

**MARION COUNTY COMMISSION
COUNTY COURT
MAY 8, 2013**

The Marion County Commission sat in regular session pursuant to its adjournment on Wednesday, May 1st, 2013. Present were Commissioner Tennant, Commissioner VanGilder and President Elliott.

The proceedings of Wednesday, May 1st, 2013, together with those had and done under the supervision of Janice Cosco, Clerk and Recorder for the Marion County Commission on May 2nd, 3rd, 6th and 7th, 2013 were approved as submitted and signed.

*D. D. Meighen led the Court with a prayer. Jake Brumage 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, May 1st, 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 May 8, 2013
Nos. #2013-339 through #2013-353***

Pursuant to the recommendation of James Priester, Assessor and approval of Patrick Wilson, Prosecuting Attorney; Commissioner Tennant moved that the President sign Nos. #2013-339 through #2013-353. Commissioner VanGilder seconded. President Elliott concurred.

*The Commission received an **Order Removing Administratrix, in the matter of the Estate of Zena H. Bennett, deceased.***

MARION COUNTY COMMISSION
MAY 8, 2013
PAGE 2

IN THE COUNTY COMMISSION OF MARION COUNTY, WEST VIRGINIA
IN RE: THE ESTATE OF ZENA H. BENNETT, DECEASED

ORDER REMOVING ADMINISTRATRIX

On the 1st day of May, 2013, came the Petitioner, April Bennett, in person, and also came heirs of the Estate, Shelly Vernon, Nicole Bennett and Holly Oliverio, in person, all pursuant to the Petition for the Removal of Administratrix, Sharon Lyn Hayes previously filed herein.

Whereupon the Fiduciary Supervisor presented to the Commission the return receipts from the United States Postal Service, disclosing that all interested parties were duly notified of the Removal Petition and the hearing set for this date, with the Administratrix, Sharon Lyn Hayes, receiving her notice on April 6, 2013.

The Administratrix, Sharon Lyn Hayes, after such notice, did not appear before the Commission but sent a facsimile to the Fiduciary Supervisor's office on April 30, 2013, requesting a continuance of the Hearing set for this date. The Fiduciary Supervisor's file discloses that the Administratrix was notified on April 6, 2013, of the May 1, 2013, hearing and the last minute continuance request is not reasonable and is unfair to the Heirs which appeared for the scheduled Hearing. Accordingly, the continuance request of the Administratrix, Sharon Lyn Hayes, is denied, and the Commission proceeded to hear the removal request.

The file of the Fiduciary Supervisor discloses that Sharon Lyn Hayes has taken no action in this Estate for more than a year, and such failure is grounds for the immediate removal of Sharon Lyn Hayes.

MARION COUNTY COMMISSION
MAY 8, 2013
PAGE 3

Wherefore, the Commission proceeded to consider the Petition, and the statements of the Fiduciary Supervisor, and upon mature consideration thereof, the Commission makes the following findings of fact and conclusions of law:

1. Zena H. Bennett died intestate in Marion County, West Virginia, on February 15, 2012.
2. Sharon Lyn Hayes was appointed as Administratrix of her estate by the Clerk of this Commission on February 17, 2012.
3. The file of the Fiduciary Supervisor discloses that the Administratrix, Sharon Lyn Hayes has failed to prepare an Appraisal of the assets of Zena H. Bennett, and did not respond to the delinquent letters sent to her concerning her duties to the Estate.
4. The Administratrix has allowed the Estate to go unadministered for more than a year, to the prejudice of all the heirs and claimants of this Estate.
5. The Administratrix has failed to respond to requests for information from the Fiduciary Supervisor and the heirs of the Estate.
6. The Heirs of the Estate appearing at the Hearing agreed to the removal request and the appointment of April Bennett to conclude the Estate.

Based upon the foregoing, it is hereby ORDERED:

1. That the appointment of Sharon Lyn Hayes, as Administratrix of the Estate of Zena H. Bennett is rescinded, cancelled and held for naught. Prior to the cancellation of the bond of Sharon Lyn Hayes, she shall be required to file an accounting of all receipts and disbursements she has made as Administratrix, within thirty (30) days of this Order, and such settlement must be approved through the Fiduciary Supervisor's office, and by this Commission.

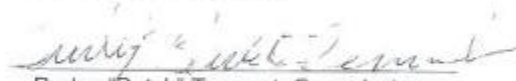
MARION COUNTY COMMISSION
MAY 8, 2013
PAGE 4

2. Based upon the agreement of all the parties in attendance of the Hearing, April Bennett shall be appointed as Administratrix DBN of the Estate of Zena H. Bennett. Prior to such appointment, the Administratrix shall post a bond of \$5,000.00, with the Clerk of this Commission.
3. The Clerk shall deliver a copy of the Commission's Order to all parties which have a current address in the Fiduciary Supervisor's file, to which Order the said Sharon Lyn Hayes is reserved her objections and exceptions.

MARION COUNTY COMMISSION

ENTER:


Randy Elliott, President


Burley "Butch" Tennant, Commissioner


Ernie VanGilder, Commissioner

Submitted by:


David A. Glance
Fiduciary Supervisor

ATTEST:

Janice Cosco, County Clerk

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

*The Commission received a **Resolution and Support Statement in the matter of "Fairness at Patriot Coal"**.*

MARION COUNTY COMMISSION
MAY 8, 2013
PAGE 5

RESOLUTION

WHEREAS, the gains made for working miners as a result of collective bargaining are now being threatened by Patriot Coal through the use of the bankruptcy proceedings; and

WHEREAS, the United Mine Workers of America has secured health care and pensions for retired coal miners, and their widows, through decades of collective bargaining; and

WHEREAS, Peabody's spin-off of Patriot Coal jeopardizes retiree pensions and health care via Patriot's bankruptcy action; and

WHEREAS, actions taken by Arch Coal to shed itself of its promised health and retirement benefits through corporate schemes could also hurt coal retirees' pensions and health care; and

WHEREAS, imposing the Peabody and Arch legacy costs onto Patriot Coal, all under the direction of former Peabody executives implicates all three corporations; and

WHEREAS, the loss of promised health care and retirement benefits, if not addressed, could push many local communities into a financial crisis; and

WHEREAS, all coal field communities have a significant interest in fighting to maintain retiree pensions and health care for our citizens; and

WHEREAS, as concerned members of our community we, the undersigned, pledge to join in the fight to maintain and protect promised pensions and health care from assaults by these and other coal operators.

THEREFORE BE IT RESOLVED, that we, the undersigned, publicly support the United Mine Workers of America in their efforts against Peabody, Arch and Patriot that jeopardize coal miners' health care and retirement security; and

BE IT FURTHER RESOLVED, that we, the undersigned shall stand shoulder to shoulder with the UMWA International and Local Union leadership in this fight; and

BE IT FURTHER RESOLVED that the county or city of _____ request that Patriot Coal, Peabody and Arch Coal prevent the stripping from active, laid-off, and retired coal miners their contractually-promised lifetime health care and pension benefits.

We will notify Patriot Coal, Peabody and Arch Coal that our county/city passed this resolution at a meeting on _____.

1. _____
2. _____
3. _____

MARION COUNTY COMMISSION
MAY 8, 2013
PAGE 6

SUPPORT STATEMENT

Fairness at Patriot Coal

As an elected official, I am committed to making our community a better place to live and work for our citizens. I was disturbed to hear about the Patriot Coal Chapter 11 bankruptcy and the implications it would have on active workers, retirees and widows who are receiving health care and what the potential effects would be to the economic health of coalfield communities.

The promise of retiree health care was negotiated with the coal operators and the United Mine Workers of America in recognition of the demanding physical toll that coal mining takes on miners' health. The dangers associated with coal mining and the working environment miners work in has a much higher than normal rate of crippling injuries and illnesses. The gains that were made over the last sixty years for working miners as a result of collective bargaining are now being threatened by Patriot Coal. Patriot Coal is seeking to strip away these gains through the bankruptcy proceedings and it is morally wrong to do so to these workers who gave their sweat and blood to this company.

Thousands of miners who have retired from the mining industry are now afflicted with these illnesses and injuries, including black lung, silicosis, cancers, and crippling injuries that prevent them from enjoying their golden years. Yet Patriot Coal and its predecessors Peabody and Arch Coal appear willing to abdicate responsibility for their contractual promises as these brave miners and their spouses suffer and die from their work-related illnesses and injuries without their promised health care benefits. Therefore:

- I support the United Mine Workers of America in their efforts against Peabody, Arch and Patriot Coal's actions that would jeopardize coal miners' health care and retirement security.

- I call on Peabody, Arch and Patriot Coal to keep the contractually-promised lifetime health care benefits that they made with their employees of the United Mine Workers of America on behalf of their unionized miners.

Name (print): _____
Signed: _____
Office Held: _____
Date: _____

Nick Lonetti of the United Mine Workers of America spoke to the Commission on behalf of their membership who will be affected by this issue if it is not resolved by the Courts in their favor. He also added for the record that this could open the door to other businesses that will use this practice on their employees. He stated that this will affect the entire community and all will suffer from this ripple down effect. The Marion County Commissioners each spoke in support for these documents.

Commissioner Tennant moved that the Commission sign the Resolution and Support Statement. Commissioner VanGilder seconded. President Elliott concurred.

The Commission received an Order to Rescind the Order to Consolidate Precincts 67 and 68 from the County Clerk, Janice Cosco.

MARION COUNTY COMMISSION
MAY 8, 2013
PAGE 7

County Clerk of Marion County

Janice Cosco
County Clerk



P.O. Box 1267
Fairmont, WV 26555-1267
Phone (304) 367-5445
Fax (304) 367-5448

May 8, 2013

WHEREAS, the Marion County Commission signed an Order of Intent on Wednesday, April 24, 2013 to Consolidate Precincts 67 and 68 both within the municipal boundaries of the City of Mannington; and

WHEREAS, since the entry of said Order the County Commission has been advised that consolidation of the precincts would create a conflict between the City of Mannington Council Districts and the consolidated precincts possibly necessitating the elimination of a council district and;

WHEREAS, the City of Mannington has a municipal election scheduled for summer of 2013 and the consolidation of the precincts would cause confusion and irreparable harm to the voters of the City of Mannington.

THEREFORE, the Marion County Commission hereby rescinds the Order of Intent to Consolidate Precincts 67 and 68 entered on the 24th day of April, 2013.

Signed and sealed this the 8th day of May, 2013.


Randy Elliott, President


Burley/Butch" Tennant, Commissioner


Ernie VanGilder, Commissioner

Attest:

Janice Cosco, County Clerk

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

MARION COUNTY COMMISSION
MAY 8, 2013
PAGE 8

*The Commission received an **Internal Budget Revision Request** from **Patrick Wilson, Prosecuting Attorney**. **County administrator Kris Cinalli** stated that this revision is in the amount of **\$4,000.00**.*

INTERNAL BUDGET REVISION REQUEST
 Marion County Commission

Dept # 405
 Fund: 001

Fiscal Year: 2012-2013

I, Patrick N. Wilson, am requesting the following internal budget revision be made to the General Fund budget for the current fiscal year:

Acct Number	Description	\$Amount	
		Increase	Decrease
001-405-223-00	Professional Services		\$3,000.00
001-405-459-00	Capital Outlay-Equipment		\$1,000.00
001-405-221-00	Training and Education	\$1,000.00	
001-405-214-00	Travel	\$500.00	
001-405-341-00	Supplies	\$2,500.00	
		\$4,000.00	\$4,000.00

Reason for requested amendment:

Transfer monies to cover the cost of office supplies and the annual Prosecuting Attorney's Conference.

5-2-13

DATE OF REQUEST

Patrick N. Wilson

SIGNATURE OF REQUESTING OFFICIAL/DEPT HEAD

***Commissioner Tennant** moved that the Commission sign the internal budget revision request. **Commissioner VanGilder** seconded. **President Elliott** concurred.*

*The Commission received a request for **advice and consent to accept the resignation of Anna Sawyers, Dispatcher, to be effective immediately.***

MARION COUNTY COMMISSION
MAY 8, 2013
PAGE 9



Marion County Central Communications
50 Centerview Drive
Fairmont, WV 26554

Carolyn Ledsome Director

TO: MARION COUNTY COMMISSION
FROM: CAROLYN LEDSOME, DIRECTOR
DATE: MAY 1, 2013
SUBJECT: ANNA SAWYERS, RESIGNATION

Attached you will find notice from Trainer Joe Masturzo reference Anna Sawyers. Ms. Sawyers hire date was April 15, 2013. She did not provide me with a written resignation only advised Mr. Masturzo of her intentions.

Ms. Sawyers was owed 28 hours of compensation for her time spent with us, that has been turned in to payroll.

Thank you

Commissioner Tennant moved that the Commission grant its advice and consent to accept the resignation of Anna Sawyers, Dispatcher, to be effective immediately. Commissioner VanGilder seconded. President Elliott concurred.

The Commission received a request for funds from Dora Grubb, for the Gatherings for the 150th Birthday of Marion County, West Virginia. Dora spoke on behalf of the request and stated that this gathering will a wonderful event for the whole County.

Paulette DeBolt

From: Dora Grubb <marionhistorical@yahoo.com>
Sent: Thursday, May 02, 2013 4:05 PM
To: Paulette Debolt
Subject: Being placed on the agenda.

----- Forwarded Message -----

From: Dora Grubb <marionhistorical@yahoo.com>
To: Paulette Debolt <pdebolt@marioncountywv.com>; Kris Cinalli <kcinalli@marioncountywv.com>
Sent: Thursday, May 2, 2013 4:00 PM
Subject: Being placed on the agenda.

I have just come from the meeting at the Gatherings for the 150th Birthday of Marion County WV. Diana George had to resigned as Chair and members of the committee have assume her tasks.

I would like to make a formal request for \$1000 for this committee for signs, prizes, printing, publicity, etc. I will turn in a form by Monday.

We would also like to explore the possibility of having a quilt display that evening from 4-9 in the Court House.

Thank you very much.

Commissioner Tennant moved that the Commission grant \$1,000.00 to this event and open the Courthouse as well and that those funds be appropriated from the Coal Severance Fund. Commissioner VanGilder seconded. President Elliott concurred.

MARION COUNTY COMMISSION
MAY 8, 2013
PAGE 10

The Commission received a request for funds for Project Graduation. Susan King a senior from East Fairmont High School made the presentation on behalf of this event.



MARION COUNTY PROJECT GRADUATION
PO Box 537 Fairmont, WV 26555-0537
www.wvprojectgraduation.com

Dear Friends:

This year marks the 25th year that Marion County has had a fun, all-night, supervised, safe and alcohol-free Celebration offered to all the high school graduates of our county.

THANK YOU for sharing our belief in the importance of this once in a lifetime event!

Last year's support of \$1,500 was vital in making this Marion County tradition possible for hundreds of graduates last year.

"Let's do it again for the class of 2013!"

We hope that we can count on your support for this year's event, which is going to be held at Valley Worlds of Fun, following graduation ceremonies, on **Friday, May 31, 2013**.

Plans are underway to offer our graduates a unique and memorable night of food, fun, and fellowship with friends to safely celebrate the completion of their high school education and entry into adulthood.

Marion County is blessed to have one of the few remaining such programs in the state, through which businesses, churches, groups and individuals can join together to acknowledge their pride in the accomplishments of our young people.

Marion County Project Graduation is not a school sponsored event. It is a community-supported event that is accomplished through the efforts of volunteers. It is made possible, and offered free of charge to all participants, through the kindness of caring and concerned community members such as yourself.

We are truly grateful for your past contributions and your continued support. As always, our greatest needs are for financial donations that can be used to cover the rental costs and prizes, as well as our need for volunteers to help at the event. Your help in either area is greatly appreciated!

Please let us know how you can help us with this year's event, so that we can plan accordingly.

Checks can be mailed to the address listed above. To make arrangements for the pick-up of other donations, you can leave a message for me at the Marion County Parks and Recreation office 304-363-7037 or email me directly at mcprojectgrad@gmail.com.

Thank you again in advance!

Connie VanGilder

Commissioner Tennant moved that the Commission grant \$1,500.00 to Project Graduation and he recommended that they go to the City of Fairmont and request funds from them as well and that those funds be appropriated from the Coal Severance Fund. Commissioner VanGilder seconded. President Elliott concurred.

There being no further business to come before the County Commission, it is ordered that this Commission do now recess until, Wednesday, May 15th, 2013 at 10:00 a.m. for the next scheduled County Commission Meeting.

MARION COUNTY COMMISSION
MAY 8, 2013
PAGE 11

Estate Hearing in the Matter of Marion M. Shapero

President Elliott called the Hearing to order and turned it over to the Fiduciary Supervisor David Glance.

David Glance began with the statement that the reason for this Hearing is to admit a copy of a will for probate in the County Clerk's Office because the original cannot be found. He added that Attorney Elisabeth Rose of Rose, Padden and Petty will present this case to the Commission. David Glance added no one has shown up to object to this proceeding and all of the involved parties have been notified by mail.

Elisabeth Rose spoke on this matter and presented seven Supplemental Exhibits as evidence to the court indicating that the deceased did not want to destroy her will that they have a copy of her Last Will and Testament at this time. She presented these exhibits and explained the significance of each exhibit.

President Elliott asked if David Glance recommended that the Commission approve this matter. David Glance answered in the affirmative.

Commissioner VanGilder asked if the amount of the estate and who it was left to was it significant. Elisabeth Rose answered that she would not consider it significant.

Commissioner Tennant moved that the Commission accept the copy of the Last Will and Testament of Marion M. Shapero for probate in the County Clerk's Office. Commissioner VanGilder seconded. President Elliott concurred.

David Glance stated for the record that he would prepare and submit the Order to the Commission.

President Elliott adjourned the Estate Hearing.

Randy Elliott, President