

# UPSHUR COUNTY COMMISSION MEETING

April 29, 2021

The County Commission of Upshur County, West Virginia, held their regular meeting on Thursday, April 29, 2021 at 9:00 a.m. Kristie Tenney called the meeting to order. Present were: Terry B. Cutright, Commissioner; Samuel R. Nolte, Commissioner; Kristie G. Tenney, Commissioner; Carol J. Smith, County Clerk; Carrie L. Wallace, County Administrator and Lois A. Marsh, Secretary. Tabatha Perry, Assistant County Administrator participated via telephone conference.

The meeting began with a moment of silent meditation and prayer followed by the Pledge of Allegiance. All motions passed unanimously unless otherwise stated.

After discussion, on motion by Sam Nolte, seconded by Terry Cutright, the Commission approved the regular meeting minutes of April 15, 2021, and special meeting minutes of April 20, 2021, as submitted.

Kristie Tenney reviewed scheduled appointments and agenda items:

After discussion, on motion by Terry Cutright, seconded by Sam Nolte, the Commission approved the Buckhannon-Upshur Recreational Park Rental Contract for the 2021 season. (copy included)

After discussion, on motion by Sam Nolte, seconded by Terry Cutright, the Commission approved and authorized signing an Order to Permit the Lawful Holding of Upshur County Circuit Court at the Event Center at Brushy Fork for Jury Selection in May, June, July, August, September, October, November and December 2021, pursuant to WV Code §51-3-7. Occupying the existing Court space is not feasible for the purpose of a jury selection without creating a substantially increased risk of transmission of the COVID-19 virus. (copy included)

After discussion, on motion by Terry Cutright, seconded by Sam Nolte, the Commission approved and authorized the President to sign an Indemnification Agreement by and between the WV Public Employees Insurance Agency, the Upshur County Commission and USI Insurance Services. (copy included)

Correspondence from Shane Whitehair, Executive Director of Region VII Planning and Development Council regarding Small Cities Block Grant recipient requirements to affirmatively further fair housing. After discussion, on motion by Sam Nolte, seconded by Terry Cutright, the Commission approved the Resolution proclaiming April 2021 as Fair Housing Month. (copy included).

After discussion, on motion by Terry Cutright, seconded by Sam Nolte, the Commission approved and authorized the President to sign FFY 2020 Stop Violence Against Women Act (VAWA) Grant Application in the amount of \$30,000. (copy included)

After discussion, on motion by Sam Nolte, seconded by Terry Cutright, the Commission approved the request from Carrie Mills, on behalf of the WV Strawberry Festival Association, for twenty pool passes (one-day) to be used for the 2021 Berry Bandit Poker Run on May 8, 2021. (copy included)

Correspondence from Laura B. Meadows, Upshur County Convention & Visitors Bureau Executive Director, regarding the Commission's representative vacancy, to serve July 1, 2021 through June 30, 2024. Carrie Wallace explained that Ms. Meadows and Tabatha Perry would recommend someone who is operating an air bnb and remitting the hotel/motel tax or a representative affiliated with the WV Wildlife Center. After discussion, on motion by Terry Cutright, seconded by Sam Nolte, the Commission decided to table this item until an interested individual is identified.. (copy included)

After discussion, on motion by Sam Nolte, seconded by Terry Cutright, the Commission approved employment for Upshur County Youth Camp Staff, effective May 24, 2021.

After discussion, on motion by Terry Cutright, seconded by Sam Nolte, the Commission approved the Resignation of Employee.

After discussion, on motion by Sam Nolte, seconded by Terry Cutright, the Commission approved the advertisement for a full-time Case Manager position with the 26<sup>th</sup> Judicial Circuit Community Corrections Day Report Center. The position is 40 hours per week with a beginning rate of pay of \$15.00 per hour. Applications are due on or before close of business on May 7, 2021. (copy included)

After discussion, on motion by Terry Cutright, seconded by Sam Nolte, the Commission approved the revised Internal Purchasing Policy for Department Supervisors that report to the Upshur County Commission. (copy included)

After discussion, on motion by Sam Nolte, seconded by Terry Cutright, the Commission approved the revised Cost Consciousness / Purchasing Procedures within the Upshur County Employee Handbook of Personnel Guidelines dated November 19, 2020. (copy included) Carrie Wallace explained that she sent this revision to all Policy Board members and everyone is in support of this change.

Kristie Tenney reviewed the following "For Your Information" items: (copy included)

1. Frontier Communications Corporation, et al – Notice Regarding (A) Executory Contracts and Unexpired Leases to be Assumed by the Debtors Pursuant to the Plan, (B) Cure Amounts, if any, and (C) Related Procedures in Connection Therewith.
2. Proclamation by Governor Jim Justice proclaiming April 2021 as Fair Housing Month.

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3. After discussion, on motion by Terry Cutright, seconded by Sam Nolte, the Commission approved the Revised Request for Proposals for the Upshur County Former Jail Facility Project – Roof and Gutter Replacement, dated April 20, 2021.
4. Upshur County Sheriff's Financial Statement for period ending March 2021
5. Correspondence from John B. McCuskey, WV State Auditor, enclosing a copy of the audit reports of the Upshur County Commission for the fiscal years ended June 30, 2018 and June 30, 2019. These reports are available for inspection in the office of the Upshur County Commission.
6. Upshur County E911 Communication Reports – March, 2021
  - Monthly Department Summary Report
  - Monthly Wrecker Report
  - YTD Wrecker Report
7. Public Notices:
  - a) Newsletters and/or Event Notifications: (none)
  - b) Agendas and/or Notice of Meetings:
    - James W. Curry Library/Park Advisory Board April 28, 2021
    - Upshur County Fire Board, Inc. April 20, 2021
    - Lewis-Upshur Community Corrections Board April 21, 2021
    - Upshur-Buckhannon Board of Health May 5, 2021
  - c) Meeting Minutes:
    - Tennerton PSD March 10, 2021
    - Upshur County Fire Board March 16, 2021
    - Upshur County Public Library March 17, 2021
  - d) Meetings:
    - 04/01/21-3:00 p.m.-Adrian PSD
    - 04/01/21-7:00 p.m.-Banks District VFD
    - 04/01/21-7:00 p.m.-Selbyville VFD
    - 04/08/21-3:00 p.m.-Upshur County Safe Sites & Structures Enforcement Board
    - 04/08/21-7:30 p.m.-Buckhannon VFD
    - 04/11/21-6:00 p.m.-Washington District VFD
    - 04/12/21-12:00 p.m.-Upshur County Family Resource Network
    - 04/12/21-4:00 p.m.-Buckhannon-Upshur Airport Authority
    - 04/12/21-4:30 p.m.-Upshur County Solid Waste Authority
    - 04/12/21-5:30 p.m.-Buckhannon-Upshur Recreational Park Advisory Board
    - 04/13/21-7:00 p.m.-Warren District VFD
    - 04/13/21-7:30 p.m.-Adrian VFD
    - 04/14/21-12:00 p.m.-Upshur County Senior Center Board
    - 04/14/21-1:15 p.m.-Upshur County Farmland Protection Board
    - 04/14/21-3:00 p.m.-Upshur County Conventions & Visitors Bureau
    - 04/14/21-3:00 p.m.-Tennerton PSD
    - 04/14/21-6:00 p.m.-Buckhannon River Watershed Association – Farm Bureau
    - 04/14/21-7:00 p.m.-Ellamore VFD
    - 04/15/21-6:30 p.m.-Upshur County Youth Camp Board
    - 04/15/21-7:00 p.m.-City Council of Buckhannon
    - 04/16/21-10:00 a.m.-Wes-Mon-Ty Resource Conservation & Development Council
    - 04/19/21-12:00 p.m.-Buckhannon-Upshur Chamber of Commerce
    - 04/21/21-7:00 a.m.-Upshur County Development Authority – Executive Board
    - 04/21/21-12:00 p.m.-Lewis Upshur LEPC
    - 04/21/21-4:00 p.m.-Upshur County Public Library Board
    - 04/26/21-10:00 a.m.-Mountain CAP of WV, Inc. a CDC
    - 04/26/21-12:00 p.m.-Region VII Planning and Development Council
    - 04/26/21-7:00 p.m.-Upshur County Fire Fighters Association
    - 04/27/21-5:00 p.m.-UC Enhanced Emergency Telephone Advisory Board
    - 04/27/21-6:30 p.m.-Upshur County Fire Board, Inc.

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- 04/28/21-10:00 a.m.-James W. Curry Advisory Board
  - 05/04/21-4:00 p.m.-Hodgesville PSD
  - 05/04/21-5:00 p.m.-Elkins Road PSD
  - 05/06/21-6:00 p.m.-Buckhannon-Upshur Board of Health
  - 05/17/21-6:00 p.m.-Lewis-Upshur Community Corrections Board-Lewis County
8. Appointments Needed or Upcoming: Kristie Tenney stated that Sam Walker, has been appointed to the Buckhannon-Upshur Parks and Recreation Advisory Board.
- Buckhannon-Upshur Airport Authority (unexpired term - 6/30/2021) - City Representative
  - Upshur County CVB Board of Directors (7/01/2021–6/30/2024)-Commission Tourism Rep

*\*\*\*If you are interested in serving on an Upshur County board, please submit your letter of interest to the Commission Office at 91 W. Main Street, Suite 101, Buckhannon, WV 26201 or trperry@upshurcounty.org. Upcoming term expirations are listed in this section of the agenda; however, letters of interest can be submitted at any time. Letters of interest for boards that do not currently have a vacancy will be held until a vacancy occurs. Please note that submitting a letter of interest does not guarantee appointment.\*\*\**

Tabled items:

- Correspondence from Steve Booth on behalf of Tri County Towing requesting to be placed on the Upshur County Wrecker Rotation List for emergency towing services. (tabled 3/18/2021). No action was taken.

The Commission approved all Invoices for Payment. (list included)

The Commission approved all Vacation Orders. (copies included)

The Commission approved the following Settlements. (as listed)

- Grace Belle Alderman – Final Settlement
- Hunter R. Anderson – Final Settlement
- Charles C. Bennett – Final Settlement Waiver
- Edna Jane Demastes – Final Settlement Waiver
- Earl Dee Edgell – Final Settlement Waiver
- Harry Lee Heater – Final Settlement Waiver
- Ronnie Wayne Jackson – Final Settlement
- Shirley Ann Westfall Landis – Final Settlement Waiver
- Ellen A. Reuss – Final Settlement Waiver
- Louis Jacob Rockenhauser – Final Settlement Waiver
- Patty Ann Roessing – Final Settlement Waiver
- Tex Walton – Final Settlement Waiver

The Commission approved the following Certification of Completion of Ancillary Administration of WV Real Estate Without Appointment: (none)

The Commission approved the following Corrections, Exonerations and/or Refunds: (none)

The Commission approved the following Requests to Attend Meeting:

- Carrie L. Wallace – 5/18/2021

The Commission approved the following Consolidation of Land Tracts: (none)

At 9:30 a.m., the Commission discussed Gardner Case Number 010920-01 (Warren Tax District – Tax Map 8D – Parcel Number 12.13.14) The Order Setting Forth Findings of Fact and Conclusions of Law entered on March 18, 2021, provided the property owners with thirty (30) calendar days to take corrective action with respect to the property at issue. Ms. Richadeen Gardner joined the meeting via teleconference. The Commission reviewed photos taken yesterday by Greg Harris. Ms. Gardner stated that she no longer owns the property. The property now belongs to her grandson, Shelby Phillips, who is residing at a different location. Ms. Gardner stated that it is William Phillips' understanding that since he uses parts from the junked vehicles for his business, he can't be forced to remove anything. Commissioner Nolte asked if there was a signed lease between William Phillips and Shelby Phillips, to which Ms. Gardner stated there is not a lease. Carrie Wallace stated that the Department of Highways has filed a suit in circuit court and the Department of Environmental Protection in Charleston has a case pending. Commissioner Cutright asked Carrie Wallace to check to see if REAP would clean up this property. After discussion, on motion by Terry Cutright, seconded by Sam Nolte, the Commission will continue the daily fine on William Phillips and Shelby Phillips until the real and personal property is in compliance, with no further date to review. Tabatha Perry will send a certified letter to Shelby Phillips explaining what actions are being taken by the Commission.

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At 10:00 a.m., Mike Hess, ABM RES Representative, and Tyler Nichols, ABM Sales Director, appeared before the Commission regarding WV's Guaranteed Energy Savings Act and presented an overview of their operation. ABM is located in Canonsburg, PA and has clients in Ohio, Pennsylvania, Virginia, Maryland and West Virginia. Their main goal is reallocating, generating and preserving resources for their clients, with no risk to the client. The Commission asked them to leave literature of their business and they would review for possible use by the Upshur County Commission. ABM was also meeting with the Upshur County School Board and the City of Buckhannon.

At 11:00 a.m., per WV Code §6-9A-4, on motion by Terry Cutright, seconded by Sam Nolte, the Commission went into Executive Session with Attorney Mark Colantonio of Fitzsimmons Law Firm, PLLC, via a conference call, to discuss pending opioid litigation. On motion by Sam Nolte, seconded by Terry Cutright, the Commission exited Executive Session at 11:25 am. No decisions were made in executive session.

The Commission reviewed Administrative business items and received project updates.

The Commission recessed at 12:00 p.m. on motion by Sam Nolte, seconded by Terry Cutright.

At 1:30 p.m., the Commission reconvened for Consideration to remove Jessica D. Smith as the Administratrix for the Estate of David Gene Smith. Brittany A. Smith and Coretha Jean Smith were in attendance. After discussion, on motion by Sam Nolte, seconded by Terry Cutright, the Commission approved Recommendation that: 1) Jessica D. Smith be removed as the Administratrix for the Estate of David Gene Smith, deceased; 2) Jessica D. Smith turn over all documentation regarding the Estate of David Gene Smith, deceased, to Brittany A. Smith within ten (10) days of her removal; 3) Brittany A. Smith shall be appointed as the Administratrix De Bonis Non of the Estate of David Gene Smith, deceased, providing surety in the penalty sum of Nine Thousand (\$9,000.00) Dollars.

With no further business, on motion by Sam Nolte, seconded by Terry Cutright, the Commission meeting adjourned at 1:40 p.m.