

**MARION COUNTY COMMISSION
COUNTY COURT
MARCH 27, 2013**

The Marion County Commission sat in regular session pursuant to its adjournment on Wednesday, March 20th, 2013. Present were Commissioner Tennant, Commissioner VanGilder and President Elliott.

The proceedings of Wednesday, March 20th, 2013, together with those had and done under the supervision of Janice Cosco, Clerk and Recorder for the Marion County Commission on March 21st, 22nd, 23rd and 24th 2013 were approved as submitted and signed.

*Jake Brumage led the Court with a prayer. Deputy Clerk Thomas Antulov led the Court with the Pledge of Allegiance. **President Elliott called** the meeting to order. Commissioner Tennant moved to dispense with the reading of the minutes of Wednesday, March 20th, 2013 and accept them as presented. Commissioner VanGilder seconded. President Elliott concurred.*

***For the record, note** James Priester, Assessor presented to the County Commission the following Exonerations for approval.*

**Dated March 27, 2013
Nos. #2013-210 through #2013-233**

Pursuant to the recommendation of James Priester, Assessor and approval of Patrick Wilson, Prosecuting Attorney; Commissioner Tennant moved that the President sign Nos. #2013-210 through #2013-233. Commissioner VanGilder seconded. President Elliott concurred.

*The Commission received an **Order of Probate of Wills from the County Clerk's Office for the month of February 2013.** Kris Cinalli stated that this Order is a list of Estates in which have been admitted to Probate in the County Clerk's Office, in vacation of the Commission, from February 1, 2013 through February 28, 2013 pursuant to West Virginia Code §41-5-10, as amended.*

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BEFORE THE COUNTY COMMISSION OF MARION COUNTY, WEST VIRGINIA
IN RE: CONFIRMATION OF PROBATE OF
WILLS, BY CLERK IN VACATION

ORDER CONFIRMING PROBATE OF WILLS

On this day came Janice Cosco, Clerk of the Commission, and presented a list of Estates in which wills have been admitted to Probate by her office, in vacation, from February 1, 2013, to February 28, 2013, pursuant to W. Va. Code 41-5-10, as amended.

The Commission, having received no objections to the actions of the Clerk, and perceiving no objections thereto, does ratify and confirm the probate of wills in all the Estates attached hereto. The list attached hereto is made a part of this Order by this expressed reference thereto, as if all such Estates are fully set forth herein.

Dated this 27th day of March, 2013.

Benjamin A. Elwood
Binky Butler Lewis
Ernest J. Van Winkle

Janice Cosco by *Thomas F. Antulov*
JANICE COSCO, CLERK by Thomas F. Antulov, deputy

David A. Glance
DAVID A. GLANCE,
FIDUCIARY SUPERVISOR

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WILLS PROBATED FROM FEBRUARY 1, 2013, TO FEBRUARY 28, 2013

<u>Estate</u>	<u>Representative</u>
Arthur, Evelyn S.	Lewis G. Arthur, Executor
Beckman, Paul E Sr.	Pearl L. Beckman, Executrix
Beveridge, John Alan	Janet Sue Beveridge, Executrix
Davis, Gary C.	Sonja A. Davis, Executrix
DeFelippo, Sylvia M.	Vernon O. Hayes, Jr., Administrator CTA
Dean, Robert E.	Linda L. Dean, Executrix
Evans, Sarah Annetta	J. Scott Tharp, Ancillary Admr. CTA DBN
Findley, Joann L.	J. Scott Tharp, Executor
Frisenda, Thelma Jean	Diana Lynn Drake, Executrix
Glover, George K., Jr.	Donald E. Glover, Executor
Goodwin, Rosa Lee	Terry Lee Pratt, Executrix
Greathouse, Norval	Rodney Greathouse, Executor
Harki, Dorothy Emma	David Andrew Harki, Executor
Kendzior, Walter Gene	Sheila M. Kendzior, Executrix
Lindsay, Jane C.	John D. Lindsay, Jr., Executor
Linn, George Benjamin	Jenny Snyder, Administratrix CTA
Marra, Sammy	Jeffrey Lynn Marra, Administrator CTA
Martin, Evelyn S.	William V. Martin, Executor
Moore, Nina L.	Rebecca Ann Mattingly and Mary Ann Moore, Co-Executrices
Moran, Jesse Daniel	Dorothia Helen Clelland, Executrix

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Confirmation of Wills Probated in February, 2013

<u>Estate of</u>	<u>Representative</u>
Oliveto, James Nicola	Ellen Jean Andre Oliveto, Executrix
Orr, Waitman D.	Mary Ann Orr, Executrix
Orsini, Alice Josephine	Joni A. Opyoke, Executrix
Parker, Avis B.	Larry C. Parkey, Executor
Phillips, Carol Leona	James Elwood Phillips, Executor
Poe, Ned F.	Judith L. Poe, Executrix
Raspa, Ralph F.	Ralph M. Raspa, Executor
Shaffer, Owen D.	Dennis Lee Shaffer and Douglas Lynn Shaffer, Co-Executors
Shatzer, Betty J.	Candace Chidester Turner, Executrix
Shuman, Ramona J. May	William H. Shuman, Executor
Simpson, Donald M.	Debra G. Moffa, Executrix
Slaman, Kathryn	Deborah Sheraff Rowh, Executrix
Sloan, Denzil H.	Denzil W. Sloan, Executor
Sloan, Dorothea J.	Denzil W. Sloan, Executor
Smith, Karl Arnett	Patrick K. Roche, Administrator CTA
Thorne, Clara M.	Thomas L. Cook, Executor
Wilson, Norma J.	Carol J. Wilson, Executrix

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Commissioner Tennant moved that the Commission and the Clerk sign the Order. Commissioner VanGilder seconded. President Elliott concurred.

*The Commission received an **Order Confirming and Ratifying Fiduciary Supervisor's Report of Claims and Settlement Reports, Order #336.***

At a Regular Session of the County Commission of Marion County, West Virginia, continued and held for this County at their offices in the J. Harper Meredith Building on the 27th, day of March, 2013.

This day came David A. Glance, Fiduciary Supervisor for Marion County, West Virginia, and presented to the Commission his Report of Claims and First and Final Settlement Reports for the following estates which reports he has filed in the Office of the Clerk of the County Commission, pending confirmation. There being no objections received to these reports and no errors appearing, the Report of Claims and First and Final Settlement Reports are hereby ratified, confirmed and approved.

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<u>Estate of</u>	<u>Representative</u>
POLINO, VICTOR CARMEN (ward)	Kathleen Polino, Committee
INGRAM, JANET LOUISE (ward)	Susanne V. Ingram, Committee
ASHER, ASHLEY V. (ward)	Tabetha V. Asher, Guardian
PALLOTTA, JOHN ROCKY (ward)	J. Christopher Pallotta and Mark D. Pallotta, Co-Guardians
PALLOTTA, ROSS VINCENT (ward)	J. Christopher Pallotta and Mark D. Pallotta, Co-Guardians
CORWIN, RONALD R.	Ronald R. Corwin, Jr., Executor
MAYS, HELEN L.	Cindy Ann Underwood, Executrix
GOODWIN, WILMA R.	Ronald W. Goodwin, Executor
HICKMAN, GLADYS LOU	Cameron D. Hickman, Administrator
LAYMAN, DORIS J.	Brenda S. Blosser, Executrix
WILSON, PEGGY KATHLEEN	Donna Jo Eddy Garcia, Executrix
PRIESTER, HARRY GENE	Patricia A. Priester, Executrix
CLELLAND, HERBERT RAY, SR.	Shirley Ann Clelland, Executrix
LOUGHERY, DAVID LEE	Pamela K. Loughery, Administratrix
HEISKELL, EDGAR E.	Mildred I. Heiskell, Executrix
HESTON, JOSEPH LEE	Sherry Kay Heston, Executrix
KENDALL, NELLIE VIRGINIA	Blaine Kendall, Administrator
GASKIN, DOLORES J.	Bruce Thomas Gaskin, Executor
GAINER, LILLIAN LOUISE	Lillian E. Lawson, Administratrix
HECK, REBECCA JANE	James D. Heck, Administrator
LOPEZ, JOANNE	Linda L. Gandy, Executrix
BOYCE, THELMA M.	Marilyn K. Thompson, Executrix
KNOBEL, ROBERT	Loraine O. Knobel, Executrix
WOOD, REBECCA E.	Ronald D. Wood, Executor
SMEDLEY, ARLIE MAE	Kathy Ann Griffith, Executrix
SANTEE, JOHN A.	Iolene D. Santee, Executrix
AMBROSE, FREDERICK EDDY	Belinda J. Ambrose, Administratrix
CONNER, PAUL M.	Paul E. Conner and Ralph A. Conner, Co-Executors
SHREVE, HERMAN A.	Jenneth Leonard, Executrix
HANDO, JOHN ANDREW	Anne Mercer Hando, Executrix

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Estate of

CLEMENS, LINDA JOYCE
JONES, DOROTHY MAE
PORTH, CHARLES ROBERT
MILES, JEAN FLOYD

Representative

Paul L. Clemens, Administrator
Janet Sue Dennison Beveridge, Extr.
Karen S. Gribben, Administratrix
David A. Floyd, Administrator CTA

ENTER: 3-27-13

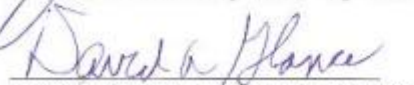

Randy Elliott, President

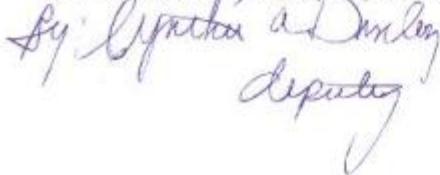

Burley "Butch" Tennant, Commissioner


Ernie VanGilder, Commissioner

ATTEST:


Janice Cosco, County Clerk by 
Thomas F. Antulov, deputy


David A. Glance, Fiduciary Supervisor


Cynthia A. Donley
deputy

Commissioner Tennant moved that the Commission and Clerk sign the Order, order #336. Commissioner VanGilder seconded. President Elliott concurred.

The Commission received a request from the Marion County Technical Center DECA for funds to help cover cost for six students going to National Competitions. Ryan Powell and MacKenzie Wayne came before the commission to explain the request and inform the Commission how well the members did at the State Competition with six placing first in the State. They are all eligible to go to Anaheim California to compete in the National Competition. This has never been done by anyone in that State before. They continued with their explanation on how they won the State Competition and what they are expecting at the National Competition.

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March 12, 2013

To Whom It May Concern:

We are the Marion County Technical Center DECA and we have exciting news to share with you and our community. We have just returned from State Competitions with six students placing first in their categories:

Ryan Powell: Entrepreneurship Independent Participating Event

Jeremy Garner and Shyanne Pratt: Entrepreneurship-Growing Your Business

Elizabeth Sanders and Makayla Haught: Travel and Tourism Team Decision

Mackenzie Wayne: Retail Merchandising Series-Individual Series Event

This has never been done before in our DECA chapter. We now have the task of fundraising to cover cost of \$1100.00 per student. We are seeking sponsors from our community and businesses. We will be traveling to Anaheim, California for national competitions in April. We know that many of you have helped us in the past with our pepperoni bun sales, Salvation Army drives and mission drives for Haiti's children at Christmas. We are asking you for contributions of any size, large or small. Where there is a will there is a way. Let's show our students support-where passions can grow for our future leaders. This will create power in and for our communities by working together.

If you would like to make a contribution please send a check to:

Marion County Technical Center /DECA

2 North Marion Drive

Farmington, WV 26571

Attention Kathy Lupo: DECA Advisor

Commissioner Tennant moved that the Commission contribute \$600.00 to their program and that those funds be appropriated from the Coal Severance Fund. Commissioner VanGilder seconded. President Elliott concurred.

For the record, note the Commission received from the Valley Falls Public Service District Reconciliation Summary, for Period Ending 2-28-13.

For the record, note the Commission received from the Marion County Solid Waste Authority that the State of West Virginia Auditors Office will be performing the audit of their financial statement for the Fiscal Year Ended June 30, 2010 through June 30, 2012.

The Commission received the Presentation of the Petition from Country Club Estates Association to regulate or prohibit the operation of all-terrain vehicles. Douglas Shaver came before the Commission to present their request. Cannon Wadsworth also came who is the President of the Association. He went through an brief explanation as to what they are requesting in which the Home Owners Association at their annual meeting a motion was approved to have the Officers approach the Marion County Commission to enact an Ordinance to outlaw the use of ATV's and dirt bikes in the Country Club Estates.

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Mr. Shaver continued with the explanation as to why they are requesting that this ordinance is needed. Mr. Shaver continued that he spoke with the Sheriff on November 5, 2012 about the situation and he was informed that because the neighborhood does not have painted lines on their roads, there is little that can be done in enforcement.

President Elliott stated that the Commission has reviewed this request and that the County does have an existing ATV Ordinance for the County property. He continued that the problem is in the enforcement. He continued that this request has been reviewed by our Attorney Chuck Shields who has some questions and an opinion.

COUNTRY CLUB ESTATES ASSOCIATION

March 7, 2013

Country Club Estates Association
C/O Charles S Mullett, Secretary
9 Briarwood Terrace
Fairmont WV 26554
304 363 4249

Marion County Commissioners
200 Jackson Street Room 403
Fairmont WV 26554

At the annual meeting of the Country Club Estates Association (CCEA) on January 20 2013 a motion was passed which authorizes the officers to ask the Marion County Commission to enact an ordinance to outlaw the use of recreational ATVs and Dirt bikes in Country Club Estates. Pursuant to the authorization the Homeowner's Association of Country Club Estates hereby petitions the commission to pass an ordinance to regulate the operation of all terrain vehicles within the boundaries of Country Club Estates (as outlined on the attached Map) pursuant to WV Code Chapter 17F Article 1, section §17F-1-3. Local government authority to regulate (2).

(2) Homeowner associations may petition the county commission of the county in which the area regulated by the homeowner association is located for an ordinance to regulate or prohibit the operation of all-terrain vehicles upon any street, road or avenue within the area regulated by the homeowner association. County commissions are hereby authorized, upon receipt of a petition authorized by the provisions of this section, to enact an ordinance regulating or prohibiting the operation of all-terrain vehicles.

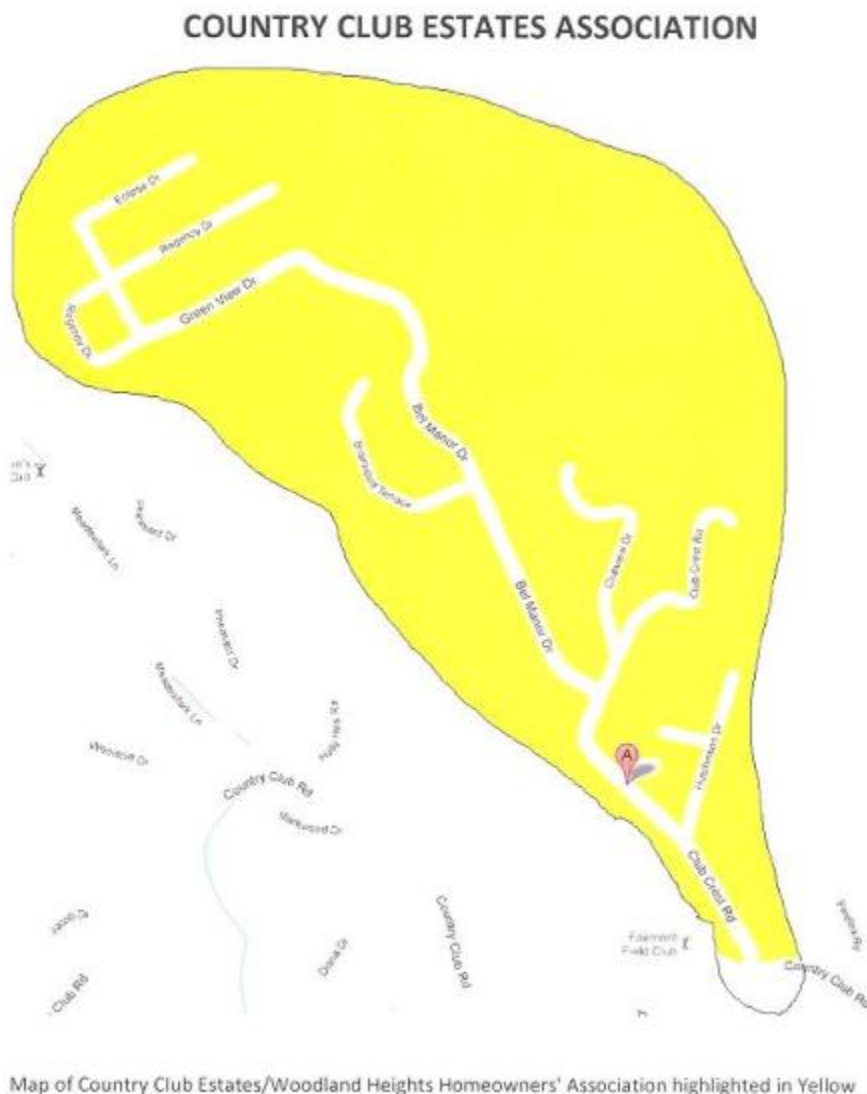
This neighborhood begins at Country Club Road at the intersection of Club Crest and all roads and land connected to Club Crest (Hutchinson Dr, Club View Dr, Bel Manor Dr, Briarwood Terrace, GreenView Dr, Regency Dr & Eclipse Dr) and any future roads within the community, see map next page.

This petition is being brought forth by the homeowner's association because of the deterioration and damage being caused by ATV usage around the Ice's Run Water Tower located between Club View and Regency Dr, which has caused flooding to the streets and homeowners from runoff water around the tower. The ATVs are a safety issue because they are being operated at high speeds throughout the community roads which creates a safety issue for the operator, but also makes it dangerous to drive automobiles and enjoy walking when in use. The ATVs are also being driven on private property within the community that is not owned by the ATV operator.

This neighborhood seeks to retain its environment of being a quiet and desirable place to live and socialize with neighbors and friends.

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Chuck Shields asked if the Ice's Run water tower is within the boundaries of your association. Mr. Shaver stated that he believed so. Chuck Shields stated that the County Commission has the authority to enact the ordinance; however the statute is not really clear as to how to go about doing it. Mr. Shields asked if this is supported by a majority of its residents. Mr. Shaver answered in the affirmative. Mr. Shields asked if they had minutes that they could share with the Commission. Mr. Shaver answered that they did and could give the Commission a copy of those minutes. Chuck Shields stated that he would like to see a petition of signatures of the members of the association that they support this ordinance at least a majority of its members to present to the Commission. In addition Chuck Shields asked that they specifically state what you are asking for in regards to an absolute prohibition of their use or a limitation. Chuck Shields asked if those riding these ATV's are members of the Association. Mr. Shaver stated that he believed so. County Attorney Chuck Shields stated that he believed it would be appropriate to have a majority of its members signing a petition to have this ordinance enacted. President Elliott agreed with that comment.




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Commissioner VanGilder asked if the roads were owned by the Association or the State. Cannon Wadsworth stated that they are orphaned roads.

COUNTRY CLUB ESTATES ASSOCIATION

We would like to be placed on the agenda as soon as possible for an evening meeting is preferred (March 27?) to discuss this petition to enact an ordinance regulating the operation of all-terrain vehicles within the boundaries of our neighborhood.

Thank-you for your time and consideration,


Cannon Wadsworth, President


Sandy Blasingame, Vice President


Chuck Mullett, Secretary

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The Marion County Commission presented Certificate of Achievements for the four County High School Wrestlers that won their respective State Championships in their weight class. They are as follows in alphabetical order of their High School: from East Fairmont High School Jesse Roman and Garrett Onderko; from Fairmont Senior Anthony Alvaro and from North Marion High School Ryan Elliott.

*Gena Wagaman came before the Commission from Woodlawn Cemetery asking the Commission if they would help match their grant requests at \$60,000.00 each on a 50/50 match with Ruby McQuain and George Bowers Foundation. Doctor Raymond Alvarez from West Virginia University was present and would be assisting the Cemetery with these grants and their implementation. **President Elliott stated** that request needs to be in writing. He continued that the State's Community Participation Grant Program is a good program that they should look into. **She added** that the resident's home is where those grants funds would be utilized. She added that they have a program called the Adopt of Grave Program at \$80.00 per year. **Doctor Alvarez made** a few comments as to who has been buried in the Cemetery that are of prominent historical backgrounds.*

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There being no further business to come before the County Commission, it is ordered that this Commission do now recess until, Wednesday, April 3rd, 2013 at 10:00 a.m. for the next scheduled County Commission Meeting.

Randy Elliott, President