

COUNTY COMMISSION OF LEWIS COUNTY

110 Center Avenue
Weston, WV 26452
Phone: (304)269-8200
Fax: (304)269-2416
Email: @lewiscountywv.org
Website: lewiscountywv.org



COMMISSIONERS:
AGNES G. QUEEN
President
PATRICK D. BOYLE
Commissioner
THOMAS V. FEALY
Commissioner

LEWIS COUNTY COMMISSION WESTON, WV 26452 MEETING AGENDA MONDAY, FEBRUARY 1, 2016

SILENT MEDITATION AND PLEDGE OF ALLEGIANCE

1. **10:00 AM Call Meeting to Order** (*action required*)
2. **10:05 AM T. Chad Kelley, Lewis County Assessor**
RE: Exonerations, Consolidations, Apportionments
Draft copies will be available for review upon request Thursday, January 28, 2016.
(*action required*)

APPOINTMENTS:

3. **10:10 AM Karen Stickley, West Fork Soil Conservation Agency**
RE: The Lewis County Commission is currently a sponsor for the Polk Creek Watershed Flood Control Projects. Ms. Stickley will explain the past and current benefits of these projects and request the Lewis County Commission continue to be the project sponsor. (*action required*)
4. **10:20 AM Sheriff Adam Gissy**
RE: Sheriff Adam M. Gissy requests advice and consent to hire Jacob Minney as a Lewis County Deputy Sheriff (per WV Code §7-7-7). This position was advertised and approved by the Civil Service Commission. If hiring is approved, the oath of office will be administered. (*action required*)
5. **10:30 AM Richard L. Metzgar and Arnold McCartney**
RE: Mr. Metzgar and Mr. McCartney were appointed as member of the Lewis County Fire Board by the Lewis County Commission at their January 19, 2016 meeting. Oaths of Office will be administered. (*action required*)
6. **10:30 AM Cynthia S. Rowan, Lewis County Clerk**
RE: Lewis County Clerk, Cynthia S. Rowan requests approval of the following:
(*action required*)
 - a) **Policy for Security of Voting Machines-** Per West Virginia Code §3-4A-26 and §3-4A-10, the Lewis County Commission is required to approve a policy detailing security and access to county voting and tabulation equipment. Policy is presented for consideration of adoption. .
 - b) **Emergency Absentee Voting Policy-** Per WV Code §3-3-1, the County Commission is authorized to adopt a policy extending to emergency absentee voting procedures. Policy is presented for consideration of adoption.
 - c) **Appointment of Emergency Absentee Ballot Commissioners:** Per WV Code §3-3-5C, the Lewis County Commission must appoint Emergency Absentee Ballot Commissioners. The Lewis County Clerk recommends Stella W. Poling and Terri L. Cole be appointed.

CORRESPONDENCE:

7. **Upshur County Commission Meeting Agendas:** Upshur County Commission Meeting Agendas for January 21 and January 28, 2016 (*information only*)
8. **Southwestern Energy Worker Adjustment and Retaining Notification:** Southwest Energy, in accordance with the WARN Act, notifies the county they will conduct a reduction in workforce at 179 Innovation Drive, Jane Lew, WV. This reduction is expected to affect 97 employees. These employees are expected to be separated from employment beginning March 22, 2016. (*information only*)
9. **Lewis County Animal Control 2015 Annual Call Totals:** Call totals include complaints, animals picked up, animals adopted, animals reclaimed and bounty collected for the 2015 calendar year. (*information only*)
10. **Lewis Gilmer Addressing Monthly Report:** December addressing report for Lewis and Gilmer Counties including: telephone inquiries, walk-ins, address issued/reissued, proof of address requests and mileage driven. (*information only*)
11. **Quarterly Distribution of Wireless Subscriber Fees by the West Virginia Public Service Commission:** Lewis County's Disbursement of Wireless E-911 Subscriber Fees in the amount of \$107,905.94 for the months of October, November and December 2015 is received. (*information only*)
12. **Lewis County 911 Subscriber Fee Remittance from Vonage and Bullseye:** Remittance for December 2015 Lewis County Subscriber fees from Vonage and Bullseye in the amount of \$83.51. (*information only*)
13. **West Virginia State Auditor's Office Mandatory Training for County Commissioners and Staff:** The West Virginia State Auditor's Office will be conducting their Annual Mandatory Training for County Commissioners and Staff on Monday, August 22, 2016 at the Days Inn and Suites in Flatwoods. (*information only*)
14. **West Virginia State Auditor's Office Reminder to Review County Budgets for the First Half of the Fiscal Year:** The West Virginia State Auditor's Office reminds counties to review their budgets after completion of six months of the fiscal year. Revisions must be done or will result in an audit finding. (*information only*)
15. **26th Judicial Circuit Community Corrections Meeting Agenda:** The 26th Judicial Circuit Community Corrections will hold a special board meeting February 8, 2016 at 6pm in the Lewis County Commission Meeting Room. (*information only*)
16. **Lewis County Family Resource Network and Central West Virginia Community Action Emergency Assistance Information Sharing:** The Lewis County Family Resource Network and Central West Virginia Community Action will be holding an information sharing session on February 1, 2016 at 10 AM at West Hall. The purpose of this meeting is to share information about assistance that can be provided by different groups in the event of an emergency. (*information only*)
17. **Jane Lew Public Service District Regular Meeting Minutes:** Minutes of the December 10, 2015 Jane Lew Public Service District meeting (*information only*)
18. **Lewis County Magistrate Court Audit of Agreed-Upon Procedures:** The West Virginia State Auditor's Office conducted a review on the application of the agreed-upon procedures by the Lewis County Magistrate Court for the period ending December 31, 2014. The following findings were noted: 1) segregation of duties; 2) the software automated data system does not receipt bonds when collected and reconcile the receipts; 3) checks have only one signature; 4) the financial record keeping software should be equipped with a credit card system that automatically receipts into the financial record keeping system; 5) the court's automated system should be designed to automatically generate and provide a report to the West Virginia State Tax Department of unpaid costs that are over one year old; 6) an electronic system of notifying the DMV of license suspensions is needed; 7) the court's automated system of recordkeeping should be directed to automatically generate a monthly report of unsatisfied judgements; 8) the court's automated system of record keeping should be directed to automatically cause the generation of license suspensions in a timely fashion; 9) the software programming should include controls that automatically enters all appropriate penalties when the magistrate's judgement indicates that assessment of statutory costs is in order; 10) the software programming for record creation should include controls that test judgment order entries for statutory conflicts; 11) the magistrate clerk should review all checks

prior to being sent out to verify the address is valid and the complaint or restitution orders match; 12)the software program should automatically cause a misdemeanor case to be activated once the notice period has expired with no authorized extensions; 13)the automated record keeping system should generate a reminder and prepare document required the magistrate to enter the dismissal of civil actions; 14) restitution should only be ordered on appropriate cases. (*information only*)

BUSINESS:

19.Boards and Committee(s) Reports: Reports from Commissioners from any board(s) or Committee(s) meetings attended including: Lewis Upshur Local Emergency Planning Committee; Chamber of Commerce Luncheon; Lewis County Planning commission; Central West Virginia Community Action; Work Session with Community Corrections and to finish the 6 month budget review. (*information only*)

20.Request for Global Information System Information from the City of Weston: The City of Weston has been working with the West Virginia University School of Law on planning. Their next projects is to enact land use management (zoning) for the city. They currently have city maps but are interested in assistance from the county with global information system data. (*action required*)

21.Approval to Advertise for Maintenance Position: The county currently has a vacant maintenance position. Request to advertise to fill this position is requested. This not a new hire but rather to fill a vacancy. (*action required*)

22.Lewis County Economic Development Authority Report: Report of activities of the Lewis County Economic Development Authority by Director Mike Herron. (*information only*)

23.Timesheets and Leave Requests (*action required*)

- a) Lucinda A. Whetsell January 2016 Monthly Time Sheet
- b) Michael Herron January 2016 Monthly Time Sheet

ACTIONS ORDERS AND PAYMENT OF EXPENDITURES:

24. Actions of the Clerk: County Clerk Cynthia S. Rowan presents actions of the clerk in recess of the county commission for approval. Draft copies will be available for review upon request Thursday, January 28, 2016. (*action required*)

25. Presentation by County Clerk of the Orders of Prior Meeting(s) for consideration. Draft copies will be available for review upon request Thursday, January 28, 2016. (*action required*)

26. Expenses for the current period presented for consideration of payment. Draft copies will be available for review upon request Thursday, January 28, 2016. (*action required*)

ADJOURNMENT:

27. With no further action being required by the Lewis County Commission, the meeting will be adjourned. (*action required*)

LEWIS COUNTY COMMISSION MEETING MANAGEMENT

- Regular meeting agendas will be posted and available to the public before closure two (2) business days prior to the meeting date.
- Agenda matters to be reviewed and/or considered during the meeting are at the discretion of the Lewis County Commission.
- Appointments to speak with the county commission must be scheduled before 10 AM three (3) business days prior to the meeting. Appointments will be given a ten (10) minute time allowance.
- Open discussion by Commission unless executive session is motioned per WV Code §6-9A-4.
- Input or recommendation from constitutional officers, staff or public that is not listed by name on the agenda will only be allowed if requested by the commission or required by statute.
- Those not scheduled on the agenda may sign up for public comment at a minimum fifteen (15) minutes prior to the start of the meeting. Public comment is limited to five (5) minutes per speaker.
- Motion required for consideration of vote.
- All votes unanimous unless otherwise stated.

*Roberts Rules of Order is utilized as a guide only.
The Commission controls meeting management, discussion and
input.*

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA

COUNTY OF LEWIS TO-WIT

I, Richard L. Metzgar, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties as a member of the

LEWIS COUNTY FIRE BOARD

to the best of my skill and judgment SO HELP ME GOD.

(Signature of affiant).....
Richard L. Metzgar

Subscribed and sworn to before me, in said County and State, this 1st day of February, 2016.

.....
Agnes G. Queen, President
Lewis County Commission

ATTEST:

Cynthia S. Rowan
Lewis County Clerk

Term Expires: June 30, 2017

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA

COUNTY OF LEWIS TO-WIT

I, Arnold R. McCartney, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties as a member of the

LEWIS COUNTY FIRE BOARD

to the best of my skill and judgment SO HELP ME GOD.

(Signature of affiant).....
Arnold R. McCartney

Subscribed and sworn to before me, in said County and State, this 1st day of February, 2016.

.....
Agnes G. Queen, President
Lewis County Commission

ATTEST:

Cynthia S. Rowan
Lewis County Clerk

Term Expires: June 30, 2017

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA

COUNTY OF LEWIS TO-WIT

I, Jacob Minney, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties as a

LEWIS COUNTY DEPUTY SHERIFF

to the best of my skill and judgment SO HELP ME GOD.

(Signature of affiant).....
Jacob Minney

Subscribed and sworn to before me, in said County and State, this 1st day of February, 2016.

.....
Agnes G. Queen, President
Lewis County Commission

ATTEST:

Cynthia S. Rowan
Lewis County Clerk

AGREEMENT

THIS AGREEMENT entered into this 1st day of February, 2016, by and between the **COUNTY COMMISSION OF LEWIS COUNTY, WEST VIRGINIA**, hereinafter referred to as **COUNTY**; the **SHERIFF OF LEWIS COUNTY, WEST VIRGINIA**, hereinafter referred to as **SHERIFF** and Jacob Minney, hereinafter referred to as **DEPUTY**.

WHEREAS, the **DEPUTY** has been recently hired as a Deputy Sheriff for Lewis County, West Virginia and

WHEREAS, the **DEPUTY** has not yet been certified but will be required to attend and complete training at the West Virginia State Police Academy in order to achieve certification as a police officer, and

WHEREAS, the parties desire to reduce to writing certain reimbursement provisions of the **DEPUTY'S** employment arrangement.

NOW THEREFORE WITNESSETH, that for and in consideration of the promises and conditions herein set forth, the parties do agree as follows:

1. The **SHERIFF** shall make the necessary arrangements to schedule the **DEPUTY** to attend the soonest possible training course provided by the West Virginia State Police Academy in order to achieve certification as a police officer in this State.
2. The **DEPUTY** agrees to attend said training when scheduled and to successfully complete the course of training and to acquire the necessary certification. The **DEPUTY** understands and agrees that successful completion of the training program and achievement of certification are a critical aspect of the employment of the **DEPUTY**. In fact, if the **DEPUTY** does not complete the training and achieve certification his/her employment would be terminated

since certification is required by State Law in order for the **DEPUTY** to continue to serve as a police officer.

3. During the period of time that the **DEPUTY** will be attending said training academy, the **COUNTY** agrees to pay to the **DEPUTY** the salary as established for a non-certified deputy by the **COUNTY**; any benefits directly connected to said salary as provided in the personnel policies of the **COUNTY** or applicable Civil Service Rules; tuition and fees for said Academy; and travel expenses directly related to attendance at the Academy.
4. The **DEPUTY** agrees that he/she will successfully complete the training program and will achieve certification as a law enforcement officer in West Virginia.
5. The **DEPUTY** further agrees that he/she will continue employment as a **DEPUTY** for the **COUNTY** for a period of at least one year following his/her completion of the training program and his/her certification as a police officer.
6. The **DEPUTY** agrees that should he/she quit the program before completion of the certification or fail to achieve certification, then in that event he/she shall reimburse the **COUNTY** for all expenses incurred by the **COUNTY** of the total compensation including, but not limit to for wages, benefits, tuition, fees, and travel expenses during the training process. Further, in accordance with the provisions of West Virginia Code §30-29-8, if the **DEPUTY** for the **COUNTY** voluntarily discontinues employment prior to one year after he/she has achieved certification, then in that event he/she shall reimburse the **COUNTY** for the pro rata portion of the wages, benefits, tuition, fees and expenses incurred equal to that part of such year that he/she has chosen not to remain employed as a deputy sheriff for the **COUNTY**.
7. The **DEPUTY** agrees that the reimbursements set forth in Paragraph 6 above shall be paid in full no later than six months following the discontinuation of employment as a **DEPUTY**.

8. All of the parties hereto understand and agree that this is the total agreement with regard to the issue of reimbursement of training expenses related to the initial achievement of certification as a police officer in this State.

AGREED to this the 1st day of February 2016.

**COUNTY COMMISSION of LEWIS
COUNTY, WEST VIRGINIA**

DEPUTY

BY _____
PRESIDENT, Lewis County Commission

COMMISSIONER of Lewis County

COMMISSIONER of Lewis County

BY _____
SHERIFF, Lewis County

LEWIS COUNTY COMMISSION
POLICY FOR SECURITY OF VOTING EQUIPMENT

The Lewis County Commission has a room for the specific reason to house the County voting equipment. This room is heated and air-conditioned to maintain a constant environment for the best condition to protect the equipment. The Lewis County Commission has specifically taken into account West Virginia Code §3-4A-26 in storing our AutoMARKS even though the equipment has no tabulating capabilities. Access to this equipment is in compliance with the West Virginia Code §3-4A-10 and §3-4A-26.

Dated this 1st day of February, 2016.

President

Commissioner

Commissioner

Clerk of the Lewis County Commission

Seal

EMERGENCY ABSENTEE VOTING POLICY

WHEREAS, West Virginia Code §3-3-5c authorizes County Commissions in West Virginia to adopt a policy extending emergency absentee voting procedures in their County; and

WHEREAS, it is the opinion of this Commission that the adoption of such a policy would benefit the citizens of Lewis County;

THE FOLLOWING POLICY IS HEREBY ADOPTED BY THIS COMMISSION

A person qualified to vote an absent voter's ballot, as defined by West Virginia Code §3-3-1, who is admitted on or after the seventh day next preceding an election, to:

(1) A hospital or other duly licensed health care facility within a County adjacent to Lewis County or within thirty-five miles of the County Seat of Lewis County, for medical treatment; or

(2) A nursing home within the County;

And who remains confined and is unable to vote in person on election day, may vote an emergency voter's ballot under the procedures set forth in West Virginia Code §3-3-5c.

Dated this 1st day of February, 2016.

Lewis County Commission

President

Commissioner

Commissioner

Clerk of the Lewis County Commission

Seal

COPY

TO: Lewis County Commission
FROM: Cynthia S. Rowan
Lewis County Clerk
RE: Emergency Absent Voter Ballot Commissioners
DATE: February 1st, 2016

In reference to West Virginia Code §3-3-5c, it is my opinion for the May 10th, 2016 Primary Election and the November 8th, 2016 General Election, one set of Emergency Absentee Ballot Commissioners would be needed.

Therefore, with your approval, Stella W. Poling, a Non-Partisan, and Terri L. Cole, a Republican, will be appointed to serve as Emergency Absentee Ballot Commissioners.

Seal

Cynthia S. Rowan
Clerk of the Lewis County Commission

Approved by the Lewis County Commission on the 1st day February, 2016.

COPY

President

Commissioner

Commissioner

Upshur County Commission Agenda

Location of Meeting: Upshur County Courthouse Annex
Date of Meeting: January 21, 2016

- 9:00 a.m. Moment of Silent Meditation --- Pledge of Allegiance
Approval of Minutes:
• January 14, 2016
- 9:15 a.m. Laura Ward – Country Roads Transit - Presentation of report on fiscal year 2015-2016 and funding request for fiscal year 2016-2017
- 9:30 a.m. Mike Livesay and Rodney Poling –Mid Ohio Valley Regional Council – Funding request for fiscal year 2016
- 9:45 a.m. Steve Linger- Director E911 Com Center – Request for employee schedule change
Item may lead to Executive Session per WV Code §6-9A-4
(6) To discuss any material the disclosure of which would constitute an unwarranted invasion of an individual's privacy such as any records, data, reports, recommendations or other personal material of any educational, training, social service, rehabilitation, welfare, housing, relocation, insurance and similar program or institution operated by a public agency pertaining to any specific individual admitted to or served by the institution or program, the individual's personal and family circumstances;
- 10:00 a.m. April Keating –Chair, Mountain Lakes Preservation Alliance –Request for Committee to study setback distance of pipelines
- 10:15 a.m. Heather Parke, Chief Tax Deputy—Final Disposition List for Tax Year 2014. Approval and signature of the Affidavit of Acceptance by the Upshur County Commission
- 11:00 a.m. Bid Opening - Fully Insured Group Health Insurance for Employees, Retirees and Cobra Participants
- 1:00 p.m. Supervisor Meeting
- 2:00 p.m. Policy Board Meeting

Items for Discussion / Action / Approval:

1. Correspondence from Bobby Gompers requesting consideration to fill the vacant private sector position on the Region VII Planning and Development Council effective January 1, 2016. Upon approval, Mr. Gompers' term would expire on December 31, 2016.
2. Correspondence from Pamela Balch requesting to renew her board position representing West Virginia Wesleyan College on the Region VII Planning and Development Council effective January 1, 2016. Upon approval, Dr. Balch's term would expire on December 31, 2016.

- 01/12/16 7:30 p.m. Adrian VFD
- 01/20/16 7:00 p.m. Ellamore VFD
- 01/20/16 12:00 p.m. Lewis Upshur LEPC --- Lewis location
- 01/17/16 6:30 p.m. Upshur County Youth Camp Board
- 01/19/16 6:30 p.m. Upshur County Fire Board
- 01/20/16 7:00 a.m. Upshur County Development Authority
- 01/17/16 6:00 p.m. Washington District VFD
- 01/18/16 12:00 p.m. Buckhannon-Upshur Chamber of Commerce
- 01/19/16 5:00 p.m. UC Enhanced Emergency Telephone Advisory Board
- 01/19/16 4:00 p.m. Upshur County Public Library Board
- 01/28/16 4:00 p.m. Upshur County Farmland Protection Board – CANCELLED
- 01/08/16 12:00 p.m. Upshur County Farmland Protection Board – Committee Meeting
- 01/08/16 2:00 p.m. Upshur County Farmland Protection Board – Special Meeting
- 03/23/16 10:00 a.m. James W. Curry Advisory Board
- TBA 6:00 p.m. Upshur County Fire Fighters Association
- 02/10/16 6:00 p.m. Buckhannon-Upshur Board of Health

5. Appointments Needed or Upcoming:

- Upshur County Fire Board (Vacant Position – 6-30-16) --- 1st District Community Representative
- Upshur County Farmland Preservation Board (Vacant Position – 06-30-15) – At large – Non Farming
- Region VII Planning and Development Council (12-31-15 – Connie Tenney) --- County
- Region VII Planning and Development Council (12-31-15 – Sam Nolte) --- County
- Region VII Planning and Development Council (12-31-15 – WVWC Representative) --- County
- Corridor H Authority (Vacant Position – 06-30-16) -- Commission

Tabled Items

(Certain Items May Require Discussion, Action and/or Approval by the Commission)

The County Commission will sit as the Board of Review & Equalization beginning at 1:00 p.m. on the 1st day of February, 2016, and shall continue until the work is complete but will adjourn no later than the close of business on the 18th day of February, 2016.

Next Regular Meeting of the Upshur County Commission
 January 28, 2016 --- 9:00 a.m.
 Upshur County Courthouse Annex



Jenny McCauley
Senior Vice President Human Resources

Corporate Office
P.O. Box 12359
Spring, Texas 77391-2359
Tel: 832.796.2990
Jenny_McCauley@swn.com

January 21, 2016

Agnes G. Queen, President
Lewis County Commission
110 Center Avenue, 2nd Floor
Weston, WV 26452
Fax: 304-269-2416
Email: aqueen4500@aol.com

via e-mail, fax, and CMRRR

Re: Worker Adjustment and Retraining Notification ("WARN") Act Notice

Ms. Queen,

In accordance with the WARN Act, this letter is to inform you that Southwestern Energy Company will conduct a reduction in force at the following site: 179 Innovation Drive, Jane Lew, West Virginia, 26378. This reduction in force is expected to affect 97 employees, including field employees who report to or receive instruction from the above site, and is expected to be permanent. The job titles of the positions affected and the anticipated schedule for making separations are on file.

All affected employees have been notified of their separation dates and that their separation from employment will be permanent. Those employees are expected to be separated from employment beginning on March 22, 2016.

There will not be any bumping rights for the affected employees, that is, employees will not be able to displace more junior employees out of their job positions as a result of this layoff.

If you have any questions or want additional information concerning this matter, please contact me or Human Resources at 877-796-7222.

Sincerely,

Jenny McCauley
Senior Vice President
Human Resources

2015	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT	OCT	NOV	DEC	TOTALS
COMPLAINTS	59	66	63	92	81	82	57	74	75	64	47	43	803
DOG PICKED UP	22	13	27	65	10	16	15	24	28	20	9	22	271
OTHER ANIMALS	1	0	0	0	0	0	0	4	2	2	0	2	11
CATS PICKED UP	2	1	0	2	0	1	1	0	0	1	3	7	18
TOTAL ANIMALS	25	14	27	67	10	17	16	28	30	23	12	31	300
CATS DROPPED OFF	8	8	5	10	6	44	12	17	13	11	7	0	141
CATS ADOPTED	0	1	3	1	0	1	1	0	1	0	0	3	11
CATS RECLAIMED	0	0	0	0	1	0	0	0	0	0	0	0	1
CATS EUTHANIZED	3	3	0	0	0	25	1	0	1	2	8	7	50
DOGS RECLAIMED	2	2	2	10	3	6	0	5	2	2	3	1	38
DOGS EUTHANIZED	0	1	1	1	0	0	0	0	0	1	0	0	4
DOGS ADOPTED	20	9	21	18	17	21	11	14	12	23	19	17	202
BOUNTY MONEY	\$ 11.00	\$ 6.50	\$ 13.50	\$ 32.50	\$ 5.00	\$ 8.00	\$ 7.50	\$ 12.00	\$ 14.00	\$ 10.00	\$ 4.50	\$ 11.00	\$ 135.5
CHECKS	\$ -	\$ -	\$ 70.00	\$ 242.00	\$ 189.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 501
CASH	\$ 170.00	\$ 100.00	\$ 180.00	\$ 48.00	\$ 41.00	\$ 345.00	\$ 100.00	\$ 250.00	\$ 175.00	\$ 180.00	\$ 355.00	\$ 170.00	\$ 2114
TOTAL MONEY	\$ 170.00	\$ 100.00	\$ 250.00	\$ 290.00	\$ 230.00	\$ 345.00	\$ 100.00	\$ 250.00	\$ 175.00	\$ 180.00	\$ 355.00	\$ 130.00	\$ 2,615.00

December 1, 2015 – December 31, 2015

	Lewis	Gilmer
Telephone Calls	18	6
Walk Ins	3	0
Addresses Issued/Reissued	11	3
Mileage	67	105
Proof of Address request	9 Combined	

The warm weather made December a much more active month than normal.

Public Service Commission of West Virginia

201 Brooks Street, P.O. Box 812
Charleston, West Virginia 25323

Phone: (304) 340-0300

Fax: (304) 340-0325



January 8, 2016

Lewis County Commission
110 Center Avenue
Weston, WV 26452

SUBJECT: Disbursement of Wireless E-911 Subscriber Fees

Dear County Commissioner:

A check in the amount of \$107,905.94 representing a disbursement of Wireless E-911 subscriber fees will be mailed directly from the West Virginia State Auditor's Office. This amount is your County's share of the fees remitted to the Public Service Commission for the months of October, November, and December 2015. The next disbursement will be in three months.

I can be reached at our toll-free number, 1-800-344-511, Extension 364, or direct at 304-340-0364, should you have any questions about the disbursement calculation or about the fees in general.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sandra Mitchell".

Sandra Mitchell
Budget & Finance Manager

SM:kp

Company Name:

BullsEye Telecom c/o EZtax, an Avalara Company
8675 W. 96th Street
Suite 220
Overland Park, KS 66212-3382

Acct / FEIN: 383532242

Phone #: (913) 859-9674

Fax #: (913) 548-4210

E911 Tax Remittance Form - Wireline

Lewis County Commission

110 Center Avenue

Weston, WV 26452

Reporting Period: 01/01/15 - 12/31/15

Return Due: 01/30/16

Number of Lines	36
Exempt Lines	0
Taxable Lines	36
Rate or Charge Per Line	1.7500
Gross Surcharge Amount	63.00
Administrative Fee Allowed	0.00
Credits	0.00
Penalty	0.00
Interest	0.00
Remittance	63.00

Signed: 

Name & Title: Rebecca Marlin, Office Coordinator

Date: 01/08/16

I hereby declare that all information provided herein is true, complete, and accurate to the best of my knowledge.

Company Name:

Vonage America c/o EZtax, an Avalara Company
8675 W. 96th Street
Suite 220
Overland Park, KS 66212-3382

Acct / FEIN: 202758841

Phone #: (913) 859-9674

Fax #: (913) 548-4210

E911 Tax Remittance Form - Wireline

Lewis County Commission

110 Center Avenue

Weston, WV 26452

Reporting Period: 12/01/15 - 12/31/15

Return Due: 01/29/16

Number of Lines	72
Exempt Lines	0
Taxable Lines	72
Rate or Charge Per Line	1.7500
Gross Surcharge Amount	126.00
Administrative Fee Allowed	0.00
Credits	0.00
Penalty	0.00
Interest	0.00
Remittance	126.00

Signed: 

Name & Title: Rabecca Marlin, Office Coordinator

Date: 01/08/16

I hereby declare that all information provided herein is true, complete, and accurate to the best of my knowledge.

Company Name:

Vonage Business Solutions, Inc. c/o EZtax, an Avalara Company
8675 W. 96th Street
Suite 220
Overland Park, KS 66212-3382

Acct / FEIN: 770704688

Phone #: (913) 859-9674

Fax #: (913) 548-4210

E911 Tax Remittance Form - Wireline

Lewis County Commission

110 Center Avenue

Weston, WV 26452

Reporting Period: 12/01/15 - 12/31/15

Return Due: 01/29/16

Number of Lines	11
Exempt Lines	0
Taxable Lines	11
Rate or Charge Per Line	1.7500
Gross Surcharge Amount	19.25
Administrative Fee Allowed	0.00
Credits	0.00
Penalty	0.00
Interest	0.00
Remittance	19.25

Signed: Kirsten Felgate

Name & Title: Kirsten Felgate, Sr Tax Compliance Analyst

Date: 01/11/16

I hereby declare that all information provided herein is true, complete, and accurate to the best of my knowledge.



State of West Virginia

Glen B. Gainer III

State Auditor

Office of the State Auditor
Local Government Services
200 West Main Street
Clarksburg, West Virginia 26301

Toll Free: (877) 982-9148
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January 13, 2016

TO: WEST VIRGINIA COUNTY COMMISSIONS

This year's In-Service Training Seminar for County Commissioners and their staff is set for Monday, August 22, 2016. It is being held at the Days Inn and Suites in Flatwoods.

Registration will begin Sunday (Aug 21) afternoon. We have reserved a block of rooms at a special rate of \$89 for that night. I would suggest that you go ahead and make your room reservation now. You will be able to cancel them later if you need to.

We would also like your input on possible agenda items. We would like to have the agenda done sometime in mid-July. I would also encourage you to be thinking about nominees for the Thelma J. Stone Memorial Achievement award. We will send you more information about that in a future mailing.

If you have questions, suggestions, or comments regarding the seminar, please feel free to contact Ora L. Ash, Deputy State Auditor of Local Government Services at 1-877-982-9148 or 627-2415 extension #5114 or via email at ora.ash@wvsao.gov.

Sincerely,

A handwritten signature in blue ink that reads "Glen B. Gainer III".

Glen B. Gainer III
State Auditor



State of West Virginia
Glen B. Gainer III
State Auditor

Office of the State Auditor
Local Government Services
200 West Main Street
Clarksburg, West Virginia 26301

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January 15, 2016

Dear County Commissioners and Municipal Mayors:

Due to the nature of the times in West Virginia, we at the Auditor's office would like to take a moment to remind all elected officials to do the following:

1. review the current operating budget
2. compare that budget to actual collections to date
3. make revisions as necessary using realistic projections for the remainder of the fiscal year

As we recently reached the half way point for the year, now is a good time to review the budget. We would also like to note that there are a majority of entities who have not yet revised the carry over (accounts 295 through 299) from the amount budgeted last March to the actual balance as of July 1, 2015. This particular revision is required to be made every year and can result in an audit finding if the revision is not adequately made.

There are a few other items I would like to mention. The gas & oil distributions have been made for the year, so that revenue should be confirmed or revised as needed. The video lottery distributions and the coal severance distributions to date have significantly dropped from previous years; therefore, I strongly urge you to review all budgeted revenues. Budget revisions should be made to these revenue items to reflect realistic projections as stated above.

I would like to announce that Tiffany Hess is joining Local Government Services. Tiffany comes to us from the Chief Inspectors Division where she gained valuable experience in county finances. Combined with the experience that Shellie Humphrey has had with municipal government and the experience that Karen Drain and I have, we are very well equipped to assist you with your entities' financial matters.

As always if we can be of assistance to you on these or any other matters, please feel free to call any of our Local Government Services staff. You can reach us by calling 304-627-2415.

Sincerely,

A handwritten signature in cursive script that reads "Ora L. Ash".

Ora L. Ash
Deputy State Auditor
Local Government Services

In compliance with West Virginia's Public Meeting Law, the 26th Judicial Circuit Community Corrections Program special board meeting will be held February 8, 2016 at 6:00pm in the Lewis County Commission Meeting Room in Lewis County, WV. The public is invited to attend and learn more about our program, serving Lewis and Upshur Counties.

COMMUNITY CORRECTIONS
Board Meeting Agenda
February 8, 2016
Upshur County Day Report Center
6:00 pm

I. Handouts

- Sign in sheets
- Agenda, Previous Meeting Minutes, Current Number of Referrals
- Budget report

II. New Business

- 1) Discussion of Training Schedule, rate for training, rate of pay, intakes, and sessions for Carla Waldo, BIPPS/Parenting Facilitator
Item may lead to Executive Session per WV Code 6-9A-4
 - Matters arising from the appointment, employment, retirement, promotion, transfer, demotion, disciplining, resignation, discharge, dismissal or compensation of a public officer or employee, or prospective public officer or employee unless the public officer or employee or prospective public officer or employee requests an open meeting; or
- 2) Batterer's Intervention Prevention Class/ Financial Update
 - Upshur/Lewis- 11 clients
- 3) Home Confinement Update
- 4) Community Corrections Update
 - Referrals received since July 1, 2015
 - Financial update
 - Reimbursement Update
 - Community service with the Salvation Army
- 5) Discussion of Upshur County Cash Match Contribution
- 6) Cheyenne Walters ninety day evaluation
Item may lead to Executive Session per WV Code 6-9A-4
 - Matters arising from the appointment, employment, retirement, promotion, transfer, demotion, disciplining, resignation, discharge, dismissal or compensation of a public officer or employee, or prospective public officer or employee unless the public officer or employee or prospective public officer or employee requests an open meeting; or
- 7) Discussion of Lewis County possibly becoming the physical agent for Community Corrections
- 8) Discussion of Community Corrections following Upshur County's schedule in poor weather conditions

III. Next Meeting

- April 11, 2016 at 6:00pm in the Upshur County Day Report Center



"WORKING TOGETHER FOR LEWIS COUNTY FAMILIES"

PO Box 1168

126 East 2nd Street

Weston WV 26452

304-269-4000

lewiscountyfrn@gmail.com

FOR IMMEDIATE RELEASE

Date: January 12, 2016

Contact: Deanna Palmer, Lewis County Family Resource Network

Phone: 304-269-4000 | Fax: 304-269-0800

Email: lewiscountyfrn@gmail.com

Lewis County Emergency Assistance Coordination Information Sharing Session to be held February 1st

In collaboration with Central WV Community Action, Inc., the Lewis County Family Resource Network will hold an information sharing session for all non-profit organizations, for-profit organizations, program and project coordinators, and volunteers in Lewis County that provide emergency assistance. This session will be held at West Hall - 206 E. 2nd Street, Weston, WV - on February 1, 2016 at 10:00am. All emergency assistance providers – of monetary/financial, food, backpack program, clothing, shelter, or any other emergency needs items - are encouraged to attend.

The purpose of this session is to 1) assemble all Lewis County emergency assistance service providers in one room to discuss county-wide coordination, 2) begin assessing emergency assistance service gaps, and 3) gather vital information that can be used to seek additional resources and funding.

In preparation for this session, all organizations/individuals planning to attend should complete an Agency Intake Form and return it to the Family Resource Network. Please note that data gathered on the forms is not for public distribution. The data will be used for informational purposes at the February 1st session and will be compiled for use in determining service gaps.

For more information, contact:

Lewis County Family Resource Network at 304-269-4000 or lewiscountyfrn@gmail.com

Minutes of Jane Lew Public Service District

Regular Meeting December 10, 2015

Present: Thomas E. Bailey (Chairman); Oscar R. Mills; Elaine B. Flaxer (Secretary); Nancy E. Gee (General Manager)

Guests:

Absent:

1. **Call to Order:** The meeting was called to order by Chairman Bailey at 4:00 p.m. in the Conference Room of the new Jane Lew PSD Office, 70 Park Avenue, Jane Lew WV.

2. **Minutes:** MOTION: (Bailey/Mills) to approve attached Minutes of 11/12/15 regular meeting. [Carried Unanimously]

MOTION: (Bailey/Mills) to approve attached Minutes of 11/19/15 special meeting. [Carried Unanimously]

3. General Manager's November Reports (Gee)

A. WATER:

1. Water Bills (Attached)

MOTION: (Mills/Bailey) to ratify payment of attached listed water invoices for November 2015. [Carried Unanimously]

2. Water Treasury Report (Attached)

MOTION: (Bailey/Flaxer) to approve attached Water Treasury Report for November 2015. [Carried Unanimously]

3. Water Adjustments Report (Attached)

MOTION: (Flaxer/Bailey) to approve attached Water Adjustments Report for November 2015. [Carried Unanimously]

4. Water Purchase, Sales & Loss Report (Attached) – 9% unaccounted loss, estimated.

MOTION: (Bailey/Mills) to approve attached Water Purchase, Sales & Loss Report for November 2015. [Carried Unanimously]

5. Water Preventive Maintenance Report

a) Lines -

b) Fire hydrants [57] –

c) Flushing Hydrants [25] --

d) Valves [148]

e) Meters [659] - located and marked location of lost (overgrown) meters in Hidden Valley development

f) Booster Stations [3]

g) Tanks [2] –

h) Office Heating Cooling Systems

i) Vehicles-[1.5]

j) Generators [2 portable] – exercised weekly

k) Critical Inventory –

6. Water Repairs Report – replaced leaky flushing hydrant on 2nd St. & Chesapeake Hill Rd.

7. Water Leak Detection Program – located leak behind old Ashland Station; repair pending action by property owner.

8. Cross Connections/Backflow Prevention Program– ongoing

9. New Non-Project Water Taps – none

10. Other --

Assignments

- ✓ Install new touch-read meters

B. WASTEWATER:

1. Wastewater Bills (Attached)

MOTION: (Bailey/Mills) to ratify payment of listed sewer invoices for November 2015. [Carried Unanimously]

2. Wastewater Treasury Report (Attached)

MOTION: (Mills/Bailey) to approve sewer Treasury Report for November 2015. [Carried Unanimously]

3. Wastewater Adjustments Report (Attached)

MOTION: (Bailey/Mills) to approve sewer Adjustments Report for November 2015. [Carried Unanimously]

4. Wastewater Volume & Treatment Cost Report (Attached)

MOTION: (Flaxer/Bailey) to approve sewer Volume & Treatment Cost Report for November 2015. [Carried Unanimously]

5. Wastewater Preventive Maintenance Report (attached)

- a) Lines–
- b) Manholes [594]
- c) Grinder Pumps [46]
- d) Lift Stations [16 total] –
- e) Bar Screen [1] – cleaned weekly
- f) Vehicles – [1.5] -
- g) Generators [5 total] – exercised weekly
- h) Classroom Heating & Cooling
- i) Critical Inventory

6. Wastewater Repairs Report (attached) – rags in Lifts 1 & 5; pulled & repaired

7. I&I Loss & Prevention Report – 2.6 rainfall inches. Ran in-line camera through lines in new service area. Found one service line (on customer's side) that had pulled apart. So far unable to reach customer.

8. New Non-Project Sewer Taps – none

9. Other –

4. Announcements:

- 5. Correspondence:** none.

~~ **OLD BUSINESS** ~~

6. **Update: Phase II Sewer Upgrade [09-1043-PSD-42T-PC-PW-CN] (Gee)**

- A. New Customer Hookups – No change (204 to date; circa 89 left.)

- B. Final Cleanup – completed
- C. Final Closeout – almost completed
- D. Odor Issue – air quality problem (agreed to be totally Thrasher’s responsibility) still not fixed. Thrasher to schedule smoke testing in coordination with Boone Brown.
- E. Lift Pump Issues – Lift 10 has been running at partial capacity and switching between pumps at irregular intervals, sometimes months between. Pumps still under warranty. Randy Clark (C.I. Thornburg) has agreed to stop by in near future and examine controls at Station 10; he believes he knows what is causing the problem.

Assignment

- ✓ Forni to fix odor problem.
- ✓ Thornburg to fix lift pump problem.

7. Update: Pending Non-Project Extensions and Road Bores (Gee) – none.

8. Update: Board Review of PSD Policies and Job Descriptions (Flaxer) – nothing

- A. Private Fire Protection Policy
- B. Professional Incentives Policy
- C. Revise Water Job Descriptions to be consistent with a water PURCHASE entity
- D. Other

9. Update: Personnel Matters (Gee) – nothing new

- A. Office Staff
- B. Water Staff
- C. Sewer Staff

10. Update: Lease of Sewer Ground (Gee) - no progress.

11. Update: New Office Building (Gee) – Open House and Ribbon Cutting with refreshments to be held on Wednesday, 12/16/15 from noon to 4 p.m. Sherry Rogers from Lewis County Chamber of Commerce to be in charge of ceremony. County officials invited. There will be no costs to the District for this event.

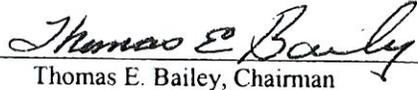
12. Working Capital Mandate (Gee) – Gee and Flaxer met with Attorney Kelsh on 11/13/15. Kelsh explained that our water and wastewater divisions must each (first) **attain** and (second) **maintain** a “working capital reserve” of no less than 1/8th or 12.5% of last year’s actual Operating & Maintenance budget. He advised that we work with our accountant to arrive at the correct amount. This reserve fund is distinct from other budgetary requirements, such as payment of bills, repair and replacement funds, debt service requirements, etc.

The basic concept is that a well-run utility will have sufficient funds on hand to deal with all necessary O&M expenses. This is a totally new concept in WV, and was won for us through legislative work initiated by WVRWA. Thus, we are supposed to develop a rate structure that allows us to accumulate a working capital fund that will be replenished as it is spent. To reiterate – attaining the mandated capital, then maintaining it, is to be done through a rate increase. If, due to an emergency or extraordinary one-time expense, we should deplete the mandated 12.5% fund, we are supposed to seek permission for a temporary surcharge to our rates to build it back up.

~ NEW BUSINESS ~

13. **Late Received Agenda Items (Gee)** - none.

14. **Adjournment:** The meeting was adjourned by Chairman Bailey at 4:44 p.m.


Thomas E. Bailey, Chairman


Elaine B. Flaxer, Secretary

Attachments:

- December '15 Bills Paid (Water/Wastewater)
- December '15 Treasury Reports (Water/Wastewater)
- December '15 Adjustments Reports (Water/Wastewater)
- December '15 Purchase & Sales Reports (Water/Wastewater)
- Copy of Invitation to PSD Open House on 12/16/15

E-Copies of Unapproved Minutes Sent to:

- James V. Kelsh, Attorney
- Dan Ferrell, Phase II Sewer Project Engineer, Thrasher Engineering
- Doug Forni, Thrasher Engineering
- Shane Whitehair, Region VII
- PSD Office
- Board Members



State of West Virginia

Glen B. Gainer III

**State Auditor and
Chief Inspector**

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INDEPENDENT ACCOUNTANT'S SCHEDULE OF COMMENTS ON APPLYING AGREED-UPON PROCEDURES

In accordance with attestation standards established by the American Institute of Certified Public Accountants, we have applied agreed-upon procedures for the twelve-month period ended December 31, 2014 as has been agreed to by the West Virginia Supreme Court of Appeals and have issued our report thereon dated December 10, 2015 for the Lewis County Magistrate Court.

Attestation standards require that we perform the agreed-upon procedures for the specified parties and report our conclusions. The sufficiency of these procedures is solely the responsibility of the West Virginia Supreme Court of Appeals and we make no representation regarding the sufficiency of the procedures. Also, we express no opinion or negative assurance on the court's internal control over financial reporting or any part thereof.

We are submitting for your consideration the following comments that are opportunities for strengthening procedures and improving operating efficiency. These comments reflect matters that may enhance operational efficiencies through a modification of established procedures. Due to the limited nature of our agreed-upon procedures, we have not fully assessed the cost-benefit relationship of implementing the recommendations suggested. However, these comments reflect our continuing desire to assist your office in the administration of the magistrate court operations. We will be pleased to discuss these comments and suggestions in further detail at your convenience, to perform any additional study of these matters, or to assist you, where possible, in implementing the recommendations.

In closing, on behalf of the Auditor's Staff, we appreciate the opportunity to present these comments and recommendations. We would like to thank management for its cooperation and positive attitude and openness to suggestions. If you have any questions, please do not hesitate to contact us.

Respectfully submitted,

Glen B. Gainer III
West Virginia State Auditor

December 10, 2015

**LEWIS COUNTY MAGISTRATE COURT
SCHEDULE OF COMMENTS
For the Period Ended December 31, 2014**

Suggestions For Improving Operations

Segregation of Duties

We noted while applying our agreed-upon procedures that duties are not adequately segregated concerning the collection, receipting, depositing and disbursement of money. The magistrate court clerks office collects, receipts and deposits money, makes all disbursements, conducts bank reconciliations and prepares monthly financial statements. The magistrate court clerk is also the keeper of all files and records and has the ability to adjust the dollar amount assessed by the magistrate.

RECOMMENDATION:

To establish a more effective system of internal accounting control, the Administrative Office of the West Virginia Supreme Court of Appeals and the West Virginia Legislature should take the steps necessary to restructure the manner in which the magistrate courts operate, so that fiscal duties are segregated to the extent practical. The same individuals should not be responsible for the collection, deposit and disbursement of money along with the task of completing the bank reconciliation and the preparation of the financial statements.

Software / Automated Data System

We noted while applying our agreed-upon procedures that:

1. Bonds are receipted when collected and then receipted again when disbursed. This practice will overstate current collections for each month and prevent a reconciliation between receipts written and current deposits without an adjustment to the receipt reports.
2. Receipts from prior months that are voided in a subsequent month (non sufficient funds) are subtracted from the current month's receipt report causing an understatement in the total receipts for that month which prevents the reconciliation of the receipts and deposits report.
3. The financial record keeping software allows adjustments and corrections to be made by supreme court IT staff without the knowledge and approval of the local county. This creates a situation where a change can be made to the financial records and/orcas file without the local courts knowledge.
4. The software utilized by the magistrate court provides an itemized listing of bonds held by the court at the end of each month, but does not provide a listing of payee, post judgment, and other party collections that are on hand at the end of the month.
5. The financial record keeping software allows adjustments and corrections to be made by supreme court IT staff without the knowledge and approval of the local county. This creates a situation in which a change can be made to the financial records and/or case file without the local courts knowledge.

**LEWIS COUNTY MAGISTRATE COURT
SCHEDULE OF COMMENTS
For the Period Ended December 31, 2014**

Software / Automated Data System (continued)

RECOMMENDATION:

1. We recommend that bonds be receipted when collected and when released be adjusted to fines, costs, and/or refunds. This will ensure that current receipts equal current deposits and help identify the distribution of bonds.
2. We recommend that any receipted amounts, including non sufficient funds, be included on the receipt report. This will ensure that current receipts equal current deposits
3. We recommend that the software utilized by the court be modified so that no changes can be made to the local court records without approval from the county where the change is being made.
4. We recommend the software utilized by the magistrate court be modified to provide account balance reports.
5. We recommend the software utilized by the court be modified to ensure that no changes are made to the local court records without authorization from the county in which the change is being made granting them access at that time to make corrections.

Check Signatures

We noted while applying our agreed-upon procedures that the checks issued from the magistrate court's checking account were issued with only one signature.

RECOMMENDATION:

All checks should contain two or more signatures indicating that more than one person has reviewed the disbursements.

Credit Card System

We noted while applying our agreed-upon procedures that the credit card system is independent from the magistrate court financial record keeping system. After completing a credit card transaction, the magistrate court's office obtains a credit card receipt which is signed by the credit card holder. The receipting office must then manually record this transaction into the financial record keeping system, generating another receipt. Amounts can be entered in error, or completely omitted, as a result of these independent transactions. The independent transactions/dual receipt entries also increases the risk of fraud and/or theft.

RECOMMENDATION:

The financial record keeping system should be equipped with a credit card system. This system should be able to produce/issue receipts with sequential numbering regardless of whether payment is made using cash, credit card, money order, or check. The financial record keeping system should also produce credit card transaction reports along with other receipt information and reports.

**LEWIS COUNTY MAGISTRATE COURT
SCHEDULE OF COMMENTS
For the Period Ended December 31, 2014**

Reporting to Tax Commissioner for Failure to Pay Fines and Costs

We noted during our application of agreed-upon procedures that the Lewis County magistrate court did not notify the State Tax Commissioner when defendants failed to pay their court imposed assessment within one year of their judgment date. This was due to the magistrate court computer system not being programmed to run such a report to be submitted to the tax commissioner. West Virginia Code §50-3-2c states, in part, that:

"(a) if costs, fines, fees, forfeitures, restitution or penalties imposed by the magistrate court upon conviction of a person for a criminal offense as defined by this code, imposed by the circuit court upon judgement on an appeal to circuit court of that conviction, or imposed by either court for failure to appear are not paid within one year of the judgement, the magistrate court clerk or, upon a judgement rendered on appeal, the circuit clerk shall notify the Tax Commissioner that the defendant has failed to pay the costs, fines, forfeitures or penalties assessed by the court."

RECOMMENDATION:

The court's automated system of record keeping should be designed to automatically generate and provide this report to the WV State Tax Commissioner for all unpaid costs that are over one year old on an annual basis at the minimum. We recommend that the court review this code section and implement the creation of this report to help recover unpaid costs owed to the court.

Suspension of Licenses Not Recorded

We noted during our application of agreed-upon procedures, that in six of the cases sampled, that the Department of Motor Vehicles did not have a record of these cases for suspension. Specifically, the file has a copy of the notice to suspend but upon verification with Department of Motor Vehicles it was not recorded. West Virginia Code §50-3-2a states, in part, that:

"(c)(1) If any costs, fines, fees, forfeitures, restitution or penalties imposed by the magistrate court in a criminal case are not paid within one hundred eighty days from the date of judgment and the expiration of any stay of execution, the magistrate court clerk or, upon judgment rendered on appeal, the circuit clerk shall notify the commissioner of the division of motor vehicles of the failure to pay. . . ."

**LEWIS COUNTY MAGISTRATE COURT
SCHEDULE OF COMMENTS
For the Period Ended December 31, 2014**

Suspension of Licenses Not Recorded (continued)

"(d)(1) If a person charged with any criminal violation of this code fails to appear or otherwise respond in court, the magistrate court shall notify the commissioner of the division of motor vehicles thereof within ninety days of the schedule date to appear, unless the person sooner appears and otherwise responds in court to the satisfaction of the magistrate. Upon such notice, the division of motor vehicles shall suspend any privilege the person failing to appear or otherwise respond may have to operate a motor vehicle in this state, including any driver's license issued to the person by the division of motor vehicles, until final judgment in the case and, if a judgment of guilty, until such time that all the costs, fines, fees, forfeitures, restitution or penalties imposed are paid in full. . . ."

RECOMMENDATION:

We recommend that the Supreme Court and the Department of Motor Vehicles review the process by which license suspensions are handled and devise an electronic program that will ensure that all license suspensions for failure to pay or responded are properly remitted and suspended.

Register of Unsatisfied Judgments

We noted during our application of agreed-upon procedures that Magistrate Court of Lewis County failed to accurately maintain the register of unsatisfied judgments. Specifically, they failed to run a monthly report and when converting unpaid costs to the new unified judicial application system there is no report to show the current amount still remaining due and owing at a specific date for those unpaid costs assessed before conversion. Rule 22 of the *Rules of Criminal Procedures for Magistrate Courts of West Virginia* states, in part, that:

"(a) Register of Unsatisfied Judgments. - The clerk shall maintain a register of all cases in which a period of confinement, fine, costs, forfeiture, and/or restitution has been ordered but which, upon 3 months from judgment and the expiration of any stay of execution, have not been satisfied, or, in the case of a period of confinement, is not currently being satisfied. Such register shall include the case number; name of the defendant; address of defendant, if known; nature of offense; date of sentencing; period of confinement; fine, penalty and costs imposed; forfeiture or restitution ordered; and period of time unserved or amount of fine, penalty, costs forfeiture and restitution remaining unsatisfied."

**LEWIS COUNTY MAGISTRATE COURT
SCHEDULE OF COMMENTS
For the Period Ended December 31, 2014**

Register of Unsatisfied Judgments (continued)

" (b) Notice of Unsatisfied Judgement. - On a regular basis of at least once every month, the clerk shall:

(1) Provide the prosecuting attorney a copy of the register of unsatisfied judgements with abstracts of judgement for entries involving any criminal violation occurring after July 9, 1993 for which court-imposed assessments have not been paid in full;

(2) Provide the Division of Motor Vehicles a notice of all entries that have been added to the register since the previous notification regarding court-imposed assessments not paid in full for violations of Chapter 17, 17A, 17B, 17C, and 17D of the West Virginia Code or such entries for any criminal violation occurring on or after July 9, 1993, with the exception of parking violations and other violations for which a citation may be issued to an unattended vehicle; and

(3) Provide to the Division of Natural Resources a notice of all hunting or fishing violation entries that have been added to the register since the previous notification for which court-imposed assessments have not been paid in full."

RECOMMENDATION:

The court's automated system of recordkeeping should be directed to automatically generate this report at regular monthly intervals.

Fail to Appear Suspensions Not Timely

We noted during our application of agreed-upon procedures that the Lewis County magistrate court did not timely notify the Department of Motor Vehicles for license suspension when a defendant failed to respond or appear on a citation. This is due to the courts computer giving a defendant ninety days to respond before a suspension is printed for submission to the Department of Motor Vehicles. Rule 7(e) of the *Rules of Criminal Procedures for the Magistrates Courts of West Virginia* states, in part, that:

**LEWIS COUNTY MAGISTRATE COURT
SCHEDULE OF COMMENTS
For the Period Ended December 31, 2014**

Fail to Appear Suspensions Not Timely (continued)

"(e) Failure to Appear. - The magistrate court clerk on a regular basis shall notify the prosecuting attorney of citations for which the defendant failed to answer or appear. The magistrate court clerk shall notify the Division of Motor Vehicles of all such instances involving a failure to answer or appear in response to a citation charging a violation of any provision of Chapter 17, 17A, 17B, 17C, or 17D of the West Virginia Code, and for any criminal violation charged on or after July 9, 1993, with the exception of parking violations and other violations for which a citation may be issued to an unattended vehicle. Such notification shall be provided in the same form as that provided by Rule 5.3 and Rule 22 of these Rules and shall be sent within 15 days from the scheduled date to answer or appear unless the defendant answers or appears within that time."

RECOMMENDATION:

The court's automated system of record keeping should be directed to automatically cause the generation of suspensions as prescribed by this rule. We recommend that the court review this rule and implement the provisions as stated.

Litter Penalty Below Minimum

We noted while applying agreed-upon procedures, that in two cases from our sample, the Magistrate Court of Lewis County failed to assess the mandatory civil penalty for littering set by statute. West Virginia Code §22-15A-4(c) states, in part, that:

"(c) Every person who is convicted of or pleads guilty to disposing of litter in violation of subsection (a) of this section shall pay a civil penalty in the sum of not less than two hundred dollars nor more than one thousand dollars as costs for cleanup, investigation and prosecution of this case, in addition to any other court costs that the court is otherwise required by law to impose upon a convicted person. . . ."

RECOMMENDATION:

The software programming for the magistrate court's automated system of record creation should include controls that, based upon the information that is required to be entered into the case file, automatically enters or requires the entry of all appropriate penalties when the magistrate's judgement indicates that assessment of these statutory costs is in order. Such software programming would preclude completion and closing of the case file unless all required assessments have been entered.

**LEWIS COUNTY MAGISTRATE COURT
SCHEDULE OF COMMENTS
For the Period Ended December 31, 2014**

Proof of Insurance Beyond Statutory Grace Period

We noted while applying our agreed-upon procedures, that in five cases from our sample of misdemeanors, the Magistrate Court of Lewis County cited the dismissal of a "no proof of insurance" citation, on the basis of a copy of the insurance certificate from the defendant, that was presented after the seven-day period provided by statute. West Virginia Code §17D-2A-4 states, in part, that:

"(b) The certificate provided pursuant to the provisions of this section or other proof of insurance shall be carried by the insured in the appropriate vehicle...Any person violating the provisions of this subsection is guilty of a misdemeanor...*Provided*, That an insured shall not be guilty of a violation of this subsection (b) if he or she furnishes proof that such insurance was in effect within seven days of being cited for not carrying such certificate or other proof in such vehicle."

RECOMMENDATION:

The software programming for the Magistrate Court's automated system of record-creation should include controls that test judgment order entries for statutory conflicts and upon finding a conflict either refuse the entry or attach notation to the judgment order noting the conflict.

MVI Sticker Proof Beyond Grace Period

We noted while applying our agreed-upon procedures, that in three cases from our misdemeanor sample, the Magistrate Court of Lewis County dismissed a charge of expired motor vehicle inspection sticker citing a receipt showing "proof of inspection". The inspection was not obtained within five days (as permitted by statute) according to the case file documents. West Virginia Code §17C-16-9 states, in part, that:

"... *Provided*, That any person who obtains an inspection and a current and valid certificate of inspection and who, within five days of the issuance of a citation for a violation of the provisions of this section, provides a receipt of inspection to and makes the vehicle so operated available for examination by a court of competent jurisdiction, shall not be guilty of a violation of the provisions of this section: ... "

RECOMMENDATION:

The software programming for the magistrate court's automated system of record creation should include controls that test judgment order entries for statutory conflicts and upon finding a conflict either refuse the entry or attach notation to the judgment order noting the conflict.

**LEWIS COUNTY MAGISTRATE COURT
SCHEDULE OF COMMENTS
For the Period Ended December 31, 2014**

No Insurance Charge Dismissed with Proof Shown

We noted while applying our agreed-upon procedures that in four cases from our sample of Citations, the Magistrate Court of Lewis County dismissed the charge of "no insurance" when the defendant showed proof of possessing insurance. However, we find no authority for a magistrate to dismiss this charge on the basis of "showing proof" and we did not find that the prosecuting attorney was notified or moved this dismissal. West Virginia Code §17D-2A-3(d) states that:

"No person may knowingly drive or operate upon any road or highway any motor vehicle upon which security is required by the provisions of this article unless the required security is in effect."

West Virginia Code §17D-2A-9 (the general penalty for this section) states, in part, that:

". . . any person who violates any provision of this article for which another penalty is not provided in this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than two hundred dollars nor more than five thousand dollars' or confined in the county or regional jail not less than fifteen days nor more than one year, or both."

RECOMMENDATION:

The software programming for the Magistrate Court's automated system of record-creation should include controls that require the positive affirmation by the responsible court official as to items such as the State's participation in dismissals unless a specific grant of authority exists and the conditions imposed by said grant of authority have been met.

Check ID

We noted during our application of agreed-upon procedures that, in one instance from our sample of disbursements, the address on the signed complaint was different than the name on the check. Furthermore we saw nothing in the file indicating that the complainant requested an address change.

RECOMMENDATION:

The magistrate court clerk should review all checks prior to them being sent out to verify that the address is not only valid but matches the complaint or restitution order unless there is a change of address in the file.

**LEWIS COUNTY MAGISTRATE COURT
SCHEDULE OF COMMENTS
For the Period Ended December 31, 2014**

Failure to Issue Worthless Check Warrants in a Timely Manner

We noted while applying our agree-upon procedures that in four cases from our sample of case files, the Magistrates of Lewis County did not issue the worthless check warrant immediately after the expiration of the ten day worthless check notice period as required.

It was further noted that there was no evidence of any extension being granted that was supported by an agreement signed by all parties or other documented exception as allowed by Rule 26(b) of the *Rules of Criminal Procedure for the Magistrate Courts* of West Virginia. West Virginia Code §61-3-39g states, in part, that:

"Upon receipt of a complaint for a misdemeanor warrant unaccompanied by proof that notice was sent by the payee or holder, the magistrate court shall immediately prepare and mail to the drawer of the check, draft or order a notice . . . This notice shall give the drawer of any such check, draft or order ten days within which to make payment to magistrate court. In the event the drawer pays the total amount set forth in the notice to the magistrate court within the ten-day period, no warrant may issue. . . . In the event the total amount is not so paid the court shall proceed with the issuance of the warrant as is provided by law."

Rule 26(b) mentioned above states that:

"Except as provided in section (c), below, any time limit which has been set by these rules, by the magistrate, or by statute, may be extended in the following circumstances:

- (1) If all parties to the case agree in writing to the extension;
- (2) If the existing period has not expired, upon a showing of good cause;
- (3) If the time period has expired, upon a showing of excusable neglect. Prior to ruling upon a request for an extension, the magistrate shall make a reasonable effort to notify all other parties and provide them with an opportunity to respond to the request."

RECOMMENDATION:

The software programming for the magistrate court's automated system of record creation should include controls that automatically cause a misdemeanor case to be activated once the ten day notice period has expired and no authorized extensions have been entered.

**LEWIS COUNTY MAGISTRATE COURT
SCHEDULE OF COMMENTS
For the Period Ended December 31, 2014**

Dismissal of Civil Actions

We noted during our application of agreed-upon procedures, from a sample population of civil cases, that in one instance, the Magistrates of Lewis County failed to dismiss a civil action which reflected a failure of successful service of the summons and complaint upon the defendant within six months of the initial filing, reflect no motion for default judgment within six months of the service of the summons and/or complaint upon the defendant has remained pending for more than six months and had no order or proceeding except for continuance. Rule 15 of the *Rules of Civil Procedures for the Magistrate Courts of West Virginia* states, in part, that:

"In addition to other grounds for dismissal as provided by law, the magistrate shall dismiss an action without prejudice where:

(a) Service of the summons and complaint has not been successfully made upon the defendant within 6 months of the initial filing of the complaint; or

(b) The defendant fails to file an answer and the plaintiff fails to move for a default judgment within 6 months of service of the summons and complaint upon defendant; or

(c) An action is pending for more than 6 months and there has been no order or proceeding but to continue it."

RECOMMENDATION:

The court's system of automated recordkeeping should automatically generate a reminder and prepare any appropriate documents required for the magistrate to enter the dismissal and thereby comply with the above noted rule.

Arrest Fee Assessed on Unserved Warrant

We noted while applying our agreed-upon procedures that in two cases from our sample of Misdemeanors, the Magistrate Court of Lewis County assessed an arrest fee on a criminal case where the arrest warrant fails to indicate that the warrant was executed. West Virginia Code §59-1-14, states, in part, that:

"(a) The county commission shall determine the amount which the sheriff may charge, which charges shall not exceed the following.

For serving on any person an order, notice, summons or other process where the body is taken, except a subpoena served on a witness and making a return thereof. . . ."

RECOMMENDATION:

The software programming for the magistrate court's automated system of record creation should include controls that, based upon the information that is required to be entered into the case file, automatically enters or requires the entry of all appropriate costs when the magistrate's judgment indicates that assessment of these statutory costs is in order.

**LEWIS COUNTY MAGISTRATE COURT
SCHEDULE OF COMMENTS
For the Period Ended December 31, 2014**

Fine Below Minimum on Worthless Checks

We noted while applying our agreed-upon procedures that in two cases from our sample of Worthless Checks the Magistrate Court of Lewis County did not assess a fine against a defendant when they were convicted on a worthless check, which is below the minimum fine required to be assessed. West Virginia Code § 61-3-39 states, in part, that:

"(c) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction thereof, shall be fined not more than two hundred dollars, or confined in the county or regional jail not more than ten days, or both."

RECOMMENDATION:

The software programming for the Magistrate Court's automated system of record-creation should include controls that test judgment order entries for statutory conflicts and upon finding a conflict either refuse the entry or attach notation to the judgment order noting the conflict.

Restitution without a Victim

We noted while applying our agreed-upon procedures that in one case from our sample of Misdemeanors, the Magistrate Court of Lewis County awarded and collected restitution when there was no victim. In this case the restitution was paid to home confinement for drug test. West Virginia Code §50-3-2a, states that:

"(e) In every criminal case which involves a misdemeanor violation, a magistrate may order restitution where appropriate when rendering judgment."

RECOMMENDATION:

The magistrate court should review this procedure and comply with the provisions therein by only ordering restitution on appropriate cases when rendering a judgement.

**LEWIS COUNTY MAGISTRATE COURT
SCHEDULE OF COMMENTS
For the Period Ended December 31, 2014**

Costs in Civil Proceedings

We noted while applying our agreed-upon procedures, that in two cases from our sample of civil cases, the Magistrate Court of Lewis County awarded an amount greater than the amount on the original complaint. Furthermore the file did not have an amended complaint or motion to amend complaint in the file. In these instances, an additional filing fee would need to be collected since the filling fee is based on damages sought and costs should be collected for filing any civil action. West Virginia Code §50-3-1 states, in part that:

"The following costs shall be charged in magistrate courts in civil actions and shall be collected in advance:

(a) For filing and trying any civil action and for all services connected therewith, but excluding services regarding enforcement of judgment, the following amounts dependent upon the amount of damages sought in the complaint: Where the action is for five hundred dollars or less \$30.00. Where the action is for more than five hundred dollars but not more than one thousand dollars \$35.00. Where the action is for more than one thousand dollars but not more than two thousand dollars \$40.00. Where the action is for more than two thousand dollars \$50.00. . . ."

Chapter A2: General Cost Schedule (Collection and Remittance) from the Procedural Manual For Staff Of The West Virginia Magistrate Courts states, in part, that:

1. "It is possible that a plaintiff will amend a complaint and owe an increased fee. This increase should be collected when a motion to amend is made or as soon after as is possible. A magistrate should not entertain a motion to amend until any additional fee has been paid."

RECOMMENDATION:

The magistrate court should review this procedure and comply with the provisions therein by assessing the appropriate costs, only awarding the amount on the original complaint unless it has been amended, and not refunding costs after a complaint has been filed.



City of Weston

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Weston, WV 26452

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Julia Spelsberg, Mayor

*Kristin Drippleman, City Clerk
Randall Z. Posey, Chief of Police
Kenneth James, Fire Chief
Elizabeth Snead, Special Counsel
John Hogan, Public Works Director
Bryan Reed, Building Inspector*

*City Council:
John Wyllie, Ward I
Eric Dever, Ward II
Richard Flanigan, Ward III
Justin Roy, Ward IV*



January 11, 2016

Lewis County Assessor and
Lewis County Commission
Center Avenue
Weston, WV 26452

To the Lewis County Assessor and Lewis County Commission.,

You may be aware that the City of Weston has been working with the WVU Law School for several years on efforts here in the City. The first completed Weston/WVU project was the 2014 Comprehensive Plan approved by the previous City Council. WVU's help was incredible and we are forever thankful.

Our next project will be to enact land use management planning (zoning) for the city. We have some city maps but would like to see if the county can aid us with providing GIS information to help in this effort. I understand that the County would prefer to have a letter from myself as Mayor of Weston to make this request. I hope that this letter will suffice as that request.

Sincerely,
Julia Spelsberg
Mayor of Weston