

February 25, 2010

A Meeting of the Fayette County Board of Commissioners was held on Thursday February 25, 2010 at 10:00 a.m. in the Public Service Building, Uniontown, Pa.

Present;

Commissioner Vince Zapotosky, Chairman
Commissioner Vincent A. Vicites, Vice Chairman
Commissioner Angela M. Zimmerlink
Warren Hughes, County Manager/Acting Chief Clerk
Joseph Ferens, County Solicitor

- Meeting called to order
- **Commissioner Zapotosky** asked all to rise and have a moment of silence for the loss of **Congressman John Murtha**.
- Prayer was given by Rev. Ewing Marietta
- Pledge of Allegiance

Public Comment on Agenda Items: None

Proclamation

Lisa Ferris Kusniar Director of Behavior Health announced on behaves of all residents of Fayette County, especially those that utilize the services at our office, also all the number of providers throughout Fayette Count that provides the individuals with disabilities. She requested from the Fayette County Board of Commissioners to proclaim the month of March, Disabilities Awareness Month.

Mrs. Ferris Kusniar announced **Rebecca Hershberger** was chosen to represent the individuals with disabilities; Miss Hershberger was born and raised in Scottdale, Pa. She is very active at Goodwill Industries which is her place of emplacement, provides residential support, she is extremely active with bingo, and also a Valentine Dance / Party she is helping to prepare for. Mrs. Ferris Kushner thanked Miss Hershberger for attending this event. Also she thanked the Commissioners for presenting them with the Disabilities Awareness Month Proclamation.

Commissioners Zapotosky, Vicites, and Zimmerlink awarded the proclamation to Lisa Ferris Kushner & Miss Rebecca Hershberger.

Financial Condition was presented by Fayette County Controller Sean Lally.

FUND:	General Fund		
	Date	25-Feb-10	
CASH:	Checking Account	Centra Bank	\$3,367,612.63
Funds Owed to the General Fund			
	Temporary Loans		
	Intermediate Punishment Fund	\$35,610.94	
	Children & Youth	\$1,000,000.00	
			\$1,035,610.94
Funds General Fund Owes			
	Tax Anticipation Note	\$4,000,000.00	\$4,000,000.00
Budget Year 2010		Net Position	\$403,223.57
			Year to Date
	Total 2010 Revenues		\$1,076,923.02
	Total 2010 Expenditures		\$2,497,013.25
	Total 2009 Expenditures paid in 2010		\$939,424.27
	Capital Reserve Fund Balance		\$80,956.13
	Bond Fund Balance 1/1/10		\$2,361.20

Commissioner Zapotosky said CYS`'s liability is still pending from 2008/2009; he added we need to follow up with Dave Madison Director of CYS as well as the individuals in Harrisburg concerning this issue.

Commissioner Vicites asked Controller Lally what the amount was that was still pending. Mr. Lally replied 1 million dollars. **Commissioner Vicites** stated we do have that open to us though it seems like it is taking longer than it normally would. **Controller Lally** stated that was because of Pennsylvania`'s budget issue, it has taken longer that usually to receive, and at this time it is just sitting in limbo, but it is owed to us.

Election Bureau:

Moved by Commissioner Vicites and seconded by Commissioner Zimmerlink to approve two members of the Election Bureau to attend the Western PA Election Conference to be held March 25, 2010 The Registration fee is \$20.00 per person

Commissioner Zapotosky	yes
Commissioner Vicites	yes
Commissioner Zimmerlink	yes

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Motion Passed Unanimously

Moved by Commissioner Vicites and seconded by Commissioner Zimmerlink to ratify the placement of the Election Proclamation in 2 (two) newspapers, the Herald Standard and the Daily Courier as required by the Department of State for the May 18, 2010 Primary election.

Commissioner Zapotosky	yes
Commissioner Vicites	yes
Commissioner Zimmerlink	yes

Motion Passed Unanimously

Moved by Commissioner Zimmerlink and seconded by Commissioner Zapotosky to authorize the advertising of a Special Election for the 12th Congressional District at the discretion of the Department of State and our requirement to place an additional proclamation in 2 (two) newspapers.

Commissioner Zapotosky	yes
Commissioner Vicites	yes
Commissioner Zimmerlink	yes

Motion Passed Unanimously

Moved by Commissioner Zimmerlink and seconded by Commissioner Zapotosky to approve the advertising for the bidding of Election Supplies for the May 18th Primary.

Commissioner Zapotosky	yes
Commissioner Vicites	yes
Commissioner Zimmerlink	yes

Motion Passed Unanimously

Behavior Health Administration

Moved by Commissioner Zimmerlink and seconded by Commissioner Vicites to approve the following agreements and modifications.

Health Choices Agreement 2008 Funds	Contract Value	Period
Chestnut Ridge Counseling Services, Inc.	\$22,560	2008
Modification Agreement #3 Base		
Laurel House, Inc.	\$1,062,795	7/1/08-6/30/09
Modification Agreements #1 Federal		
Diversified Human Services, Inc.	\$32,000	7/1/09-6/30/10
Neurological Therapy Specialists, Inc.	\$63,000	7/1/09-6/30/10

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Commissioner Zapotosky	yes
Commissioner Vicites	yes
Commissioner Zimmerlink	yes

Motion Passed Unanimously

Moved by Commissioner Zimmerlink and seconded by Commissioner Zapotosky to approve March 2010 as Developmental Disabilities Awareness Month Proclamation.

Commissioner Zapotosky	yes
Commissioner Vicites	yes
Commissioner Zimmerlink	yes

Motion Passed Unanimously

Emergency Services/911

Moved by Commissioner Zimmerlink and seconded by Commissioner Zapotosky to ratifying the approval for Albert Gallatin School District to make application through the U.S. Department of Education's office of Safe and Drug Free Schools for the FY2010 Readiness and Emergency Management for Schools (REMS) grant.

Commissioner Zapotosky	yes
Commissioner Vicites	yes
Commissioner Zimmerlink	yes

Motion Passed Unanimously

Tax Claim Bureau

Moved by Commissioner Vicites and seconded by Commissioner Zimmerlink to ratify the approval to bid for printing companies to print and mail return and claim and notice of sale certified mailers.

Commissioner Zapotosky	yes
Commissioner Vicites	yes
Commissioner Zimmerlink	yes

Motion Passed Unanimously

Planning & Zoning

Moved by Commissioner Zimmerlink and seconded by Commissioner Zapotosky to amend Resolution 09-11-19-13 to renew agreement with Tri-State

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Safety Inspection Services as a third-party inspection agency for the UCC.
Referring back to resolution # 09-10-22-12

Commissioner Zapotosky	yes
Commissioner Vicites	yes
Commissioner Zimmerlink	yes

Motion Passed Unanimously

Moved by Commissioner Vicites and seconded by Commissioner Zapotosky to approve RZ 09-12 Chestnut Ridge Counseling Services, Franklin Township, requesting a change of zone from A-1 Agricultural-Rural to R-2 High Density Residential.

Commissioner Zapotosky	yes
Commissioner Vicites	yes
Commissioner Zimmerlink	no

Motion Passed 2-1

Moved by Commissioner Vicites and seconded by Commissioner Zapotosky to approve RZ 09-13 Randolph H. Mosley, Jr., German Township, requesting an extension of A-1 Agricultural-Rural on property currently zoned R-2 High Density Residential.

Commissioner Zapotosky	yes
Commissioner Vicites	yes
Commissioner Zimmerlink	no

Motion Passed 2-1

Human Resources

Human Resource Department

Moved by Commissioner Vicites and seconded by Commissioner Zimmerlink to approve the update to the Workers Compensation Panel of Approved Providers effective 2/25/10.

Commissioner Zapotosky	yes
Commissioner Vicites	yes
Commissioner Zimmerlink	yes

Motion Passed Unanimously

Information Technology Department

Moved by Commissioner Vicites and seconded by Commissioner Zapotosky to approve the hire of Scott Romesburg as Part Time Information Technology Assistant at 9.50/hr, effective 3/1/10.

Commissioner Zapotosky	yes
Commissioner Vicites	yes
Commissioner Zimmerlink	abstain

Motion Passed 2-0

Commissioner Zimmerlink stated she abstained because the reason given was to create the position at the Salary Board Meeting and does not coincide what has since been discussed.

Prison

Moved by Commissioner Vicites and seconded by Commissioner Zapotosky to ratify the agreement with Ergo Metrics to provide Video Based Pre-Employment Testing materials for Corrections Officers, at the cost of \$150 enrollment fee and \$28 per test, effective 2/12/10.

Commissioner Zapotosky	yes
Commissioner Vicites	yes
Commissioner Zimmerlink	abstain

Motion Passed 2-0

Commissioners:

A discussion took place regarding the Amphitheater Property:

Commissioner Zapotosky stated this issue was brought to our attention the property once owned by Fayette County, and then sold to Mr. Herring, He added there was a right of refusal for the county if the property was to be sold, and the property has since sold as of October 16, 2009.

Commissioner Zimmerlink said that she & Commissioner Vicites were in office when the first right of refusal was discussed. She stated in 2006 one of the Tuesdays Agendas Meetings the matter was discussed and before the Thursdays Meeting the Herrings indicated they were not selling and therefore the matter was Tabled with the direction given to the County Solicitor to contact the Herrings attorney. She said nothing was done on the matter and it was not until recently when the County Solicitor Joe Ferens reported to the current Commissioners that the 120 acres had been sold and there is a question of interest in the remaining acreage as well as the outstanding monies due under the base agreement.

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Commissioner Zapotosky said the letter that was sent to Solicitor Ferens was send on May 23, 2006 from **Attorney Gentile** asking whether or not the county was interested in purchasing back the property he stated for clarification the county was aware **of** the request or the right of refusal one month before the item was tabled. **Commissioner Zapotosky** stated he did agree there should be some recovery of the funds. There is another parcel of land which has a balance around \$80,000.00 which remains uncollected. He asked Solicitor Ferens to pursue a legal recourse; he said we may have the available to recover those funds.

Commissioner Vicites & Zimmerlink both agreed with Commissioner Zapotosky to pursue the collection of the funds.

Commissioner Vicites stated we are in the one month period which we had 3 months to react; to my knowledge there was never another letter that revoked that request.

Commissioner Zapotosky said by reading the previous minutes from May 23, 2006. He added a letter from their Attorney was given to the Commissioners based how to advise the Commissioners about purchasing the property within 90 days, my estimation began from May 23, 2006. He said his concern is the recovery of any outstanding liabilities and I urge my 2 collages to pursue whatever legal remedy is necessary we must undertake.

Solicitor Ferens said there are a couple of issues that also need addressed, one being, 6 acres of the actual Amphitheater property the county might be interested in selling, he added as of yet he doesn't know what the Commissioners thoughts are on this decision though Mr. Ferens stated he is not suggesting that a answer is needed right at this time though it needs to be considered. He said the 23 acres surrounding the 6 would cost the county a total of \$400,000.00. and he felt at this time the county might not be interested in purchasing the property for that amount of money at this time, though he added while talking with Mr. Hughes, I asked him to obtain from the Controller's Office a calculation of the rent due, and it is approximately \$87,200 on the property from 2003 up through 2008, he said we would have to file a lawsuit for those monies and I feel, that might be the direction you would like me to go, and that can be done.

Moved by Commissioner Zapotosky and second by Commissioner Vicites, to Direct Solicitor Ferens to take action, whatever action that is required in order to seek recovery of the outstanding liability of the lease agreement.

Commissioner Zapotosky	yes
Commissioner Vicites	yes
Commissioner Zimmerlink	yes

Motion Passed Unanimously

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Solicitor Ferens stated this issue could affect a possible settlement on this outstanding debt in the event the Commissioners would consider selling the Amphitheater area, before that type of arrangement could take place, it would need to be appraised by Mr. Hercik Director of Assessments. He said there are certain requirements that need to be followed when selling county property which the property hasn't been in use for some time.

Moved by Commissioner Zimmerlink and seconded by Commissioner Zapotosky to advertise for a public meeting concerning Salaries for Elected Officials to be held at the Public Service Building at 6 pm. and in accordance with the County Code.

Commissioner Zapotosky	yes
Commissioner Vicites	yes
Commissioner Zimmerlink	yes

Motion Passed Unanimously

Commissioner Zimmerlink asked if we are ready to set a date. **Commissioner Zapotosky**'s reply was no, not as of yet. She said possibly the end of April being that would give us sufficient time.

Commissioner Zapotosky stated the meeting should be held no later than the beginning of April.

Commissioner Vicites commented the meeting will need to take place between the hours of 6:00 pm and 9:00 pm

Commissioner Zimmerlink stated the resolution that was passed that set the salaries for the Elected Offices was held in January 2002 and at that time, Commissioners Nehls, Cavanaugh, and Vicites were required to hold the meeting, the resolution actually stated that there would be a 3% increase for the next 6 years. She added at the beginning of 2004 she did not accept the increase in her first term.

Commissioner Vicites interjected and said that is not correct, he believed it couldn't take place until they had taken office for the next term which didn't take place to the beginning of 2004. He stated the last 2 Officials could not accept the 3% increase until after the election also 2005 or 2006 last the last increase.

Commissioner Vicites said to Commissioner Zimmerlink you might have not taken it at the beginning though you accepted the increase at the beginning of your new term.

Commissioner Zimmerlink again stated she did not accept the 3% increase in her 1st year term.

Moved by Commissioner Zimmerlink and seconded by Commissioner Zapotosky to approve the following transfers:

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**TRANSFERS
1-21-10 TO 2-17-10**

2009 Budget Transfers

OFFICE	LINE ITEM	DEBIT	CREDIT
Assessment Office			
Postage	014136 53250		\$53.00
Travel	014136 53300	\$53.00	
Planning			
ZHB Services	014171 53130		\$151.00
Mag. Filing Fees	014171 52425		\$100.00
FICA	014171 51610	\$251.00	
Courts			
Arbitrators	014184 51412		\$3,500.00
Salaries	014184 51400	\$3,500.00	
Coroner/Commissioners/Sheriff			
Autopsies	014193 53180		\$17,170.00
Transport	014193 52638		\$3,225.00
Association Dues	014193 54200	\$650.00	
Material & Supplies	014193 52000	\$350.00	
FICA	014193 51610	\$360.00	
FICA-Comm.	014111 51610	\$1,865.00	
Salary-Comm.	014111 51400	\$12,870.00	
Website-Comm	014111 57010	\$2,800.00	
Travel-Sheriff	014197 53300	\$4,367.00	
Prison/Building & Grounds			
Rent	014232 53830		\$1,000.00
Material & Supplies	014232 52000		\$2,000.00
Medical	014232 53020		\$77,031.00
Uniform	014232 52735	\$2,500.00	
Training	014232 53350	\$2,000.00	
Capital	014232 57000	\$2,029.00	
Emerg. Medical	014232 53190	\$2,500.00	
Postage	014232 53250	\$300.00	
Repairs	014232 53730	\$785.00	
Salary B&G	014174 51400	\$14,900.00	
Travel B&G	014174 53300	\$2,350.00	
Prison/Building & Grounds Continue			
Capital B&G	014174 57000	\$300.00	
Utilities B&G	014174 53600	\$49,500.00	
District Attorney			
Professional Services	014194 53100		\$1,480.00
FICA	014194 51610	\$1,480.00	

Public Comments:

Mr. Mazza commented about phone calls he has been receiving concerning the VA Office and was wondering if there was a situation of some sort taking place in that office, and he added that it concerns him to think there could be problems that may be occurring in that office.

Commissioner Zapotosky told Mr. Mazza the Commissioners are aware of the issues that he is speaking of, and the Commissioners have been speaking to the Human Resource Director Dominick Carnicella concerning the matter.

Mr. Mazza said it concerns him to think there could be problems that may be occurring in that office.

Commissioners Zapotosky stated he spoke with the Veterans Director Allen Ryan last evening and he added they speak on a daily basis though personal matters rest in the hands of the appropriate individuals.

Commissioner Zimmerlink said the 3 Commissioners have been made aware of the same issues that you are speaking of, and we 3 Commissioners have met with the VA Director and are looking into the matter.

Mrs. Mazza spoke on a matter that she feels has been taking place in the Court House concerning the computer. She asked the Commissioners if there is any type of discipline steps that are being taking to correct this situation. She stated she understands individuals in the Court House are using County owned computers for Facebook which is also considered company time.

Commissioner Zapotosky stated he spoke with the Human Resource Director Dominick Carnicella after receiving a package of information. As of my conversation with him this morning we spoke about the issues that have taken place with these individuals though other Departments have been involved, he said he will be sending out an e-mail asking for his colleagues to concur in this matter and have these issues stopped.

Commissioner Zimmerlink stated these are two separate issues which are Facebook, and e-mailing between the county employees. She said Mr. Carnicella informed her after the fact that he received a document from a citizen, he stated to me he met with Commissioners Zapotosky & Vicites and the employee. She said Mr. Carnicella did not give her a reason why he failed to meet with her prior to meeting with the employee who all three Commissioners supervise. Commissioner Zimmerlink also stated there are County Employees using the County E-Mail address for personal use and e-mailing amongst themselves, also this has been taking place in the Commissioners Unit.

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Commissioner Zapotosky commented that he met with Mr. Carnicella concerning this problem when he received the packet about Facebook, and the forwarding e-mails between employees. He stressed to Mr. Carnicella this conduct will not be tolerated during working hours.

Mrs. Mazza stated that some type of discipline should be taken.

Commissioner Zapotosky commented, we had issues similar to these last year where Mr. Carnicella, and the President Judge at that time took immediate action, and the restrictions of internet use in that particular office was abolished immediately and he stated he intends to do the same.

Mrs. Mazza added she was glad Commissioner Zapotosky is on top of this problem to resolve it.

Commissioner Vicites stated he agrees with what Commissioner Zapotosky & Zimmerlink, he added he also received the same copy of the letter in the mail. He stressed there was one issue that was in that letter that he wanted to clarify, it said the letter also read he himself had communications between a individual on Facebook which he stated that was totally false.

Commissioner Zapotosky explained what Facebook is, it's interacting with folks you haven't seen in quite some time, possibly an old school mate, or family members that lives miles away or in another state.

Controller Sean Lally stated he had restricted any access of the internet 10 months ago though there are some employees that do need the internet to do their jobs.

John Cofcin Fayette County Resident offered the Commissioners information that was an insert from the Constitution of the Commonwealth of the Pa. Article on Section 27 which states people have the right to clean air, pure water, and to the preservation of natural scenic historic anesthetic values of the environment. Pa. Public natural resources are the common property. As trustee of these resources the common wealth shall preserve and maintain them for the benefit of the wellbeing of the people.

Mr. Ferens stated it is valid in the state of Pa. and he added to his knowledge the County of Fayette is in Pa.

Mr. Cofcin said the reason he brought this issue up is because we had a couple of proposals made that would help us facilitate the achievement of this goal, one being the water study and the other was the gas study. He added they received many negative responses. Mr. Cofcin stressed he felt the majority of the Commissioners received this to curtail the activities of the gas drillers, he stated conserving the Natural Resources we have left is what concerns him.

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Marilyn Cellurale addressed the Commissioner with a few questions; she stated she felt everyone is aware of the law suit that was instituted by Commissioner Angela Zimmerlink against Commissioners Zapotosky & Vicites. She then asked will this law suit cost the county another \$10,000.00 deductible which the county will have to pay first, just like any other deductible she explained.

Solicitor Joe Ferens stated he believes that CCAP has accepted the representation of the 2 Commissioners and under the CCAP policy there is a \$10,000.00 deductible, and that deductible applies to Attorneys Fees. and or any other liabilities. He added to your question the answer would be yes.

Mrs. Cellurale stressed that is a total of \$20,000.00. She added 10,000.00 from the Cellurale Law suit and now another \$10,000 Law Suit. She stated in this latest Law Suit it also states Commissioners have conspired with the plaintiff in the Cellurale suit to sacrifice the interest of the county. She spoke directly to Commissioner Zimmerlink saying she did not conspire with anyone. She stressed to Commissioner Zimmerlink that she wanted to direct her comments straight to her face, and that she is a liar, the Cellurale family has never conspired with the other 2 Commissioners, Mrs. Cellurale added, she wants to see the evidence and you she stated, Commissioner Zimmerlink are opening this county up for another Law Suit, and you are slandering the Cellurale family. Mrs. Cellurale again stated the Attorneys knew the evidence and it was so bad, and that is why they settled the Law Suit so quickly because there were not even any depositions made yet, she added that was on your watch, and it all started on your watch, which consisted of you Commissioner Zimmerlink, Former Commissioner Joe Hardy and Commissioner Vince Vicites. Mrs. Cellurale said you were the majority Commissioners at the time. She stressed you are now opening this county up for another Law Suit. Again she stated the Cellurale`s did not conspire with anyone, the Law Suit was settled on its own merits and because of you Fayette County had to pay.

Moved by Commissioner Zapotosky and seconded by Commissioner Vicites to Adjourn.

Commissioner Zapotosky	yes
Commissioner Vicites	yes
Commissioner Zimmerlink	yes

Motion Passed Unanimously

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