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**SOME OF WHAT'S INSIDE THIS WEEK**

Finding your niche **A3**

From Pats to the 'Cats **B10**

Lots of holiday fun **B1**



**Spirit**

The week from  
December 5 to  
December 11, 2018

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2 sections

| SINCE 1844 |

**Suspended state trooper created stir here in June**

By **TIM COOK**  
Special to the Spirit

MARTINSBURG – The West Virginia state trooper suspended after a teen's alleged beating here last month was the officer involved in a June traffic stop in Jefferson County where a New Jersey couple had all but \$2 of their \$10,480 in cash and gift cards seized.



Trooper Derek Walker

Trooper Derek R. Walker was identified as a subject of investigations examining whether police officers used excessive force during the Nov. 19 arrest of a 16-year-old teenager, an interaction captured on a police dashboard camera.

Walker, a trooper based in Martinsburg assigned to patrol Berkeley and Jefferson counties, was placed on leave without pay while investigations take place

(See **WALKER** Page A9)

**JCC set to debate Confederate plaque, impact fees, JCDA**

By **TIM COOK**  
Special to the Spirit

CHARLES TOWN— The future of county impact fees, the Jefferson County Development Authority and the Confederate plaque at the entrance of the Jefferson County Courthouse all are on the agenda for this week's session of the Jefferson County Commission.

With Democrat Ralph Lorenzetti on the five-member JCC – he defeated Republican appointee Peter Onoszko in the Nov. 6 general election – a majority of the commission now supports moving the plaque elsewhere.

(See **JCC** Page A10)

**MYSTIFIED**  
AFTER  
**MERGER**

**City Council stunned by \$1 million bill for Rockwool sewer line work**

By **TIM COOK** Special to the Spirit

**A**fter spending months debating how they might stop the Rockwool factory planned for Ranson, Charles Town City Council members learned Monday night the city is on the hook for \$1 million for engineering and design work for the project's sewer line.

Mayor Scott Rogers – who cheered the announcement of the Rockwool factory in 2017 before becoming a strident opponent of the project this summer – told Council he would not have supported the merger of utility systems if he had known Charles Town also would take on Rockwool sewer line project obligations.

Council members expressed shock, frustration and dismay at the news.

"I guess my initial question is, why weren't we informed?"

(See **ROCKWOOL** Page A5)

**BELOW:** The Charles Town City Council in May approved this section of an ordinance that obligates the city to complete the sewer line to serve Danish insulation manufacturer Rockwool at the former Jefferson Orchards site in Ranson. On Monday, City Council members expressed shock that \$1 million is owed for design and engineering work on the sewer line.

C. The project consists of design, acquisition, construction and equipping of two (2) pump stations, approximately 16,700 linear feet of sanitary sewer force main and approximately 9,240 linear feet of gravity sanitary sewer main, and all necessary appurtenances (collectively, the "Project"). The Project will extend sanitary sewerage service to the ROXUL, USA, Inc. development to be located at the Jefferson Orchards site in the vicinity of the Bardane Exit on West Virginia State Route 9. The Project will also serve the Burr Business and Industrial Park, Shenandoah Junction and other connections in the Northern Route 9 region, as feasible.



REVIEW FILE PHOTO

**W.Va. community looks back on late President Bush's visit**

By **JOEL WHETZEL**  
The Hampshire Review

SLANESVILLE – As Americans reflect on the life and legacy of the late President George H.W. Bush, some Hampshire County residents remember his 1991 visit to Slanesville Elementary with fondness and admiration.

The president flew to the school in the Marine One helicopter on April 10, 1991, to honor the National Teacher of the Year, Rae Ellen McKee, who taught second grade at the school.

"It was quite an honor for him to come to Slanesville," said Gary

(See **PRESIDENT** Page A2)

President George H.W. Bush (second from left) stands with Education Secretary Lamar Alexander and 1991 National Teacher of the Year Rae Ellen McKee and her daughter, Mollie, during the president's visit to Slanesville Elementary School.



**Beth Batdorf**  
of Shepherdstown

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## Rockwool

FROM PAGE A1

asked Council Member Mike Brittingham. "We've been talking about this for six months."

City Manager Daryl Hennessy said Charles Town's obligation to pay for the engineering work completed for the six-mile sewer line was part of a contractual agreement the city approved when it acquired Ranson's sewer system in July.

"We believe it was embedded in the discussion regarding the project ordinance," Hennessy said. "We did know that Ranson was undertaking some design work. We should have been more clear about in our communication when we talked about the [sewer system consolidation] project with Ranson."

Charles Town's acquisition of Ranson's sewer system is part of a merger of the county's three largest public utility systems under the management of the Charles Town Utility Board. The merger was advocated as a way to capture cost efficiencies for utility customers.

Charles Town is now taking the final steps to take over the water and sewer operations of the Jefferson County Public Service District.

With the mayor and Brittingham emerging as leading critics of Rockwool after protesters seized on the project following the June 26 groundbreaking, the Charles Town City Council has repeatedly delayed a vote on whether to authorize a sewer revenue bond that was included in the project's structure.

John Stump, the public bond attorney with the Steptoe & Johnson law firm who has advised city officials on the Rockwool sewer line and financing Charles Town's acquisition

"It really comes from knowing that there are upfront costs associated with projects. There were costs that had to be undertaken at that point in time in order to get the [Rockwool sewer] project through design and up to the point of construction."

| JOHN STUMP, public bond attorney advising Charles Town City Council |

of Ranson's sewer system, also apologized for not more clearly explaining the obligation to council members.

"It should have been spelled out—absolutely," he said. "There was no intent to hide it from anyone."

Before the Rockwool controversy ignited in July, six months after news of the project appeared on the front page of the *Spirit*, Stump said it was likely "generally understood" that the utility merger would involve work already completed on the Rockwool project and its sewer line.

"It really comes from knowing that there are upfront costs associated with projects," Stump said. "There were costs that had to be undertaken at that point in time in order to get the project through design and up to the point of construction."

Brittingham said he is particularly frustrated that he learned about the city's financial commitment through a Freedom of Information Act request filed by Jefferson County Vision, the nonprofit formed this summer to fight Rockwool. Documentation of the contract obligation was highlighted by members of the nonprofit group.

Brittingham said CTUB managers working with Stump and others on the utility consolidation and the Jefferson Orchards sewer line should

have done more to communicate the city's \$1 million obligation.

"We were aware of the lump sum amounts for the sewer design," Kristen M. Stolipher, CTUB's assistant utility manager, said Monday night.

Council Member Bob Trainor asked Stump whether the council or the city's utility authority, the Charles Town Utility Board, had received any documents that specifically listed the \$1 million debt to Ranson for the sewer line work.

Trainor said it's "quite disturbing" that the city appears obligated to pay about \$42,000 in interest on the BB&T bank line of credit Ranson used to fund pre-construction work on the sewer line.

Trainor said the council was presented with documents that listed various assets and liabilities associated with utility merger transaction with Ranson, but those documents did not list the sewer line contract work as a liability the city would owe.

"That's absolutely correct," Stump said.

That prompted Brittingham to ask Stump what would happen if the City Council doesn't authorize the bond to allow for state financing of the sewer line.

"I think that's an open question," Stump responded.

Brittingham then asked, "Would

Ranson expect us to pay them a million dollars?"

"I'm sure they would," Stump replied.

Hennessy said it's clear that Ranson officials expect Charles Town to repay those expenses from state financing that would pay for the proposed sewer line now estimated to cost \$10 million.

The City of Ranson financed the upfront costs on the sewer line, a water line and an access roadway to serve the 400-acre Jefferson Orchards industrial site where the Rockwool factory is being constructed.

Ranson officials established a bank line of credit at BB&T to fund the infrastructure costs related to the Rockwool development.

The interest continues to accrue every day, Ranson officials say.

If Charles Town City Council passed the sewer bond and gets the money for the project from the state, it could then pay back Ranson. Charles Town would just function as a pass-through for the state money.

So far Ranson has accumulated about \$5 million in contract costs toward the three infrastructure projects, with about \$1 million in preparation to build the sewer line, Hennessy said.

The Tool Design Group in Silver Spring, Md., completed engineer-



ing work on the sewer line. The state commerce and economic development departments have offered to pay the full cost of the sewer, water line and roadway construction as part of a complicated bond financing arrangement funded by future homeowners and businesses that would use the line.

Stump said the Jefferson County Development Authority, which has been set to approve a similar, state-funded arrangement for the water line to serve the Rockwool factory and Jefferson Orchards site, could face comparable liabilities for pre-construction costs liabilities.

On Nov. 9, days after a vote on the water line was cancelled at the last moment, JCDA Chairman Eric Lewis and 11 members of the 21-member JCDA resigned.

Ranson Attorney Tim Stranko on Tuesday said the work that resulted in the merger of Ranson's sewer system with Charles Town's was both "thorough and careful."

"Over several months, staffs from both entities worked through every detail of the transaction, supported throughout by experienced utility attorneys and accountants," Stranko said in a statement released Tuesday. "Of course, the Rockwool project administration and duties were a major topic of discussion throughout these negotiations. Every known element of this sewer project was disclosed and discussed in detail, including project funding and the related rights and duties being transferred from Ranson to CTUB."

"Both City Councils were fully briefed on all aspects of the transaction, had an opportunity to ask questions and discuss all concerns before the public vote approving the consolidation."

# TIMELINE: Votes on Rockwool infrastructure postponed repeatedly

**July 2** Charles Town Building Commission unanimously passes first reading of ordinance to authorize issuing a public bond up to \$16 million to the West Virginia Development Office. The bond is part of financing arrangement for the state to cover the construction costs of a six-mile sewer line extending from Charles Town's sewer system to the Rockwool factory site in Ranson.

Charles Town City Council unanimously passes first reading of the \$16 million bond ordinance to fund what will be known as the W.Va. 9 Sewer Project.

**July 9** Building Commission unanimously approves the second reading of the bond ordinance for the W.Va. 9 Sewer Project.

**Aug. 6** Building Commission, facing residents furious over Rockwool project, tables action on the W.Va. 9 project bond ordinance. Commission halts action on bond authorization until council provides clear direction.

City Council holds a public hearing on the factory and sees Rockwool opponents fill seating

in City Hall's meeting chambers to overflowing. Council tables a vote on the second reading of the W.Va. 9 bond ordinance.

**Aug. 20** City Council hears more opposition to Rockwool.

**Sept. 4** Two Rockwool officials give presentation to City Council and respond to council members' questions about the factory's operations and safety.

**Sept. 17** City Council moves W.Va. 9 Sewer Project discussion and action moved from a tentative Sept. 24 to an Oct. 1 special meeting. Vote on second reading of the bond ordinance delayed until Nov. 5.

The council discusses whether to direct City Manager Daryl Hennessy, the city's representative on the Jefferson County Development Authority, how to vote on an ordinance authorizing a public bond providing up to \$7 million toward what would be a state-funded water line. The council decides for legal reasons not to direct Hennessy, but Hennessy signals his intention to follow the majority consensus of the council and city residents.

A discussion over whether the council should support a resolution opposing the Rockwool factory, as Harpers Ferry and Shepherdstown officials have done, is postponed until Oct. 15.

**Oct. 1** City Council holds a workshop to hear a presentation from a Charles Town Utility Board consultant about a wastewater permit application to the West Virginia Department of Environmental Protection to update a city wastewater treatment plant permit. DEP's permit approval is necessary to allow the city to accept the Rockwool factory's industrial wastewater. Two council members, Mike Brittingham and Bob Trainor, question the information Rockwool provided in the application submitted to the DEP.

**Oct. 15** Residents opposing the Rockwool factory fill City Hall's meeting chambers asking the council to turn down the W.Va. 9 Sewer Project bond authorization. On a 6-1 motion, the council postpones a second reading of the Route 9 bond ordinance from Nov. 5 to Dec. 3.

Council members discuss a letter from Rockwool officials stating the company will pursue alternative sewer line service regardless of whether the city accepts the state's cost-free funding package for the sewer project. Officials are told Rockwool's alternative options would lead to a service rate increase for existing and future Charles Town utility customers.

Brittingham makes a motion for the council to request six months water and sewer bills from the company's Byhalia, Miss., factory. Trainor also includes in the motion a request to ask Jefferson Utilities Inc. officials to meet with council members in a public session to answer questions about the JCDA water line project.

**Nov. 19** After discussing the city's wastewater permit application with the DEP, the council delays a discussion of whether to authorize sewer project bond until sometime after a Dec. 10 public hearing on the wastewater permit.

—Compiled by Tim Cook

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# Spirit ADVOCATE

A6 Wednesday, December 5, 2018

DAN CASTO

## Fighting 'hysterical' Rockwool tall tales

### Leaders of Jefferson County Vision should accept the truth about 5(g) process

Jefferson County Vision has recently attempted to make an issue out of the Jefferson County Development Authority's process for selecting a project management firm to manage the construction of the waterline extension project which will serve the new Rockwool facility, Fox Glen and North Jefferson Elementary School.

The selection process used by the JCDA is known as the 5(g) process, named after the provision in West Virginia Code from which the process originates. To comply with 5(g) requirements, the JCDA sought bidders for the project and a committee of three JCDA members interviewed the responding bidders and then rated their proposals. As then required by 5(g), the JCDA negotiated with the highest-rated bidder in order to determine whether acceptable pricing could be obtained.

JCV is attempting to spread misinformation, rumors and innuendo regarding a purported conspiracy involving the process. I was a member of the JCDA's 5(g) committee and have first-hand knowledge of what really happened. At times JCV will tell you that the JCDA did not use the 5(g) process – if that were true, then why did I spend most of a day reviewing proposals and interviewing the bidders? – and at other times JCV will suggest that there was some sort of a conspiracy by the JCDA to rig the bidding process.

The JCV has never once reached out to any member of the 5(g) committee to inquire about what occurred, so I question their sincerity when they speak regarding the process. If the JCV had taken the time to obtain facts instead of chasing hysterical conspiracy theories, the JCV would have discovered the truth: JCDA members followed the advice of the JCDA legal counsel throughout the process and ran a fair process that we believe to be in full compliance with the West Virginia Code.

The process began when at some point during the spring of 2018, the state informed the JCDA that the state preferred for the JCDA to manage the construction of the waterline extension. That made sense to me given that the JCDA would be leasing the waterline to Jefferson Utilities Inc. and ultimately had the contractual obligation to ensure its proper construction.

By this point the waterline engineering and design had already been completed, so now we were merely getting prepared to move the project forward once the financing was approved.

A month or so later, the JCDA was informed by John Stump of Steptoe & Johnson, underwriter bond counsel, that the JCDA should follow the 5(g) process for selection of the waterline extension's project manager. There was some discussion about whether the process was actually required because the design and engineering work had already been completed.

To me, state code is somewhat unclear. However, given that the bond financing for the waterline extension cannot be obtained without an acceptable legal opinion from bond counsel, the JCDA had no other choice except to follow the request of Steptoe & Johnson by proceeding with the 5(g) process.

If Jefferson County Vision is against Rockwool for environmental reasons, then that is fair. If JCV believes that the Jefferson County Development Authority could have done things better, then that is also fair. What is not fair is to make baseless accusations of criminal activity against volunteer JCDA board members who gave countless hours to help create jobs in Jefferson County.

The JCDA's president, in an open meeting, asked for volunteers to serve on a 5(g) committee. I remember a long silence in the room. I finally volunteered to serve, as did two other members. No one was pressured to be on the committee and no one was dissuaded from volunteering. Any member who wanted to volunteer would have been placed on the committee. The entire JCDA approved the appointment of the committee without objection.

The JCDA then sought and received proposals for the project management work. Two firms submitted proposals: Thrasher Engineering and a firm out of Northern Virginia. The 5(g) committee held a meeting where it interviewed the two firms. This process lasted three to four hours.

The primary question I asked of both proposers was how broad their subcontractor list was and whether they would bid the construction work locally. Thrasher answered that they maintain a large contractor list and that they would attempt to find qualified contractors within 25 miles of Jefferson County.

The other proposer stated they did not have a list of West Virginia firms available, but would do their best to create one if it was important for the project. Thrasher also represented that they had worked on numerous projects using the specific West Virginia financing source to be used for the project and understood the IT system used by West Virginia to process the administrative items required by the program.

The other proposing firm stated that they were not familiar with the specific West Virginia financing mechanism being used for the project. While the other firm had completed some work in West Virginia, the vast majority of their work appeared to be in Northern Virginia.

Following the review of the proposals and the in-

person interviews, each member of the 5(g) committee independently rated the proposals. I personally rated Thrasher very high, at 100 overall, I believe. After each member rated the proposals, the ratings were then consolidated. The JCDA then proceeded to negotiate pricing with the overall highest rated proposer, which was Thrasher Engineering.

The JCV is insinuating that the JCDA's 5(g) process was some sort of a grand conspiracy to direct work to Thrasher Engineering. JCV's reasoning for this appears to be that Thrasher Engineering was founded by Woody Thrasher, now the former Secretary of the West Virginia Commerce Department. If there was a grand conspiracy, someone should have told the 5(g) committee members.

Prior to this controversy, I had no idea that Woody Thrasher was the founder of Thrasher Engineering. I had never done work with Thrasher Engineering nor heard of them. Some JCV activists have actually questioned my integrity when I say this because in their opinion, I should have known who the Commerce Secretary was and should have known detailed information about his former business activities.

Let me ask the readers a question: How many West Virginia department secretaries can you name? How many former West Virginia department secretaries? I'm willing to bet that most will answer "none." Let's take it a step further – if you know a former West Virginia department secretary's name, do you happen to know anything about his or her former business activities? I sure do not and once again I'm willing to bet most West Virginians do not either.

The above is the truth as I recall it. To suggest that any member of the JCDA or 5(g) committee did something inappropriate to drive business to Thrasher Engineering is so factually off base that it is absurd.

It is long past time for these defamatory falsehoods to stop being spread by JCV. If JCV is against Rockwool for environmental reasons, then that is fair. If JCV believes that the JCDA could have done things better, then that is also fair. What is not fair is to make baseless accusations of criminal activity against volunteer JCDA board members who gave countless hours to help create jobs in Jefferson County.

As a result of the actions of the leaders of the JCV, Jefferson County now suffers from constant division. Long-time community leaders are no longer interested in serving as they have done so in the past. I truly hope that community members will finally stand up to the leaders of Jefferson County Vision – many of whom have moved to Jefferson County only in recent years – and tell them enough is enough: No more baseless accusations of criminal activity against long-time community leaders without providing tangible proof.

– Dan Casto, a lawyer and certified public accountant, lives in Charles Town. A West Virginia native, he formerly served on the Jefferson County Development Authority



STEPHEN SMITH

## West Virginia needs new direction – and every one of us

You can feel it. This is a moment. Our country is up for grabs.

Every 50 years or so, the nation turns to West Virginia for leadership. The first battle of the American Revolution happened in western Virginia. Our state was birthed when we rejected the Confederacy, and its plantation economy in the Civil War. Fifty years later, in the same Jefferson County Courthouse where John Brown was sentenced to death, over 800 mineworkers – black, white, immigrant – were put on trial for daring to oppose company rule in the Mine Wars.

This year, we honored those memories again. For nine days, the teachers and school service personnel showed us what government by the people can look like. It is in our blood to fight for our people, no matter their race, their accent, or who their father was.

My name is Stephen Smith and I'm running for governor, because I believe we are in one of those defining moments in American history right now, and I want my 6-year-old son to know whose side I was on.

West Virginians may have the least, but we give the most. In West Virginia, we always hear that we're last. But we are near the top for charitable giving, for military service, for volunteer service. We're No. 1 in the amount of time we



Before resigning from leading the West Virginia Healthy Kids and Families Coalition last month to seek the Democratic nomination for governor, West Virginia native Stephen N. Smith lead the organization, which includes the Try This West Virginia program.

spend with our neighbors. That's the kind of family I grew up in – my dad helped start the West Virginia Coalition for the Homeless and the Public Defender Services. My mom made our house the kind of place that always had extra people in it – foster kids, neighbors, family members who were between jobs.

I took the values I learned at home to Harvard and began raising hell for working families, fighting to win a living wage for the janitors, cooks and security guards. I've spent my career shoulder to shoulder with people who are fighting for their dignity.

Six years ago, my wife Sara and I chose to move home to West Virginia. It was an easy choice, because we wanted to raise our family in a place that cares more about who you serve than what you own.

The West Virginia organization I've led for those six years is called the West Virginia Healthy Kids and Families Coalition. Through the Our Children, Our Future and Try This West Virginia programs, we helped pass more than two dozen pieces of legislation, using old-fashioned people power: health insurance for 182,000, a raise in the minimum wage, 5.2 million more

**WANT TO GO?** Democrat Stephen Smith is holding 2020 kickoff events around the state this month including one happening from 3:30 to 6:30 p.m. Sunday at the home of Alex Orton and Rod Snyder at 116 Wildwood Farm Lane in Shenandoah Junction. Learn more or RSVP to Smith at 304-610-6512 (cell phone) or by email at Stephen@wvcantwait.org

school breakfasts annually.

Meanwhile we lifted up more than 300 community projects. We helped build gardens, after-school programs and small businesses. All this happened not because of me, or because we had a lot of money, but because we knew that no one is more capable or more creative than the people who are closest to a problem.

The idea of this campaign is simple: what if the values of generosity and service that guided our neighborhoods also governed our statehouse? What if our state's \$4 billion budget was accountable to working families, instead of Wall Street interests?

I'm running because the only way we get that kind of government is if we take it. No outside company or

billionaire politician will save us. It is time to bet on our own people – our own kids, our own workers and small businesses.

We need a thousand leaders, not one. We need a movement. That means we need you. Our campaign wants your vote, but we're also going to need your experience, your energy, your ideas. Because nobody knows this state like you do. Nobody knows its pain and how to heal it better than you. It is time to turn that pain into power, like the generations before us did.

We need constituency captains, to make sure the voices of veterans, students, small business owners, faith leaders and other communities are no longer ignored in the Statehouse. We need volunteers and interns of every skill level. And we need candidates for every local office, folks who are unafraid to stand up for working people.

We did not do this to ourselves. But we are the only ones who can save us. I have never achieved anything in my life by myself, and I'm not starting now. I hope you will join us.

West Virginia can't wait.

– Stephen N. Smith announced his candidacy for the Democratic nomination for governor last week. He lives with his family in Charleston