

**Minutes of the May 23, 2017
Daviness County Fiscal Court Meeting
Held at the Daviness County, Kentucky Courthouse**

**Present elected court officials included
Judge/Executive Al Mattingly and County Commissioners Mike Koger,
George Wathen and Charlie Castlen**

**DOCUMENTS RELATED TO TODAY'S DISCUSSIONS
ARE FILED IN THE CORRESPONDING FISCAL COURT FILE**

Commissioner Wathen opened the meeting in prayer and led the court in the Pledge of Allegiance to the flag.

Central Dispatch Director Paul Nave addressed the court today prepared to answer questions regarding his department's proposed 2017/2018 budget as recently presented to the Owensboro City Commission. The proposal is comprised of recommendations from the Central Dispatch Oversight Committee and Mr. Nave and includes a request to hire two additional full-time dispatchers, a new computer-aided dispatch (CAD) system, and updated digital radio software & equipment for a total budget request of \$3 million, which the city pays 75% and the county pays 25%. This is a 30% increase over last year's request and exceeds the cap as outlined in the consolidated operations agreement.

Mr. Nave reviewed his staffing levels and the need to hire additional personnel. However, as noted, Mr. Nave's department rarely, if ever, operates at its capacity of 25 dispatchers. He explained in detail the multi-faceted workload, high levels of stress placed on dispatchers, and the profession's high turnover rate. He said, if his staff increased by two, he could better ensure a more complete staffing level.

Since a portion of the annual salary budget goes unused, due to the inability to fully staff the department, Judge Mattingly asked where that money has gone. Mr. Nave explained, "Those dollars go into a surplus account where the oversight committee has the authority to allocate or reallocate those dollars at their discretion. In the past, needs have come up and much of that excess has been used to cover those needs."

Judge Mattingly does not agree that the oversight committee has that authority. He said that is a decision for local government. He stated, "This is an issue that must be reconciled. In no way am I implying that the committee acted improperly."

As the current system is out of date and a new system will be a one-time cost, Judge Mattingly supports the CAD upgrade and related equipment. He does not support the radio costs in this year's budget, but suggested it to be placed in next year's proposal. He added, "I will strongly recommend to the oversight committee to look closely at the salaries for dispatchers and if necessary, to consider increasing the rate in an effort to improve employee retention."

County Treasurer Jim Hendrix presented the Treasurer's Report for April 2017.

Minutes of the May 4, 2017 meeting were submitted to fiscal court members for review prior to today's meeting and on a motion of Commissioner Koger, seconded by Commissioner Castlen with all the Court concurring said Minutes were approved and signed.

By a motion of Commissioner Wathen, seconded by Commissioner Castlen, the court considered for approval all Claims for all Departments.

Without further discussion, Judge/Executive Mattingly called for a vote on the motion. All members of the court voted in favor; motion passed.

By a motion of Commissioner Wathen, seconded by Commissioner Koger, the court considered for approval the Parks Facility/Special Event Rental Agreement with the International Bluegrass Music Museum regarding ROMP.

Without further discussion, Judge/Executive Mattingly called for a vote on the motion. All members of the court voted in favor; motion passed.

By a motion of Commissioner Koger, seconded by Commissioner Castlen, the court considered for approval Lease Agreement with Matthew Schneider for a 72.28-acre tract of land located at 7740 Highway 2830 for the Operation of a Gun Club effective 6/1/2017.

Purchasing Agent Jordon Johnson noted that the court originally offered a lease agreement to one of the two vendors who responded to our request for proposal. Unfortunately, that deal fell through and the lease was never executed. Before you today is the lease agreement with the other respondent.

Without further discussion, Judge/Executive Mattingly called for a vote on the motion. All members of the court voted in favor; motion passed.

By a motion of Commissioner Wathen, seconded by Commissioner Castlen, the court considered for approval **Resolution 11-2017** regarding CDBG application for Friendly Park Village.

Without further discussion, Judge/Executive Mattingly called for a vote on the motion. All members of the court voted in favor; motion passed.

By a motion of Commissioner Wathen, seconded by Commissioner Castlen, the court considered for approval to Purchase an Excavator: DPW, per the State Master Agreement.

Without further discussion, Judge/Executive Mattingly called for a vote on the motion. All members of the court voted in favor; motion passed.

By a motion of Commissioner Koger, seconded by Commissioner Castlen, the court considered for approval Purchase Salt Spreader Stands; DPW, from Impco for \$13,470.

Without further discussion, Judge/Executive Mattingly called for a vote on the motion. All members of the court voted in favor; motion passed.

By a motion of Commissioner Koger, seconded by Commissioner Castlen, the court considered for approval to Award **Bid No. 08-2017:** Whitesville Repeater Project to ERS-OCI for \$21,024.

Without further discussion, Judge/Executive Mattingly called for a vote on the motion. All members of the court voted in favor; motion passed.

By a motion of Commissioner Wathen, seconded by Commissioner Castlen, the court considered for approval to Award **Bid No. 18-2017:** New Truck Weighing Scales; LF to Premiere Scales for \$59,800.

Without further discussion, Judge/Executive Mattingly called for a vote on the motion. All members of the court voted in favor; motion passed.

By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered for approval to Award **Bid No. 19-2017:** Relocation of Sheriff's Office Radio Equipment; FC to Ohio Valley Two-Way Radio for \$17,820.

Without further discussion, Judge/Executive Mattingly called for a vote on the motion. All members of the court voted in favor; motion passed.

By a motion of Commissioner Wathen, seconded by Commissioner Castlen, the court considered for approval Hire Casey D. Owens as a Building and Grounds Tech at the Judicial Center effective 6/5/2017.

Without further discussion, Judge/Executive Mattingly called for a vote on the motion. All members of the court voted in favor, except Commissioner Koger as he abstained; motion passed.

By a motion of Commissioner Wathen, seconded by Commissioner Castlen, the court considered for approval to Hire Brandon Adams as a seasonal Park Attendant at Panther Creek Park effective upon successful completion of pre-employment screenings.

Without further discussion, Judge/Executive Mattingly called for a vote on the motion. All members of the court voted in favor; motion passed.

By a motion of Commissioner Wathen, seconded by Commissioner Castlen, the court considered for approval to Hire James R. Goetz as a DPW summer laborer effective upon successful completion of pre-employment screenings.

Without further discussion, Judge/Executive Mattingly called for a vote on the motion. All members of the court voted in favor; motion passed.

By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered for approval to Transfer Daniel Thurman from a SW Truck Driver to a Service Tech.; DPW effective 5/29/2017.

Without further discussion, Judge/Executive Mattingly called for a vote on the motion. All members of the court voted in favor; motion passed.

By a motion of Commissioner Wathen, seconded by Commissioner Koger, the court considered for approval to Appoint Danny Richeson (15-2017) to the **OMPC Building Code Appeals Board** - TERM: 05/06/2017 – 05/06/2021.

Without further discussion, Judge/Executive Mattingly called for a vote on the motion. All members of the court voted in favor; motion passed.

By a motion of Commissioner Koger, seconded by Commissioner Castlen, the court considered for approval to Appoint Ted Lolley to the **OMPC Building Code Appeals Board - TERM: 05/06/2017 – 05/06/2021.**

Without further discussion, Judge/Executive Mattingly called for a vote on the motion. All members of the court voted in favor; motion passed.

By a motion of Commissioner Koger, seconded by Commissioner Castlen, the court considered for approval to Appoint Barry Smith to the **MCA Board - TERM: 05/19/2017 – 05/19/2021.**

Without further discussion, Judge/Executive Mattingly called for a vote on the motion. All members of the court voted in favor; motion passed.

By a motion of Commissioner Koger, seconded by Commissioner Castlen, the court considered for approval to Appoint David Johnson (18-2017) to the **RWRA Board - TERM: 07/01/2017 – 07/01/2021.**

Without further discussion, Judge/Executive Mattingly called for a vote on the motion. All members of the court voted in favor; motion passed.

By a motion of Commissioner Koger, seconded by Commissioner Wathen, the court considered for approval the **Second Reading of KOC A.92 (2017); 04-2017 – 2017/2018 Daviess Co. Fiscal Court Budget.**

Comments:

No comments received.

Without further discussion, Judge/Executive Mattingly called for a vote on the motion. All members of the court voted in favor; motion passed.

Read in summary, the **First Reading of KOC 921.671 (2017); 6-2017 - An Ordinance Amending Text in Articles 3, 5, 7, 8 and 14 of the Owensboro Metropolitan Zoning Ordinance.**

Comments:

Commissioner Wathen asked, "In article 5, what is the application fee, who is the Zoning Administrator, and what is the appeal process?"

OMPC Executive Director Brian Howard replied, "\$75 in residential and \$150 in professional, industrial or commercial. The Zoning Administrator is Matt Warren. An appeal would go through the OMPC Board of Adjustment and if a resolution was not reached, the Circuit Court would be the next step for an appeal."

Commissioner Wathen stated, "I am concerned about the encroachment permit where once approved, he/she must start within 30 days of that approval and complete the work no more than 180 days following approval. That appears to me to be too restrictive."

Mr. Howard added that it also allows the zoning administrator to grant one or more time extensions. The issue exists when someone obtains an approval, but does not begin work for two or more years and still expects to use that approval. He stated, "As long as they are actively pursuing it, there should not be an issue."

Commissioner Wathen asked if an approval could be revoked.

County Attorney Claud Porter stated, "If a permit is revoked, that revocation must be recorded in the county clerk's office so there is a notice of said revocation. The intent of this is to provide proof of a permitted easement encroachment and when revoked, that the easement permit is no longer permitted."

Commissioner Wathen asked, "What if a pool is constructed on an easement?"

Attorney Porter stated, "It is unlikely such a permit would ever be approved."

Commissioner Wathen said, "It specifically talks about swimming pools in here."

Attorney Porter stated, "Swimming pools were not included in the original ordinance and it is being included and added because in order to construct the pool, an encroachment permit may be necessary for a component of that pool, but not for the pool itself."

"My questions is if I built a building and/or installed a fence and obtained an encroachment permit, can someone come in and tell me I had to remove the building or fence even though I have the necessary permit(s)", asked Commissioner Wathen.

Yes, that is a possibility, but again, Attorney Porter noted that structures, such as permanent buildings or pools, will not likely ever be granted an encroachment permit. That is not the intent of this ordinance. As he explained, it is to allow for non-permanent buildings (buildings without foundations), sidewalks, underground pipes or lines and other non-permanent structures.

Judge Mattingly asked, "What has been done in the past in situations where structures or fencing along an easement needed to be removed"

Mr. Howard replied, "As this has never been something OMPC permitted, I assume the structure owner would be asked to remove it or it would be removed by the right-of-way deed holder."

Attorney Porter stated, "That is the reason why this issue is being recommended for the ordinance. There was a situation where a fence was constructed atop a utility easement and when that utility needed to access the land, the court told them that they could not force the fence removal as no provision is in place that grants them that authority."

Judge Mattingly is cautious of adding this to the ordinance as it may make utilities less careful with current structures or fences already in place and less likely to be able to hold the utility company less liable for potential property damaged due to it being located on that easement.

Attorney Porter stated, "Due to the lack of provisions regarding this matter, I thought that was the reason the court encouraged such a provision. Under this, at least the structure owner has recourse, where now they do not."

Judge Mattingly explained that early this month, OMPC considered these modifications. He stated, "My goal is to have the same ordinance and same set of rules to go by regarding this as the City of Owensboro. They have yet to have this issue brought before their commission. Right now, I too have considerable concerns, as does Commissioner Wathen. I am recommending that we remove article 5 from this proposed ordinance for now."

Commissioner Wathen stated, "I also have concerns regarding Articles 8 and 14. Judge Mattingly said we can address concerns in Article 14 now, but encouraged him to get with Mr. Howard before our next meeting to discuss those issues and if Article 8 needs to be removed, we can do that at the next meeting."

Regarding Article 14, Commissioner Wathen asked why microbrewer-distilleries are limited to 5,000 square feet.

Mr. Howard replied, "This type of operation is more akin to a small restaurant and should be allowed in areas where restaurants would be located; keeping the alcohol production portion of the facility at or less than 5,000 square feet keeps it more related to a restaurant setting and less like a bottling facility."

Commissioner Wathen is also concerned with the list in Article 14, which includes farm equipment and motor homes. He stated, "Those should not be in this list."

Mr. Howard stated, "There is an exemption in Article 13 of the zoning ordinance that exempts the full paving requirement for large agricultural equipment, large industrial equipment, and manufactured homes. However, motor homes are not exempt and are currently required to be

on a paved surface. He also noted that in the situation where a retailer of motor homes has units stored, such as in a back lot storage area, those do not fall into this category. If that retailer has units on display for sale, those do fall under this provision. There is a distinct difference between outdoor storage and outdoor display and those are defined.”

Commissioner Wathen does not agree with a regulation that requires these items to be on paved areas.

Commissioner Koger agreed. He stated, “A paved surface would make it harder to load these portable sheds such as the retailer on East Parrish Ave. He has his sheds displayed on a grassy area and instead of constantly damaging asphalt with a forklift that digs into the ground; he prevents that by displaying the sheds on the ground. I can also see issues relative to carports too.”

Attorney Porter stated, “There is a difference between outdoor storage and outdoor display. Only the display requires pavement. The unit picked up by the customer does not require pavement.

Mr. Howard noted that these changes are simply putting in writing what we have done in the past 20 or so years.

Commissioner Wathen said he will get with Mr. Howard soon to review in detail the questions and concerns he has with the ordinance.

By a motion of Commissioner Wathen, seconded by Commissioner Koger, the court considered for approval to amend the aforementioned ordinance by removing Article 5.

Without further discussion, Judge/Executive Mattingly called for a vote on the motion.

All members of the court voted in favor; motion passed.

Read in summary, the **First Reading of KOC 411.2 (2017); 5-2017** - An Ordinance Amending KOC 411.1 (2013); Section 8, Article I, Section 3-8 of the Code of Ordinances of the County of Daviess to Expand the Sale of Alcoholic Beverages on Sundays and adding Section 9 Requiring Responsible Beverage Service Training.


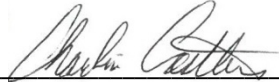
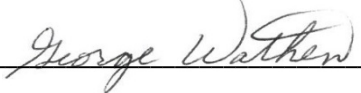

Comments:

Judge Mattingly explained that this ordinance mirrors the city’s recently passed ordinance and will place those retailers of alcoholic beverages outside of the city limits on a more level playing field with those inside the city limits.

Judge Mattingly and Commissioner Wathen fail to see the benefit to retailers in total as research proves little to no benefit to retailers resulting from allowing this extra day to operate.

Commissioner Wathen stated, "I hate to see us give up something we as a community and country always considered sacred and that is things that we do and don't do on Sunday. We have been painted in a corner because if we don't approve this ordinance, it puts the county businesses on an unlevelled playing field with those businesses in the city."

**Without objection, Judge/Executive Mattingly adjourned the meeting.
SO ORDERED THAT COURT STAND ADJOURNED.**

Judge/Executive:  Commissioner: 
Commissioner:  Commissioner: 

I, duly appointed Clerk of the Daviess County Fiscal Court, do hereby certify that the above Minutes for the corresponding Order Book were approved by the members of the Daviess County Fiscal Court at the regular session of said Court on this 1st day of June 2017.

Jennifer C. Warren, Daviess County Fiscal Court Clerk