

COUNTY COMMISSION OF LEWIS COUNTY

110 Center Avenue
Weston, WV 26452
Phone: (304)269-8200
Fax: (304) 269-2416

Email: lewiscountycommission@lewiscountywv.org
Website: lewiscountywv.org



COMMISSIONERS:

Patrick D. Boyle

President

Agnes Queen

Commissioner

Rod Wyman

Commissioner

**LEWIS COUNTY COMMISSION
110 CENTER AVENUE, 2ND FLOOR
WESTON, WV 26452
MEETING AGENDA
Tuesday, March 12, 2018 10AM**

SILENT MEDITATION AND PLEDGE OF ALLEGIANCE

1. 10:00 AM Call Meeting to Order
2. 10:05 AM John Breen, Lewis County Assessor
RE: Exonerations, Consolidations, Apportionments
Draft copies will be available for review Thursday, March 8, 2018.
(*action required*)

APPOINTMENTS

3. 10:10 AM **Cheyenne Walters, Director**
26th Judicial Circuit Community Corrections
RE: Annual Report
Cheyenne Walters, director for the 26th Judicial Circuit Community Corrections Program (Upshur and Lewis Counties) will give the 2017 Annual Report of the agency. (*information only*)
4. 10:20 AM **Rebecca Jordan Gleason**
RE: Request for Support Letter for Medical Cannabis Act
Rebecca Jordan Gleason asks the Lewis County Commission to consider a Medical Cannabis Act resolution for support for the Trans-Allegheny Lunatic Asylum to apply to be a grower.
(*action required*)
5. 11:30 AM **Hearing for Anderson Estate**
RE: Laura Lea Anderson Petitioner regarding Christopher Parish Anderson Estate.
Laura Lea Anderson wife of descendant petitions the Lewis County Commission to grant her elective share to which she is entitled of the estate of Christopher Parish Anderson per WV Code §42-3-1.
(*action required*)

CORRESPONDENCE

6. **Upshur County Commission Meeting Agenda:** Upshur County Commission Meeting Agenda for March 8, 2018. *(information only)*
7. **Lewis Gilmer E911 Monthly Report:** Report of Activities by the Lewis Gilmer E911 Center for the month of February, 2018 including number of calls and disposition by agency. *(information only)*
8. **Lewis County Magistrate Court 2016 Annual Audit:** Audit for the Lewis County Magistrate Court for the period ending December 2016. Findings include: Segregation of Duties; checks should contain two or more signatures; the financial system should be equipped with a credit card system; system needs to automatically generate a notice of suspension; all documents in the case file should be docketed; court costs need to applied to all worthless check cases; system needs to automatically notify the WV State Tax Commissioner for all unpaid costs over one year old.*(information only)*
9. **Sheriffs Monthly Vehicle Report:** Sheriffs Monthly Vehicle report for February 2018 including fleet mileage. *(information only)*

BUSINESS

10. **Board(s) and Committee(s) Reports:** Reports by Commissioners of any board(s) or committee(s) attended including: Meeting with West Virginia American Water; Hardwood Alliance Zone; Region VI Workforce Development; County Commissioners Association of West Virginia Legislative Conference Call. *(information only)*
11. **Time Sheets and Leave Requests:**
 - a) Joseph Frazier April 2-6, 2018 Annual Leave
 - b) Lucinda Whetsell March Monthly Time Sheet

ACTIONS, ESTATE SETTLEMENTS, ORDERS AND PAYMENT OF EXPENDITURES:

7. **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, March 8, 2018. *(action required)*
8. **Approval of Estates:** County Clerk Cynthia S. Rowan presents the estates ready for settlement to the Lewis County Commission for approval. Draft copies will be available for review upon request Thursday, March 8, 2018. *(action required)*
9. **Presentation by the County Clerk of the Orders of Prior Meeting(s):** The Lewis County Clerk presents the Orders (minutes) of previous Lewis County Commission meeting(s) for approval. Draft copies will be available for review upon request Thursday, March 8, 2018. *(action required)*
10. **Expenses for the Current Period Presented for Consideration of Payment:** Draft copies will be available for review upon request Thursday, March 8, 2018. *(action required)*

ADJOURNMENT:

11. **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.**

NOTICE

The Lewis County Commission will holding a **work session** on
Monday, March 12, 2018 at 1:30 PM in the
County Commission Meeting Room, 110 Center Avenue, 2nd Floor, Weston, WV.
The purpose of this work session is to begin work on the
Fiscal Year 2019 Budget.
Meetings with elected officials will be announced later.

FEBRUARY 2018 MILEAGE REQUEST

UNIT LIC.

150 Gissy 6LB698 / 14 CHARGER 25,097

151 Hyre Temp / 14 EXPLORER 49,983

152 Money Penny 3170 / 13 POLICE INTERCEPTOR 65,072

153 Carpenter 3169 / 13 POLICE INTERCEPTOR 79,470

154 Moran 2868 / 10 Spare TAHOE 155,261

155 Lopez 1910 / 13 POLICE INTERCEPTOR 67,130

156 Tonkin 1234 / 13 POLICE INTERCEPTOR 44,618

157 Clark 2824 / 11 TAHOE 96,196

158 Hendershot 2829 / 11 TAHOE 85,627

159 Carey 2727 / 10 TAHOE 103,552

160 Hummel 2966 / 12 CAPRICE 83,297

161 VanMeter 1643 / 11 TAHOE 70,691

162 Turner 1232 / 07 CROWN VIC 104,530

2018 LEWIS-GILMER E-911 TELETYPE REPORT

		JAN.	FEB.	MAR.	APR.	MAY.	JUN.	JULY.	AUG.	SEP.	OCT.	NOV.	DEC.	TOTAL
LEWIS COUNTY	10-27	510	462											972
	10-28	472	461											933
	III & CIB	251	372											623
	OTHER	24	9											33
	DVP	26	37											63
CITY	10-27	305	203											508
	10-28	223	242											465
	III & CIB	58	27											85
	OTHER	7	5											12
	DVP	12	8											20
STATE	10-27	91	80											171
	10-28	68	41											109
	III & CIB	11	18											29
	OTHER	0	0											0
	DVP	13	2											15
DNR	10-27	14	21											35
	10-28	7	8											15
	III & CIB	0	8											8
	OTHER	1	40											41
	DVP	4	5											9
PROSECUTOR	10-27	22	33											55
	10-28	0	0											0
	III & CIB	35	110											145
	OTHER	0	0											0
	DVP	0	0											0
PROBATION	10-27	3	19											22
	10-28	0	0											0
	III & CIB	33	41											74
	OTHER	6	0											6
	DVP	0												0
SWJS PARK	10-27	0	0											0
	10-28	1	0											1
	III & CIB	0	0											0
	OTHER	0	0											0
	DVP	0	0											0
FAMILY COURT	III & CIB		28											28
DAY REPORT	10-27	7	6											13
	10-28	2	0											2
	III & CIB	8	21											29
	OTHER	16	14											30
	DVP	0	0											0
													TOTAL TRANSACTIONS	4551

2018 LEWIS-GILMER E-911 TELETYPE REPORT

GILMER		JAN.	FEB.	MAR.	APR.	MAY.	JUN.	JULY.	AUG.	SEP.	OCT.	NOV.	DEC.	TOTAL
COUNTY	10-27	63	39											102
	10-28	62	61											123
	III & CIB	74	82											156
	OTHER	10	2											12
	DVP/WAR	1	0											1
CITY	10-27	95	101											196
	10-28	87	81											168
	III & CIB	31	22											53
	OTHER	0	0											0
	DVP/WAR	4	26											30
STATE	10-27	48	64											112
	10-28	54	107											161
	III & CIB	25	3											28
	OTHER	0	0											0
	DVP/WAR	13	13											26
DNR	10-27	30	23											53
	10-28	24	20											44
	III & CIB	3	2											5
	OTHER	3	0											3
	DVP/WAR	10	4											14
PROSECUTOR	10-27	3	0											3
	10-28	0	0											0
	III & CIB	19	22											41
	OTHER	0	0											0
	DVP/WAR	0	0											0
CAMPUS	10-27	4	2											6
	10-28	9	2											11
	III & CIB	4	3											7
	OTHER	0	0											0
	DVP/WAR	0	0											0

Total Transactions 1355

LEWIS COUNTY MAGISTRATE COURT
SCHEDULE OF COMMENTS
For the Period Ended December 31, 2016

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, receipting 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 to transfer amounts from one account to another without first verifying that sufficient funds are available. This creates a situation in which a cash shortage can inadvertently occur.
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 court's knowledge.

**LEWIS COUNTY MAGISTRATE COURT
SCHEDULE OF COMMENTS
For the Period Ended December 31, 2016**

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 the software utilized by the court be modified to automatically determine whether sufficient funds are available to permit the transfer of funds.
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, 2016**

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 Division of Motor Vehicles for license suspension when a defendant failed to respond or appear on a citation. This is due to the court's computer giving a defendant ninety days to respond before a suspension is printed for submission to the Division of Motor Vehicles. Rule 7(e) of the *Rules of Criminal Procedures for the Magistrates Courts of West Virginia* states, in part, that:

"(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 revisions as stated.

Docket Codes

We noted during our agreed-upon procedures that in 21 cases of our sample, the Lewis County Magistrate Court failed to docket all of the information in the case file onto the computer with the required Docket Codes. Page 3 of The *Docket Reference Manual* of the *Unified Judicial Applications Reference Manual* states that:

"Docket codes are an electronic version of activity on a case. A docket code review should match the paper file on the case."

RECOMMENDATION:

We recommend that the magistrate court personnel review this reference manual and ensure that all documents within the paper file are properly docketed into the computer case file.

**LEWIS COUNTY MAGISTRATE COURT
SCHEDULE OF COMMENTS
For the Period Ended December 31, 2016**

Costs in Criminal Proceedings - Worthless Check Cases

We noted during our agreed-upon procedures that, 1 case from a sample of worthless checks, the Magistrates of Lewis County dismissed one worthless check case in which court costs should have been assessed against the complainant, but were not.

According to the judgment order the case had been dismissed, upon a motion filed by the Prosecuting Attorney, and that restitution had been made directly to the complainant. The worthless check and the statutory court costs were never assessed to be paid to the court. In these cases, the proper complaints were filed with the court and subsequent notices were sent to the defendant. West Virginia Code §61-3-39g states, in part, that:

"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. The payment may be made to the magistrate court in person or by mail by cash, certified check, bank draft or money order and, in the event the payment is made by mail, the magistrate court clerk shall immediately mail to the maker of the check, draft or order the receipt required by this section. 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."

West Virginia Code §61-3-39g also states, in setting forth the elements of the notice to be sent to those accused of issuing a worthless check, that:

"The complainant is forbidden by law to accept payment after the complaint is filed."

West Virginia Code §61-3-39e states, in part, that:

"In the event complaint for warrant has been presented to magistrate court, payment may be made only through the court and any holder or payee unlawfully accepting payment after that time shall be liable for all costs which may be imposed by the magistrate court in the matter, including all costs which may have accrued by the time the magistrate court is notified of the payment."

RECOMMENDATION:

We find no provisions in the West Virginia Code for magistrate courts to receive (without receipting) or distribute any monies other than those (properly) made payable to the court. The magistrates need to review the applicable sections of West Virginia Code dealing with worthless checks and adhere to those provisions.

**LEWIS COUNTY MAGISTRATE COURT
SCHEDULE OF COMMENTS
For the Period Ended December 31, 2016**

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 programed to generate 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 judgment 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 judgment, the magistrate court clerk or, upon a judgment 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 a 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.