



Rick Modesitt, Commissioner



K.D. Merritt, Commissioner

To listen to this meeting, please refer to Tape #218.

ab

Donna Spurgeon - Davis - City of Parkersburg
Joseph J. Sarter - City of Parkersburg

17-63
LARRY STEPHENS

WCOES/9-1-1
CCMH-AMB

The Parkersburg News

November 15, 2002

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FRIDAY

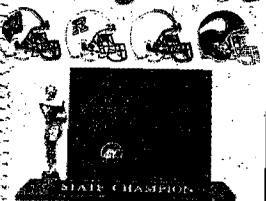
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FORECAST

High
50°
Low
40°
Chance of rain
Maps —
Page 10A.

INSIDE

**The Quest
Begins**



The Parkersburg News & Sentinel and Marlinton A.M.

West Virginia's high school football playoffs are set to get under way this weekend with six Mid-Ohio Valley teams vying for championships.

Unconstitutional?

Area resident questions Williamstown charter change

By JEFFREY SAULTON
Staff Writer

Although the proposal to change the Williamstown charter to allow for elections in even-numbered years was passed by an overwhelming margin, it may be unconstitutional.

Noah Bird, a Williamstown resident and a student at Marshall University, said he came home to cast an absentee ballot and carefully read the measure.

As he looked over a sample ballot, he noticed it called for extending the terms of the mayor and council members by one year to make the transition to the even-numbered election cycle.

"It is unconstitutional," he said.

"Article 6-37 of the state constitution says, 'No law shall be passed after the election of any public officer, which shall operate to extend the term of his office.'"

Bird said he called the secretary of state about the proposal for an opinion.

"I called them and pointed out the article," he said.

"It took them three days to get back with an answer, and they said I was right."

On Nov. 5, the measure to change the city election to even-numbered years and to extend the term of the mayor and council by one year to make the transition was approved by a vote of 796 - 83.

Bird took his concerns before the county commission Thursday.

Commissioner Ken Merritt said he believed the proposal was proper because it was put to a vote of the city's citizens.

"If it's taken to the people, they have the say. They are the final arbiter of the issue," he said. "It would have been illegal if the council had voted on the issue instead of putting it to a vote."

Merritt said he consulted experts on the issue and was told the best time to contest the proposal would have been between the time the council acted to have the measure put on the ballot and the time the circuit clerk approved the request to put the issue on the ballot.

Charter Questioned

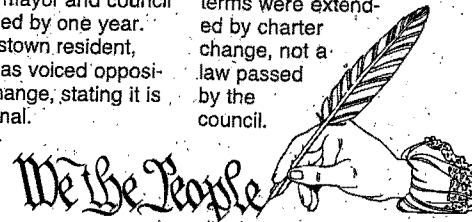
On Nov. 5, Williamstown residents approved a change in the city's charter to switch the city election to even-numbered years. To make the transition, the proposal called for the terms of the mayor and council to be extended by one year.

A Williamstown resident, Noah Bird, has voiced opposition to the change, stating it is unconstitutional.

The director of the public division in the

West Virginia Secretary of State's office agrees with Bird's contention.

Blaine Myers, city attorney, said the provision in the constitution does not apply since the terms were extended by charter change, not a law passed by the council.



See CHARTER, Page 12A

Cultural Center of Fine Arts holds first 'Fat the Art' show

Fair board: 468 tickets

Charter

■ CONTINUED FROM PAGE 1A

After the meeting, Bird said he planned to get an attorney and determine his next move.

Bird, who said his interest in politics was inspired by his grandfather, Dr. Steve Bird, a former member of the House of Delegates and state Senate, asked two political science professors at Marshall about the issue and both agreed he was right on it being unconstitutional. He added one of the professors is an attorney.

Bird said he had another motivation for being opposed to the charter issue.

"I don't like the Williamstown police," he said. "They prosecuted my mom for setting a fire she did not set. She was not guilty, but it was a financial burden on my parents."

Bird contacted Terri Helmick, director of the public division at the secretary of state's office.

When contacted Thursday afternoon, Helmick explained her opinion on the matter.

"There was no case law to see if this has been explained and there is none," she said. "It is very clear in the constitution. I do not see a way around it."

Helmick said she was not aware of the article Bird used for his argument. After he pointed it out and she read it, she agreed with his contention.

Helmick said she spoke with the city clerk, who by law is the city's chief election officer, and asked them about it. However, it was too late to have the issue removed from the ballot, she said.

"Since it could not be taken off the ballot, the most logical way to dispute it is to contest the election," Helmick said.

Under West Virginia law the election cannot be contested until 10 days after the election results are certified by the county commission, she said. On Wednesday, the commission completed the canvass and set Nov. 27 as the date to certify the election.

Helmick said it is not likely the secretary of state would take action on the issue.

"It would have to be up to someone in the city to take action," she said. "There is no provision for us to handle it ... taking this to court to overrule a city election."

If the change were to be contested, Helmick said it would normally go before the city council, but since the issue was on the county ballot, it may go before the commission.

As for how the city can change the election cycle, Helmick said it would have to find an alternative solution.

"There would have to be some other remedy," she said. "It was a valid reason to change, to save money, but it's not constitutional (to extend terms)."

Susan Knopp, city clerk, said she did speak with Helmick and in turn informed Mayor Jean Ford about the call.

Knopp said the mayor spoke with the city's attorney who said he did not think the city did anything improper. Ford purportedly was out of the city and not available for comment Thursday.

Blaine Myers, Williamstown city attorney, said the city's position is since it took the issue to the people for approval, the council was not passing a law to extend terms of office.

"This was not done by the council but was a charter change for approval," he said. "Since we did it that way it is not covered by that article of the constitution."

Myers said extending terms to change the election cycle had been done in other cities and they were not challenged. Since it has not been challenged, there is no case law, he said.

Marty Seuffer, councilman, said the council acted on the advice of its attorney on how to enact the change. He stated the belief is since the change was made through a referendum, article 6-37 does not apply to the situation.

"I can see where they would not want us to extend terms without putting it before the people," he said. "We put this before the same body that voted in other city elections."

Contact Jeffrey Saulton via e-mail at jsaulton@newsandsatinel.com