

APPROVED: _____

DATE: _____

**MINUTES
PUTNAM COUNTY COMMISSION REGULAR SESSION
May 14, 2019**

OPENING

Commissioners Stephen A. Andes, Ronald R. Foster and R. Andrew Skidmore were present when the 9:00 a.m. meeting convened in the Putnam County Commission Chambers by County Clerk Brian Wood. The Pledge of Allegiance followed.

BRIAN WOOD, COUNTY CLERK

Mr. Wood presented the following documents for the Commissioner's approval and signature:

1. Edit registers and checks

Commissioner Andes made a motion to approve and sign the presented documents. Commissioner Skidmore seconded the motion. The motion carried unanimously.

GENERAL BUSINESS

Commissioner Andes made a motion to approve the minutes of April 25, 2019. Commissioner Skidmore seconded the motion. The motion carried unanimously.

ERRONEOUS ASSESSMENTS

Commissioner Andes made a motion to approve the Erroneous Assessments as presented:

Kathleen Chandler, Steven E. Comer et al, James R. McCallister, two for John &/or Margaret Reffett, Mark S. &/or Tata L. Tinsley

6 Erroneous Assessment were approved totaling \$1,751.88 in deduction of taxes.

Commissioner Skidmore seconded the motion. The motion carried unanimously.

COURT ORDERS APPROVED

Commissioner Andes made a motion to approve and sign the following orders, personnel payroll changes and certifications:

1. An Order to delete from payroll Bryan Simpson, Part-time, Office Assistant, Department 402, effective March 8, 2019 as presented by the Commission Secretary

2. An Order to add to payroll Carley Stover, Part-time, Telecommunicator, Department 712, \$14.00/hourly, effective April 29, 2019 as presented by the Commission Secretary
3. An Order to add to payroll Cheryl Whitt, Part-time, Telecommunicator, Department 712, \$14.00/hourly, effective May 10, 2019 as presented by the Commission Secretary
4. An Order to add to payroll Kimberly Myles, Full-time, Tax Clerk, Department 404, \$10.50/hourly, effective May 20, 2019 as presented by the Commission Secretary
5. An Order to re-appoint Jeremy Young to serve on the Enact Board, effective April 20, 2019 with a term to expire on April 20, 2020 as presented by the Commission Secretary

Commissioner Skidmore seconded the motion. The motion carried unanimously.

STEVE DEWEESE, SHERIFF

Sheriff Steve Deweese presented awards to Corporal Ricardo A. Phillips from West Virginia State Police and Sergeant Shane Shamblin from Putnam County Sheriff's Department who are co-winners of the Miller Award with 30 DUI arrests.

Commissioner Skidmore read resolutions for the Miller Award to recognize Corporal Ricardo A. Phillips from West Virginia State Police and Sergeant Shane Shamblin from Putnam County Sheriff's Department who are co-winners with 30 DUI arrests and Corporal Heather D. Harrison from Putnam County Sheriff's Department who came in second place with 28 DUI arrests.

SHERRY HAYES, ASSESSOR

Sherry Hayes presented the Commission with an "Oath and Certification" for the 2019 Land Tax Books for signature. Commissioner Andes made a motion to accept and sign the "Oath and Certification" for the Land Books as presented by Mrs. Hayes. Commissioner Skidmore seconded the motion. The motion carried unanimously.

PUBLIC COMMENTS

Natalie Adkins Hansen appeared before the Commission to provide additional information on two residential homes located on Cross Lanes Drive being used as substance abuse homes and acknowledged County Attorney Larry Frye has been very helpful in gathering information. Ms. Hansen spoke to WV DHHR Deputy Commissioner Elliott Birkhead who said our county could adopt the utilization of standards with the National Alliance for Recovery Residences, which is governed by the program. Ms. Hansen also asked the Commissioners to request the Sheriff's department to increase their presence in the area.

SENATOR GLENN JEFFRIES

Senator Jeffries appeared before the Commission to read a resolution for the designation of the section of highway on US 35, starting at Teays Valley Road and ending at the first interchange to be named the U.S. Army SP5 James Henry Caruthers Memorial Road.

RESOLUTION

Commissioner Andes read a resolution stating the WV Department of Transportation renamed a portion of US 35 in honor of James H. Caruthers, Jr. who was dedicated to Putnam County and its citizens.

LARRY FRYE, COUNTY ATTORNEY

County Attorney Larry Frye appeared before the Commission to report his findings regarding the behavioral health facility on Overlook Drive. Mr. Frye believes the main concerns are that Knollwood Subdivision is zoned as a R-1, which is a single family residence and the proposed ICF IDD Group Home is a business and it has been determined that the facility is within five miles of the Prestera Center. Mr. Frye said WV Code § 27-17-1 defines a group residential facility and a group residential home. WV Code § 27-17-2 states both a group residential facility and a group residential home shall be permitted residential use of property for the purpose of zoning and shall be a permitted use in all zones or districts. No county commission, governing board of municipality or planning commission shall require a group residential facility, its owner or operator, to obtain a conditional use permit, special use permit, special exception or variance for location of such facility in any zone or district. WV Code § 27-17-4 says any restrictions, reservation, condition, exception or covenant in any subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease or use of property which would permit residential use of property but prohibit the use of such property as a group residential facility or group residential home shall, to the extent of such prohibition, be void as against the public policy of this State and shall be given no legal or equitable force or effect. In effect, the legislature has said any subdivision restrictions, covenants have no force or effect when it comes to these group homes or group facilities and has declared them to be residential use. Mr. Frye referenced State Code § 16-2D-8 (24)(A) in regards to the group home being located within five miles of the Prestera Center, which states establishing no more than six four-bed transitional intermediate care facilities: provided, that none of the four-bed sites shall be within five miles of another or adjacent to another behavioral health facility. Mr. Frye spoke to the Interim Executive Director of the WV Health Care Authority Barbara Skeen and General Counsel Alan Campbell who assured him that the legislation intent of that statute meant that the facility could not be within five miles of another ICF IDD facility. Mr. Frye said Prestera is not an ICF IDD facility; therefore, it is not prohibited to be within that area. Mr. Frye clarified when he reads the statute he understands that they are referring to another four-bed facility and feels if they had meant it could not be within five miles of any mental or behavioral health facility, then they would have used that language. Mr. Frye said he does not know anything that can be done to keep the facility out with the exception of talking to the legislature who adopted these laws. The County Commission, the Planning Commission, and even the municipalities do not have the authority to do any type of regulation of these facilities.

PUBLIC COMMENTS

William Dempsey said he moved to Knollview, which is zoned R-1 to provide a sturdy foundation for his family. Mr. Dempsey spoke to Senator Carmichael and Senator Tarr. He stated Senator Carmichael agreed in Senate Bill 565 it says a group home should not be going in within five miles of another mental health facility and Prestera met his interpretation of this. Mr. Dempsey stated Genesis Health Care assured him they can care for the type of patients

who will be living in the Starlight facility. Mr. Dempsey believes this facility will decrease their residential home values. Mr. Dempsey provided impact statements and a petition as evidence.

Kipp Beaver lives next door to where the facility will be. He has lived in Putnam County his entire life and works out of town. He spoke to the Attorney General about Starlight who said they have paid their taxes. Mr. Beaver feels Putnam County has lost its sovereignty and the people in Overlook have lost their due process. Mr. Beaver said the minimum requirements to work at the facility is a high school diploma, drivers license, a car, and CPR accreditation.

Billie DeLung said her husband is a veteran who is in a wheelchair with Agent Orange. They live across the street from the property being purchased by Starlight. Mrs. DeLung said her husband enjoys spending time on the porch and she fears for his safety. She also knows the home will require significant renovations.

Natalie Hansen spoke about the importance of setting standards for behavioral health facilities and substance abuse homes.

Commissioner Andes asked Larry Frye if the Commission can file an injunction and Mr. Frye said he could look into it in order to get more questions answered.

Commissioner Skidmore does not feel this was a clean piece of legislation. Commissioner Skidmore asked Mr. Frye what legal avenues the Commission has and the possible cost involved should we pursue an injunction. Mr. Frye said he feels the language in State Code § 16-2D-8 (24) (A) is clear. The initial cost is about \$200 to file the injunction and if the court feels this is frivolous suit, then we could be liable for several thousand dollars.

President Foster reviewed the legislative process with Mr. Frye. President Foster is skeptical that a judge would throw it out for being frivolous and in his opinion if it were thrown out it would be relatively quickly. He asked if we could have some sort of licensing requirement in the county to make sure they have a four-bedroom facility, and write specific rules and regulations so they would have minimal effects to our citizens. Mr. Frye referred to WV Code § 27-17-2 that states you cannot have rules and regulations.

Commissioner Andes asked if Mr. Frye if we could check to see if we could have warning of these facilities in the form of a public hearing.

Kim Beaver is concerned that the people caring for the residents are not required to have specific qualifications.

Kipp Beaver said the Commission has given them more hope than anybody else has. Mr. Beaver asked if they could join our suit if we file and Mr. Frye confirmed they could.

William Dempsey stated they closed on the home on May 5, 2019.

The Planning Director Timothy Smith said he notified the homeowners as soon as he found out about the plans.

Commissioner Andes made a motion to proceed with legal action with an injunction to stop Starlight in order to get more information. Commissioner Skidmore seconded the motion. The motion carried unanimously.

President Foster made a motion to do a Resolution by the Commission to present the information to our local representatives to have them modify Senate Bill 575 to require notification of the residential area that it affects and give them the opportunity for a public hearing. President Foster wants to require that personnel be properly trained with a definition of the training and require licensing to allow the counties to establish a licensing requirement. Commissioner Andes seconded the motion. The motion carried unanimously.

TERRY MARTIN, RIC

Mr. Martin withdrew his payment request #3 and requested it to be on the agenda for May 30, 2019. Mr. Martin said they are working diligently on the income surveys and should have results on May 30, 2019.

EXECUTIVE SESSION

At 10:18 a.m., Commissioner Andes made a motion to enter into executive session for a board interview with William Cragg for Putnam County Fire Service Board. Commissioner Skidmore seconded the motion. The motion carried unanimously.

At 10:32 a.m., Commissioner Skidmore made a motion to enter back into regular session. Commissioner Andes seconded the motion. The motion carried unanimously.

TIM HANNA, PROJECT COORDINATOR

Commissioner Andes made a motion to issue a check from the General County Fund in the amount of \$7,494.00 payable to the City of Winfield for reimbursement out of the Putnam County Recreation Enhancement Fund as presented by Mr. Hanna. Commissioner Skidmore seconded the motion. The motion carried unanimously.

LARRY FRYE, COUNTY ATTORNEY

County Attorney Larry Frye presented a petition and a certified copy of the affidavit filed notifying anyone who has any interest in it to abandon unused alleyway located in North Nitro district in Hometown and ask it to be made part of the public record. The petitioning landowners are Paul Cottrill and Sharlee Eads represented by Deborah Price. Ms. Price confirmed Paul Cottrill is one of the petitioners. Paul Cottrill purchased his property from his grandparents' estate in 2005 and has been maintaining the property that adjoins his. Ms. Price confirmed nobody has used this property and Mr. Cottrill is willing to pay the taxes. President Foster asked if there is any zoning in this area and Mr. Frye did not believe so. Ms. Price confirmed Sharlee Eads is the other petitioner. Ms. Eads is the property owner that adjoins the property on the other side. Ms. Eads constructed a building on the property with a building permit through the Planning office. Ms. Eads wishes to acquire the property and confirmed nobody else uses this property.

After a brief discussion on ownership of the property, Commissioner Andes made a motion to postpone the decision until a title search is completed to prove lack of ownership. Commissioner Skidmore seconded the motion.

Commissioner Andes amended his motion to approve the abandoned alleyway conditional upon evidence of a proper title search. Commissioner Skidmore seconded the motion. The motion carried unanimously.

Commissioner Andes made a motion to designate Jonathan Davis to serve as the Putnam County Chief Humane Officer and appoints Shawn Martin and Laura Byrnes as Putnam County Humane Officers as presented by Mr. Frye. Commissioner Skidmore seconded the motion. The motion carried unanimously.

ESTATE SETTLEMENTS

The Fiduciary Supervisor Mr. Frye presented the following documents to the Commission and recommended that they be approved as presented:

Short Form Settlements: Gary Philip Adkins, John Walter Cantrell, Beatrice Cora Dunphy, Margaret Jo Finney, William Kenneth Frampton, Ginger Lynn Grose, Robert E. Lee Harrison, Harold Wayne Marion, Darren Gene McComas, Beverly Ray McCoy, aka, Ray McCoy, Herbert Daniel Nutter, Clara Mae Parker, Evelyn Caroline Pell, James Vernon Pritt, Harry Alex Raczok, Earl Richard Saunders, Cornelius Willard Simon, Jr., Joan Smith, Jewell Karen Sovine, Warren Clyde Sovine, Ada Jude Wendell

Long Form Settlement: Vivian Manilla Bird, Dewey Rucker, Billie Jean Santrock, Joyce Annette Winter

An Order to disburse the sum of \$125.00 from the Fiduciary Special Fund made payable to State Tax Department for estate tax administration fees.

An Order to disburse the sum of \$310.00 from the Fiduciary Special Fund made payable to Brian Wood, Clerk, for recording settlements.

An Order to approve the Partial Settlement of Beverly Hope Hinrichs, Executrix, for the Estate of Helen Louise Beckett and the partial distribution contained therein.

An Order to approve the Annual Accounting of Robert L. Withrow, Executor, for the Estate of Woodrow L. Withrow and the partial distribution contained therein.

An Order to reopen the estate of Lavania Lucille Hoffman and appoint Mary L. Alderson as Executrix for the sole purpose of amending the appraisal to add mineral rights.

An Order to reopen the estate of Robert A. Williams and appoint Patricia L. Williams as Administratrix for the sole purpose of asbestosis litigation.

An Order of "Estate Listing" of Actions of Fiduciary Supervisor from April 20, 2019 through May 10, 2019.

Commissioner Andes made a motion to approve the documents as presented and authorize the President to sign. Commissioner Skidmore seconded the motion. The motion carried unanimously.

JEREMY YOUNG, COUNTY MANAGER

Mr. Young presented the following orders for approval:

Commissioner Andes made a motion to approve a budget revision for the Circuit Clerk Fund #403 for contracted services as presented by Mr. Young. Commissioner Skidmore seconded the motion. The motion carried unanimously.

Commissioner Andes made a motion to approve a budget revision for the Prosecutor's Office Fund #405 for supplies and materials as presented by Mr. Young. Commissioner Skidmore seconded the motion. The motion carried unanimously.

Commissioner Andes made a motion to approve a budget revision for the Sheriff's Department Fund #700 for maintenance and repair for equipment as presented by Mr. Young. Commissioner Skidmore seconded the motion. The motion carried unanimously.

1. An Order to issue a check from the Putnam County Community Criminal Justice Fund in the amount of \$1,456.00 payable to Thomas M. Lyvers, Sr. for professional services rendered for April 22, 2019 to April 30, 2019
2. An Order to issue a check from the Putnam County Community Criminal Justice Fund in the amount of \$624.00 payable to Thomas M. Lyvers, Sr. for professional services rendered for May 1, 2019 to May 3, 2019
3. An Order to issue a check from the Putnam County Community Criminal Justice Fund in the amount of \$576.00 payable to Track Group for monitoring
4. An Order to issue a check from the Putnam County Community Criminal Justice Fund in the amount of \$150.00 payable to Call2test, LLC for April 2019 invoice
5. An Order to issue a check from the Putnam County Community Criminal Justice Fund in the amount of \$101.62 payable to Galls
6. An Order to issue a check from the Putnam County Community Criminal Justice Fund in the amount of \$56.06 payable to Office Depot
7. An Order to issue a check from the Putnam County Community Criminal Justice Fund in the amount of \$860.00 payable to C V Management for June 2019 invoice Unit #1

8. An Order to issue a check from the Putnam County Community Criminal Justice Fund in the amount of \$860.00 payable to C V Management for June 2019 invoice Unit #4
9. An Order to issue a check from the Putnam County Community Criminal Justice Fund in the amount of \$1,455.00 payable to Kimberly Sizemore for professional services rendered for April 2019 invoice
10. An Order to issue a check from the Putnam County Community Criminal Justice Fund in the amount of \$667.50 payable to Chris Moles for professional services rendered for April 2019 invoice
11. An Order to issue a check from the Putnam County Community Criminal Justice Fund in the amount of \$260.00 payable to QLABS

Commissioner Andes made a motion to approve the orders as presented. Commissioner Skidmore seconded the motion. The motion carried unanimously.

EXECUTIVE SESSION

At 11:01 a.m., Commissioner Skidmore made a motion to enter into executive session with Nyle Whittington on transition of maintenance department. Commissioner Andes seconded the motion. The motion carried unanimously.

At 11:33 a.m., Commissioner Andes made a motion to enter back into regular session. Commissioner Skidmore seconded the motion. The motion carried unanimously.

BOARD APPOINTMENTS

Commissioner Andes made a motion to appoint Jeremy Young to serve on the Enact Board, effective April 20, 2019 with a term to expire on April 20, 2020. Commissioner Skidmore seconded the motion. The motion carried unanimously.

ADJOURN

At 11:34 a.m., having no further business, Commissioner Andes made a motion and Commissioner Skidmore seconded to adjourn the regular session of the County Commission until Thursday, May 30, 2019 at 5:30 p.m.

Respectfully submitted,

Marcie Kimberling
Secretary