

FAYETTE COUNTY COMMISSION

REGULAR SESSION

January 8, 2021

FAYETTE COUNTY COURTHOUSE

PRESENT: JOHN G. BRENEMEN, THOMAS LOUISOS, II, ALLISON R. TAYLOR

The Fayette County Commission met in a regular session this 8th day of January 2021 via Zoom. Commissioners Brenemen, Louisos and Taylor all attended in person.

Commissioner Brenemen called the meeting to order at 9:00 a.m.

The Pledge of Allegiance was led by Commissioner Taylor.

No exonerations were presented from the Assessor.

Commissioner Louisos motioned to approve 1st half payroll and release on January 15th. Commissioner Taylor seconded. Unanimous decision.

Commissioner Louisos motioned to approve vouchers and invoices and release checks. Commissioner Taylor seconded. Unanimous decision.

Commissioner Louisos motioned to approve prior meeting minutes from December 18, 2020. Commissioner Taylor seconded. Unanimous decision.

Commissioner Louisos motioned to approve estate settlements. Commissioner Taylor seconded. Unanimous decision.

Commissioner Louisos discussed courthouse restrictions and closure and wants the courthouse to be open. Commissioner Brenemen stated the courthouse is open with limited access. Commissioner Louisos stated employees are rotating. Debbie Berry, County Administrator, was on the Zoom call, stated we are trying to limit their exposure by staggering employees at the courthouse as suggested by the judge. Most of us are working from home. The courthouse is not closed, it just has restricted access. Commissioner Louisos asked if everybody is working from home.

Ms. Berry stated yes - the County Commission employees are. Allen Ballard and Angela Gerald rotate days so only one person is in their office daily. There are days we each need to be here to take care of specific duties, so we rotate to limit exposure as advised by Health Department Administrator Teri Harlan. Commissioner Brenemen spoke with Ms. Harlan and Dr. Stewart and we are at a point where the virus is getting worse. Also there is a new strain and numbers are expected to get rise. We have nursing homes and areas of the courthouse without breaks. Commissioner Taylor doesn't see the point of having two security personnel posted at the entrances to the courthouse buildings taking people's temperatures when it hasn't detected or prevented COVID from spreading within the courthouse. Also, the courthouses in Raleigh and Nicholas Counties are not doing this. The screeners have only turned away a small number of courthouse visitors out of hundreds due to a fever. It seems like a waste of resources to have that since COVID can be carried by asymptomatic individuals. Doors should be locked and people can be required to call and get an appointment. Sheriff Fridley stated the two people that work those posts are the transport officers that have no other duties at this time. Once all are in place, we will have security checks. We aren't closed. The Tax Office is rotating three people. The Tax Office has moved back to letting people in the ground level doors due to the elevator issue. Commissioner Taylor asked if there are no other things for them to be doing even if they aren't transporting. More discussion was held regarding whether the staff should rotate or if everyone should be at the courthouse each day. Commissioner Brenemen stated we cannot take any decision lightly. The courthouse is open, it is just restricted and agrees that we need to look at productivity. Commissioner Taylor will take the lead on how to

address the courthouse closure and look for a better option.

Commissioner Brenemen requested this to be put on the agenda for 1/29 along with a discussion with elected officials and commissioners.

Commissioner Taylor will also discuss with them prior to the 29th. We will come with a plan to follow for all offices and continue as is for now; what the chief judge orders is very different from the Commission's responsibilities.

Elected Officials and Department Heads were in attendance via Zoom for introductions and a budget discussion. Newly-elected officials were introduced: Commissioner Taylor; Clerk Michelle Holly, Prosecutor Anthony Ciliberti, and Temporary Circuit Clerk Debbie Hendrick.

Commissioner Taylor is happy to be here and asked for patience as she learns. She wants to be well-informed before she votes. Commissioner Taylor stated she's approachable and to come see her if you need anything. County Clerk Michelle Holly stated she is glad to be here and looking forward to the new year and our new normal. Prosecuting Attorney Anthony Ciliberti is looking forward to serving the citizens of Fayette County as Prosecuting Attorney. Debbie Hendrick wanted to clarify that her appointment is temporary so Judge Ewing can take the 30 days to appoint a clerk to fulfill until the end of the term. She has been at the courthouse for 21 years and wants to continue to serve.

Commissioner Brenemen discussed the budgeting process. This is his fifth year and we have always been in a rush and making last second changes. This year, he and Staff Accountant Ruth Lanier spent several hours discussing this and have decided to move the budget presentations to February. Since we are here often in February, it works well.

Commissioner Taylor stated she does not subscribe to the notion that if you do not spend your projected budget in one year, you will lost that

money the next. If you come in under budget, you will get more consideration in future years when you request extra because we will know that you are doing due diligence to save the county money. She asked that departments let the Commission know what won't get done if they don't get receive funding. Commissioner Brenemen reminded Elected Officials and Department heads to please get in touch with Commission Assistant Ami Dangerfield to set up a time for budget meetings. This will give us an easier route to run in March. Commissioner Brenemen asked them to just remember it is request, not a promise for it to be allocated.

Organization of the County for 2021 was presented. Commissioner Brenemen will be Commission President. Commissioner Taylor presented changes made to the order: she and Ms. Lanier are purchasing agents for purchases up to \$15,000.00; however, Commissioner Taylor will approve all Sheriff's department purchases to eliminate any appearances of impropriety due to Ms. Lanier's son's employment as a Fayette County Deputy Sheriff. All other purchases will require a majority vote during a meeting. Ms. Dangerfield read the order. Commissioner Louisos motioned to approve. Commissioner Taylor seconded. Unanimous decision.

Ms. Dangerfield presented a letter to WV Supreme Court for reimbursement for Family Law Judge rent in the amount of \$3,375.00. Commissioner Taylor motioned to approve. Commissioner Louisos seconded. Unanimous decision.

Ms. Dangerfield presented letter from the WV Development Office requesting the county take ownership of three properties due to abandoned mine and continuous flooding hazards. The WVDO is administering a Community Development Block Grant - Disaster recovery for the long-term recovery of 12 counties in WV that were devastated

from the June 2016 floods and severe storms. Kevin Walker, OEM Director, has concerns with one of the properties in Scarbro and has inspected and approves of the other two. They want the County to take possession of the properties and turn it into a green space. The one in Scarbro has major drainage issues and Mr. Walker thinks it is a hazard and a legal liability. Recommends not taking ownership of that property prior to mitigation. Commissioner Taylor asked what the liability is. Mr. Walker stated it goes across the roadway into other people's properties and is the result of poor drainage and there is standing water about four feet deep that could create a drowning hazard. They will mitigate the property and find an entity to it over. They are asking us to take over without mitigation. Commissioner Taylor stated if this is causing damage to the road and the other properties in the area, and if they don't mitigate the issue, then what? Mr. Walker stated we need to send a letter to the Development Authority to inquire of its plans to mitigate that property. Commissioner Brenemen mentioned the delay in taking over the property could further delay the former residents' ability to move into their new housing, after waiting years. Commissioner Taylor motioned to table until she could investigate why people could not move into their new homes pending the County taking over the property and the mitigation issue for the address of concern. Commissioner Louisos seconded. Unanimous decision.

Ms. Dangerfield presented an application from James Elmore to be considered as Commissioner for the Page Kincaid Public Service District, to fill the unexpired term of Robert Williams, till October 1, 2025. Commissioner Taylor motioned to approve. Commissioner Louisos seconded. Unanimous decision.

Ms. Dangerfield presented letter from Wayne Workman, Park Director, requesting full-time employment for Rebecca Waugh as a worker at the Fayette County Park due to resignation of Elijah Treadway. Discussion was held regarding moving people into new positions without advertising the vacancy. Commissioner Brenemen asked if Ms. Waugh works for us now, and Mr. Workman stated yes, part-time cleaner/grounds maintenance. Elijah Treadway was ground maintenance as well. Mr. Ciliberti stated Mr. Workman is obviously familiar with her and her performance, but he did not disagree with Commissioner Taylor's view, though he is not sure that we are required to post jobs. Commissioner Taylor stated advertising job vacancies is important and would serve to insulate the county from complaints that a more qualified candidate was not given an opportunity to compete. Commissioner Louisos stated if we start this, we have to do it for everyone. Commissioner Brenemen stated he has tried to do this for four years to standardize things much like you do in the private sector. Commissioner Taylor stated we have an obligation to the public to ensure the best possible candidates compete and are hired for each position. Mr. Ciliberti thinks the Commission should similarly adopt a policy on how to appoint a successor for prosecuting attorney and any similar appointments. Commissioner Brenemen recommended Mr. Workman run an ad and interview people that apply. Ms. Lanier will assist with the interviews. Mr. Ciliberti stated if the County adopts this as a policy, it will apply to all positions and all departments. You would have to advertise all. Commissioner Taylor mentioned she is going to recommend the Commission establish a statutory wage and benefits review board, which would involve participation by all elected officials, one commissioner and two employees to standardize all County human resources issues. This would

create consistency and allow for periodic performance reviews and evaluations and merit-based raises as opposed to across-the-board raises.

Ms. Dangerfield presented a Consumer Sales Tax Report for the quarter ending December 31, 2020 for Fayette County Park in the amount of \$1,546.65 for approval and signature of the Commission president. Commissioner Louisos motioned to approve and to authorize Commission President Brenemen to sign. Commissioner Taylor seconded. Unanimous decision.

Ms. Dangerfield presented an item tabled from December 18, 2020 requesting to hire Gia Tyree due to the resignation of Oliva Tygrett in the Resource Coordinator's office. She would be paid under the Brownfield grant. Gabriel Pena, Resource Coordinator, stated he has roughly \$10,000.00 left and would move Ms. Tyree into administration of that grant. He also intends to continue to pursue funding through that grant. Ms. Tyree has been very helpful and will help with the audit. Commissioner Louisos stated he will second if someone makes a motion but thinks this department needs restructuring. Commissioner Taylor agrees, and is not sure how much the Resource Coordinator's office is helping the county at large as opposed to just the URA. As far as the grant goes, Commissioner Taylor motioned to approve at the requested rate. Commissioner Louisos seconded. Unanimous decision.

Ms. Dangerfield presented a memo to Elected Officials concerning restricted access to the courthouse and facilities due to Covid-19. Commissioner Taylor asked that it reflect the 29th as the end date since the Commission would not meet again until then. Commissioner Taylor

motioned to approve the memo through January 29th. Commissioner Louisos seconded. Unanimous decision.

Dianne Callison, Director of FRN regarding Drug Free Grant. Introduced herself and explained the purpose of her position and grant funding. Katie Johnson, the Prevention Coordinator for the ICE Collaborative and Carrie Strunk, Prevention Specialist with NRH were also present. Ms. Callison would like for the County Commission to administer this position's payroll like they do for her position, which is also grant-funded. Commissioner Taylor motioned to approve. Commissioner Louisos seconded. Unanimous decision. Commissioner Taylor would like an MOU be put in place and formalize what we are doing. Ms. Callison, Mr. Ciliberti and Commissioner Louisos agreed. Unanimous decision.

Commissioner Louisos led discussion of Wolf Creek Park and adjoining properties. Commissioner Brenemen asked the prosecutor to follow up on this. Mr. Ciliberti spoke with Evan Dove, who represents Rick Johnson and Carl Harris, the mediator between Mr. Johnson and the URA, and also spoke with Gene Kistler and Commissioner Taylor. No one agrees on the facts. The URA takes the position that there never was a firm agreement. Mr. Johnson thinks there was and the URA attempted to make changes to the it after building a trail on his property. Mr. Ciliberti mentioned the URA's potential liability for entering Mr. Johnson's property and building the trail and thinks it benefits all parties concerned that this be resolved without litigation. Mr. Ciliberti stated Mr. Dove thinks the property is subject to a DOH easement and Mr. Ciliberti doesn't agree that the easement gives the right to use the property or dictate what happens on the property. He also doesn't agree that adverse possession applies since it is owned by

a public entity. There are discrepancies in language versus agreement, and easement. Mr. Ciliberti identified several concerns with the original draft contract including missing exhibits, and unreasonable terms. He further noted statutorily, he is Counsel for the Commission, and doesn't believe it is appropriate for him to continue to advise the URA since FCC interests may be divergent from the URA and he cannot be in a position to advise both bodies. Commissioner Taylor agreed. Mr. Ciliberti added Chapter 16 article 18 section 5 says the URA can sue and be sued in its own capacity. Commissioners Louisos and Taylor both have concerns about the transactions regarding the land sold by the URA and the potential liability for the County as a result. Commissioners Taylor and Louisos would like to put a moratorium on the ability of the URA to enter into any more land contracts without FCC approval pending resolution of the known issues. This will be on a future agenda. Commissioner Taylor mentioned she was aware another Wolf Creek property owner, Brad Woolf, had retained counsel and may sue for previously-stated grievances, and requested Mr. Ciliberti meet with Mr. Johnson and his counsel, and Mr. Woolf and his counsel, and the URA and its counsel to try to resolve the outstanding matters. Commissioner Brenemen did not believe the negotiations should involve Mr. Woolf since he had not contacted the Commission in some time. Commissioner Taylor stated since the Commission is aware Mr. Woolf has grievances that may also result in a lawsuit against the County, she preferred they all be addressed together. Commissioner Louisos agreed. Mr. Ciliberti stated resolution of the concerns at Wolf Creek Park is going to take some time. It is obvious that there have been a lot of verbal discussion and there is a significant amount of disagreement on what has been said. There is a deadline in Mr. Dove's letter of January 21st. Mr. Johnson stated he

will be glad to extend it as they have been working on this for over 1.5 years. If the FCC and prosecutor will agree to mediate, he will too. Mr. Johnson stated there needs to be an interim URA chairman since its chairman is a shareholder in one of his business competitors, which is a conflict of interest. Commissioner Louisos asked that the following be on the January 29th agenda: Decision to approve moratorium on URA decisions without Commission Approval and Response to Evan Dove.

Commissioner Louisos continued discussion of the Rt. 19 Management and Corridor Plan Removal. Angela Gerald, Zoning, stated in 1998 the Commission adopted the Rt. 19 Corridor Management Plan as a guideline for anyone to have a business on Rt. 19 and is also in the Comprehensive Development Plan and the Unified Development Code Section 9005; a set of guidelines and checklists to be administered and reviewed. There have been four separate properties built on Rt. 19 since 1998 with five applications. Anytime anything is changed, you must hold public hearings and the Planning Commission will hear recommendations and make a recommendation to the Commission. Ms. Gerald gave an explanation of the Planning Commission. Commissioner Taylor asked if the UDC and Comprehensive Plan are redundant. Ms. Gerald stated the UDC is laws and ordinances that must be followed. The Comprehensive Plan is a vision. Commissioner Taylor asked if there is a state UDC. Ms. Gerald stated there are only seven counties that have county-wide UDC, and most have municipal zoning. Some counties only zone larger areas. Once you leave WV, there are a lot of counties that have county-wide zoning. Commissioner Taylor is a fan of less government and believes the County needs to remove impediments to economic development; there is enough deterrent to development as is without a long list of rules to follow. She is not convinced we need the UDC either and would like to revisit

this in a month. Mr. Johnson stated there are two projects delayed right now due to the Rt. 19 Corridor Management Plan. One in Glen Jean and the other at juncture of US Route 60. Mr. Johnson believes the current zoning laws are draconian and we need to have more realistic zoning.

Eric Autenreith, via Zoom, brought up the restrictions on billboards, specifically in Oak Hill. Commissioner Taylor stated those are in zoning jurisdiction of that municipality, not the County's. Commissioner Brenemen stated that county-located billboards must be facing Interstate 77.

Fayetteville Mayor Sharon Cruikshank stated she was part of the Corridor L plan. She encourages the public input aspect of the update. Fayette was one of the first in the state to develop a corridor. One of Fayette County's biggest challenges is its infrastructure. We are also a national park and you can look at our revenue, that seems to be the saving grace. Mayor Cruikshank encouraged the Commission to consider the landscape of Fayette County and how it reflects the National Park. Discussion was held regarding the importance and necessity for infrastructure and utilities along Rt. 19. Discussion was held with Patty Hamilton, former WVACO Executive Director, regarding the importance of having a vision for the area. Commissioner Louisos stated there are so many restrictions, no one even tries to put a plan together for redevelopment, and presented the 124-question development application. They don't want to spend \$20,000.00 when they know their recommendation will be shot down. If certain people don't want it, it won't happen. He wants to give them the opportunity to attempt it. Commissioner Brenemen stated some of the questions are outdated and need

to be changed. Commissioner Taylor agreed the questionnaire was cumbersome and a deterrent to applicants.

Gene Kistler, via Zoom, discussed how the plan was created due to congestion and there was a 2005 update that was never adopted. He mentioned he believes Commissioner Louisos has a familial conflict of interest due to property it owns on Route 19. Commissioner Taylor stated she does not believe that allegation to be true since Commissioner Louisos' interest in reviewing the Route 19 plan to facilitate economic development is consistent with similar concerns he has expressed about the UDC. She further stated making such comments is unproductive. Commissioner Brenemen stated both Senator Capito and Senator Manchin believe there will be an increase in traffic of 28 to 30% due to the renaming of the park. Commissioner Taylor stated she felt the Commission needs to look at this very closely to anticipate how to accommodate the increase in tourists. Mr. Kistler stated the County needs to direct opportunity where the infrastructure already exists. Commissioner Brenemen asked Mr. Ciliberti to research which entity has the final say on this plan. This matter will be placed on the January 29th agenda and specifically say for discussion for removal or modification.

Staff Accountant Ruth Lanier presented the Enterprise Lease Pay off for the cruiser leases. The payoff amount from Enterprise is correct. The county has the money to pay off the lease from CARES Act reimbursements and this will allow for substantial savings. The Commission needs to decide if it would like to pay off the leases. Commissioner Taylor motioned to approve paying off the leases due to the savings. Commissioner Louisos seconded. Unanimous decision.

Discussion was held of Boards and Commissioner appointments. Commissioner Taylor volunteered for LEPC and EETSAB. Commissioner Taylor said all minutes from all committees and boards need to be made available to the Commission and be public record. Commissioner Louisos has requested this in the past as well. Commissioner Taylor would like to have cloud storage for the county to store Commission agendas, minutes and videos of meetings given the size of the files. Commissioner Taylor also asked for an agenda item at first meeting in July to review board participation in the NRGDA given its past failure to serve Fayette County, but also considering the appointment of a new program manager who may change that dynamic. Commissioner Taylor asked questions about several boards and their functions and initiated a discussion about deciding board assignments. Commissioner Brenemen stated he had made board assignments and Commissioner Taylor stated she believed that matter should involve discussion and input of all commissioners to ensure each plays to his or her interests and strengths. Commissioner Brenemen stated that the following boards need the Commission president as a member: NRGDA Workforce, LEPC and Region IV. Commissioner Taylor stated she believed the statute stated most of those boards could be staffed by the Commission president or his designee. She also reiterated she would like to create a board for wage and benefits review per the statute. Board assignments and creation of the new board were tabled until the next meeting.

Discussion was held regarding the Covid Task Force. Commissioner Taylor feels like the Commission should exert leadership at the county level regarding the pandemic. Commissioner Brenemen stated the leader of the task force is the Health Department because it holds the most responsibility in relation to health care, and stated the County model

is structured like the governor structured the state model.

Commissioner Taylor disagreed, stating the governor leads while being informed by health officials and there are broader implications for the County than just the health information component.

The meeting was adjourned at 1:46 p.m.