

**MARION COUNTY COMMISSION
COUNTY COURT
SEPTEMBER 11, 2013**

The Marion County Commission sat in regular session pursuant to its adjournment on Wednesday, September 4th, 2013. Present were Commissioner Tennant, Commissioner VanGilder and President Elliott.

The proceedings of Wednesday, September 4th, 2013, together with those had and done under the supervision of Janice Cosco, Clerk and Recorder for the Marion County Commission on September 5th, 6th, 9th and 10th, 2013 were approved as submitted and signed.

*George Patton of the Union Mission led the Court with a prayer. Belinda Biafore 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, September 4th, 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 September 11, 2013
Nos. #2013-1180 through #2013-1219***

Pursuant to the recommendation of James Priester, Assessor and approval of Patrick Wilson, Prosecuting Attorney; Commissioner Tennant moved that the President sign Nos. #2013-1180 through #2013-1219. Commissioner Tennant seconded. President Elliott concurred.

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 County Clerk of the County Commission, pending confirmation. There being no further 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.

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 September 11th, 2013.

This day came David A. Glance, Fiduciary Supervisor for Marion County, and presented to the County Commission the Waivers and Applications for Short Form Settlements, Proposed Settlements and Annual Settlement Reports filed by the personal representatives of the following estates, which he has reviewed and approved and which are the same estates which were advertised for proposed settlement in the September 2nd, 2013, issue of the Fairmont Times West Virginian, all in accordance with West Virginia Code 44-3A-19.

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Estate of

MORRIS, MARVIN, JR. (Annual)
LITTLE, CHARLES WILLIAM (2nd & Final)
FLOYD, ELSIE MAE
YAREMCHUK, DANIEL M.
SCRIVO, MARGARET PARSONS
MARTINO, CHLOE JOSEPHINE SHIMER
MULLENAX, MILLARD S., JR.
BOWER, NELLIE P.
PARKER, DALLIS V.
LAWSON, WILLIAM EUGENE
MOORE, MICHAEL LEE
FERGUSON, CATHERINE P.
CARPENTER, DORIS E.
HUFFMAN, ARA (ARAH) RAYANNA ANDERSON
ALBRITTON, BONNIE JO STARR
BALDRIDGE, JOYCE ANN
McVICKER, CHERYL ANN
RASPA, RALPH F.
LINDSAY, JANE C.
MOORE, NINA L.

TENNANT, STANLEY R.
LIEVING, VALJEAN
GERKEN, BETTY JOANNE
SQUIRES, LOU G.
FARMER, RUSTY ARTHUR
FRY, CHARLES WILLIAM
VINCENT, BRIAN LEE, JR.
STEWART, GLENN M., JR.
PARKER, IRENE H.
FANCHER, GRACE A.

Representative

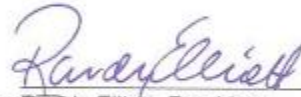
Robert M. Morris, Executor
Gary K. Bennett, Administrator DBN
Michael L. Floyd, Administrator CTA DBN
Greg Lee, Executor
Henry J. M. Schaefer, Executor
Linda Layman, Executrix
J. Scott Tharp, Administrator CTA
Dean E. Bower, Executor
Mary Mason, Executrix
Julie Lawson, Administratrix
Lisa M. Moore, Administratrix
Linda Nichols Poling, Executrix
Roy Michael, Executor
Diana L. Shaffer, Executrix
Leland Elbert Albritton, Administrator CTA
Magalene Conaway, Administratrix
Renee M. Postlethwait, Administratrix
Ralph M. Raspa, Executor
John D. Lindsay, Jr., Executor
Rebecca Ann Mattingly and Mary Ann
Moore, Co-Executrices
Richard Carl Tennant, Executor
Eugene S. Lieving, II, Executor
Paulette Couch Klingensmith, Executrix
Stephen G. Engle, Executor
Susan Kay Farmer, Administratrix
Kelly Jeanne Fry, Executrix
Brian Lee Vincent, Sr. Administrator
Mary A. Thorne, Anc. Admr. CTA DBN
John W. Parker, Executor
Charles Thomas Fancher, Executor

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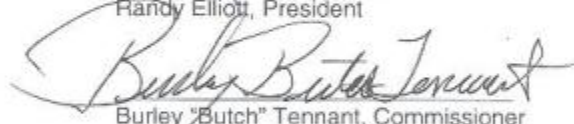
FRIEND, JAMES GARY
CLELLAND, ZANALU VAILE
KUBIET, JOSEPH J.
SEHEWCHUK, DANIEL PETE
TUCKER, WILLIAM L.
PORTER, DRAUNDA SUE
ARMSTEAD, ZELDA GAY
CINELLI, HELEN M.
STEPHEN, RONALD L.
SNIDER, THOMAS LEE
HARDING, FLOYD H.
IORIO, ANTHONY L.
CAMPIONE, SARAH J.

Jonnie L. Friend, Administratrix
Judith A. Kuhn, Anc. Admrx. DBN
Doris Maxine Kubiet, Executrix
Pete Sehwchuk, Administrator
Anna M. Tucker, Administratrix
Doretta D. Bonnell, Administratrix
Anthony L. Armstead, Executor
Linda A. Cinelli, Executrix
Shirley J. Stephen, Administratrix
Shirley May Snider, Executrix
Gretel L. Harding, Executrix
Lawrence E. Iorio, Executor
Robert J. Campione, Executor

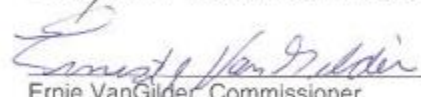
ENTER: September 11, 2013



Randy Elliott, President



Burley "Butch" Tennant, Commissioner

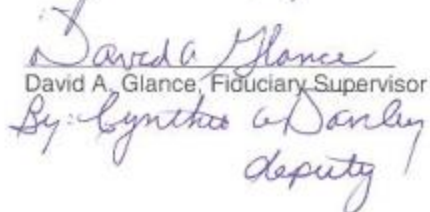


Ernie VanGilder, Commissioner

ATTEST:



Janice Cosco, County Clerk



By: *Synthia A. Danley*
deputy

David A. Glance, Fiduciary Supervisor

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

The Commission presented the Proclamation for Patriot Day and National Day of Service and Remembrance.

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Proclamation

WHEREAS, on September 11, 2001, a bright autumn day was darkened by the worst attack on American people in our history, where thousands of innocent men, women and children perished in the New York towers, a field in Pennsylvania and the Pentagon; and

WHEREAS, they were family, friends, service members and first responders, and the tragedy of their loss left pain that will never fade and scars our country will never forget; and

WHEREAS, although the world we live in is forever changed, we mark the anniversary of September 11 more than a decade later by remembering our legacy as a country strengthened by service and selflessness and the spirit that moved rescue workers and firefighters to charge into danger that September morning and the countless Americans who gave of themselves in the months that followed; and

WHEREAS, today, as we remember the victims, their families and the heroes, all Americans are invited to reclaim that abiding spirit of compassion by serving the communities in the days and weeks ahead by volunteering with a faith-based organization, collecting food and clothing for those in need, preparing care packages for our men and women in uniform, or any other means of becoming more involved in local service opportunities; and

WHEREAS, even the simplest act of kindness can be a way to honor those whom we have lost and build stronger communities and a more resilient Nation; and

NOW, THEREFORE, BE IT RESOLVED that the Marion County Commission does hereby proclaim September 11th, 2013, to be

"PATRIOT DAY AND NATIONAL DAY OF SERVICE AND REMEMBRANCE"

IN TESTIMONY WHEREOF, we have hereunto set our hand and caused to be affixed the Great Seal of the County of Marion, State of West Virginia, this, the 11th Day of September, 2013.

MARION COUNTY COMMISSION

RANDALL ELLIOTT, PRESIDENT

BURLEY TENNANT, JR, COMMISSIONER

ERNEST VANGILDER, COMMISSIONER

ATTEST:

JANICE COSCO, COUNTY CLERK



Commissioner Tennant moved that the Commission sign the Proclamation. Commissioner VanGilder seconded. President Elliott concurred. Chris McIntire made some comments on how the 911 Center operates and the amount of calls that are received and sent out.

The Commission presented the appointment and replacement of the trustee, paying agent, registrar and discloser/dissemination agent for the County Commission of Marion County Hospital Revenue Bonds, Series 2007(Fairmont General Hospital Project).

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County Administrator Kris Cinalli stated that they are requesting that the County Commission appoint UMB Bank to be appointed as Successor Trustee. He added that Fairmont General Hospital has agreed to this appointment as well. Kris added that Chuck Shields and he have reviewed this and all appears in order. Ryan White was present form White Law Offices to respond to any questions if needed. He added that the Commission should sign.

Commissioner Tennant moved Commission President sign the Order. Commissioner VanGilder seconded. President Elliott concurred. Mr. White added that there were some additional documents that need sign as well. President Elliott asked that Chuck Shields review those documents and if approved that the Commission will sign those as well. Commissioner Tennant moved Commission sign the subsequent Order. Commissioner VanGilder seconded. President Elliott concurred.

The Commission received the Drunk Driving Prevention Grant Application. Kris Cinalli stated that this grant period is from October 26th, 2013 through January 26th, 2014 in the amount of \$15,000.00.

OFFICE OF THE SHERIFF



State of West Virginia
SHERIFF OF MARION COUNTY
PO Box 1348
Fairmont, West Virginia 26555-1348
(304) 367-5300 Law Enforcement Division
(304) 367-5310 Tax Office
(304) 367-5307 Record Division

Joseph N. Carpenter
Sheriff

Ralph L. Wright
Chief Deputy

To: Marion County Commission
From: Sheriff Joseph N. Carpenter
Date: September 05, 2013
Ref: WV CDDP Grant

Dear Honorable Commissioners:

I am respectfully requesting to be placed on the Commission's agenda for the Wednesday, September 11th, 2013 meeting. The grant period for our WV CDDP (Commission on Drunk Driving Prevention) Grant will end on September 29th, 2013, and we will be reimbursed for the amount of \$15,000.00 for our law enforcement overtime line. We are reapplying for another grant period, also for \$15,000.00 for overtime, and it required the Commission President's signature. This new grant period will run from October 26th, to January 26th, 2014.

Sincerely,



Sheriff Joseph N. Carpenter

Cc: File

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PROSECUTING ATTORNEY OF MARION COUNTY

PATRICK N. WILSON
213 JACKSON STREET
FAIRMONT, WEST VIRGINIA 26554
TELEPHONE (304) 367-5388 • FAX (304) 368-0920

CHIEF ASSISTANT
JEFFREY L. FREEMAN

ASSISTANTS
LEA ANNE HAWKINS
JENIFER L. PIGOTT
L. ELIZABETH SHAW
DANA R. SHAY
CHARLES A. SHIELDS
NATE C. CHAPMAN
JONATHAN A. WRIGHT

VICTIM ADVOCATE
KIM HAWKINS
(304) 367-5383

INVESTIGATOR
DONALD HARRIS
(304) 367-5438

September 3, 2013

Marion County Commission
200 Jackson Street, Room 403
Fairmont, WV 26554

Re: Prosecuting Attorney's Office
Advice and Consent for Allison Smith

Dear Commissioners:

Please accept this letter as a formal request for the advice and consent of the Marion County Commission regarding the hiring of Allison Smith as a full-time Administrative Assistant with benefits for the Marion County Prosecuting Attorney's Office. My intention is to hire Allison Smith for this position effective September 23, 2013.

Thank you for your assistance in this matter.

Sincerely yours,

A handwritten signature in blue ink that reads "Patrick N. Wilson".

Patrick N. Wilson,
Prosecuting Attorney

PNW/jls

Commissioner Tennant moved that the Commission grant its advice and consent to hire Allison Smith as full time Administrative Assistant, with benefits, for the Prosecuting Attorney's office. Commissioner VanGilder seconded. President Elliott concurred.

The Commission received the request for advice and consent of the County Commission to hire Emily Potesta and Andrea Wright as full time Tele-communicators at starting salary of \$22,380.80 with benefits, effective September 16, 2013.

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Marion County Homeland Security &
Emergency Management
50 Centerview Drive
Fairmont, WV 26554

Chris McIntire Director

To: Marion County Commission
From: Chris McIntire, Director
Date: September 5, 2013
Reference: New Hires

I would like the advice and consent to hire, Emily Potesta and Andrea Wright as full time Telecommunicators at a starting salary of \$22,380.80 with full benefits. The hire date for these employees will be September 16, 2013.

Thank You,
Chris McIntire, Director DHSEM

A handwritten signature in blue ink, appearing to read "C. McIntire".

Commissioner Tennant moved that the Commission grant its advice and consent to hire Emily Potesta and Andrea Wright as full time Tele-communicators at starting salary of \$22,380.80 with benefits, effective September 16, 2013. Commissioner VanGilder seconded. President Elliott concurred.

The Commission received the request for advice and consent of the County Commission to move Shawn Teets from part-time Tele-communicator, with no benefits, to full time, starting salary \$25,937.60, with benefits.



Marion County Homeland Security &
Emergency Management
50 Centerview Drive
Fairmont, WV 26554

Chris McIntire Director

To: Marion County Commission
From: Chris McIntire, Director
Date: September 5, 2013
Reference: New Hire

I would like the advice and consent to move Shawn Teets from part time to a full time Telecommunicator at a starting salary of \$25,937.60 with full benefits.

Thank You,
Chris McIntire, Director DHSEM

A handwritten signature in blue ink, appearing to read "Chris".

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Commissioner Tennant moved that the Commission grant its advice and consent to move Shawn Teets from part-time Tele-communicator, with no benefits, to full time, with starting salary \$25,937.60, with benefits. Commissioner VanGilder seconded. President Elliott concurred.

The Commission received the request from George R. Higinbotham for decision upon abandonment of the County's interests in only a portion of right of way adjacent to the plots comprising the business interests of Steve Dodd doing business as the Nautilus Connection. County Administrator Kris Cinalli added that Mr. Higinbotham wants the Commission to review this file. Chuck Shields asked that we may have a public hearing later and that the interested parties present their information to the Commission and that the Commission make its recommendation to the State. Chuck Shields stated that this should be tabled pending information that Mr. Higinbotham will ask for a public hearing or removed his request. The State of West Virginia Attorney Brenda Craig Ellis was present and added for the record that this is in the realm of the Department of Highways.

	HIGINBOTHAM & HIGINBOTHAM, PLLC	
	ATTORNEYS AT LAW	
	132 ADAMS STREET SUITE 100	
	POST OFFICE BOX 567	
	FAIRMONT WEST VIRGINIA 26554	
	TELEPHONE (304) 366-2900	
	FACSIMILE (304) 366-2909	
	EMAIL: HGANDHIG@GMAIL.COM	
	WEBSITE: WWW.HIGINBOTHAMLAWYERS.COM	
GEORGE R. HIGINBOTHAM		BUSINESS MANAGER
JOHN C. HIGINBOTHAM		JACK A. LANE
JO MARIE PITROLO		LEGAL ASSISTANTS
SEAN J. SAWYER		CARNETT D. BRAGG
FORREST A. BOWEN		CLAR O'GILL
		CATHERINE ADKINS
		LISA JENKINS
		ERIN CROSS

September 4, 2013

To: Marion County Commission
From: George R. Higinbotham
Subject: Right of Way in Westchester
Via Fax: 367-5431

Please set the above matter on your agenda at the next convenient date. In this regard, this matter has had a public hearing, and there was an adjournment for consideration. We are informed that the Commission's inquiry has now been resolved and there is no impediment to a final resolution.

The within request for an appearance before the Commission is for the purpose of asking for a decision upon abandonment of the County's interests in only a portion of the right of way adjacent to the plots comprising the business interests of Steve Dodd doing business as the Nautilus Connection.

Should there be anything additional required to proceed with this request, please advise.

cc: Steve Dodd
Chuck Shields

Commissioner Tennant moved that the Commission table this item. Commissioner VanGilder seconded. President Elliott concurred.

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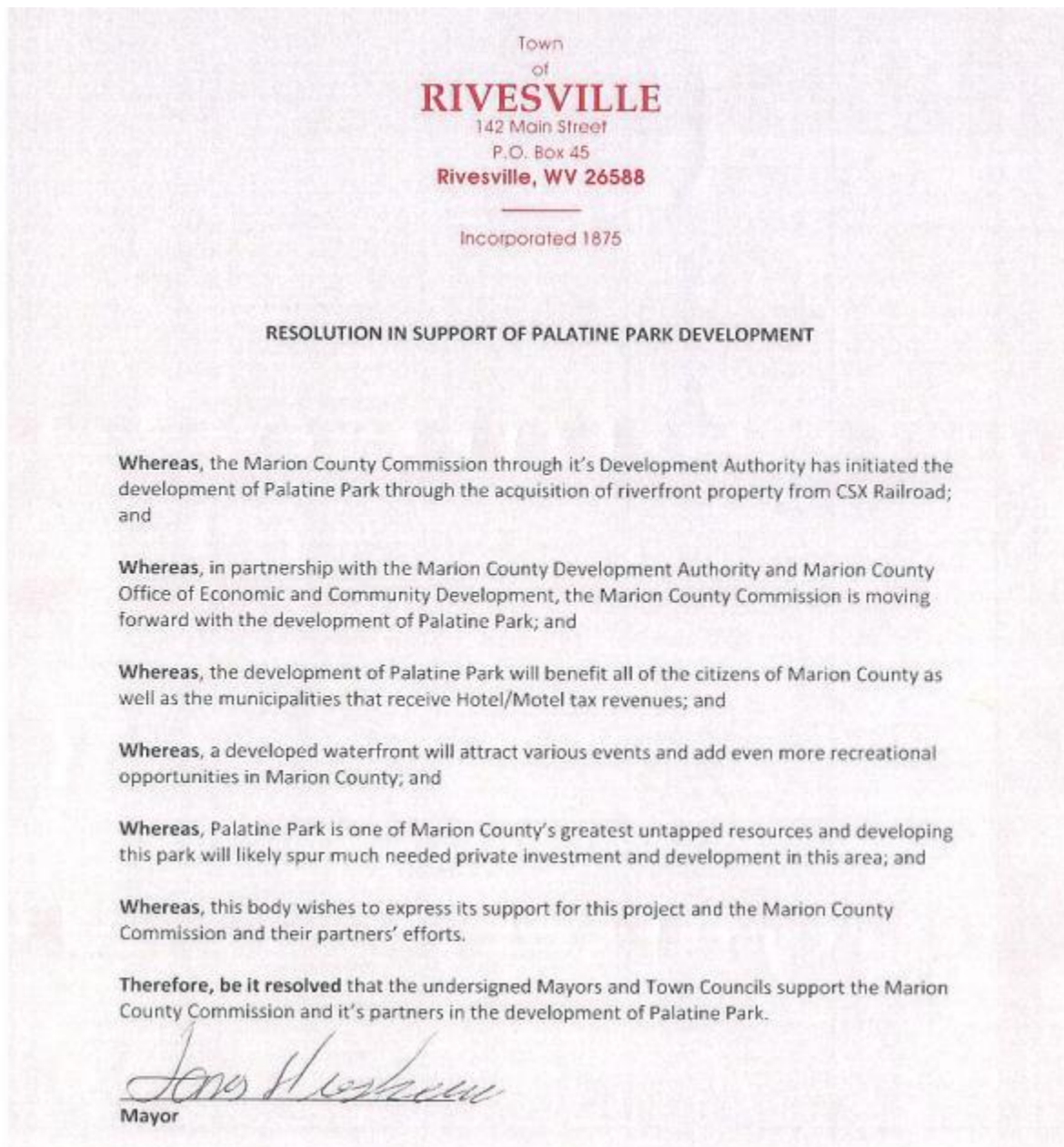
The Commission received the request from Marion County Senior Citizens for assistance for the Senior Center in Mannington. County Administrator Kris Cinalli stated that they are requesting \$4,000.00 to complete their project of the outdoor pavilion with kitchen.

Commissioner Tennant moved that the Commission grant their request of \$4,000.00 to complete their project and that those funds come from the Coal Severance Fund. Commissioner VanGilder seconded. President Elliott concurred.

The Commission received the request from Baxter VFD for \$10,000.00 for air pack grant match.

Commissioner Tennant moved that the Commission grant their request of \$10,000.00 and that those funds come from the Coal Severance Fund. Commissioner VanGilder seconded. President Elliott concurred.

For the record, note the Commission received the Resolution in Support of Palatine Park Development.



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For the record, note the Commission received the notification from Time Warner Cable of agreements with programmers and broadcasters whose services and stations about to expire.



August 22, 2013

Mr. Burley Tennant
President
Marion County Commission
200 Jackson Street, Room 403
Fairmont, WV 26554

Dear Mr. Tennant:

I am writing in our ongoing efforts to keep you apprised of programming developments affecting the cable television system serving your community.

Time Warner Cable's agreements with programmers and broadcasters to carry their services and stations routinely expire from time to time. We are usually able to obtain renewals or extensions of such agreements, but in order to comply with applicable regulations, we must inform you when an agreement is about to expire. The following agreements are due to expire soon, and we may be required to cease carriage of one or more of these services or stations in the near future.

CBS Sports Network, E! Entertainment, Flix East, Flix West, G4, IFC, KDKA, KDKA HD, Lifetime, LMN, Music Choice, NHL Center Ice, NHL, NHL HD, Showtime East, Showtime HD, Showtime Beyond East, Showtime Extreme East, Showtime Extreme HD, Showtime On Demand, Showtime Showcase East, Showtime Showcase HD, Showtime Too East, Showtime Too HD, Smithsonian HD, Style, TMC East, TMC HD, TMC Extra East, TMC On Demand, WE, WPSD, WPSD HD, You Too TV, Zap2It.

In addition, from time to time we make certain changes in the services that we offer in order to better serve our customers. The following changes are planned: On or after Sept 25, QVC Plus may be added to Digital Red on ch 145. On or after August 20, Pro Sports On Demand will be added to the Digital Choice Red and TWC Sports Pass-ters on ch. 999. On or about September 22, TV Guide Network with the scrolling guide on channel 21 will be discontinued; TV Guide Network will continue to be available on ch 132.

The new services listed below will require two-way capable digital cable ready equipment, such as a Time Warner Cable-provided set-top box or a CableCARD-equipped Unidirectional Digital Cable Product (UDCP) used in conjunction with a Tuning Adapter. Other UDCPs may not be able to access these services without additional equipment, such as a set-top box: QVC Plus.

Programming is subject to change. Not all services available in all areas. Restrictions may apply.

For up-to-date listings of our packages and channels, visit our website at www.timewarnercable.com.

If you have any questions or concerns, please do not hesitate to call me directly at (513) 386-5908.

Sincerely,

Pamela McDonald
Vice President of Government Relations
Time Warner Cable

Pamela McDonald
Vice President of Government Relations



Via Certified Mail
Return Receipt Requested

Mr. Summers stated that the meeting on the September 13th, 2013 has been changed to September 26th, 2013 at 1:30 p.m. with the Corp of Engineers on keeping the locks opened on the Monongahela River.

Mr. White from White Law Office stated that there is a deed of trust that goes with the other documents in which Mr. White is named trustee on the deed of trust.

Charlie Reese presented his update on the Palatine Park Project in that he attend the City of Fairmont Council Meeting in which he tried to clear up some issues. He also added that the second house on New Street will be closed on next week. We will be bidding out the contract to demolish both houses.

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Jeff Biafore presented the Skate Park project update cutting trees behind the park opening it up to be viewed towards the river. He added that the skating area has been re-coated, which has been made smoother. They are also going to add another light pole after discussion with the power company.

Charlie Reese added that there have been no geese for two to three weeks now. Charlie added that at the City Council meeting he requested formally the appraisal of the property that the City had contracted as well as the script that the Mayor used during the Council Meeting, because there were things that did not jive. Charlie added that there will be an advertisement in the Times West Virginia for an RFP for engineering on this project. Charlie stated that we will start beginning on Phase II the abandonment of roads that are located on the map only and not there physically. He will give the application for abandonment of roads to Norman Kronjaeger to start completing in order to begin that process. Charlie stated that the sidewalks are completed around the Amphitheater. Charlie stated that there only two questions that he has for the City and they are: When is the next meeting date when we will decide what the City wants to do; and what are they going to do with the green grass area?

President Elliott stated that at a meeting with the City we need to determine what we both agree upon and get those issues complete and accomplished. Commissioner VanGilder would like to address those new businesses that have privately invested in our Community; those being Jay Prendergast in Bellview; Dennis Hermosilla on Morgantown Avenue; and the Coppertop near the airport. Commissioner Tennant added that the new bus depot will be opening soon as work has begun on the new State Building on the 400 Block of Adams Street.

There being no further business to come before the County Commission, it is ordered that this Commission do now recess until, Wednesday, September 18th, 2013 at 10:00 a.m. for the next scheduled County Commission Meeting.

Randy Elliott, President