

STATE OF WEST VIRGINIA

RANDOLPH COUNTY COMMISSION SS:

At a regular session of the County Commission in and for the aforesaid County and State, at the James F. Cain Court House Annex, on the 3rd day of February, 2022 at 1:30 p.m.

Present: Randolph County Commission President, Chris See and Commissioners, David Kesling and Chris Siler.

Meeting called to order by Commissioner See

PUBLIC COMMENT:

Richard DeBias appeared before the Commission and spoke about body cams for the Sheriff's Department. (See copy attached)

MINUTES:

Commissioner Kesling moved to approve the minutes from the regular meeting that was held on January 20, 2022, as submitted. All yes – Motion passed unanimously

Commissioner Kesling moved to approve the minutes from the emergency meeting for the Randolph County Humane Society that was held on January 20, 2022, as submitted. All yes – Motion passed unanimously

REPORTS:

Randolph County Assessor, Phyllis Yokum reported to the Commission that the Assessor's Office will be getting a new assessment system. This new system is called IAS World and is run by Tyler Technologies which is the same company that provides their current system. She said they will be holding virtual trainings on the new system in April and all of her employees will need to take the training. She said it will be necessary to close her office to the public for 5 of these training days. Those days will be April 21st, April 25th, April 26th, April 27th and April 28th. She said on Friday April 29th the training will be for half a day and not all employees will be training that day since it's just for natural resources, so her office will be open to the public that day.

CORRESPONDENCE: None

ANNOUNCEMENTS:

Commissioner See announced that the next meeting of the County Commission will be held on February 17, 2022 at 1:30 p.m.

ITEMS FOR DISCUSSION/ ACTION:

CONSIDER APPROVAL OF CLAIM AGAINST AN ESTATE FROM MIKE ROSS (See attached copy)

Mike Ross appeared before the Commission. He thanked the Commission for allowing him to come forward and asked for David Kesling to recuse himself because he is his cousin and doesn't want to get him in trouble. He said he was there to ask the County Commission to postpone the finalization of the James F. Wilson estate. He said he read in the paper where it was up to be settled if you didn't make your claim against it if they owe you some money. He said they do owe his company a little bit of money dealing with gas wells. He said he is asking the Commission to postpone it for maybe 30 days or something like that. He said he is trying to work it out with Mr. Wallace and hopes he will. He said in reference to #10 he didn't know John Wallace was Fiduciary Commissioner until he set and talked to him at the office when he bought a piece of property at Files Creek. He said he asked Mr. Wallace if he represented the James F. Wilson estate and he said he didn't, but he didn't tell him he was the Fiduciary Commissioner on the estate. He said he wrote a deed for his other property on about the 12th and when he went in to pay Mr. Wallace, he did tell Mr. Ross he would check on it for him and maybe be able to

settle it. Mr. Ross said we are talking about \$24,000.00 and he told Mr. Wallace at that time he would be willing to settle for 50% of that. He said it is not getting any smaller. He said back in 2018 or 2019 James Wilson came into his office and talked about this and he had invested in Wells with another company and he was what you called a working interest with a 5% interest in the Wells. Mr. Ross said later on he bought the other operator out and Mr. Wilson came with the Wells. He said when the Wells were doing good we sent money to Mr. Wilson and when the Wells were bad a lot of people wanted to trade their interest or just give them back to Mr. Ross. He said in 2018 they made an offer to buy them back if they were to sign their interest over and they would only be charged half price of what they were obligated to pay. He said some did that and some didn't. He said since 2018 they have continued to get an invoice every month and he doesn't know how that was missed when they put the estate together. He said they estimated the cost of plugging each Well and he was involved in 18 Wells and that would be \$25,000.00 apiece. He said the cost today is \$200,000.00 apiece and if they stay in now they are still going to be billed for their portion of whatever it takes to plug that Well. He said he has made the offer to them that if they give him \$12,000.00 they can all go home. He said he is not here to sue anyone he just wants what is due and owed. He said if he didn't think the Wilson family had the money to pay it he wouldn't be here. He said Mr. Wilson was a friend of his.

Fiduciary Commissioner John Wallace said he doesn't doubt a word Mr. Ross said, that is all accurate but it is just a procedural question. He said there is a set time in every estate for which people can file claims and in this estate that expired September of 2019. He said he doesn't exactly know why the legislature requires a second advertisement, he said he has some guesses at that, but he won't guess. He said before an estate can be closed as Fiduciary Commissioner he has to advertise it a last time and that of course is what sparked Mr. Ross' interest. He said the question isn't about whether he is right about that or whether he is owed money or anything like that it's just as a Fiduciary Commissioner whether or not he could hear or decide that claim. He said when the letter came in from Mr. Ross he sent it to the lawyer for the estate who also sent a letter back that said that everything had been distributed at the end of 2021. He said when that happens it completely forecloses the ability for him to hear a claim because the estate is basically empty because the heirs have the money. He said that doesn't foreclose Mr. Ross' ability to seek this from somewhere else, it's just a procedural matter that once that claims period runs and once the money has been distributed there is kind of nothing he can do about it anymore. He said that last advertisement that goes in the paper is not to invite new claims but to let everyone know the estate is closing. He said he doesn't mean any disrespect to Mr. Ross and he is not saying he is wrong and he is not saying he is not entitled to his money. He said as Fiduciary Commissioner there is very little he can do once the claims period has run and the assets have been distributed. Commissioner Siler asked if they are required to list any known debts on the Appraisal forms? Mr. Wallace said no, the appraisal lists the assets not the debts.

Mike Ross said he was in Mr. Wallace's office on the 12th to get his Deed and John told him he would try to work it out and was very nice about it. He said then John took a vacation and he didn't hear back from him. He said that's when he sent the letter in. Mr. Wallace said he did tell Mr. Ross that he would pass the letter onto the estate's counsel, which he did, and was told they would not pay it. Mr. Wallace said he can't negotiate that on anybody's behalf, but he wanted them to be aware of the claim. Mike Ross said he called John Wilson and didn't get a response. He asked the Commission to hold it for 30 days before approving the final settlement.

Commissioner Kesling left the room at this time.

Commissioner See and Commissioner Siler discussed the issue. Commissioner Siler said unfortunately we are set at a certain standard with this law and timelines and once the estate has been settled out and there is no longer an estate it kind of ties our hands as far as holding it out for 30 days or anything longer. He said they have no authority to do that. Commissioner Siler moved to accept the recommendation of the Fiduciary Commissioner on the estate of James F. Wilson, as submitted. Commissioner See and Commissioner Siler both voted yes - Motion passed. Commissioner Kesling was not in the room and did not vote.

INFORMATIONAL PRESENTATION FROM THE SALVATION ARMY

No one appeared before the Commission. Commissioner Kesling moved to table Item B. All yes – Motion passed unanimously

INFORMATIONAL PRESENTATION AND CONSIDERATION OF RESOLUTION REGARDING HJR3 (See copy attached)

Randolph County Assessor, Phyllis Yokum appeared before the Commission. She said Assessors across the State of West Virginia have been asked by the West Virginia Association of Counties to put together a calculated guess of what counties may lose with HJR3. She said HJR3 is a constitutional amendment that was passed during the legislature last year. She said HJR3 is a House Joint Resolution that authorizes the legislature to exempt tangible machinery and equipment and personal property directly used in business activity and tangible inventory personal property directly used in business activity from property taxation by general law. If passed this would change the constitution of the State of West Virginia so that's why it has to be put on the ballot. She said it will be on the ballot in November, 2022 and it will be a yes or no vote. She said she just wants to give the Commission the information just in case it passes. She gave the Commissioners a packet with the information in it. She said the blue form is what the Assessors are required to send to all businesses. She said when it passed the legislature at the very last minute one of the legislatures inserted all personal property vehicles, so what started as just businesses is now for all personal property vehicles. She said she wanted to report to them what could potentially happen to the budget. She said the total the County could lose in tax dollars could be \$1,323,344.78 and the Board of Education loss would be \$1,824,654.48. She said if this constitutional amendment passes in November it does not automatically remove vehicle taxes as it may seem, it does not automatically remove taxes from businesses machinery and personal property inventory. She said if it passes it gives the authority to the legislature to exempt any type of personal property. She said nothing in HJR3 makes counties whole and services that may be affected by this loss of revenue could be law enforcement, emergency services, first responders, fire departments, ambulance services, senior centers and other services funded by the County. Commissioner Kesling asked if the legislature has brought it up in this year's session? Ms. Yokum said not yet but she has heard that they are supposed to and possibly revise it. Commissioner See said this would be a big loss to the County. Ms. Yokum said it would be 34% of the Counties entire budget. She said one way they were looking at making up the revenue was from new businesses coming into the State but she said that's not a guarantee either. Commissioner Siler read the Resolution out loud that Randolph County formally opposes this amendment. Commissioner Siler moved to approve the Resolution, as presented. All yes – Motion passed unanimously

INFORMATIONAL PRESENTATION AND FUNDING REQUEST FROM DAVIS AND ELKINS COLLEGE

Scott Goddard with Davis and Elkins College appeared before the Commission. He thanked the Commission for the opportunity to present on behalf of Davis and Elkins College. He said the City of Elkins and Randolph County would be a different place without Davis and Elkins College. He said the College was established in 1904 with the sponsorship of the Presbyterian Church. The College was founded to create access and education to the citizens of Elkins and the surrounding rural Appalachian area. The College has been true to that mission and to this day is the primary College and is serving more than a 4,000 square mile area. He said currently just under 700 students call Elkins and Randolph County home. He said on top of that the College has nearly 300 employees and several people commute daily to the College. He said since joining the Mountain East Conference in 2019 the Senators now host teams from Colleges near Elkins and throughout the State. They bring their fans and families to our College and town. He said they are currently working on two projects, both of which would have a positive impact on Randolph County. He said first is a refresh of the outdoor amphitheater, the venue for community events like the Mountain State Forest Festival Coronation and the fourth of July celebration. He said the outdoor amphitheater is in dire need of attention. He said there are overgrown trees and broken concrete which makes it unsightly and unsafe. He said a local partner has committed partial funding. The total cost of the project is \$225,000.00. He said the next project is field improvements. He said there needs to be a new press box and bathrooms. He said a lacrosse championship event is scheduled for May, 2022 and this is the first time the event is being held on a college campus. He said they are proud of the City of Elkins and Randolph County and want to showcase everyone and everything to our prospective students and families. He said this project is going to cost

approximately \$232,000.00. He said Davis and Elkins College is asking the Randolph County Commission for \$100,000.00 in support of these projects. He said they will be reaching out to everyone for fundraisers. He said they do not need an answer today. Commissioner See said they will wait until they work on the budget and see where they are. Discussion followed. Commissioner Kesling moved to table the funding request from Davis and Elkins College to be considered at a later date. All yes – Motion passed unanimously

INFORMATIONAL PRESENTATION AND FUNDING REQUEST FROM THE MOUNTAIN STATE FOREST FESTIVAL (See attached copy)

Stacy Schulman, Executive Director of the Mountain State Forest Festival, appeared before the Commission. She said she was there today to ask for the Commission's assistance in the financial loss that the forest festival incurred due to the cancellation of the 2021 forest festival. She said in 2020 they were able to break even due to the Governor awarding festivals a double allocation of their state appropriation. She said in 2021 this appropriation was not awarded. She said luckily many of the 2021 sponsors decided to go ahead and let them keep the sponsorships as donations. She said the forest festival ended 2021 with a loss of slightly over \$26,000.00 which is a significant loss to the festival. She said for a typical year the Randolph County Commission usually allocates the festival \$10,000.00. She said due to the cancellation of the festival in 2021 they have not requested any funding from the Commission to date. She said moving forward they are confident they will have the festival this year and the planning for it is already in the works. She said the Mountain State Forest Festival is requesting the normal funding of \$10,000.00 and an additional \$10,000.00 to cover a portion of their remaining losses of 2021. She said this would get them closer to a break even line and would better position them to ensure a successful festival for 2022 and beyond. Commissioner Siler moved to approve the funding request in the amount of \$10,000.00 with \$5,000.00 to come from courthouse contractual and \$5,000.00 to come from hotel/motel tax funds. All yes – Motion passed unanimously

CONSIDER APPROVAL OF PAYMENT TO RANDOLPH COUNTY HOUSING AUTHORITY PENDING RECEIPT OF PAYMENT FROM WVDO FOR INVOICES #5 & #6 (See copy attached)

A representative from the Randolph County Housing Authority appeared before the Commission. She said this is an overview of what they were able to do in the 2021 grant year. She said they served 145 Randolph County citizens in prevention of eviction and utility shut offs. She said 98 were adults, with 6 of those being elderly adults, and 47 were children. She said they provided 455 services between case management, rent payments and utility payment assistance. She said approximately \$100,000.00 of the grant funding has been expended on these prevention funds. She said about 75% of the grant funding has been expended and that includes the administration travel and marketing fees. She said this has been very beneficial to the entire County. She said they want to thank the Commission for partnering with them to do this. She said one citizen they helped was diagnosed with Cancer and lost her job because of having to get treatments and they were able to help her with her rent and utility payments and just recently she went into remission and was able to go back to work and they were able to keep her house during that time. Commissioner Kesling made motion to pay invoices #7 & #8 as the Commission has received payment for invoices #5 & #6. All yes – Motion passed unanimously

CONSIDER APPROVAL OF VOCA GRANT VOLUNTEER

Allyson Smoak, Victim Services Coordinator in the Prosecuting Attorney's Office, appeared before the Commission. She said she was there to ask the Commission for approval to get a VOCA Grant volunteer. She said a volunteer is a standing requirement of the grant and always has been but the past couple of years it hasn't been possible. She said their space is limited and plus the COVID restrictions. She said she needs to get back on board with that now as this is still a requirement. She said a volunteer would assist her with general daily things she does like corresponding with the victims, accompany her to court hearings and participation in community awareness events. She will also learn how to write a grant and do the research to put it all together. She is a college student and would be here for a semester. Commissioner Kesling moved to approve the VOCA Grant Volunteer, as presented. All yes – Motion passed unanimously

CONSIDER APPROVAL OF PURCHASE OF DEFIBRILLATORS FOR COUNTY FACILITIES

Commissioner Kesling said they went through and checked and four defibrillators on our campus and one at the 4H needed replaced. Commissioner Kesling moved to purchase the defibrillators from American AED in the amount of \$8,400.00 to be taken from our other buildings maintenance supplies. All yes – Motion passed unanimously

CONSIDER APPROVAL OF PURCHASE OF HEATING SYSTEM FOR RANDOLPH COUNTY SENIOR CENTER
(See attached letter)

Commissioner Siler said a furnace went out at the Harman Nutrition Site this past week. Commissioner Siler moved to approve the request from the Randolph County Senior Center in the amount of \$9,800.00 to be taken from the ARP funding, for a new furnace at the Harman Nutrition Site. All yes – Motion passed unanimously

CONSIDER APPROVAL OF AMENDMENT TO COVID-19 LEAVE POLICY (See copy attached)

Commissioner Kesling said they have a COVID-19 leave policy in place and have extended it until July 1, 2022 which says County employees can use 80 hours of paid COVID-19 related sick leave. He said they need to amend that policy to say that the employee must provide a note from the doctor or health department to use the COVID leave. Commissioner Kesling moved to amend the COVID-19 policy that employees must provide a doctors excuse or health department letter in order to use their COVID-19 paid sick leave. All yes – Motion passed unanimously

CONSIDER HIRE OF 4-H DIRECTOR (See copy attached)

James Dean appeared before the Commission. He said they are in need of a director at the 4H Camp and have been working with the Commission to make this employee a County employee. He said they went through the application process and Commissioner Siler set in on the interviews and they would like to recommend Linda Kelley to the position of 4H Director for Camp Pioneer. Her starting pay would be \$14.00 per hour will full county benefits and she will be placed on a 90 day probationary period. Commissioner Siler moved to approve the hiring of Linda L. Kelley as the County 4-H Director and this will be a full time position paying \$14.00 per hour with full county benefits with a 90 day probationary period and she will begin as a county employee on February 7, 2022. All yes – Motion passed unanimously

CONSIDER HIRE OF DEPUTY DIRECTOR FOR THE 911 CENTER AND OFFICE OF EMERGENCY MANAGEMENT (See copy attached)

Commissioner Kesling moved to approve the hiring of Robert Daman as full time Deputy Director of the Randolph County E911 Center and Office of Emergency Management will full county benefits. His starting salary will bet \$38,000.00 annually and will increase to \$40,000.00 annually after a 90 day probationary period. He will begin this position on February 7, 2022. All yes – Motion passed unanimously

CONSIDER PROMOTION TO 911 CENTER CHIEF OF OPERATIONS (See copy attached)

OEM/911 Director, Shonna Fox appeared before the Commission. She said as she spoke to the Commission in the interview process he will be almost like a Deputy Director for 911. She said with this promotion he would get a pay raise to \$18.00 per hour which is covered in her current budget. Commissioner Siler moved to approve Robert Phillips as the 911 Center Chief of Operations and his pay will be increased to \$18.00 per hour which is covered in the current budget. All yes – Motion passed unanimously

CONSIDER APPROVAL OF NEW HIRE FOR E911 CENTER (See copy attached)

Commissioner Kesling moved to approve the hiring on Eric Swecker as a full time 911 dispatcher. This is a full time position with county benefits and he will be placed on a 6 month probationary period. His starting pay will be \$11.25 per hour and he will begin working on February 7, 2022 and the current budget will cover his wages. All yes – Motion passed unanimously

CONSIDER APPROVAL OF APPOINTMENTS TO THE RANDOLPH COUNTY E911 ADVISORY BOARD (See copy attached)

Commissioner Siler moved to appoint Stephen Himes and Robert Phillips as members to the E911 Advisory Board. All yes – Motion passed unanimously

CONSIDER APPROVAL OF BOARD APPOINTMENT FOR NORTH CENTRAL WEST VIRGINIA COMMUNITY ACTION

Commissioner Kesling moved to table this item. All yes – Motion passed unanimously

CONSIDER APPROVAL OF FUNDING REQUEST FROM THE MID-OHIO VALLEY REGIONAL COUNCIL FOR THE SENIOR COMPANION PROGRAM (See copy attached)

Commissioner Kesling said the Commission was approached by them and this is a program that helps keeps seniors in their homes by providing them assistance. The senior companion volunteers provide light housekeeping, transportation, meal preparation and companionship. They provide this 15-40 hours per week. He said they are federally funded and there is a 10% non-federal match required. He said they are asking the Commission for \$250.00. Commissioner Kesling moved to approve the funding request from Mid-Ohio Valley Regional Council for the Senior Companion Program in the amount of \$250.00 and that is to be taken from the courthouse contractual funds. All yes – Motion passed unanimously

CONSIDER ADOPTION OF EMERGENCY ABSENTEE VOTING POLICY (See copy attached)

Commissioner Kesling said this is a policy we do every election year and this is for people that are in the hospital or nursing home within 35 miles of the county seat, on the day of the election, and have not gotten to vote by absentee or early voting. The ballot commissioners will take a ballot to them to vote. Commissioner Kesling moved to adopt the emergency absentee voting policy, as submitted. All yes – Motion passed unanimously

FINAL SETTLEMENTS/ANNUAL ACCOUNTINGS:

Commissioner Siler moved to approve the final settlements/annual accountings on the following (6) estates, as submitted.

Gary Lynn Chenoweth

Robert Stephen Phillips

Esker Leroy Riggelman

Dellis James Rowan

Danny Roy, Jr.

Jerry Swecker

All yes – Motion passed unanimously

BUDGET REVISIONS: (See attached copies)

Commissioner Kesling moved to approve an In House budget revision in the amount of \$3,450.00 for the Dog Warden Supplemental line. All yes – Motion passed unanimously

Commissioner Kesling moved to approve an In House budget revision in the amount of \$2,000.00 for the Dog Warden Auto Supplies. All yes – Motion passed unanimously

DIVISION OF PROPERTY/ERRONEOUS ASSESSMENTS:

Commissioner Siler moved to approve the divisions of property/ erroneous assessments, as submitted. All yes – Motion passed unanimously

DISTRESSED PROPERTIES: None

FIRE FEE ADJUSTMENTS:

Commissioner Kesling moved to approve one hundred twenty four (124) fire fee adjustments, as submitted. All yes – Motion passed unanimously

PAYMENT OF BILLS:

Commissioner Kesling moved to pay the bills, as submitted. All yes – Motion passed unanimously

ADJOURN THE MEETING:

Commissioner Kesling moved to adjourn the meeting. All yes – Motion passed unanimously

Attest: _____

My main reason for attending these meetings has always been to get some shred of accountability which is totally lacking when it comes to policing in this county. By trying to achieve this accountability either through body cams, dash cams or training so incompetent individuals such as Bryan Talkington can not continue to threaten and harass people. Last meeting really threw me for a loop especially from you Rob who started out right off talking about transparency after over a year of me pushing for it then not only to find out there is no money for Cams. I wonder why after you asked to spend hundreds of thousands of dollars on cruisers, radios, pay raises, tasers, bullet proof vests, a canine, additional officers just to name a few. Again throwing more equipment to already poorly trained force making the situation worse. Another reason for cams after listening to your report is the overwhelming amount of traffic spots which no telling how many citizens of the county might have been harassed by individuals like Talkington, Knotts or Pennington not to mention the need for dash cams so to tell the real story about so many wrecks by the RCSD. The County sheriff where I grew up don't involve themselves much into traffic issues which makes me wonder even more and crime was also down in the county. What was even bigger of a insult when you stated your officers love the county and it's people. Maybe you should ask my family that because we did not share the same opinion. Through this whole process I have been completely ignored by not only you Sheriff but many others. By having to not only send in dozens of FOIA's (many of which are still unanswered) other letters, lost evidence, numerous articles sent out to elected officials especially you Rob about other countries getting funding for cams and much research because I was given the run away and lied to by not only your department but any others in the county. Previous I stated Rob you were a very transparent but anywhere else that would be a very low bar. This is the main reason why a lot of people do not trust cops in this area. Personally would not believe a word in any criminal complaint from the RCSD after what I have witnessed. This county is run like a three ring circus which includes the magistrate, annex building and courthouse. I don't dislike all cops just bad ones and what I have seen here is a lot more of the latter. This county has run unsupervised for way too long due to the good old boy system

and a change definitely needs to happen but I am not to optimistic it will. In closing, a quote from the Weirton WV police chief in reference to body cams "It is a asset to the force and its a asset to the public. It protects the police officer, it helps us for safety reasons and it also helps the public. But it is also used to gain information for evidence purposes, things of that nature." I will continue to push for any training measures possible so no one in this county ends up comparable to the man on I65 because of a psychopath hiding behind a badge named Bryan Talkington

Thank you for your time & attention.

Richard L. DeBias

February 3, 2022

BEFORE THE COUNTY COMMISSION OF RANDOLPH COUNTY, WEST VIRGINIA

In re: James Francis Wilson
(DoD) January 29, 2019

REPORT AND RECOMMENDATION

Pursuant to W.Va. Code §44-3-7 the undersigned was appointed to decide an issue arising the above referenced estate. The facts are as follows:

1. James Francis Wilson, (hereinafter "decedent"), died January 29, 2019.¹
2. Decedent's Last Will and Testament was admitted to probate in Randolph County, West Virginia on February 19, 2019.²
3. The Estate was first published for claims by the Clerk of the Randolph County Commission on July 8, 2019.
4. Based on that advertisement, the claim deadline was September 6, 2019.
5. No claims were filed by the claim deadline.
6. The personal representatives of decedent's estate filed the Appraisal of Estate on November 20, 2020³.
7. As a result of the size of the estate, the undersigned was appointed Fiduciary Commissioner.
8. Pursuant to the January 28, 2022 letter from Robert J. Krall, Esq., counsel for the personal representatives of the estate, "[a]ll estate assets have been distributed by the end of 2021." See attached.
9. On or about December 24, 2021 the estate submitted a fully executed Waiver of Final Settlement to the undersigned.
10. On or about January 3, 2022 the undersigned provided a legal advertisement to The Intermountain for closure of the Estate. That advertisement ran in the Intermountain on January 5, and January 12, 2022.
11. On January 19, 2022 Mike Ross Inc mailed a claim seeking payment for gas well plugging.
12. It appears to the undersigned that the issues are wholly legal, and not factual, the matter was not set for hearing. A hearing would merely be a cost to the parties and would not further develop any facts.

¹ Randolph County ROD Book 29 at page 717.

² Randolph County Will Book 590 at page 376.

³ Randolph County Appraisal Book 67 at page 267.

W.Va. Code §44-1-14(a)(7) provides that “[a] statement that claims against the estate must be filed within sixty days of the date of first publication in accordance with article two or article three-a of this chapter. [article two repealed].” No claims were filed against decedent’s estate within sixty days of the date of first publication, September 9, 2019.

Every person . . . having a claim against a deceased person, . . . , who has not, after notice to creditors has been published as prescribed in this article, presented his claim on or before the time fixed in such notice, or before that time has not instituted a civil action or suit thereon, shall, . . . be barred from recovering such claim of or from the personal representative, or from thereafter setting off the same against the personal representative in any action or suit whatever. . . .

W.Va. Code §44-2-26. In short, the failure to file a claim within the claims period bars the filing of that claim against the estate. The bar on late-filed claims in W.Va. Code §44-2-26 does have an exception as follows:

[E]xcept that if a surplus remain after providing for all claims presented in due time, or on which action or suit shall have been commenced in due time, and such surplus shall not have been distributed by the personal representative to the beneficiaries of the estate, and the claimant prove that he had no actual notice of the publication to creditors nor knowledge of any proceedings before the fiduciary commissioner, such creditor may prove his claim by action or suit and have the same allowed out of such surplus; and, in order that such late claims if proved may be provided for, the fiduciary commissioner shall reopen his report if the same has not been returned to the county commission, or if returned, shall make and return a supplemental report:

Id. A Fiduciary Commissioner may accept claims outside of the claims period upon the occurrence of three contingencies,

1. There is a surplus. There was a surplus in this estate. AND
2. The surplus has not been distributed. The surplus in this estate has been distributed, as recited in Mr. Krall’s attached letter. AND
3. The claimant prove he had no actual notice of the publication. Claimant has not so alleged.

The inability to meet any one of the three required elements is fatal the acceptance of a late-filed claim. As the surplus has already been distributed, the report cannot be reopened or supplemented for a late-filed claim.

The bar to late-filed claims is not necessarily a bar to recovery. The next code section, §44-2-27, provides that “[e]very creditor who has not presented his claim to the fiduciary commissioner before distribution of the surplus by the personal representative, or before that time has not instituted a civil action or suit thereon against the personal representative, may, if not barred by limitation, bring a civil action against the distributees and legatees, jointly or severally, at any time within two years after such distribution.” In order to avail itself of the abbreviated process of making a claim against an estate, the claimant must follow the procedure for filing claims. However, not filing a claim does not impair a claimant’s right to seek redress in another forum.

WHEREFORE, the undersigned reports and recommends that the claim of Mike Ross, Inc. be denied and the estate of James Francis Wilson be permitted to close.

Respectfully submitted this 28th day
of January, 2022 by: John J. Wallace,
IV, Fiduciary Commissioner



John J. Wallace, IV
WV Bar #9730
P.O. Box 7
Elkins, WV 26241
(304)637-3800

CERTIFICATE OF SERVICE

I, John J. Wallace, IV, Fiduciary Commissioner, hereby certify that the foregoing *Report and Recommendation* was served upon parties of record on this 28th day of January, 2022 by depositing a true and correct copy in the United States Mail, postage prepaid, in an envelope addressed as follows:

Robert J. Krall, Esq.
Herndon, Morton, Herndon & Yeager
83 Edgington Ln.
Wheeling, WV 26003
*Counsel for the Fiduciaries of the
Estate of James F. Wilson*

Mike Ross, Inc.
PO Box 219
Coalton, WV 26257



John J. Wallace, IV
WV Bar #9730
P.O. Box 7
Elkins, WV 26241
(304)637-3800

WEST VIRGINIA, RANDOLPH COUNTY CLERK'S OFFICE
This instrument was this day presented to me in my office, and
thereupon, together with the Certificate thereto annexed, is
admitted to record.

2-7-22
Teste Brenda Wiseman
Clerk

WEST VIRGINIA, RANDOLPH COUNTY CLERK'S OFFICE
This instrument was this day presented to me in my office, and
thereupon, together with the Certificate thereto annexed, is
admitted to record.
2-7-22
Teste Brenda Wiseman
Clerk

C

Randolph County Commission



Commissioners

David L. Kesling

Chris See

Christopher Siler

Resolution

Whereas, HJR3, The Property Tax Modernization Constitutional Amendment, was adopted during the 2021 Session of the West Virginia Legislature,

Whereas, the Amendment would grant authority to the West Virginia Legislature to "amend the State Constitution [...] to exempt tangible machinery and equipment personal property directly used in business activity and tangible inventory personal property directly used in business activity and personal property tax on motor vehicles from ad valorem property taxation by general law,"

Whereas, ratification of the amendment will be considered by West Virginia voters during the November 2022 General Election,

Whereas, Randolph County would lose approximately 34% of its annual budget should business and personal property taxes be eliminated, and this revenue loss would have a catastrophic effect on the provision of county-funded services to the public without the mechanism to "make the county whole" or a plan to implement changes in taxation,

Let it be resolved that the Randolph County Commission expresses its formal opposition to The Property Tax Modernization Constitutional Amendment.

Chris See, President

Randolph County Commission

David Kesling, Commissioner

Randolph County Commission

Cris Siler, Commissioner

Randolph County Commission



P.O. BOX 388 • ELKINS, WV 26241 • OFFICE: (304) 636-1824 • FAX: (304) 636-1020 • WWW.FORESTFESTIVAL.COM

February 8, 2022

Chris See, President
Randolph County Commission
4 Randolph Avenue, Suite 102
Elkins, West Virginia 26241

Re: FY 2023 Funding Request

Dear President See:

On behalf of the Mountain State Forest Festival, I want to thank the Randolph County Commission for their support over the years. As you know the Forest Festival is vital to the economy and culture of our community. While COVID-19 has caused us to cancel the past two years, we are confident the 84th edition of our beloved Forest Festival will go on as planned in 2022.

In FY '22 the Commission graciously allocated ten thousand dollars (\$10,000.00) to the Forest Festival. We would respectfully request that same amount in the FY '23 budget. These funds go to offset costs associated with hosting the state's largest and oldest festival.

Again, we appreciate all of the support the Randolph County Commission has shown us over the years and we look forward to working with you this year to bring back the Mountain State Forest Festival.

If you have any questions or require additional information, please let me know.

Respectfully Submitted,

Stacy Schulman
Executive Director



**Community Development Block Grant -Small Cities Block Grant Program
REQUEST FOR PAYMENT**

Community Development Block Grant - CARES Act (CDBG-CV)

REQUEST FOR PAYMENT FORM- Public Services

TO: West Virginia Development Office
Building 3, Room 700
1900 Kanawha Boulevard, East
Charleston, WV 25305-0311
304-558-2234

FROM: Randolph County Commission
4 Randolph Ave, Suite 102
Elkins, WV 26241

Project Name		RCHA COVID Housing and Utility Assistance			Project #	CV-CDBG0005
Invoice #	8	% of CDBG Funds Expensed			68%	
Time Period Covered by this Request:		10/1/2021	TO	10/31/2021		
Amount of CDBG Funds on hand at the time of this Request					\$	-
COST CATEGORIES	APPROVED BUDGET AMOUNT	AMOUNT REQUESTED TO DATE	AMOUNT REQUESTED THIS DRAW	TOTAL AMOUNT REQUESTED	AMOUNT DISBURSED TO DATE	BALANCE
Administration	\$ 8,622.00	\$ 7,004.54	\$ 802.03	\$ 7,806.57	\$ -	\$ 815.43
Admin Direct Costs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Admin Indirect Costs	\$ 8,622.00	\$ 7,004.54	\$ 802.03	\$ 7,806.57	\$ -	\$ 815.43
Public Assistance- Rental	\$ 90,578.00	\$ 72,289.55	\$ 8,043.11	\$ 80,332.66	\$ -	\$ 10,245.34
Public Assistance- Utility	\$ 50,000.00	\$ 24,572.03	\$ 1,645.43	\$ 26,217.46	\$ -	\$ 23,782.54
Public Assistance- Mortgage	\$ 20,250.00	\$ 1,468.94	\$ 1,032.12	\$ 2,501.06	\$ -	\$ 17,748.94
Public Assistance- Food	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Marketing	\$ 1,000.00	\$ -	\$ -	\$ -	\$ -	\$ 1,000.00
Travel Costs	\$ 2,000.00	\$ 41.72		\$ 41.72	\$ -	\$ 1,958.28
SUB-TOTAL:	\$ 172,450.00	\$ 105,335.06	\$ 11,522.69	\$ 116,857.75	\$ -	\$ 55,592.25
Less Income	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL:	\$ 172,450.00	\$ 105,335.06	\$ 11,522.69	\$ 116,857.75	\$ -	\$ 55,592.25

PROGRESS REPORT

We had limited called in October for requesting service. We have served 131 adults in 65 families with case management and financial support. We have financially supported 34 families. Most families have needed at least 4-5 months of assistance. We have served 25 kids under the age of 5. We have served 5 people over the age of 62.

We continue to provide referral services to our partners, Youth Health, Catholic Charities, and Legal Services. After our November request, we will be looking to see if we need to reallocate or if there is additional funding available for Rental Assistance.

Chief Elected Official Signature

Date

Printed Name of Chief Elected Official

*Copies of Invoices Required
Invoice Summary Forms Required*

6/9/2021

Attachment L, Form C10

ATTACHMENT 3-4

RANDOLPH COUNTY



HOUSING AUTHORITY

Building Strong Communities Since 1979

INVOICE

Mail Office: 2280 Randolph Ave Elkins, WV 26241
Phone: 304-636-6495

Date: December 2, 2021
Invoice #: CV-CDBG0005 – 008
For: CDBG-CV Grant

Bill To:
Grants Accounts Payable
Randolph County Commission
4 Randolph Ave
Elkins, WV 26241

<u>Description</u>	<u>Amount</u>
Admin Indirect Costs	\$ 802.03
Public Assistance- Rental	\$ 8,043.11
Public Assistance- Utility	\$ 1,645.43
Public Assistance- Mortgage	\$ 1,032.12
Public Assistance- Food	
Marketing	
Travel Costs	

TOTAL

\$ 11,522.69

If you have any questions on this invoice, please contact Jennifer Griggs.

Cell: 304-940-4596

Office: 304-636-6495 ext 39

Email: jgriggs@rchawv.org

Handwritten: Dana C

Handwritten: Made on 12/2/21



January 27, 2022

Randolph County Commission
4 Randolph Avenue Suite 102
Elkins, WV 26241

Dear Commission President Kesling, Commissioner See, and Commissioner Siler,

As you know, the Committee on Aging for Randolph County/Randolph County Senior Center provides services to Seniors across our county from county owned facilities in Elkins, Mill Creek and Harman. It is a concern regarding the Harman Nutrition Site about which I am requesting your assistance today.

Built in 2003, Harman Nutrition site serves nutritious Congregate and Home Delivered Meals to seniors in that portion of our very large county. It is a lovely facility and a vital community asset. In fact, a few years ago during the devastating flooding in the Harman area, the Nutrition Site served as a hub for the recovery efforts. The staff there collected, stored and helped distribute thousands of pounds of donated food and supplies, and cooked hot meals for recovery workers for weeks.

The Harman Nutrition Site has three furnaces, all original to the building, and therefore 19 years old. One heats the kitchen, one the dining room, and one the remainder of the facility. They are all well-kept and maintained through our preventative maintenance contract with Nitro Construction Services. However, the system that services the dining room had an unexpected issue this week and stopped working all together. Upon further inspection, we found that a bird got in the flu pipe. This restricted the air flow, causing the unit to run too hot, and cracked the heat exchanger. Given the age of the unit, the substantial wait for replacement parts (it would take months to get them) but the immediate availability of a new unit, and the similar amount of labor to repair vs. replace, we have determined that replacement of the unit is our best course of action. Quite frankly, it is our only option in getting the system functional within a reasonable time frame. Of course, because it is winter in West Virginia, this is not something we are able to delay for the normal bidding process.

PO Box 707
Elkins, WV 26241

PO Box 707
Elkins, WV 26241



We have attached the quote for the replacement unit with this letter. We respectfully request your assistance with this project. If you need any further information, please let me know.

Thank you in advance for your assistance.

Sincerely,

Laura Ward

Laura Ward, Executive Director

PO Box 727411 P.O. Street
Tulsa, OK 74174

Laura Ward
741-302-1111

Randolph County Commission



Commissioners

David L. Kesling

Chris See

Christopher Siler

MEMO TO ALL EMPLOYEES

February 3, 2022

To whom it may concern:

Last year, Congress passed the Families First Coronavirus Response Act, which mandated that employees be granted up to 80 hours of paid leave in the event they were affected by COVID-19.

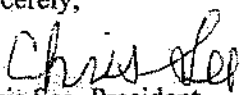
Those provisions expired December 31, 2020. In 2021, Randolph County employees were granted up to 80 hours of paid COVID-19 related sick leave.

Beginning January 1, 2022, Randolph County employees will be granted 80 hours of paid COVID-19 related sick leave; this policy will remain in place until July 1, 2022, when the policy will be reevaluated.

This leave will not be counted against an employee's annual or sick leave. If the courthouse facilities must be closed and staff is unable to report to work, this time will not be counted as leave even if the 80 hours have been used already. In order to use this leave, an employee must provide a work excuse from a physician or the county health department. If a department head is required split their office into split shifts, this time will not be counted as leave even if the 80 hours have been used already.

This policy will remain in effect unless otherwise mandated by state or federal statute.

Sincerely,


Chris See, President
Randolph County Commission

4 Randolph Avenue - Suite 102 - Elkins, West Virginia 26241 - Phone (304) 636-2057 - Fax (304) 630-1125
randolphcountycorrectionwv.org

5

Randolph County Commission



Commissioners

David L. Kesling

Chris See

Christopher Siler

February 3, 2022

Dear Ms. Wiseman,

The Randolph County Commission has hired Linda L. Kelley to serve as the County 4H Director.

This is a full-time position paying \$14 per hour with full county benefits beginning February 7, 2022. There will be a 90-day probationary period.

Sincerely,

Chris See, President

Randolph County Commission

K

Randolph County Commission



Commissioners

David L. Kesling

Chris See

Christopher Siler

February 3, 2022

The Commission has hired Robert Daman as a full-time Deputy Director of the Randolph County E911 Center and Office of Emergency Management with full county benefits.

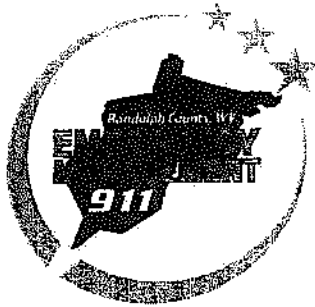
His starting salary pay will be \$38,000 annually and will increase to \$40,000 annually after a 90-day period. He will begin this position on February 7, 2022

Thank you,

Chris See
Chris See, President

Randolph County Commission

4 Randolph Avenue - Suite 102 - Elkins, West Virginia 26241 - Phone (304) 636-2057 - Fax (304) 630-1125
randolphcountycommissionwv.org



Randolph County Office of Emergency Management/911
194 Airport Road
Elkins, WV 26241
(304) 636-0483

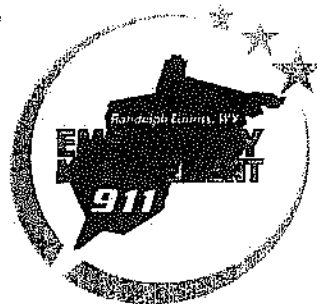
February 3, 2022

Commissioners;

I am requesting the acknowledgment of Robert Philips' new title of Chief of Operations. His main duties are to oversee the 911 daily operations and ensure that policies/procedures are being followed. His pay is to be increased to \$18.00. The current budget covers the increase in wage.

Thank you,

Shonna Fox



Randolph County Office of Emergency Management/911
194 Airport Road
Elkins, WV 26241
(304) 636-0483

February 3, 2022

Commissioners;

I am requesting the approval for the hiring of Eric Swecker as a telecommunicator trainee. This is a full-time position with county benefits and a probationary period of 6 months. Starting pay at \$11.25 and to begin work on February 7, 2022. The current budget covers his wages.

Thank you,

Shonna Fox



Randolph County Office of Emergency Management/911
194 Airport Road
Elkins, WV 26241
(304) 636-0483

February 3, 2022

Commissioners;

The 911 council is requesting that Stephen Himes with Elkins Fire Department and Robert Philips with Randolph County 911 be voted onto the board.

Thank you,

Shonna Fox



P.O. Box 247 • 709 Market Street • Parkersburg WV 26101
Phone: (304) 422-4993 • Fax: (304) 422-4998
www.movrc.org

P

January 13, 2022

Randolph County Commission
4 Randolph Avenue
Suite 102
Elkins, WV 26241

Dear County Commissioners,

I am writing to you about the Senior Companion Program that has been a vital part of the Randolph County community for several years. The Senior Companion Program is a volunteer program that helps keep people in their own homes that are at risk of losing their independence. Senior Companions provide 15-40 hours per week visiting older adults, most who live alone and would like to have someone share part of their day.

One of the hardest things to have to do as we face getting older is the thought of losing our independence because we can no longer take care of ourselves and our surroundings. The days can be long and lonely, especially for those who live alone. Studies show that loneliness can result in depression, anxiety and make certain conditions worse. Our children work or no longer live close and live busy lives. Our Senior Companion Volunteers can provide light housekeeping, transportation, meal preparation and most of all companionship.

The Senior Companion Volunteers are 55 years or older, meet federal income guidelines, pass a physical, be fingerprinted, and pass Federal and State background checks. These volunteers receive a stipend of \$3.00 per hour for their volunteer service and mileage reimbursement. This stipend is tax free and does not affect any benefits that volunteers may receive.

In 2021, Randolph County had 2 senior companion volunteers that provided 2,185 hours of service. This volunteer service corresponds to \$6,555.00 in federal dollars that was put back into Randolph County.

While the Senior Companion Program is in part federally funded, there is a 10% non-federal match requirement. Please consider us for funding of \$250 to continue this important program to Randolph County and the elderly we serve.

Please feel free to contact me at (304) 422-4993 ext. 1070 or your local coordinator, Michelle Row Williams at (304) 699-3725.

Thank you,

Becky Edwards
Senior Companion Program Director

• Calhoun • Jackson • Pleasants • Ritchie • Roane • Tyler • Wirt • Wood

EMERGENCY ABSENTEE VOTING POLICY

WHEREAS, West Virginia Code 3-3-5c authorizes county commissions in West Virginia to adopt a policy extending emergency absentee voting procedures in their county; and

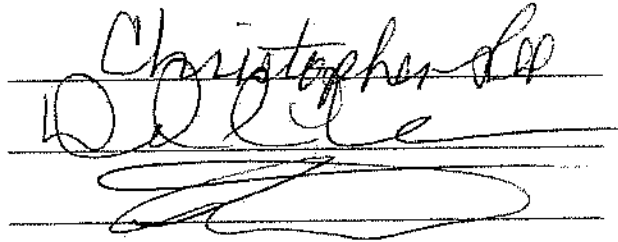
WHEREAS, it is the opinion of this Commission that the adoption of such a policy would benefit the citizens of Randolph County;

THE FOLLOWING POLICY IS HEREBY ADOPTED BY THIS COMMISSION:

A person qualified to vote an absent voter's ballot, as defined by West Virginia Code 3-3-1 who is:

- (1) In a hospital or other duly licensed health care facility within a county adjacent to Randolph County or within thirty-five miles of the county seat of Randolph County, for medical treatment; or
- (2) In a nursing home within the county

and is unable to vote in person on election day, may vote an emergency absent voter's ballot under the procedures set forth in West Virginia Code 3-3-5c.

A handwritten signature in cursive script, appearing to read "Christopher Lee", is written over three horizontal lines. The signature is written in black ink on a white background.

U.S. 11/11/11

A	B	C	D	E	F	G
1	In House BUDGET REVISION		02/03/2022			
2	REVENUES:					
3		PREVIOUSLY APPROVED AMOUNT		INCREASE	DECREASE	REVISED AMOUNT
4	ACCOUNT NUMBER	ACCOUNT DESCRIPTION				
5	003-388-901	transfer from GC		\$2,000.00		
6		TOTAL INCREASE / (DECREASE) REVENUES:		\$2,000.00	0	
7						
8	EXPENDITURES:					
9		PREVIOUSLY APPROVED AMOUNT		INCREASE	DECREASE	REVISED AMOUNT
10	ACCOUNT NUMBER	ACCOUNT DESCRIPTION				
11	003-716-343-00	Dog Warden Auto Supplies	\$5,500	\$2,000.00		\$7,500.00
12						
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29		TOTAL INCREASE / (DECREASE) EXPENDITURES:		\$2,000.00	\$0.00	
30						
31	Reason for Revision: Transfer from GC to Dog to cover auto expenses					
32						
33						