

IN THE COUNTY COMMISSION OF WOOD COUNTY, WEST VIRGINIA

IN RE: MINUTES OF MEETING HELD
MONDAY, APRIL 25, 2005

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

At 9:30 A.M., the County Commission of Wood County met in regular session. They signed purchase orders, invoices and other correspondence.

The County Commission, upon a request made by Robert K. Tebay, seconded by Rick Modesitt and made unanimous by Gary D. Deem, approved minutes from March 18, 2005, March 21, 2005 and March 22, 2005.

The County Commission of Wood County, upon a motion duly made, seconded and passed, did hereby EXECUTE a PROCLAMATION declaring the week of April 24-30, 2005, as INFANT IMMUNIZATION AWARENESS WEEK in Wood County.

The County Commission of Wood County was in receipt of a check in the amount of one hundred fifty-four dollars and seventy-four cents (\$154.74) from the State of West Virginia in regard to the Wood County Commission Homeland Security Grant/Citizens Corps Grant Program. Receipt of the aforementioned check is pursuant to an ORDER appearing in Order Book 66, at Page 577 and bearing the date of March 17, 2005, at which time Rick Modesitt, in his official capacity as President and on behalf of the County Commission, was AUTHORIZED to EXECUTE the Request for Reimbursement for the month of February, 2005. Documentation pertaining to the Citizens Corps Grant Program is on file in the Office of the County Administrator. An Order was prepared regarding this matter.

At this time, Barbara Arnold from MacCorkle, Lavender, Casey & Sweeney, PLLC, addressed the Commission in regard to minutes of March 28, 2005 which she believes still remain incorrect. She has listened to the tapes and believes that the minutes still remain incorrect even with the amendment; she has written to Ms. Conley and stated that she did not believe the telephone conversation between Ms. Conley and Commissioner Tebay occurred on March 28; the minutes should only reflect what occurred on March 28, 2005; the Parkersburg News and Sentinel even reported that conversation occurred later; she asked Mr. Tebay when that conversation occurred. Mr. Tebay stated it occurred later. Ms. Arnold requested that the minutes be amended for a second time since the conversation did not occur during the meeting on March 28, 2005. Ms. Arnold then stated she finds nothing on the agenda that indicates that Ms. Conley was going to appear and believes that is in direct violation of the Sunshine Act because there was not notice to the public that she was going to appear and speak; she believes that her withdraw, if there were one, should have been on a subsequent agenda, not by a phone call to Mr. Tebay; it could've occurred by letter. Commissioner Modesitt stated that since she (Ms. Arnold) isn't on the agenda, they aren't supposed to make a decision; they can listen to her comments. Ms. Arnold said her other question is when did the conversation with Ms. Conley occur allegedly withdrew her request for \$3,000.00 and where did she call. Commissioner Tebay stated as he recalled it was a cell phone conversation and probably the next day, he isn't sure; they had asked Ms. Conley if her request was proper and she told them it was under administrative functions; we do make changes in budgetary items under administrative duties; her request was "if needed" and she later called and said it wasn't needed. She respectfully disagrees, there was a need for notation on the minutes, but she will address it otherwise, legally (can't understand last word). Commissioner Modesitt asked about

her first request; if there is anything to clean up, make a notation of the withdrawal? Ms. Arnold stated it would seem proper to amend the minutes.

At 10:00 A.M., the County Commission met with Mark Rhodes and Alice McCoy from the Finance Office; Steven A. Grimm, Assessor; Doug Herrington, County Clerk's Office; and Jamie Six, County Clerk to discuss direct deposit. Mr. Herrington stated the cost for the County would be approximately \$125.00 a month; they would like to give each employee the opportunity to sign up; they would send it to one bank (United Bank) and that bank will deposit the money into employees banks; it would be less work for the finance as far as printing checks out, stamping them all, etc. Mr. Herrington stated that the County would break even as far as saving money or costing more money; this process is secure. Mr. Six stated that the State uses Direct Deposit; it would be a benefit for employees of the 911, Deputies and Holding Center employees who work shift work. Mr. Grimm stated his wife has direct deposit and it is very nice to have. The County Commission, upon a motion made by Robert K. Tebay, seconded by Gary D. Deem and made unanimous by Rick Modesitt, approved the finance department to poll employees to see if this would be worthwhile and report back to the Commission. An Order was prepared regarding this matter.

At 10:15 A.M., the County Commission met with Dan Marshall, Attorney, to discuss the financing options for the Judge Donald F. Black Courthouse Annex renovations. After discussion about interest rates, additional costs, urgency of time to make a decision on the bids, drawdowns, etc., the County Commission of Wood County, upon a motion made by Gary D. Deem, seconded by Robert K. Tebay and made unanimous by Rick Modesitt, did hereby DECLARE that it was too late, after bids were opened and made public, for the Branch Banking and Trust Company, Inc. to AMEND their proposal in regard to financing to

reimburse the County for capital expenditures in regard to the Judge Donald F. Black Courthouse Annex. An Order was prepared regarding this matter.

After discussion, the County Commission of Wood County, upon a motion made by Robert K. Tebay, seconded by Rick Modesitt and made unanimous by Gary D. Deem, did hereby AWARD the Proposal to borrow one million dollars and 00/100ths cents (\$1,000,000.00) through the Wood County Building Commission to obtain financing to reimburse the County for capital expenditures in connection with the planning, design, acquisition, construction and equipping of and for the Judge Donald F. Black Courthouse Annex Project to United Bank, Parkersburg, WV. The said County Commission of Wood County Chose Proposal Number Six (6) which is a seven-year term with ten year amortization with a monthly payment of ten thousand one hundred fifty dollars and 00/100ths cents (\$10,150.00) with a 4.05% interest rate. Documentation pertaining to the Request for Loan Proposals is on file in the Office of the County Administrator. An Order was prepared regarding this matter.

At approximately 10:30 A.M., the County Commission held a hearing in regard to the Ruby Hoalcraft estate. Joe Santor, Attorney for the estate and Wayne Garner, Executor of the estate were present. The amount of a claim from Portfolio Recovery Associates, LLC is \$9,814.08, the total probate assets is \$437.91, therefore they are asking the County Commission to disallow the claim. The County Commission, upon a motion made by Robert K. Tebay, seconded by Gary D. Deem and made unanimous by Rick Modesitt, disallowed said claim. An Order will be prepared.

At 10:45 A.M., the County Commission held a hearing in regard to the Walton Clifton Taitt estate. Mr. Santor, attorney for the estate and Patricia Edwards, Executrix were present.

There is a claim from Phillip Rager against the estate in the amount of \$24,790.00, the last claimed work performed by Mr. Rager was January 5, 1999, Mr. Taitt died September 13, 2004, the WV Statute of limitations, would be a five year limit; this claim was after the five year limit, it was not timely filed; there is real estate in the estate. But the real estate was deeded to Patricia Edwards prior to his death. Mr. Rager stated Mr. Taitt was the best friend he ever had; they had been friends for 27-28 years; he did a lot of things for him; he (Taitt) didn't want to be put in a nursing home; he was accused of stealing pictures of Patty's house, which he did not take; he (Taitt) helped him throughout his life, he was a good man; they put a new roof on his (Taitt) house and he (Taitt) paid the guys that helped, but he didn't give him an invoice; he did a lot of work for him. After hearing the testimony, the County Commission finds that the claim of Phillip Rager is barred by the statute of limitations and specifically that all the work or services alleged to have been performed by the claimant occurred more than five years prior to the death of Walter Clifton Taitt, and that no writing exists evidencing any agreement between Phillip V. Rager and Walter Clifton Taitt, deceased. The County Commission, upon a motion made by Robert K. Tebay, seconded by Gary D. Deem and made unanimous by Rick Modesitt, hereby Ordered that the claim of Phillip Rager against the Estate of Walter Clifton Taitt, deceased, be and is hereby disallowed.

At 11:15 A.M., the County Commission held a hearing in regard to the Zelma Reynolds estate. Bruce Stout, attorney for the beneficiaries of the estate and George Zikovich, attorney represents the estate and Michael Farnsworth, attorney, representing George Runels. Mr. Stout stated they had a fiduciary commissioner hearing and Mr. Farnsworth side won and he is appealing that decision. Mr. Stout stated this is basically about one domicile, where you live at your death; Mrs. Reynolds purchased a house in the early 50's with her first husband, she never

sold the house; she had a will that specifically stated that her residence and domicile were in Wood County and she gave nothing to her husband in the will; when she died she and her current husband had been married less than four years; the will was probated in Wood County; when she died here and the will gave nothing to her husband, one of the ways he could get something, was to file an elective share; they tried to apply Florida law so that he could get something; the fiduciary said you can't bring Florida law into West Virginia probate; they then said her domicile was in Florida; the Commission can overturn the Fiduciary Commissioner's ruling; Fiduciary Commissioner Douglass said that regarding the statement the decedent, when she could no longer travel, would stay in Florida, respondents argue that this was evidence of an intention to change domicile in the future; this is contrary to law; Mr. Douglass said her intent to remain in Florida in the future in his view, classified her in a domiciliary in Florida; the husband lived in Florida, she lived in Parkersburg and they traveled back and forth; it is no longer a law that the domicile merges with your husband. Mr. Stout read part of Mrs. Reynolds will that read she was a resident and domiciled in the City of Parkersburg; Mrs. Reynolds signed the will. She bought the house in 1952, she filed income taxes here; she kept a homestead exemption here, she tried to get one in Florida, but she couldn't because she had one here; she was registered to vote in Florida, but never voted; she passed away July 14, 2003 in South Carolina while traveling back to Florida. Mr. Farnsworth stated that she and her husband had a vehicle and it was registered in Florida; this was his argument to Commissioner Douglass – they traveled back and forth between West Virginia and Florida; they have had numerous proceedings in this matter and transcripts are available if needed; Commissioner Douglass has done a fine job; in regard to the State Code about elective share, you can probate

an estate if you have a domicile, if you have property there; he is not arguing that it should be probated in West Virginia. Mr. Farnsworth then discussed case histories. (Tape ended)

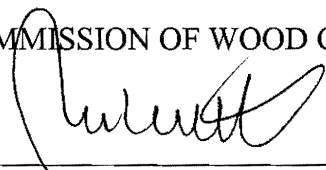
The Commission discussed the minutes and meeting that were in question earlier this morning. Commissioner Deem stated when he asked Ginny Conley about this, she instructed them they could do this. Mary Rader stated she got the agenda and asked Ms. Conley if this could be discussed under administrative duties and she said yes. Commissioner Deem stated that Ms. Conley stated she needed to do it and she was asked if she could use the state police, Parkersburg and she said no, it couldn't be; she said this is something that has to be done right away and they asked her if they could legally do this and she said yes. Commissioner Tebay and Deem agreed that the word emergency wasn't used, but the way it was presented was that it had to be done. Commissioner Modesitt stated that in the past when someone makes a request we put it on the next agenda and deal with; to clarify the minutes we need to do another correction that says her request was made sometime after they adjourned. The minutes of the 28th need to be corrected that the call came in after, that she verbally withdrew after the adjournment of the meeting on the 28th. Commissioner Tebay made a motion that the minutes need to reflect that the call came in after they adjourned he doesn't know what time the call came in but he got the message sometime in the afternoon. Commissioner Deem seconded this. Commissioner Modesitt abstained due to the fact he wasn't there.

At approximately 11:45 A.M., the County Commission met with Rich Shaffer, Assessor's Office, to review the office space of said Assessor.


The County Commission, having no further scheduled appointments or business to attend to, adjourned at approximately 1:15 due to the fact the luncheon with the Polymer Alliance was cancelled.

APPROVED:


THE COUNTY COMMISSION OF WOOD COUNTY



Rick Modesitt, President



Robert K. Tebay, Commissioner



Gary D. Deem, Commissioner

PURCHASE ORDERS APPROVED ON APRIL 25, 2005

30569	Parks Hardware & Supply	2.45
30573	Tri-State Roofing	583.58
30579	Sherwin-Williams Paint	19.83
30595	Lemon's Garage	57.95
30601	Broadwaters Motorcar	1625.00
32928	Golden Rule Creations	422.58
32594	Office Depot	2299.00
33046	Family Carpet One	1014.90
33108	Federal Express	24.73
33110	WV Uniforms	79.95
33112	Freedom Towing	45.00
33114	Freedom Towing	45.00
33136	NOE Office Equipment	15.89
33138	Broadwaters Motorcar	4.69
33144	Johnstone Supply	58.33

To listen to this meeting, please refer to Tape #483, Tape #484 and Tape #485.

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Wood County Commission Meeting
Held April 25, 2005

Please Print

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| 1. | Barbara G. Arnold, MacCorkle, Lavender, Casey & Sweeney, PLLC |
| 2. | JAN MARSHALL |
| 3. | JOSEPH SANTER Atty for Estate Ruby Hvalcraft |
| 4. | WAYNE C. GARNET EXECUTOR " " " |
| 5. | JOSEPH SANTER Atty for Estate Walter Taitl |
| 6. | Patricia Edwards Executor " " " |
| 7. | Michael D. Farnsworth, Jr. Atty for George Rannels |
| 8. | Dwaine S. Stout - Atty for wife |
| 9. | Bernard G. + Barbara J. RIDGLE <i>deputy of Stout</i> |
| 10. | Rick Shaffer |
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