The County Commission of Upshur County West Virginia, held their regular meeting at the Courthouse Annex on Thursday, March 28, 2013 at 9:00 a.m. Donnie R. Tenney called the meeting to order. There were present Donnie R. Tenney, Commissioner; JC Raffety, Commissioner; Troy A. Brady, Commissioner; William A. Parker, County Administrator; Megan J. Pomeroy, Assistant County Administrator and Jacqueline Dinklocker, Secretary. The meeting began with a moment of silent meditation and prayer, followed by the Pledge of Allegiance. All motions passed unanimously unless otherwise stated.

After reading of the minutes, on motion by Troy A. Brady, seconded by JC Raffety, the Commission approved the regular meeting minutes of March 21, 2013 as submitted.

Joyce L. Harris-Thacker, Upshur County Solid Waste Authority Chairperson, appeared before the Commission and provided a review of the “Make It Shine Month” proclamation. The proclamation encourages Upshur County residents to participate in programs such as “Adopt-A-Highway” and “Adopt-A-Spot” to enhance the health and safety of the community and promotes a cleaner environment. After discussion, on motion by JC Raffety, seconded by Troy A. Brady, the Commission approved the Commission to sign the proclamation designating April as “Make It Shine Month” in Upshur County (copy included). Ms. Harris-Thacker and Burl Smith, UCSWA board member, provided an update on programs and activities.

William A. Parker, Upshur County resident, appeared before the Commission on behalf of himself and Cheryl J. Parker, his stepmother, concerning probate matters relating to the Estate of Kenneth Parker, deceased. Items of concern include: (1) the requirement of the Office of the County Clerk to obtain 2 witnesses to the signature on a “holographic” will and a requirement of testimony of the mental state of the author of the will at the time it was written. Mr. Parker argued that according to WV Code, the holographic will does not need to be witnessed to make it a legal document. Upshur County Clerk, Debbie Thacker Wilfong and Attorneys, Terry Reed, Daya Wright and Tom O’Neill, defended the requirement of obtaining witnesses to testify that the handwriting on the will that was submitted is the actual handwriting of the decedent—Mr. Parker will obtain witness affidavits to verify that the handwriting on the document is in the decedent’s own handwriting. Mr. Parker advised that he will continue to research this matter and if it is determined that affidavits are not required, a request will be made to remove them from the file. Ms. Wilfong conceded that she provided the wrong form and the Parkers did not need to prove the mental state of Kenneth Parker. Ms. Wilfong will remove verification of mental capacity requirement from forms. (2) The requirement of a bank statement showing the bank balances on the day of death; Mr. Parker argued that a bank statement of balance on the day of death is not an accurate and true accounting of funds due to outstanding deposits and/or checks. Attorney Terry Reed stated that funds justification would be provided during settlement of the Estate. Mr. Parker will provide balance statements as current in November, 2012. (3) The County Clerk’s conversation with employers and others concerning estate matters; Mr. Reed pointed out that Ms. Wilfong’s conversations outside of a public meeting with Mr. Parker’s employers were in their capacity as the County Commission and not as Mr. Parker’s employer (conversation with Law Enforcement personnel was not addressed) and (4) Security issues of keeping non-probate listings and length of time to keep them. Mr. Parker contended that non-probate listings are not secure and anyone can have access to the documents. In addition, WV Code does not require keeping the records indefinitely (WV Code does not address a time frame). Ms. Wilfong stated that there is a lock on the door where the records are kept, but conceded that the area is not necessarily secure. Ms. Wilfong will provide more security for the records. Attorney Daya Wright defended keeping the records for an extended period of time as the Clerk’s keeping the documents may be the only source of the records in case an Estate is challenged. (Copies included)

Virgil D. Miller, Chief Deputy of Administration, appeared before the Commission and submitted an invoice in the amount of $2,535.00 on behalf of Walt St. Clair for the care and upkeep of a horse that was seized in a humane case. The owner of the horse has since paid all fines associated with the Animal Cruelty charges and has relinquished ownership to the County. The horse (named Fancy) is now in good health with 2 parties interested in adoption. The Commission agreed that selling Fancy would not significantly reimburse any associated costs and any further efforts to obtain payment for
care and upkeep would need to be pursued through a civil suit. After discussion, by General Consent ruling, the Commission approved to release Fancy for sale and/or adoption and for payment of Mr. St. Clair’s invoice (dated through March 5, 2013) with the addition of any further costs until Fancy is adopted.

The Commission recessed at 10:30 a.m.

The Commission reconvened at 10:45 a.m.

Megan Pomeroy provided a review of the West Virginia Division of Justice and Community Services, Court Security Fund, grant application in the amount of $38,176. After discussion, on motion by Troy A. Brady, seconded by JC Raffety, the Commission approved and authorized the President to sign the grant contract and related documents (copies included). Funds will be used to purchase cameras and security equipment.

William A. Parker provided a review of the West Virginia Development Office, Governor’s Community Participation Grant in the amount of $5,000. After discussion, on motion by Troy A. Brady, seconded by JC Raffety, the Commission approved and authorized the President to sign the grant contract and related documents (copies included). Funds will be used for the purchase of two (2) early literacy stations for the Upshur County Library.

James Farry, Office of Emergency Management Director, appeared before the Commission and requested to use the Upshur County Parking Lot located at 58 South Locust Street or the area in front of the Maintenance Shop to set up a first aid cooling station during Strawberry Festival (copy included). After discussion, on motion by Troy A. Brady, seconded by JC Raffety, the Commission approved the request to use the gravel lot. William A. Parker advised Mr. Farry to follow up with the Strawberry Festival Committee.

After discussion, on motion by Troy A. Brady, seconded by JC Raffety, the Commission approved Travis R. Hume and Hope S. Moore as volunteers for the Lewis-Upshur Animal Control Facility as recommended by Janella Cochran, Facility Director.

After discussion, on motion by Troy A. Brady, the Commission approved the request from Mid-State Soccer Club to use Pringle Tree Park for practice on Monday thru Thursday evenings from 5:00 p.m. to 7:00 p.m. from March 1 through May 31, 2013 (copy included). The request is a modification to the request which was approved at the February 14, 2013 Commission meeting with the addition of Monday. The Soccer Club has provided insurance documentation.

The Commission reviewed the following “For Your Information” items:

1. “Notice of Public Hearing”-Amendment to Enhanced 911 Ordinances—11:00 a.m. on Thursday, April 04, 2013—Increase from current monthly fee of $2.65 to: Residential $4.50 Business and Centrex $6.50
2. Environmental Report on Proposed Extensions to the Water Distribution System for the Adrian Public Service District of Upshur County, prepared by Horner Brothers Engineers
3. Agendas and/or Notice of Meetings:
   - Upshur County Development Authority-March 27, 2013
   - Upshur County Solid Waste Authority-April 08, 2013
4. Meeting Minutes and/or Financial Reports:
   - Upshur County Development Authority-January 23, 2013
   - Adrian Public Service District-February 14, 2013
   - Upshur County Public Library Board-February 19, 2013
5. Meetings:
   - 04/02/13-6:00 p.m.-Hodgesville Public Service District
   - 04/02/13-6:00 p.m.-Elkins Road Public Service District
   - 04/04/13-7:00 p.m.-Banks District Volunteer Fire Department
   - 04/04/13-7:00 p.m.-Selbyville Volunteer Fire Department
   - 04/08/13-12:00 p.m.-Upshur County Family Resource Network
   - 04/08/13-4:30 p.m.-Upshur County Solid Waste Authority
   - 04/08/13-6:00 p.m.-Lewis-Upshur-Braxton Community Corrections Bd.
   - 04/08/13-6:00 p.m.-Buckhannon-Upshur Recreational Park Advisory Bd.
   - 04/08/13-6:00 p.m.-Buckhannon River Watershed Association
3. The Commission approved all invoices for payment (copies included)

4. The Commission approved the following Settlements:
   - Consolidation of Land Tracts:
     - 5K Parcel 26 with 5K Parcel 28, 5K Parcel 28.1 and 6K Parcel 29-
     - Owners Clarence and Gladys Rutherford
     - Map 7 Parcel 126 with Map 7 Parcel 128.1 and Map 7 Parcel 128.2-
     - Owners Sidney F. and Rebecca A. Phillips

5. The Commission approved the following “Request to Attend Meeting”: (copies included)
   - Terri Jo Bennett-May 13 and 14, 2013

6. Appointments Needed or Upcoming:
   - Adrian Public Service District—(Vacant Position-10-31-17)—County
   - Buckhannon-Upshur Parks & Recreation Bd.—(Vacant Position- 06-30-13)—
     - County
   - James W. Curry Advisory Bd.—(Vacant- 12-30-12)—County
   - James W. Curry Advisory Bd.—(Vacant- 12-30-12)—County
   - Upshur County Solid Waste Authority—(Robert Wines-06-30-12)—Soil
     Conservation District
   - ETHEL MARIE LINGER-Final Settlement
   - The Commission approved the following “Request to Attend Meeting”: (copies
     included)
   - Terri Jo Bennett—May 13 and 14, 2013

The Commission approved the following “Consolidation of Land Tracts”: (copies
included)

With no further business, on motion by JC Raffety, seconded by Troy A. Brady, the
Commission meeting adjourned at 11:30 a.m.