

AGENDA FOR THE REGULAR MEETING OF PARKERSBURG
CITY COUNCIL FOR TUESDAY, AUGUST 14, 2012, 7:30 PM
SECOND FLOOR, COUNCIL CHAMBERS, MUNICIPAL BUILDING

I. CALL TO ORDER – Council President, Tom Joyce

II. PRAYER

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL

V. MINUTES – Regular council meeting held July 24, 2012

VI. REPORTS FROM STANDING OR SPECIAL COMMITTEES

VII. MESSAGE FROM THE EXECUTIVE

VIII. PUBLIC FORUM

IX. RESOLUTIONS

1. Resolution temporarily lifting the restrictions in City Park Rules and Regulations to allow the possess and consumption of wine and beer within Bicentennial Park and Point Park for two additional concert series at Point Park on August 24th and August 31st. (Sponsored by Councilmen Lynch, Reed, and Reynolds)

2. Resolution authorizing Mayor Robert Newell to sign and enter into a contractual agreement with the Division of Justice and Community Service to receive \$20,000.00 for one (1) PRO officer for the school year 2012/2013. (Sponsored by Councilmen Lynch, Reed, Rockhold, and Sandy)

X. ORDINANCE, FIRST READING:

3. An ordinance authorizing the Finance Director to conduct an auction on September 8, 2012. (Sponsored by Councilmen Kimes, Rockhold, and Joyce)

4. An ordinance to approve current replacement pages to the codified ordinances of the City of Parkersburg for 2012. (Sponsored by Councilmen Rockhold, Kimes, and Reed) (professional codification service requirement)

5. An ordinance to abandon a 20' portion of public right of way (alley), north of 7th Street, east of Oakhurst Avenue, north of 13th Street, and south of 14th Street. (Sponsored by the Municipal Planning Commission)

6. An ordinance to abandon a 20' portion of public right of way (alley) south of 7th Street, north of Bird Street. (Sponsored by the Municipal Planning Commission.)

XI. ADJOURNMENT

JOURNAL OF THE CITY COUNCIL, NO. 53

PARKERSBURG, W. VA., July 24, 2012

The Council of the City of Parkersburg met in regular session Tuesday, July 24, 2012, at 7:30 PM on the second floor in the Council Chambers of the Municipal Building at One Government Square, Parkersburg, WV 26101.

The meeting was called to order by Council President, Tom Joyce, who presided over the meeting. Councilwoman Nancy Wilcox led the Lord's Prayer and Pledge of Allegiance, and the clerk noted the attendance as follows: Those attending included Councilmen Nancy Wilcox, Sharon Lynch, Brad Kimes, John Sandy, Sharyn Tallman, Mike Reynolds, John Rockhold, Jim Reed, and Tom Joyce.

MINUTES – Mr. Sandy moved, seconded by Mr. Kimes, to approve the minutes from the meeting held July 10, 2012, and the motion was adopted by unanimous vote.

REPORTS – there were no reports.

MESSAGE FROM THE EXECUTIVE – there was no message from Acting Mayor, Joe Santer.

PUBLIC FORUM – Mr. Ron Jaibert, 61 Canterbury Drive, Parkersburg, WV spoke to Council briefly concerning the ordinance on the agenda this evening to remove the word "free" from handicapped parking spaces. Mr. Jaibert knew this was allowed and offered suggestions on how to make meters legally accessible for wheelchairs, etc., and he also noted that some signs should be changed as well.

Mr. John R. Swales III, 1713 Washington Avenue, appeared before Council thanking them for recommending the funds in the public works committee to pave Washington Avenue from Park Avenue to Liberty Street, which is included in a proposed budget revision this evening. He said the street needed paved, and had been patched repeatedly, and mentioned the many reasons that people walk on their street taking advantage of the charm of their neighborhood.

RESOLUTION – the clerk presented a resolution appointing Mrs. Kim Stone, 1701 Market Street, to the Parkersburg-Wood County Library Board for a five year term to expire July 1, 2017.

Mr. Scott Ramsey, member of the Board, and Mr. Brian Raitz, Director of the Board, appeared recommending Mrs. Stone for this position, and gave Council a background on the nominee.

MOTION – Mr. Sandy moved, seconded by Ms. Wilcox, to adopt the resolution, and the motion was adopted by unanimous vote.

RESOLUTION – the clerk presented a resolution requesting a budget revision in the amount of \$80,000.00 out of Capital Reserve Fund to the General Fund to maximize the paving contract and include Washington Avenue from Liberty Street to Park Avenue.

MOTION – Mr. Reynolds moved to adopt the resolution, but there was no second to the motion.

ORDINANCE, FINAL READING:

AN ORDINANCE AMENDING ARTICLE 351.17, ACCESSIBLE PARKING;
PARKING SPACE DESIGNATION AND QUANTITY;
FRAUD PROVISIONS AND FINES.

THE COUNCIL OF THE CITY OF PARKERSBURG HEREBY AMENDS Article 351.17 (k) as follows:

(k) Free stopping, standing or parking places marked with the intentional symbol of access shall be designated in close proximity to all public entities, including state, county and municipal buildings and facilities, places of public accommodation and commercial facilities. These parking places shall be reserved solely for person with a mobility impairment at all times.

MOTION – Mr. Rockhold moved, seconded by Ms. Wilcox, to adopt the ordinance on final reading.

Councilman Sandy asked Mr. Santer if the ordinance should be modified at this time, based on some recommendations from Mr. Jalbert earlier this evening. Mr. Santer said that each parking space would be treated by a prior ordinance, and we may come back to Council at a later time.

VOTE – the motion was adopted by unanimous vote.

The meeting adjourned at 7:50 PM.

Cornie Spahr
City Clerk

Council President

RESOLUTION

TS
Whereas the Downtown Development On Trac Task Force in cooperation with the City of Parkersburg will be promoting and sponsoring events in Bicentennial Park and Point Park; and

Whereas some of these events allow for the tasting and enjoyment of wines and brewed beers; and

Whereas the City of Parkersburg has certain restrictions on the possession and consumption of alcoholic beverages within its City Parks; and

Whereas, for the purpose of the Point Park concert series scheduled for August 24th and 31st, the City wishes to grant a limited exception to such restrictions for these dates.

Now therefore be it resolved by the Council of the City of Parkersburg that the restriction contained in Section IX. Subpart A of the Rules and Regulations for the Parkersburg City Parks is amended by temporarily lifting said restrictions to allow the possession and consumption of wine and beer within the Bicentennial Park and Point Park for these events.

Sponsored by: Councilmen Lynch, Reed, and Reynolds



RESOLUTION

Be It Resolved that the Council of the City of Parkersburg authorizes Robert D. Newell, Mayor of the City of Parkersburg, to act on the City's behalf to sign and enter into a contractual agreement with the Division of Justice and Community Services to receive and administer grant funds (\$20,000.00) pursuant to provisions of the Justice Assistance Grant Program, for one (1) Prevention Resource Officer (PRO) for the school year 2012-2013.

Sponsored by Councilmen: Lynch, Reed, Rockhold and Sandy

A copy of the Grant Contract, Standard Conditions and Assurances and Special Conditions and Assurances and Certifications Regarding lobbying etc., and Certification Forms are attached and made apart hereof.

GRANT CONTRACT AGREEMENT

BETWEEN

DIVISION OF JUSTICE AND COMMUNITY SERVICES

AND

City of Parkersburg

12-JAG-21

This **AGREEMENT**, entered into this **27th day of June 2012** by the Director of the Division of Justice and Community Services, hereinafter referred to as "DJCS", and the **City of Parkersburg**, hereinafter referred to as "Grantee."

WHEREAS, DJCS is the recipient of a Justice Assistance Grant from the United States Department of Justice, and

WHEREAS, the Grantee is an eligible applicant who is desirous of receiving funds for: **Funds will provide for one Prevention Resource Officer (PRO) in the City of Parkersburg.**

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. The Grantee agrees to comply with all applicable federal and state laws and rules, regulations and policies promulgated thereunder.
2. DJCS agrees to assist the Grantee to perform such tasks and functions as set forth in the application which is attached hereto and made part hereof, hereinafter referred to as Attachment A.
3. The Grantee shall do, perform, and carry out in a satisfactory and proper manner as determined by DJCS all duties, tasks and functions necessary to implement the application which is hereto attached as Attachment A.
4. The Grantee will commence its duties under the Agreement on **July 1, 2012**, and shall continue those services/activities until **June 30, 2013**. The terms of this Agreement may only be extended or modified by the mutual written agreement of the parties hereto.

5. In consideration of the services rendered by the Grantee, the sum of up to \$20,000.00 all be obligated by DJCS and said amount shall be deemed to be the maximum compensation to be received for this Agreement unless a written modification is entered into between the parties amending this Agreement.
6. It is the understanding of all parties to this Agreement that DJCS by joining in the Agreement does not pledge, or promise to pledge, the credit of the State of West Virginia, nor does it promise to pay all of the compensation hereunder from monies of the Treasury of the State of West Virginia.
7. To be eligible for any and all payments of the grant amount, the Grantee shall submit a Request for Funds once per month to DJCS. Upon receipt of said request, DJCS shall review the same for reasonableness and appropriateness; and if approved, will cause a warrant to be requested on that sum considered reasonable and appropriate. It is expressly understood that the total compensation shall not exceed the amount set forth in Paragraph Five hereinbefore cited and said compensation will be expended only as outlined in the budget sections of Attachment A, unless written approval of modification of the budget is signed by the parties hereto. Grantee shall submit a fiscal report detailing expenditures to DJCS by the twentieth (20th) day of each month.
8. Grantee hereby represents that it possesses the legal authority to contract for this Agreement and that attached hereto and made a part hereof as Attachment B is a certified copy of the resolution, motion or similar action which was clearly adopted or passed by the Grantee's governing body; and further, that it has directed and authorized an official representative to act in connection with this Agreement. If the Grantee is a State agency, the completed application signed by the agency head is sufficient.
9. Grantee agrees to abide by the grant conditions, terms, assurances and certifications which are a part of Attachment A and such other special terms and conditions that DJCS has set forth in Attachment C which is incorporated herein and made part hereof, if said Special Conditions are appropriate to this Agreement.
10. If, through any cause, the Grantee shall fail to fulfill in a necessary and proper manner, obligations under this Agreement, the DJCS may withhold payments to the Grantee upon notice in writing, suspend, or cancel this Agreement and Attachments. The notice of withholding payments, suspension, or cancellation should set forth the DJCS reasons for taking said action.
11. DJCS and Grantee may from time to time require changes in the scope of services performed hereunder. Grantee agrees to submit a written request for modification prior to changing any budget line item. All such changes, including any increase or decrease in the amount of compensation hereunder or work to be performed, which are mutually agreed upon between the parties shall be in writing.
12. If for any reason funds received by DJCS are suspended or terminated, in whole or in part, funding for this Agreement shall cease.

13. Grantee shall within the time period prescribed by grant conditions upon the termination of the Agreement, submit to DJCS a final report on forms provided by DJCS. Said reports shall reflect actual costs incurred during the terms of this Agreement.
14. The parties hereto agree that notice shall be given by personal service or served when mailed certified U.S. Mail, postage prepaid, return receipt requested to the following addresses:
 - a. Division of Justice and Community Services
1204 Kanawha Boulevard, East
Charleston, West Virginia 25301
 - b. Grantee Mailing Address:

City of Parkersburg
#1 Government Square
Wood, West Virginia 26102
15. The Grantee shall hold and save DJCS and its officers, agents and employees harmless from liability of any nature, including cost and expense, for or on account of any suits or damages of any character whatsoever resulting from injuries or damages sustained by any persons or property resulting in whole or in part from the negligent performance or omission of any employee, agent or representative of the Grantee.

IN WITNESS WHEREOF, the parties hereto attach their signatures representing that each is acting with full authority.

Robert D. Newell, Mayor
City of Parkersburg

J. Norbert Federspiel, Director
Division of Justice and Community Services

**WEST VIRGINIA
DIVISION OF JUSTICE & COMMUNITY
SERVICES**

STANDARD CONDITIONS AND ASSURANCES

All correspondence to DJCS, which is required and/or occurs as a result or action of any of the following Special Conditions and Assurances, or as a result of the administration of any DJCS grant program, should be mailed to the following address:

West Virginia Division of Justice & Community Services
1204 Kanawha Boulevard, East
Charleston, West Virginia 25301

1. LAWS OF WEST VIRGINIA:

This grant application/contract shall be governed in all respects by the laws of the State of West Virginia. State procedures and practices will apply to all funds disbursed by DJCS, regardless of the original funding source. This grant is on a "REIMBURSEMENT ONLY" mechanism.

2. LEGAL AUTHORITY:

The applicant hereby certifies it has the legal authority to apply for the grant; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directly authorizes the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

3. RELATIONSHIP:

The relationship of the grantee to DJCS shall be that of an independent contractor, not that of a joint enterprise. The grantee shall have no authority to bind DJCS for any obligation or expense without the express prior written approval from DJCS.

4. COMMENCEMENT WITHIN 60 DAYS:

This project must be operational within 60 days of the project starting date, as specified in the grant contract agreement. If the project is not operational within 60 days of the specified project starting date, the grantee must report by letter to DJCS, the steps taken to initiate the project, the reasons for delay, and the expected starting date.

5. OPERATIONAL WITHIN 90 DAYS:

If the project is not operational within 90 days of the specified project starting date, the grantee must submit a second statement to DJCS explaining the delay in implementation. Upon receipt of the 90-day letter, DJCS may cancel the project and redistribute the funds to other project areas and/or eligible applicants.

6. WRITTEN APPROVAL OF CHANGES:

The grantee must obtain prior written approval from DJCS for all project changes (programmatic, fiscal or otherwise).

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7. CIVIL RIGHTS COMPLIANCE:

Grantee will comply with any applicable federal nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d); the Victims of Crime Act (42 U.S.C. § 10604(e)); the Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b)); the Civil Rights Act of 1964 (42 U.S.C. § 2000d); the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131-34); the Education Amendments of 1972 (20 U.S.C. §§ 1681, 1683, 1685-86); the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07); 28 C.F.R. pt. 31 (U.S. Department of Justice Regulations-OJJDP Grant Programs); 28 C.F.R. pt. 42 (U.S. Department of Justice Regulations-Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); Exec. Order No. 13279 (equal protection of the laws for faith-based and community organizations); Exec. Order No. 13559 (fundamental principles and policymaking criteria for partnerships with faith-based and neighborhood organizations); and 28 C.F.R. pt.38 (U.S. Department of Justice Regulations-Equal Treatment for Faith-Based Organizations).

In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, or sex against a recipient of funds, the grantee will forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs and the West Virginia Division of Justice and Community Services.

8. PRESS RELEASE:

Pursuant to the Stevens Amendment, any release of information pertaining to this grant must include the following information:

1. grant amount;
2. State involvement (name of state entity responsible for administering the grant); and,
3. Federal involvement if applicable (name of federal entity responsible for administering the grant).

9. LOBBYING:

Grantee will comply with any and all lobbying provisions and/or restrictions as outlined in OMB circular A-122, and/or relevant State laws.

10. ACCESS TO RECORDS:

DJCS, through any authorized representative, shall have access to and the right to examine all records, books, papers, or documents related to the grant and to relevant books and records of contractors.

11. CONFLICT OF INTEREST:

No public official or employee of the grantee agency, who performs any duties under the project, may participate in an administrative decision with respect to the project if such a decision can reasonably be expected to result in any benefit or remuneration to that individual or that individual's immediate family.

12. POLITICAL ACTIVITY:

The Hatch Act restricts the political activity of executive branch employees of the federal government, District of Columbia government and some state and local employees who work in connection with federally funded programs. In 1993, Congress passed legislation that significantly amended the Hatch Act as it applies to federal and D.C. employees (5 U.S.C. §§ 7321-7326). (These amendments did not change the provisions that apply to state and local employees. 5 U.S.C. §§ 1501- 1508.)

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13. RELEASE OF INFORMATION:

All records, papers and other documents kept by recipients of grant funds are required to be made available to DJCS. These records and other documents submitted to DJCS and its grantees, including plans and application for funds, reports, etc., may be subsequently required to be made available to entities under Federal Freedom of Information Act, 5. U.S.C. §552, or Chapter 29B, Article 1 (West Virginia Freedom of Information) of the West Virginia Code.

DJCS recognizes that some information submitted in the course of applying for funding under this program, or provided in the course of its grant management activities, may be considered law enforcement, personnel or juvenile sensitive or otherwise important to national or state security interests. This may include threat, risk, and needs assessment information, and discussions of demographics, transportation, public works, and industrial and public health infrastructures. While this information under state control is subject to requests made pursuant to the Chapter 29B, Article 1 of the West Virginia Code, **all** determinations concerning the release of information of this nature are made on a case-by-case basis by DJCS, and may fall within one or more of the available exemptions under the Act.

Grantees must consult applicable state and local laws and regulations regarding the release or transmittal of information to any entity which may be considered sensitive in nature. Applicants may also consult DJCS regarding concerns or questions about the release of potentially sensitive information under state and local laws.

14. NATIONAL AND STATE EVALUATION EFFORTS:

The grantee agrees to cooperate with any national and/or state evaluation efforts directly or indirectly related to this program as requested.

15. OBLIGATION OF PROJECT FUNDS:

Funds may not, without prior written approval from DJCS, be obligated prior to the effective start date or subsequent to the termination date of the project period. Obligations outstanding as of the project termination date shall be liquidated within thirty (30) days.

16. USE OF FUNDS:

Funds awarded through DJCS may be expended **ONLY** for the purposes and activities specifically covered by the grantee's approved project description and budget. By attaching their signature, the grantee recognizes that **any** deviations from the original grant budget are unallowable.

17. ALLOWABLE AND UNALLOWABLE COSTS:

Allowable and unallowable costs incurred under this grant shall be determined in accordance with General Accounting Office principles and standards.

18. PEER REVIEW SUB GRANTEE EVALUATION PROCESS:

The applicant agrees to discharge if necessary - at the request of DJCS - knowledgeable, competent personnel (preferably a Project Director) to participate in a contemplated "peer review" process/advisory council. The purpose of this process would be to assist DJCS in making grant funding recommendations and furthered policy development regarding individual grant programs throughout the State. This would be no more than 2-3 days per annum.

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19. NON-SUPLANTING:

Grant funds must be used to supplement existing funds for program activities and may not replace (supplant) funds that have been appropriated for the same purpose. Potential supplanting will be the subject of monitoring and audit. Violations can result in a range of penalties, including suspension of future funds under this program, suspension or debarment from state grants, recoupment of monies provided under this grant, and civil and/or criminal penalties. The grantee hereby certifies that funds made available under this grant will not be used to supplant other funding sources.

20. MATCHING CONTRIBUTION:

The grantee will have available, and will expend as needed, adequate resources to defray that portion of the total costs as set forth in this application as "match" and as approved by the West Virginia Division of Justice & Community Services. The applicant assures that the matching funds required to pay the grant portion of the cost of each program and project, for which funds are made available, shall be in addition to funds that would otherwise be made available for the proposed project by the recipients of grant funds and shall be provided on a project-by-project basis. Matching contributions are subject to the same expenditure guidelines established by the West Virginia Division of Justice & Community Services for this program. All grantees must maintain records that clearly show the source, the amount and the timing of all matching contributions. Please be reminded that if match is not "required" by the grant program for which you are making application, but committed and indicated on the budget pages of this application, then this special condition shall be affected.

21. PROJECT INCOME:

All income earned by the grantee as a result of the conduct of this project, must be accounted for and included in the total budget. Project income is subject to the same expenditure guidelines established by DJCS as are established for granted funds. All grantees must maintain records that clearly show the source, the amount and the timing of all project income. There is no waiver provision for the project income requirement.

22. CONSULTANT FEES:

Approval of this grant does not indicate an approval of consultant rates in excess of \$450 per day. Specific and detailed justification must be submitted to, and approved by DJCS prior to obligation or expenditure of such funds.

23. SUSPENSION OF FUNDING:

DJCS may suspend, in whole or in part, terminate, or impose other sanctions on any grantee funds for the following reasons:

- Failure to adhere to the requirements, standard conditions, or special conditions and assurances of this program;
- Failure to submit reports;
- Filing a false certification in this application or in another report or document; or,
- Other cause shown.

24. SANCTIONS FOR NONCOMPLIANCE:

In the event of the grantee's noncompliance with the terms, conditions, covenants, rules, or regulations of this grant, DJCS shall impose such contract sanctions, as it may deem appropriate, including but not limited to:

- Withholding of payments to the grantee until the grantee complies;
- Cancellation, termination or suspension of the contract, in whole or in part; or,
- Refrain from extending any further assistance to the grantee until satisfactory assurance of future compliance has been received.

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25. SUBMISSION/RELEASE OF PUBLICATIONS/PRESS RELEASES:

The grantee shall submit one copy of all reports and proposed publications resulting from this agreement to DJCS twenty (20) days prior to public release. Any publications (written, visual, sound, or otherwise), whether published at the grantee's or government's expense, shall contain the following statements:

"This document [product] was prepared under a grant from the West Virginia Division of Justice & Community Services (or simply "DJCS"). Points of view or opinions expressed in this document [product] are those of the authors and do not necessarily represent the official position or policies of the State of West Virginia or the Division of Justice & Community Services."

"This project supported by Grant No. _____ awarded by the West Virginia Division of Justice & Community Services and the U.S. Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also included the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the United States Department of Justice."

26. PROPERTY ACCOUNTABILITY:

The grantee shall establish and administer a system to control, protect, preserve, use, maintain, and properly dispose of any property or equipment furnished it, or made available through a grant by DJCS. This obligation continues as long as the property is retained by the grantee, notwithstanding the expiration of this agreement. Prior to sale, trade in or disposal of property, disposition instructions will be obtained from DJCS. Grantee assures inventory checks will be performed annually or pursuant to guidance promulgated in the Administrative Manual for this program (if applicable), with copies provided to DJCS. Property must be used for the intended grant purposes, if not being used in accordance with terms of the grant property will revert back to DJCS.

27. CRIMINAL PENALTIES:

Whoever embezzles or endeavors to embezzle, willfully misapplies, steals or obtains by fraud any funds, assets, or property which are the subject of grant or contractor or other form of assistance pursuant to this title, whether received directly or indirectly from the administration; or whether receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property to have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

Whoever knowingly and willfully falsifies, conceals, or covers up by trick, scheme, or device, any material fact in any application for assistance submitted pursuant to the Act shall be subject to prosecution under the provisions of Section 1011 of Title 18, United States Code. Any law enforcement and criminal justice program or project underwritten, in whole or in part, by any grant, or contract or other form of assistance pursuant to the Act, whether received directly or indirectly from the administration, shall be subject to the provisions of Section 871 of Title 18, United States Code.

28. REPORTS:

Each grantee shall submit such reports as DJCS shall deem reasonably necessary to the execution of monitoring, stewardship and evaluation of programmatic and fiscal responsibilities.

29. PURCHASING:

When making purchases relevant to the grant, the grantee will abide by applicable State and local laws, which address purchasing procedures by a state or local unit of government or other agency.

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30. COLLABORATION W/OTHER FED. AND STATE GRANTS:

Where warranted, this initiative/grantee shall make every effort to support or assist other federally funded or State grant programs in any manner, including but not limited to, providing personnel, supplies, equipment and any other resources deemed necessary by DJCS.

31. INFORMATION SYSTEMS:

With respect to programs related to criminal justice information systems, the grantee agrees to comply with the provisions of 28 CFR, Part 20 governing the protection of the individual privacy and the insurance of integrity and accuracy of data collection. The grantee further agrees:

- a. That all computer programs (software produced under this grant) will be made available to DJCS for transfer to authorized users in the criminal justice community without cost other than that directly associated with the transfer. The software will be documented in sufficient detail to enable potential users to adapt the system, or portions thereof, to usage on a computer of similar size and configuration.
- b. To provide a complete copy of the computer programs and documentation, upon requests, to DJCS. The documentation will include, but not be limited to, system description, operating instruction, program maintenance instructions, input forms, file descriptions, report formats, program listings, and flow charts for the system and programs.
- c. That whenever possible all application programs will be written in standardized programming languages (i.e. Cobol, Fortran, C, C++, XML, etc.) or will adhere to Open Database Connectivity format for use on general operating systems that can be utilized on at least three different manufacturers of computer hardware with similar size and configuration capabilities.
- d. To avail itself, to the maximum extent possible, of computer software already produced and available without charge. The Criminal Justice Systems Clearinghouse (916/392-2550) should be contacted to determine availability of software prior to any development effort.

32. INCIDENT BASED REPORTING COMPLIANCY:

Grant applicants (cities & county commissions) will not be considered for funding if the applicant is not current with submitting Incident Based Reporting (IBR) information to the West Virginia State Police (if applicable). Grantees must remain current with submitting IBR information to the West Virginia State Police or grant funding will be withheld until such time as that grantee becomes IBR compliant.

33. TIME EXTENSIONS:

In general, time extensions for this program will not be granted. Unexpended grant funds remaining at the close of the grant period shall be deobligated.

34. USE OF GRANT FUNDS TO ENACT LAWS, POLICIES, ETC.:

Grantee understands and agrees that it cannot use any grant funds, either directly or indirectly in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government.

35. LIMITED ENGLISH PROFICIENCY:

Grantee must take reasonable steps to provide meaningful access to their programs and activities for persons with limited English proficiency. For more information on the civil rights responsibilities that grantees have in providing language services to limited English proficiency individuals, please see the website www.lep.gov.

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36. COMPUTER EQUIPMENT:

Grantees purchasing computer equipment (hardware, software, or peripherals) with grant funds are required to adhere to the established bidding procedures for their respective units of government or agency. To ensure reputable vendors are obtained, grantees may consider utilizing the current applicable State computer contract. The following are minimum hardware requirements, as well as software requirements, established by DJCS for this grant program, which must be recognized when purchasing computer equipment, in whole or in part, utilizing grant funds:

Minimum Hardware Requirements:

- Intel Pentium III 733 MHz Processor; 133MHz front side bus
- 512K L2 Cache
- 128 MB SDRAM 100 MHz expandable to at least 384 MB
- 10 Gig. EIDE Ultra ATA 7200RPM Hard Drive
- 3.5" 1.44 MB Floppy Diskette Drive
- 48X Max Internal CD-ROM drive or 8X DVD-ROM drive
- 3 PCI, 1 16-bit ISA slot, 1 PCI/ISA (shared), 1 AGP slot
- ATI 8 MB AGP 2X Rage Pro Video Card
- 1 Parallel, 2 Serial, 2 USB
- 101/104-Key Keyboard (PS/2)
- PS/2 Port Compatible Mouse

Recommended Hardware Components:

- Mid-tower case
- 16-Bit 3D Sound Blaster Compatible w/ 64 voice wavetable and speakers (may be integrated)
- 3Com 10/100 PCI Ethernet Network Card
- APC UPS Backup power protection (adequate size to handle power load)
- Iomega Internal Zip Disk Drive

Software Requirements:

Whenever possible, software should operate within open industry standards. For example, Windows 2000 Operating System, Microsoft Office 2000 Professional, etc.

Warranty Requirements:

3 Year on-site warranty

37. PUBLIC SAFETY AND JUSTICE INFORMATION SHARING:

Grantees must support public safety and justice information sharing. The grantee is required to use the Global Justice Data Model specifications and guidelines for this particular grant. Grantee shall publish and make available without restriction all schemas (extensions, constraint, proxy) generated as a result of this grant to the component registry as specified in the guidelines. This information is available at www.it.ojp.gov/gjxdm.

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38. PROGRAM ACCOUNTABILITY – FEDERAL AUDIT REQUIREMENTS:

- I.) Federal Office of Management and Budget (OMB) Circular A-133 sets forth standards for obtaining consistency and uniformity for the audit of states, local government, and non-profit organizations expending Federal awards. If applicable, this grant shall adhere to the audit requirements set forth in OMB Circular A-133 at the time of award.

As of 10/1/04, the requirements set forth by OMB Circular A-133 are as follows: Non-Federal entities that expend \$500,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year. Non-Federal entities that expend less than \$500,000 a year in Federal awards are exempt from Federal audit requirements for that year, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office.

- II.) OMB Circular A-110 sets forth standards for obtaining consistency and uniformity for the audit of institutions of higher education, hospitals, and other non-profit organizations expending Federal awards. This grant shall adhere to the audit requirements set forth in OMB Circular A-110.

As if 10/1/04, the requirements set forth by OMB Circular A-110 are as follows: Recipients and sub recipients that are institutions of higher education or other non-profit organizations (including hospitals) shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 USC 7501-7507) and revised OMB Circular A-133.

- III.) If an audit must be conducted pursuant to OMB Circular A-133 and A-110, a copy of the audit shall be submitted to DJCS as well as to the Federal clearinghouse.

As of 10/1/04, the Federal clearing house is as follows:

Federal Audit Clearinghouse
Bureau of the Census
1201 E. 10th Street
Jeffersonville, IN 47132

39. PROGRAM ACCOUNTABILITY – STATE AUDIT REQUIREMENTS:

- I.) Sub grantee assures that it has read, understands, and is in full compliance with all requirements as set forth in §12-4-14., Code of West Virginia, or as amended, and is not currently debarred from receiving state grant funds as a result of non-compliance with §12-4-14. Sub grantee further understands that if it is currently debarred or is not in compliance with §12-4-14., it is ineligible to receive funding from the West Virginia Division of Justice Community Services.

40. CONFIDENTIALITY OF RESEARCH INFORMATION:

Pursuant to Section 229 of the Act, research information identifiable to an individual, which was obtained through a project funded wholly or in part with United States Department of Justice program funds, shall remain confidential and copies of such information shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding (28 CFR Part 22).

41. LEASE AGREEMENTS:

Grantee agrees to provide DJCS with a description of proposals to use grant funds to enter into lease arrangements with private entities for the purpose of fulfilling the goals and objectives of this project.

**WEST VIRGINIA
DIVISION OF JUSTICE & COMMUNITY
SERVICES**

STANDARD CONDITIONS AND ASSURANCES

42. EQUAL EMPLOYMENT OPPORTUNITY PLAN:

The grantee will provide an Equal Employment Opportunity Plan (EEO) to the Office for Civil Rights, Office of Justice Programs (OCR) and the West Virginia Division of Justice and Community Services, if it has received a single award of \$500,000 or more. If the grantee receives \$25,000 or more and has 50 or more employees, it will maintain a current EEO on file and submit an EEO Certification Form to the OCR, certifying that its EEO is on file. For public grantee agencies receiving less than \$25,000, or public grantee agencies with fewer than 50 employees, regardless of the amount of the award, the grantee will provide an EEO Certification Form to the OCR certifying it is not required to submit or maintain an EEO. EEO Certification Forms are available at: <http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf>.

43. VETERANS PREFERENCE:

This program includes a provision that grantees utilizing funds to hire additional personnel, to the extent possible, give suitable preference in employment to military veterans. DJCS defines "suitable preference" as the requirement that a grantee agency have in place a mechanism ensuring that veterans are given consideration in the hiring process.

44. IMMIGRATION AND NATURALIZATION VERIFICATION:

The grantee agrees to complete and keep on file, as appropriate, applicable Immigration and Naturalization Service Employment Eligibility Verification Forms. These forms are to be used by recipients of state funds to verify that employees are eligible to work in the United States.

45. PURCHASE OF AMERICAN-MADE EQUIPMENT/PRODUCTS:

It is the sense of DJCS that to the greatest extent practicable, all equipment and products purchased with state funds made available under this grant should be American-made.

46. PERSONNEL TRAINING:

For projects involving payment of personnel or overtime pay, DJCS reserves the right to require training as a condition of the grant before or at any time during the project period.

47. ACCOUNTING REQUIREMENTS:

Grantee agrees to record all project funds and costs following generally accepted accounting procedures. A unique account number or cost recording must separate all project costs from the grantee's other or general expenditures. Adequate documentation for all project costs and income must be maintained. Adequate documentation of financial and supporting material, must be retained and be available for audit purposes.

48. OFFICE OF JUSTICE PROGRAMS (OJP) FINANCIAL GUIDE:

Grantee agrees to comply with the financial and administrative requirements as set forth in the current edition of the OJP Financial Guide.

49. TRANSFER OF FUNDS PROHIBITION:

The grantee is expressly prohibited from transferring funds between any DJCS programs.

50. MARKING OF EQUIPMENT:

Grantee will ensure that, when practicable, any equipment purchased with grant funding shall be prominently marked as follows: "Purchased with funds provided by the West Virginia Division of Justice & Community Services."

**WEST VIRGINIA
DIVISION OF JUSTICE & COMMUNITY
SERVICES**

STANDARD CONDITIONS AND ASSURANCES

51. PATENTS AND/OR COPYRIGHTS AND RIGHTS IN DATA:

Grantee acknowledges that DJCS reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for State or Federal government purposes: (1) the copyright in any work developed under an award or sub award; and, (2) any rights of copyright to which a recipient or sub recipient purchases ownership, in whole or in part, with State or Federal support.

Grantee agrees to consult with DJCS re the allocation of any patent rights that arise from, or are purchased with, this funding.

52. CENTRAL CONTRACTOR REGISTRATION:

Grantee agrees to register with the Central Contractor Registration (CCR), www.ccr.gov and provide documentation to DJCS within 30 days of award notification that they have done so.

53. DATA UNIVERSAL NUMBERING SYSTEM:

Grantee agrees to acquire a Data Universal Numbering System (DUNS) number, www.dnb.com and provide documentation to DJCS within 30 days of award notification that they have done so.

54. JUVENILE JUSTICE & DELINQUENCY PREVENTION ACT:

Grantee agrees to comply with the four core protections under the Juvenile Justice & Delinquency Prevention (JJDP) Act of 1974, reauthorized 2002.

- Deinstitutionalization of status offenders (DSO).
- Separation of juveniles from adults in institutions (separation).
- Removal of juveniles from adult jails and lockups (jail removal).
- Reduction of disproportionate minority contact (DMC), where it exists.

This includes, but is not limited to, completing the annual the WV Certification of Non-Secure Facilities and submitting to DJCS, if applicable, and submitting a monthly Secure Holding Log, if applicable.

55. BIDDING PROCEDURES:

Funds for renovation, expansion or construction awarded to grantees or subgrantees, which require the letting of any single contract amounting to \$100,000 or more to a private company or individual shall require: a bid guarantee equivalent to 5% (five percent) of the bid price; the bid guarantee must consist of a firm commitment such as a bid bond, certified check, or negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified after forms are presented to the successful bidder; a performance bond on the part of the 100% (one hundred percent) of the contract price ("Performance bond" means a bond executed in connection with a contract to ensure payments required by all persons supplying labor and materials in the execution of the work provided for in the contract.); a payment bond on the part of the contractor for 100% (one hundred percent) of the contract price. ("Payment bond" is one executed in connection with a contract to ensure payment as required by law, of all persons supplying labor or materials in the execution of the work provided for in the contract.) Recipient/subgrantee is expected to follow the competitive bid process in the award of contracts involving Federal grant funds.

**WEST VIRGINIA
DIVISION OF JUSTICE & COMMUNITY
SERVICES**

STANDARD CONDITIONS AND ASSURANCES

56. COMPLIANCE WITH FEDERAL PROCEDURES:

The applicant assures that it will comply with the provisions of 28 Code of Federal Regulation (CFR) applicable to grants and cooperative agreements, including:

- a. Part 11, Applicability of Office of Management and Budget Circulars.
- b. Part 18, Administrative Review Procedures.
- c. Part 20, Criminal Justice Information Systems.
- d. Part 22, Confidentiality of Identifiable Research and Statistical Information.
- e. Part 23, Criminal Intelligence Systems Operating Policies.
- f. Part 30, Intergovernmental Review of Department of Justice Programs and Activities
- g. Part 42, Nondiscrimination Equal Employment Opportunity Policies and Procedures

57. ADDITIONAL REGULATIONS AND PROCEDURES:

In addition, all grantees must comply with the following applicable federal regulations and/or the United States Department of Justice, Office of Justice Programs - M 7100.1D manual, OMB Circulars No. A-21, A-110, A-122, A-128, A-87, E.O. 12372, Uniform Administrative Requirements for Grants and Cooperative Agreements 28 CFR, Part 66, Common Rule, and all other applicable Federal regulations, policies, acts and guidelines.

- a. National Environmental Policy Act of 1969 (NEPA).
- b. National Historic Preservation Act of 1966.
- c. Flood Disaster Protection Act of 1973.
- d. Clean Air Act and Federal Water Pollution Control Act Amendments of 1972.
- e. Control Act Amendments of 1972.
- f. Safe Drinking Water Act.
- g. Endangered Species Act of 1973.
- h. Wild and Scenic Rivers Act.
- i. Fish and Wildlife Coordination Act.
- j. Historical and Archaeological Data Preservation.
- k. Coastal Zone Management Act of 1979.
- l. Animal Welfare Act of 1970.
- m. Impoundment Control Act of 1974.
- n. Uniform Relation Assistance and Real Property Acquisitions Policies Act of 1970.
- o. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended
- p. Death in Custody Act of 2000.

58. RELIGIOUS ACTIVITIES

Grantees must ensure that services are offered without regard to religious affiliation and that receipt of services is not contingent upon participation in a religious activity or event. Furthermore, all religious activities must be separate in time or place from the funded project. Participation in such activities by individuals receiving services must be voluntary.

To the best of my knowledge the applicant has and will comply with all of the attached Standard Conditions and Assurances.

Authorized Official:

Title:

Signature:

Date:

**WEST VIRGINIA
DIVISION OF JUSTICE & COMMUNITY
SERVICES**

**JUSTICE ASSISTANCE GRANT (JAG)
SPECIAL CONDITIONS AND ASSURANCES**

59 LAW ENFORCEMENT INFORMATION SHARING SYSTEMS:

To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdiction, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the grantee can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.

60 LAW ENFORCEMENT TASK FORCE TRAINING:

The grantee agrees that within 120 days of award, for any law enforcement task force funded with these funds, the task force commander, agency executive, task force officers, and other task force members of equivalent rank, will complete the required online (internet-based) task force training to be provided free of charge through BJA's Center for Task Force Integrity and Leadership. This training will address task force effectiveness as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. Additional information will be provided by BJA regarding the required training and access methods via BJA's web site and the Center for Task Force Integrity and Leadership (www.ctfli.org).

61 PRO PROGRAM CONDITIONS:

PRO projects are required to send each PRO to the DJCS training conference and be certified as a PRO before entering the school. This training and requirement is on an annual basis. In addition to the annual training conference, all PRO's must complete or have completed required Conflict Resolution training within 12 months of their initial PRO certification. DJCS requires grantees to assign one, full-time PRO officer per school. The PRO must maintain an office in the assigned school and be present in that school at least 35 hours per week.

Prior to the officer entering the school, grantee must submit to DJCS an Agreement between Law Enforcement and the County Board of Education.

I certify that I have read the entire Standard and Special conditions and assurances of this grant program and agree to comply with these requirements.

(Original) Authorized Official Signature



U.S. Department of Justice
Office of Justice Programs
Office of the Comptroller

**CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND
OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS**

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying" and 28 CFR Part 67, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

I. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

**2. DEBARMENT, SUSPENSION, AND OTHER
RESPONSIBILITY MATTERS
(DIRECT RECIPIENT)**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connec-

public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

**3. DRUG-FREE WORKPLACE
(GRANTEES OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67 Sections 67.615 and 67.620--

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about--

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant,

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction:

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 810 7th Street, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ___ if there are workplaces on file that are not identified here.

Section 67, 630 of the regulations provides that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for Department of Justice funding. States and State agencies may elect to use OJP Form 4061/7.

Check ___ if the State has elected to complete OJP Form 4061/7.

**DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67; Sections 67.615 and 67.620--

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Department of Justice, Office of Justice

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

1. Grantee Name and Address:

2. Application Number and/or Project Name

3. Grantee IRS/Vendor Number

4. Typed Name and Title of Authorized Representative

5. Signature

6. Date

CERTIFICATION FORM

Recipient Name and Address: _____

Grant Title: _____ Grant Number: _____ Award Amount: _____

Contact Person Name and Title: _____ Phone Number: () _____

Federal regulations require recipients of financial assistance from the Office of Justice Programs (OJP), its component agencies, and the Office of Community Oriented Policing Services (COPS) to prepare, maintain on file, submit to OJP for review, and implement an Equal Employment Opportunity Plan (EEOP) in accordance with 28 C.F.R §§ 42.301-.308. The regulations exempt some recipients from all of the EEOP requirements. Other recipients, according to the regulations, must prepare, maintain on file and implement an EEOP, but they do not need to submit the EEOP to OJP for review. Recipients that claim a complete exemption from the EEOP requirement must complete **Section A** below. Recipients that claim the limited exemption from the submission requirement, must complete **Section B** below. **A recipient should complete either Section A or Section B, not both.** If a recipient receives multiple OJP or COPS grants, please complete a form for each grant, ensuring that any EEOP recipient certifies as completed and on file (if applicable) has been prepared within two years of the latest grant. Please send the completed form(s) to the Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, N.W., Washington, D.C. 20531. For assistance in completing this form, please call (202)307-0690 or TTY (202) 307-2027.

Section A- Declaration Claiming Complete Exemption from the EEOP Requirement. *Please check all the boxes that apply.*

- | | |
|--|---|
| <input type="checkbox"/> Recipient has less than 50 employees, | <input type="checkbox"/> Recipient is an Indian tribe, |
| <input type="checkbox"/> Recipient is a non-profit organization, | <input type="checkbox"/> Recipient is an educational institution, or |
| <input type="checkbox"/> Recipient is a medical institution, | <input type="checkbox"/> Recipient is receiving an award less than \$25,000 |

I, _____ [responsible official], certify that _____ [recipient] is not required to prepare an EEOP for the reason(s) checked above, pursuant to 28 C.F.R §42.302. I further certify that _____ [recipient] will comply with applicable Federal civil rights laws that prohibit discrimination in employment and in the delivery of services.

Print or type Name and Title	Signature	Date
_____	_____	_____

Section B- Declaration Claiming Exemption from the EEOP Submission Requirement and Certifying That an EEOP Is on File for Review.

If a recipient agency has 50 or more employees and is receiving a single award or subaward for \$25,000 or more, but less than \$500,000, then the recipient agency does not have to submit an EEOP to OJP for review as long as it certifies the following (42 C.F.R. § 42.305):

I, _____ [responsible official], certify that the _____ [recipient], which has 50 or more employees and is receiving a single award or subaward for \$25,000 or more, but less than \$500,000, has formulated an EEOP in accordance with 28 CFR §42.301, *et seq.*, subpart E. I further certify that the EEOP has been formulated and signed into effect within the past two years by the proper authority and that it is available for review. The EEOP is on file in the office of: _____ [organization], at _____ [address], for review by the public and employees or for review or audit by officials of the relevant state planning agency or the Office for Civil Rights, Office of Justice Programs, U. S. Department of Justice, as required by relevant laws and regulations.

Print or type Name and Title	Signature	Date
_____	_____	_____

AN ORDINANCE AUTHORIZING THE FINANCE
DIRECTOR TO CONDUCT AN
AUCTION SEPTEMBER 8, 2012

OS

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PARKERSBURG that the Finance Director of the City of Parkersburg be and is hereby authorized to conduct a public auction sale on Saturday, September 8, 2012, of personal property belonging to the City of Parkersburg, in accordance with and pursuant to Article 135.08 of the Codified Ordinances of the City of Parkersburg.

Sponsored by Councilmen Kimes, Rockhold, and Joyce

AN ORDINANCE TO APPROVE CURRENT REPLACEMENT
PAGES TO THE CODIFIED ORDINANCES OF THE CITY
OF PARKERSBURG.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PARKERSBURG, as follows:

WHEREAS, various ordinances of a general and permanent nature have been passed by City Council which should be included in the Codified Ordinances; and

WHEREAS, Council has heretofore entered into a contract with the Walter H. Drane Company to prepare and publish such revision which is presently before Council;

NOW, THEREFORE, BE IT ORDAINED that:

Section 1. The ordinances of the City of Parkersburg, West Virginia, of a general and permanent nature, as revised, codified, rearranged and consolidated into component codes, chapters, articles and sections within the 2012 replacement pages to the Codified Ordinances are hereby approved and adopted.

Section 2. Pursuant to Section 2.208 of the Charter and West Virginia Code 8-11-4(b):

- (a) Notice of the proposed adoption of the current supplement shall be given by publication as provided in West Virginia Code 8-11-4(a)(2);
- (b) This ordinance shall not be adopted until ninety days have elapsed following the date on which Council shall have noted in the official journal the availability of copies of the current supplement to the public.

Section 3. This Ordinance shall take effect as provided in Section 2.201 of the Charter.

OS

**AN ORDINANCE VACATING A 20 FOOT UNNAMED ALLEY
LYING NORTH OF SEVENTH STREET, SOUTH OF OAKHURST
AVENUE (NOW VACATED) EAST OF 13TH STREET AND WEST OF
14TH STREET
PARKERSBURG CITY TAX MAP 79 (NORTH)**

The Municipal Planning Commission of the City of Parkersburg has recommended that 20 foot unnamed alley lying north of Seventh Street, South of Oakhurst Avenue (now vacated), East of 13th Street and West of 14th Street be vacated;

WHEREAS, the City believes it proper to do so, and

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF
PARKERSBURG HEREBY ORDAINS** that the following described property is hereby vacated and closed as a public thoroughfare.

Being situated in the City of Parkersburg, County of Wood, State of West Virginia, and being more particularly described as follows:

Beginning at the southeasterly corner of Lot 64 of Oakhurst Addition as recorded in Plat Book 2, Page 21, in the office of the Clerk of the County Commission of Wood County, West Virginia; Thence with the southerly line of 14th Street, in a southeasterly direction to the northwesterly corner of Lot 34 of the aforesaid Addition; thence leaving 14th Street and with the westerly lines of Lots 34 through 28 inclusive, of the aforesaid addition in a southwesterly direction to the southwesterly corner of said Lot 28; thence with the northerly line of 13th Street in a northwesterly direction to the southeasterly corner of Lot 58 of the aforesaid addition; thence with the easterly lines of Lots 58 through 64 inclusive, of the aforesaid addition in a northeasterly direction to the place of beginning.

This description was prepared by Randy A. Sheppard, Professional Surveyor No. 860, and is based on instruments of record. Reference is being made to a plat attached hereto and made part of this description.

**BE IT FURTHER ORDAINED BY THE COUNCIL OF THE
CITY OF PARKERSBURG** that the City shall retain a permanent easement for the benefit of the City of Parkersburg, the Parkersburg Utility Board, and all other public utility companies, for ingress and egress over, along and under said portion of right-of-way for the installation, maintenance, location, relocation and removal of public utilities of any kind.

Mayor Robert D. Newell is accordingly authorized to execute a

quitclaim deed conveying the interest of the City of Parkersburg to the abutting property owners.

SPONSORED BY: MUNICIPAL PLANNING COMMISSION

Mayor Robert D. Newell



CITY OF PARKERSBURG
ONE GOVERNMENT SQUARE
P.O. BOX 1627
PARKERSBURG, WV 26102

August 6, 2012

The Honorable Robert D. Newell, Mayor
Members of City Council
One Government Square
Parkersburg, WV 26102

Re: Petition to vacate City's public right-of-way on a 20 foot unnamed alley lying north of 7th Street in North Parkersburg

To the Honorable Mayor and City Council:

On July 20, 2012, the Municipal Planning Commission (MPC) held a public hearing to consider the following petition:

- A. Petition to abandon a 20 foot portion of public right-of-way (alley) from the southwesterly property line of City Tax Map 79, Parcel 2, easterly to the northeasterly property line of City Tax Map 79, Parcel 2, lying north of 7th Street, east of Oakhurst Avenue, north of 13th Street and south of 14th Street, located in Oakhurst Addition in North Parkersburg.**

After hearing all interested parties, the MPC voted (9-0-0) to recommend that City Council approve the applicant's petition to vacate the City's right-of-way lying north of Seventh Street, South of Oakhurst Street (now vacated), east of 13th Street and west of 14th Street. However, the MPC recommend that City Council retain a permanent utility easement. In addition to stormwater utilities, a high pressure gas line, owned by the Dominion Gas Company, transverses the alley

If you have any questions or concerns, please contact Rickie Yeager, Planning Administrator at 304.424.8558 or by email at rmyeager@parkersburg-wv.com.

Sincerely,

Charlie Matthews
President, Municipal Planning Commission
City of Parkersburg, West Virginia

**Description of an Unnamed 20 Foot Alley
Lying North of Seventh Street, South of Oakhurst Avenue (now vacated)
East of 13th Street and West of 14th Street
Parkersburg City Tax Map 79 (North)
To be Vacated**

Situate in the City of Parkersburg, County of Wood, State of West Virginia, and being more particularly described as follows:

Beginning at the southeasterly corner of Lot 64 of Oakhurst Addition as recorded in Plat Book 2, Page 21, in the office of the Clerk of the County Commission of Wood County, West Virginia; Thence with the southerly line of 14th Street, in a southeasterly direction to the northwesterly corner of Lot 34 of the aforesaid Addition; thence leaving 14th Street and with the westerly lines of Lots 34 through 28 inclusive, of the aforesaid addition in a southwesterly direction to the southwesterly corner of said Lot 28; thence with the northerly line of 13th Street in a northwesterly direction to the southeasterly corner of Lot 58 of the aforesaid addition; thence with the easterly lines of Lots 58 through 64 inclusive, of the aforesaid addition in a northeasterly direction to the place of beginning.

This description was prepared by Randy A. Sheppard, Professional Surveyor No. 860, and is based on instruments of record. Reference is being made to a plat attached hereto and made part of this description.



SCALE = 1 INCH = 100 FEET

DATE: 07/02/12

DRAWN BY: RS

CHECKED BY:

MAP P.C. 79

OAKHURST ADDITION

PLAT BOOK 2, PAGE 21

CITY OF PARKERSBURG, W.VA.

DEPARTMENT OF PUBLIC WORKS

DIVISION OF ENGINEERING

PLAT OF A 20 FOOT ALLEY

TO BE VACATED



Municipal Planning Commission Staff Report

Municipal Building | Executive Conference Room | July 20, 2012 at 12:30 p.m.

Planning Commission

President

Charlie Matthews

Vice-President

Sean Andrews

Council

Representative

Sharon Lynch

Members

Sean Andrews

Charlie Abdella

Francis Angelos

Ira Atkinson, Jr.

Eric Chichester

Ann Conageski

Sherry Dugan

Tom Evans

James Green II

Eddie Staats

Seldon Wigal

PROJECT: Public Thoroughfare Abandonment Petition

LOCATION: North of 7th Street, between 13th Street and 14th Street

OWNER/APPLICANT: Paul Astorg and Larry Simmons

PROJECT DESCRIPTION

- Applicant requests that a 20' portion of public right-of-way (r/w) /alley lying north of 7th Street, from the southwesterly property line of City Tax Map 79, Parcel 2, easterly to the northeasterly property line of City Tax Map 79, Parcel 2, be abandoned by the City of Parkersburg.
- Applicants intend to redevelop their respective properties abutting proposed alley closure, including those properties that front on 7th Street.

ANALYSIS

The proposed r/w abandonment is located along 7th Street. 7th Street is a major thoroughfare in the community. Properties abutting the proposed r/w abandonment are located in a Business (B-2) District.

The proposed r/w abandonment would does not adversely impact the applicant's ability, nor the general public's ability to access their respective property. Should the applicant's redevelop their respective properties in the future, they would want to build in the existing r/w.

The City's 2020 Comprehensive Master Plan does not specifically address the applicant's petition.

DEPARTMENTAL REPORTS

The Parkersburg Utility Board had no issues with the proposed petition as there are no utilities in the 20' r/w.

The Public Works Department had no issues the proposed petition, so long as the existing storm water facilities in the r/w were vacated and taken over by the applicants. If the abutting properties were to be redeveloped in the future, all storm water issues would need to be addressed and maintained by the applicant and approved by the City Engineer.

Mon Power, Dominion Hope and Frontier Communications were notified of the proposed petition. None of the utilities submitted comments. Therefore, staff assumes that the aforementioned have no issues with the proposed abandonment. Comments from the Police and Fire Departments will be provided at the public hearing.

LAND USE SUBCOMMITTEE RECOMMENDATION

On July 9, 2012, the Subdivision Subcommittee met to review the proposed application. Members in attendance included Charlie Matthews and Eric Chichester. Because a majority of subcommittee members were not present, no recommendation was submitted. Therefore, *staff encourages all MPC members to visit the proposed r/w abandonment prior to the public hearing scheduled for Friday, July 20, 2012.* If you have any questions, please contact Rickie Yeager at 304.424.8558.

PETITION FOR PUBLIC THOROUGHFARE ABANDONMENT
CITY OF PARKERSBURG, WV

Please complete all sections of this petition. Failure to submit a completed application will invalidate your petition. Any questions you have reference to this petition, please call 304-424-8558.

PROCEDURE: This application shall be accompanied by a non-refundable fee payable to the City of Parkersburg in the amount of \$100.00, submitted to the Planning Division with this petition.

Upon receipt of the petition, a public hearing is scheduled at the next available Municipal Planning Commission meeting. Note: State law requires 30 days notice be given for any abandonment petition.

Approximately 10 days prior to the scheduled public meeting, the Land Use Committee of the Municipal Planning Commission will meet to discuss the petition and make a recommendation to the full Commission. The Committee will visit the site on the petition.

After considering information from the staff, applicant and public, the Municipal Planning Commission will make a recommendation to City Council regarding the petition. If the recommendation is positive it will be in the form of an ordinance. To become effective, ordinances must be adopted on two readings by City Council and signed by the Mayor. If the recommendation is negative, it will be in the form of a report which City Council can either accept or refer back to the Municipal Planning Commission for further study.

Municipal Planning Commission meetings are held the third Friday of each month at the Conference Room, 2nd floor of the Municipal Building unless there is a scheduling conflict. You will be told the exact date and time of the meeting when the petition is brought into the office.

City Council meetings are held the second and fourth Tuesdays of each month in Council Chambers, 2nd floor, Municipal Building.

Date \$100.00 paid: _____ cash/check #: 30156

1. Name of Petitioner: PAUL ASTORG / ASTORG IMPORTS INC.
2. Address of Petitioner: 2020 7TH STREET PARKERSBURG, WV 26101
3. Petitioner's Phone #: 304 494 6070

Parkersburg

Municipal Planning Commission

July 20, 2012

A regular meeting of the Municipal Planning Commission was held on Friday, July 20, 2012 in the Executive Conference Room Municipal Building 2nd Floor, Parkersburg, West Virginia, at 12:30 with Mr. Charlie Matthews presiding.

Members Present:

Mrs. Sherry Dugan
Mr. Francis Angelos
Mr. Sean Andrews
Mrs. Sharon Lynch
Mr. Eddie Staats
Mr. Charlie Matthews
Mr. Jim Greene
Mr. Tom Evans
Mr. Sel Wigal

Members Absent:

Mr. Ira Atkinson
Mr. Charley Abdella
Mrs. Ann Conageski
Mr. Eric Chichester

Staff Present:

Mr. Rickie Yeager, Planning Administrator
Jerry Edman, Public Works Director
Stephanie Hickerson, Assistant City Engineer

Others Present:

See Attached list

Roll Call

Rickie Yeager noted the roll call with 9 voting members present. A quorum was present. The meeting started at 12:40 p.m.

Minutes

Mr. Staats made a motion to approve the minutes from the April 20, 2012 meeting. Mrs. Dugan seconded the motion. Motion passed (9-0-0).

President's Report

Mr. Matthews asked members to stay after the meeting to discuss Planning Commission membership.

Planning Administrator's Report

Mr. Yeager said the City was awarded a \$5,000 grant from the Benedum Foundation to develop a comprehensive way-finding/gateway plan for downtown Parkersburg. Work will begin on the project in January 2013. The City will be working with a group of students from West Virginia University – Landscape Architecture.

New Business

- A. Petition to abandon a 20 foot portion of public right-of-way (alley) from the southwesterly property line of City Tax Map 79, Parcel 2, easterly to the northeasterly property line of City Tax Map 79, Parcel 2, lying north of 7th Street, east of Oakhurst Avenue, north of 13th Street and south of 14th Street, located in Oakhurst Addition in North Parkersburg.
Applicants: Paul Astorg and Larry Simmons

Mr. Yeager presented the staff report.

Mr. Matthews asked if there were any questions for the staff.

Mrs. Lynch asked why the alley needed to be closed. Mr. Yeager said that the applicants want to redevelop their properties and have expressed a need to use the alley in the future. The only way this can be done is by vacating the right-of-way.

A general discussion then ensued about the use of the alley. Mr. Wigal said that he had no issues with the proposed abandonment, so long as utilities were not impacted. Mr. Evans stated that there is a gas line in the alley owned by Dominion. The line would have to be moved before anything could be built there. Mr. Yeager said that he had received no comment from Dominion regarding this application. In the past this has equated to a utility or City department having no issue with the proposed petition. However, Mr. Yeager said that he would check with Dominion to confirm.

The Public Hearing began at 12:45 p.m.

In Favor

Mr. Rober Ayers (4011 58th Street, Vienna, WV 26105) on behalf of the applicant, Paul Astorg, spoke in favor of the petition. Mr. Ayers said that future developed could potentially require the use of the 20' alley between 13th and 14th Streets.

In Opposition

No one was in opposition.

Members of the Commission had no further questions. Mr. Matthews closed the public hearing at 12:50 p.m.

Mr. Staats made a motion to approve the petition to abandon a 20 foot portion of public right-of-way (alley) from the southwesterly property line of City Tax Map 79, Parcel 2, easterly to the northeasterly property line of City Tax Map 79, Parcel 2, lying north of 7th Street, east of Oakhurst Avenue, north of 13th Street and south of 14th Street, located in Oakhurst Addition in North Parkersburg, provided that the City retained a utility easement for the 20' right-of-way.

Mr. Evans seconded the motion. Motion passed (9-0-0).

- B. Petition to abandon a 20 foot portion of public right-of-way (alley) from the northeasterly property line of City Tax Map 79, Parcel 47, easterly to the northeasterly property line of City Tax Map 79, Parcel 23, lying south of 7th Street and north of Bird Street, located in the A.C. Stephenson Estate in North Parkersburg.

Applicant: Rothlisberger and Simmons Development, LLC

Mr. Yeager presented the staff report.

Mr. Matthews asked if there were any questions for the staff.

The Public Hearing began at 12:55 p.m.

In Favor

Mr. Michael Simmons (401 Country Club Drive, Vienna, W 26105) said that Rothlisberger and Simmons, LLC intended to redevelop several properties on 7th Street. To that, they would need to use the existing 20' right-of-way.

In Opposition

No one was in opposition.

Members of the Commission had no further questions. Mr. Matthews closed the public hearing at 1p.m.

- C. Mr. Andrews made a motion to approve the petition to abandon a 20 foot portion of public right-of-way (alley) from the northeasterly property line of City Tax Map 79, Parcel 47, easterly to the northeasterly property line of City Tax Map 79, Parcel 23, lying south of 7th Street and north of Bird Street, located in the A.C. Stephenson Estate in North Parkersburg, provided that the City's stormwater utilities are maintained by said property owner in perpetuity.

Old Business

There was no old business to come before the Planning Commission

Another other business that may come before the Planning Commission

Mr. Matthews said that there were two vacancies on the Planning Commission. After talking with Mr. Yeager it's apparent that South Parkersburg needs more representation. The Commission could also benefit from an architect's/engineer's perspective. Mr. Matthews asked members to submit recommendations to himself or Mr. Yeager.

Adjournment

The meeting adjourned at 1:10 p.m.

Respectfully submitted by:

Rickie Yeager
Planning Administrator

**AN ORDINANCE VACATING A PORTION OF A 20 FOOT
UNNAMED ALLEY LYING SOUTH OF SEVENTH STREET,
NORTH OF BIRD STREET, EAST OF 13TH STREET AND WEST OF
PARK AVENUE
PARKERSBURG CITY TAX MAP 79 (NORTH)**

The Municipal Planning Commission of the City of Parkersburg has recommended that a portion of a 20 foot unnamed alley south of Seventh Street, north of Bird Street, east of 13th Street and West of Park Avenue be vacated;

WHEREAS, the City believes it proper to do so, and

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF
PARKERSBURG HEREBY ORDAINS** that the following described property is hereby vacated and closed as a public thoroughfare.

Being situated in the City of Parkersburg, County of Wood, State of West Virginia, and being more particularly described as follows:

Beginning at the southeasterly corner of Lot 79 of A.C. Stephenson Estate as recorded in Plat Book 2, Page 32, in the office of the Clerk of the County Commission of Wood County, West Virginia; Thence with the westerly line of Park Avenue, in a southeasterly direction to the northeasterly corner of Lot 80 of the aforesaid Estate; thence leaving Park Avenue and with the northerly lines of Lots 80 through 86 inclusive of the aforesaid Estate, in a southwesterly direction to the northwesterly corner of said Lot 86; thence crossing the unnamed 20 foot alley (to be vacated), in a northwesterly direction, a distance of 20 feet more or less, to the southwesterly corner of Lot 72 of the aforesaid Estate; thence with the southerly lines of Lots 72 through 79 inclusive of the aforesaid Estate, in a northeasterly direction to the place of beginning.

This description was prepared by Randy A. Sheppard, Professional Surveyor No. 860, and is based on instruments of record. Reference is being made to a plat attached hereto and made part of this description.

**BE IT FURTHER ORDAINED BY THE COUNCIL OF THE
CITY OF PARKERSBURG** the City shall not maintain a utility easement for the vacated and closed public thoroughfare so as to encourage private investment and redevelopment in the community, in the portion of the 20 foot alley described herein that would revert back to the abutting property owners of said abandonment, under normal reversion rights. This shall be contingent

upon Rothlisberger and Simmons Development, LLC addressing stormwater runoff issues from the abutting parcels by relocating and/or installing new stormwater structures and drainage pipes, as approved by the City Engineer. These structures are to become private utilities and shall be maintained by Rothlisberger and Simmons Development, LLC and its heirs and assigns forever.

Mayor Robert D. Newell is accordingly authorized to execute a quitclaim deed conveying the interest of the City of Parkersburg to the abutting property owners.

SPONSORED BY: MUNICIPAL PLANNING COMMISSION

Mayor Robert D. Newell



CITY OF PARKERSBURG
ONE GOVERNMENT SQUARE
P.O. BOX 1627
PARKERSBURG, WV 26102

August 6, 2012

The Honorable Robert D. Newell, Mayor
Members of City Council
One Government Square
Parkersburg, WV 26102

Re: Petition to vacate City's public right-of-way on a 20 foot unnamed alley lying south of 7th Street in North Parkersburg

To the Honorable Mayor and City Council:

On July 20, 2012, the Municipal Planning Commission (MPC) held a public hearing to consider the following petition:

A. Petition to abandon a 20 foot portion of public right-of-way (alley) from the northeasterly property line of City Tax Map 79, Parcel 47, easterly to the northeasterly property line of City Tax Map 79, Parcel 23, lying south of 7th Street and north of Bird Street, located in the A.C. Stephenson Estate in North Parkersburg.

After hearing all interested parties, the MPC voted (9-0-0) to recommend that City Council approve the applicant's petition to vacate the City's right-of-way lying north of Seventh Street, South of Oakhurst Street (now vacated), east of 13th Street and west of 14th Street. However, MPC's approval was contingent on the applicant (Rothlisberger and Simmons Development, LLC) addressing stormwater related issues from the abutting parcels of said abandonment, by relocating or installing new stormwater structures. These structures are to be maintained in perpetuity by Rothlisberger and Simmons Development, LLC and its heirs and assigns. The existing stormwater utilities are no longer public, but private utilities.

If you have any questions or concerns, please contact Rickie Yeager, Planning Administrator at 304.424.8558 or by email at rmyeager@parkersburg-wv.com.

Sincerely,

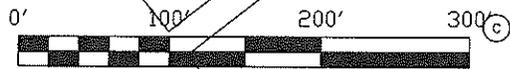
Charlie Matthews
President, Municipal Planning Commission
City of Parkersburg, West Virginia

**Description of a Portion of Unnamed 20 Foot Alley
Lying South of Seventh Street, North of Bird Street
East of 13th Street and West of Park Avenue
Parkersburg City Tax Map 79 (North)
To be Vacated**

Situate in the City of Parkersburg, County of Wood, State of West Virginia, and being more particularly described as follows:

Beginning at the southeasterly corner of Lot 79 of A.C. Stephenson Estate as recorded in Plat Book 2, Page 32, in the office of the Clerk of the County Commission of Wood County, West Virginia; Thence with the westerly line of Park Avenue, in a southeasterly direction to the northeasterly corner of Lot 80 of the aforesaid Estate; thence leaving Park Avenue and with the northerly lines of Lots 80 through 86 inclusive of the aforesaid Estate, in a southwesterly direction to the northwesterly corner of said Lot 86; thence crossing the unnamed 20 foot alley (to be vacated), in a northwesterly direction, a distance of 20 feet more or less, to the southwesterly corner of Lot 72 of the aforesaid Estate; thence with the southerly lines of Lots 72 through 79 inclusive of the aforesaid Estate, in a northeasterly direction to the place of beginning.

This description was prepared by Randy A. Sheppard, Professional Surveyor No. 860, and is based on instruments of record. Reference is being made to a plat attached hereto and made part of this description.



SCALE = 1 INCH = 100 FEET

DATE: 06/29/12

DRAWN BY: RS

CHECKED BY:

MAP P.C. 79

PART OF
A.C. STEPHENSON ESTATE
PLAT BOOK 2, PAGE 32

CITY OF PARKERSBURG, W.VA.

DEPARTMENT OF PUBLIC WORKS

DIVISION OF ENGINEERING

PLAT OF A PORTION OF A 20 FOOT ALLEY
TO BE VACATED



Municipal Planning Commission Staff Report

Municipal Building | Executive Conference Room | July 20, 2012 at 12:30 p.m.

Planning Commission

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Council

Representative

Sharon Lynch

Members

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Charlie Abdella
Francis Angelos
Ira Atkinson, Jr.
Eric Chichester
Ann Conageski
Sherry Dugan
Tom Evans
James Green II
Eddie Staats
Seldon Wigal

PROJECT: Public Thoroughfare Abandonment Petition

LOCATION: South of 7th Street, between Park Avenue and 13th Street

OWNER/APPLICANT: Rothlisberger and Simmons Development, LLC

PROJECT DESCRIPTION

- Applicant requests that a 20' portion of public right-of-way (r/w) /alley lying south of 7th Street, from the southeasterly property line of City Tax Map 79, Parcel 47, easterly to the northeasterly property line of City Tax Map 79, Parcel 23, be abandoned by the City of Parkersburg.
- Applicant intends to redevelop properties abutting proposed alley closure, including those properties that front on 7th Street.
- The applicant has or plans to purchase City Tax Map 79, Parcels 48-54, thereby making the applicant the sole abutting property owner along the proposed r/w abandonment.

ANALYSIS

The proposed r/w abandonment is located along 7th Street. 7th Street is a major thoroughfare in the community. Properties north of proposed r/w abandonment are located in a Business (B-2) District. Properties to the south of the proposed r/w abandonment are located in a Residential (R-3) District.

The residentially zoned properties lying directly south of the proposed r/w abandonment are located in the 100 year floodplain. These properties are currently vacant. If the properties were to be improved in the future, they would have to obtain a development permit from the appropriate governing authorities.

While the proposed r/w abandonment may inconvenience property owners on Park Avenue (south of 7th Street) and Bird Street, it will not prohibit them from accessing their property. Traffic signals on 7th Street (at Park Avenue and Liberty Street) would allow property owners to make a left or right turn onto 7th Street.

The City's 2020 Comprehensive Master Plan does not specifically address the applicant's petition.

DEPARTMENTAL REPORTS

The Parkersburg Utility Board had no issues with the proposed petition as there are no utilities in the 20' r/w.

The Public Works Department had no issues the proposed petition, so long as the existing storm water facilities were vacated and taken over by the applicant. If the abutting properties were to be redeveloped in the future, all storm water issues would need to be addressed and maintained by the applicant and approved by the City Engineer.

Mon Power, Dominion Hope and Frontier Communications were notified of the proposed petition. None of the utilities submitted comments. Therefore, staff assumes that the aforementioned have no issues with the proposed abandonment. Comments from the Police and Fire Departments will be provided at the public hearing.

LAND USE SUBCOMMITTEE RECOMMENDATION

On July 9, 2012, the Subdivision Subcommittee met to review the proposed application. Members in attendance included Charlie Matthews and Eric Chichester. Because a majority of subcommittee members were not present, no recommendation was submitted. Therefore, *staff encourages all MPC members to visit the proposed r/w abandonment prior to the public hearing scheduled for Friday, July 20, 2012.* If you have any questions, please contact Rickie Yeager at 304.424.8558.



Municipal Planning Commission

Petition for Public Thoroughfare Abandonment

Enterprise @ 10 AM!

CITY OF PARKERSBURG
ONE GOVERNMENT SQUARE
P.O. BOX 1627
PARKERSBURG, WV 26102

General Instructions

To vacate portions of public right-of-way, the following petition must be submitted to the Parkersburg Municipal Planning Commission for consideration. Please carefully read and complete the following petition. Petitions shall be accompanied by a non-refundable fee of \$100. Checks should be made payable to the City of Parkersburg and submitted to the Development Department along with this petition. Should you have any questions, please contact the Development Department at (304) 424.8558 or by email at rmyeager@parkersburg-wv.com.

Procedure

Upon receiving a petition, staff will schedule a public hearing to consider the petition at the next available Municipal Planning Commission (MPC) meeting. Please keep in mind that WV State Law requires a 30 day notice be given to abutting property owners concerning petitions to abandon portions of right-of-way.

At the public hearing, persons wishing to speak in favor of or in opposition to the petition may do so at that time. If the MPC approves the petition, the application will go before City Council for further consideration. To become effective, an ordinance vacating the portion of right-of-way must be adopted on two readings by City Council and signed by the Mayor. If the MPC does not approve the petition, City Council can either accept (receive and file) the MPC's recommendation or send it back to the MPC for further review.

In the event a public right-of-way is vacated by the City, abutting property owners are responsible for preparing a Quit-Claim Deed to claim their portion of the public right-of-way. Generally speaking, half of the public right-of-way is conveyed to each of the abutting property owners. However, if there is a request to convey more than half of the right-of-way to a specific property owner, it must be stated in the Quit-Claim Deed and agreed to by the adjoining property owner.

Before a Quit-Claim Deed can be lawfully executed or recorded, it must be approved by the City Attorney and Public Works-Engineering Division. Furthermore, if portions of a vacated right-of-way are to become part of an abutting property owner's land, a consolidation survey and description must be prepared and submitted to the Municipal Planning Commission for review. To expedite the review process, please make sure a copy of the Quit-Claim Deed accompanies the consolidation survey and description. Staff encourages vacated portions of right-of-way be consolidated so as not to create non-conforming lots in the City of Parkersburg.

Finally, when a public right-of-way is vacated, the City of Parkersburg retains a public right-of-way (easement) to service public utilities. A request to release the easement must be stated in the petition for consideration.

PETITIONER'S INFORMATION

Public Record Document

Name: Rothlisberger & Simmons Development LLC (BY) LAWRENCE

Address: E. SIMMONS (1710-14th ST. PARKERSBURG, WV 26101)

Phone Number: 304-481-9693 (cell)

Email: 90WESTVIRGINIA@YAHOO.COM

See lawn Michael Simmons Address for notification

Parkersburg

Municipal Planning Commission

July 20, 2012

A regular meeting of the Municipal Planning Commission was held on Friday, July 20, 2012 in the Executive Conference Room Municipal Building 2nd Floor, Parkersburg, West Virginia, at 12:30 with Mr. Charlie Matthews presiding.

Members Present:

Mrs. Sherry Dugan
Mr. Francis Angelos
Mr. Sean Andrews
Mrs. Sharon Lynch
Mr. Eddie Staats
Mr. Charlie Matthews
Mr. Jim Greene
Mr. Tom Evans
Mr. Sel Wigal

Members Absent:

Mr. Ira Atkinson
Mr. Charley Abdella
Mrs. Ann Conageski
Mr. Eric Chichester

Staff Present:

Mr. Rickie Yeager, Planning Administrator
Jerry Edman, Public Works Director
Stephanie Hickerson, Assistant City Engineer

Others Present:

See Attached list

Roll Call

Rickie Yeager noted the roll call with 9 voting members present. A quorum was present. The meeting started at 12:40 p.m.

Minutes

Mr. Staats made a motion to approve the minutes from the April 20, 2012 meeting. Mrs. Dugan seconded the motion. Motion passed (9-0-0).

President's Report

Mr. Matthews asked members to stay after the meeting to discuss Planning Commission membership.

Planning Administrator's Report

Mr. Yeager said the City was awarded a \$5,000 grant from the Benedum Foundation to develop a comprehensive way-finding/gateway plan for downtown Parkersburg. Work will begin on the project in January 2013. The City will be working with a group of students from West Virginia University – Landscape Architecture.

New Business

- A. Petition to abandon a 20 foot portion of public right-of-way (alley) from the southwesterly property line of City Tax Map 79, Parcel 2, easterly to the northeasterly property line of City Tax Map 79, Parcel 2, lying north of 7th Street, east of Oakhurst Avenue, north of 13th Street and south of 14th Street, located in Oakhurst Addition in North Parkersburg.
Applicants: Paul Astorg and Larry Simmons

Mr. Yeager presented the staff report.

Mr. Matthews asked if there were any questions for the staff.

Mrs. Lynch asked why the alley needed to be closed. Mr. Yeager said that the applicants want to redevelop their properties and have expressed a need to use the alley in the future. The only way this can be done is by vacating the right-of-way.

A general discussion then ensued about the use of the alley. Mr. Wigal said that he had no issues with the proposed abandonment, so long as utilities were not impacted. Mr. Evans stated that there is a gas line in the alley owned by Dominion. The line would have to be moved before anything could be built there. Mr. Yeager said that he had received no comment from Dominion regarding this application. In the past this has equated to a utility or City department having no issue with the proposed petition. However, Mr. Yeager said that he would check with Dominion to confirm.

The Public Hearing began at 12:45 p.m.

In Favor

Mr. Rober Ayers (4011 58th Street, Vienna, WV 26105) on behalf of the applicant, Paul Astorg, spoke in favor of the petition. Mr. Ayers said that future developed could potentially require the use of the 20' alley between 13th and 14th Streets.

In Opposition

No one was in opposition.

Members of the Commission had no further questions. Mr. Matthews closed the public hearing at 12:50 p.m.

Mr. Staats made a motion to approve the petition to abandon a 20 foot portion of public right-of-way (alley) from the southwesterly property line of City Tax Map 79, Parcel 2, easterly to the northeasterly property line of City Tax Map 79, Parcel 2, lying north of 7th Street, east of Oakhurst Avenue, north of 13th Street and south of 14th Street, located in Oakhurst Addition in North Parkersburg, provided that the City retained a utility easement for the 20' right-of-way.

Mr. Evans seconded the motion. Motion passed (9-0-0).

- B. Petition to abandon a 20 foot portion of public right-of-way (alley) from the northeasterly property line of City Tax Map 79, Parcel 47, easterly to the northeasterly property line of City Tax Map 79, Parcel 23, lying south of 7th Street and north of Bird Street, located in the A.C. Stephenson Estate in North Parkersburg.

Applicant: Rothlisberger and Simmons Development, LLC

Mr. Yeager presented the staff report.

Mr. Matthews asked if there were any questions for the staff.

The Public Hearing began at 12:55 p.m.

In Favor

Mr. Michael Simmons (401 Country Club Drive, Vienna, W 26105) said that Rothlisberger and Simmons, LLC intended to redevelop several properties on 7th Street. To that, they would need to use the existing 20' right-of-way.

In Opposition

No one was in opposition.

Members of the Commission had no further questions. Mr. Matthews closed the public hearing at 1p.m.

- C. Mr. Andrews made a motion to approve the petition to abandon a 20 foot portion of public right-of-way (alley) from the northeasterly property line of City Tax Map 79, Parcel 47, easterly to the northeasterly property line of City Tax Map 79, Parcel 23, lying south of 7th Street and north of Bird Street, located in the A.C. Stephenson Estate in North Parkersburg, provided that the City's stormwater utilities are maintained by said property owner in perpetuity.

Old Business

There was no old business to come before the Planning Commission

Another other business that may come before the Planning Commission

Mr. Matthews said that there were two vacancies on the Planning Commission. After talking with Mr. Yeager it's apparent that South Parkersburg needs more representation. The Commission could also benefit from an architect's/engineer's perspective. Mr. Matthews asked members to submit recommendations to himself or Mr. Yeager.

Adjournment

The meeting adjourned at 1:10 p.m.

Respectfully submitted by:

Rickie Yeager
Planning Administrator