

REGULAR SESSION
of the Daviess County Fiscal Court
held at the Courthouse in the City of Owensboro,
County of Daviess, Commonwealth of Kentucky
on this 19th day of January 2012
Present were Judge/Executive Al Mattingly and
County Commissioners Jim Lambert,
George Wathen and Charlie Castlen

DOCUMENTS RELATED TO TODAY'S DISCUSSION
ARE FILED IN JANUARY 19, 2012 FISCAL COURT FILE

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

Jailer David Osborne presented his 2011 Daviess County Detention Center Annual Report. The report included the current number of inmates, which are down due to the state's decision to release many inmates early. Jailer Osborne discussed ways he is trying to save money and reported on the current physical conditions of the jail buildings. He talked about the community service program and said that due to early releases, this program is suffering. He is hopeful that the community services program continues, as it is a real benefit to the community and taxpayers.

Commissioner Lambert complimented Jailer Osborne on his professional organization.

Commissioner Castlen stated, "With regard to the inmates we are losing due to early releases, how much earlier are they being released?"

Jailer Osborne said, "They have said if you are within 6-months of being released and if you fit other criteria, you may be eligible for early release."

James Kamuf wanted to make sure all inmates were being properly fed. He asked if programming exists, which monitors inmate's weight and conducts health assessments.

Jailer Osborne stated, "We have to provide each inmate with 2,400 calories per day. We go beyond that and provide 2,800 calories. We do keep an eye out. If we thought someone was hungry, we would get them what they need."

Judge Mattingly stated, "I was on a conference call yesterday, with the Governor who mentioned that the state has closed another private prison. There are several private prisons in the state. Daviess County receives \$31 per day to house a state inmate and the private prisons receive upwards of \$50 per day to house the same prisoner. Some of those private prisons, or one of those, when it was closing, were going to transfer inmates and they talked in terms of the jails that were going to get those prisoners would have to have an education program and a substance abuse program. Daviess County jail has both of those programs in place."

Jailer Osborne stated, "It would only make since that the state would close private facilities and help counties out by placing those inmates in county jails across the state."

Judge Mattingly thanked Jailer Osborne for the cooperation this court has received regarding the use of inmate labor. He stated, "It would present a great fiscal burden if we no longer had the use of those inmates. In return, the jail is subsidized by \$2 million of taxpayer's dollars so it

is kind of a way for the county to recoup those dollars. I also thank you for helping with the agreement with McLean County for the housing of their inmates."

Presented were checks for \$771 each to the following agencies for the 2011 Christmas at Panther Creek Park fundraising:

- Church For All
- Benchmark Family Services Foster Care
- Helptosomeone Inc.
- Majesty Academy Inc.
- Green River Regional Rape Victim Services dba New Beginnings

Presented for recording were the Ohio County Water and GRADD Special District Budgets.

Minutes of the January 5, 2012 meeting were submitted to fiscal court members for review prior to today's meeting and on a motion of Commissioner Lambert, seconded by Commissioner Castlen with all the Court concurring said Minutes were approved and signed.

By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered approval of 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 Castlen, seconded by Commissioner Wathen, the court considered approval of Fund Transfers from the Solid Waste Operating and General Funds to the Solid Waste Debt Service Fund 2014, Solid Waste Debt Service Fund 2017, and Downtown Renovation Bond Fund.

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 Lambert, the court considered approval to Advertise for 2012 part time/seasonal grounds maintenance personnel (\$8.50 per hour) and park attendants (\$10.00 per hour) for the Daviess County Parks Department.

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 Lambert, seconded by Commissioner Castlen, the court considered approval to Declare the following as Surplus:

- 1994 East Walking Floor Trailer VIN 1E1U1X283RRA15780
- 2005 Mac Walking Floor Trailer VIN 5MAMN452X5C009159
- 2005 Mac Walking Floor Trailer VIN 5MAMN45265C009160
- 2005 Mac Walking Floor Trailer VIN 5MAMN45285C009161

The Mac trailers have inoperable fifth wheels. All trailers will be sold fitted with a minimum of two roadworthy tires to facilitate their removal. The trailers will be sold "as is", with no exceptions.

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 Lambert, the court considered approval to Advertise for **Bid No. 05-2012** for the Sale of Surplus Solid Waste Walking Floor Trailers and Miscellaneous Equipment.

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 Lambert, the court considered approval to Hire Jonathan R. Jones as a Mechanic in the Department of Public Works effective January 30, 2012, subject to successful completion of pre-employment testing.

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

Commissioner Castlen noted a possible conflict of interest regarding this item and recused himself. He noted that simply as an oversight did he not recuse himself from the last court meeting's discussion of said item. He then left the courtroom.

By a motion of Commissioner Wathen, seconded by Commissioner Judge/Executive Al Mattingly, the court considered approval of the **Second Reading of KOC 412.3 (2012)** — An Ordinance Providing for the Sale of Distilled Spirits, Wine and Malt Beverages by the Drink on Sundays from 1:00 p.m. until 11:00 p.m. and Extending New Years Day Hours, by Convention Centers, Convention Hotel Complexes, Hotels, Motels and Restaurants, including Restaurants Operated by Private Clubs, which are Licensed for the Retail Sale of Alcoholic Beverages by the Drink and which Receive at Least Fifty Percent (50%) or More of their Gross Annual Income from the Dining Facilities by the Sale of Food.

Comments:

Sherman Wilson stated, "I am here to oppose this legislation." He believes that the more time allotted for people to consume liquor, the higher the percentage rate is that someone could have an alcohol-related accident. He stated, "What about a restaurant that currently does not sell alcohol and suddenly decides to start. How could they possibly know that their total receipts would be 50% of their total sales or not? What about the patrons that do not drink – do they have any rights?" He believes that people, if they are going to drink, should do it at home or in a bar or tavern and not at a family restaurant. He asked the court not to approve this ordinance.

Jeff Blackstone, owner of Mama's Table in Sorgho, Kentucky stated, "I know that this is a tough subject for a couple of our Commissioners, as you have always been against the sale of alcohol on Sunday in any capacity. I understand, however, this is not the issue. That issue was settled several years ago, and it has no place in tonight's discussion. The issue tonight is about discrimination, and a level playing field for all competing businesses in a like business. It is neither fair nor right to have rules that pertain to one restaurant and is not the same for its competitors merely because of its size. It is much like what our Congress does when it makes

laws and then gives exemptions to favored companies. I feel certain none of us agree with that style of doing business. I pay the same taxes proportionately. I create jobs. I provide a service in our community. Last week, I lost a party of 25 people to watch the NFL playoff game on Sunday because I could not sell beer. They went elsewhere. That hardship to my business was made possible by a law that discriminates against smaller businesses. Because of this law, I was unable to fill up to 1/3 of my restaurant. Business lost is lost forever. Being successful in business is hard on a level playing field. It becomes nearly impossible when our laws handicap or tie our hands so we cannot offer the same goods and services as our competitors. A law that gives favoritism to a similar business is discrimination. Discrimination in any color is wrong. I need you to vote yes and allow any restaurant that meets the criteria of food sales to alcohol sales, as set forth in the existing Sunday opening law, to sell alcohol as is already permitted by my competition. I need you to make it a level playing field."

James Kamuf stated his support of the passage of this ordinance as it is a matter of fairness. He also encouraged people not to drink at all.

Rodger Connor came in support of long-time friend and owner of Mama's Table, Jeff Blackstone. Although he said he is not in support of drinking alcohol, he does support the idea of liberty and justice for all. He asked the court to approve this ordinance, as currently it does not allow for liberty and justice for ALL.

David Hawes asked the court to vote no on this issue. He stated, "I cannot believe that a community is enhanced when you have more access to alcohol."

Mr. Sherman stated, "Bob Green came to this town and said that he would not build the Executive Inn unless the community allows him to sell alcohol on Sundays in his hotel. In 1977, officials gave into that blackmail and passed this law in the first place. The Executive Inn has been gone for 3-years and we still exist. We could have existed without the Executive Inn. Why don't we resend the law for the Sunday alcohol sales?"

Commissioner Lambert stated, "I will be voting against this ordinance. In 2002, when the city and county voted on the current ordinance, I voted against it. I believe we are best on Sunday for church and family." He believes more people go out on Sunday to eat instead of to drink. He stated, "What about convenience stores, taverns, quick-picks, and grocery stores? Is it fair to them that restaurants can sell alcohol on Sundays but they cannot? Passing this ordinance would make it fairer for a couple of groups, but there are still other people out here that would not complete that circle."

Commissioner Wathen stated, "I wrestled with this for a long-time and agree with a lot of the issues which have been brought up tonight. It is my understanding that we have in the city 25-30 restaurants that already serve or can serve alcohol because of an existing law. There are 20 more that have recently been given the opportunity because the city's passage of the new law. There are approximately 45-50 restaurants in the city, which can serve alcohol. In the county there are 4 that serve on Sunday's and there are 8, which are prohibited from serving alcohol on Sundays. The question of whether or not we should serve alcohol in restaurants by the drink on Sundays – I think that issue has already been settled. You could be anywhere in the county and in just a few minutes you could be at a restaurant the serves alcohol with your lunch. I am going to vote for it. It makes for a more level playing field."

Judge Mattingly, "There is a perception out there that if you allow alcohol sales on Sundays, that there will be an increase in arrests due to driving under the influence. I was not on the city commission when it was passed in 2002, but since then, there has not been any evidence, which supports that theory. If not enough people patronize these restaurants, they will close."

Without further discussion, Judge/Executive Mattingly called for a vote on the motion. Voting yes were Judge/Executive Mattingly and Commissioner Wathen. Voting no was Commissioner Lambert. Commissioner Castlen earlier recued himself. Motion passed.

Commissioner Castlen returned to the courtroom.

By a motion of Commissioner Wathen, seconded by Commissioner Lambert, the court considered approval of the **Second Reading of KOC 1010.6 (2012)** — An Ordinance Establishing an Animal Control and Protection Policy.

Comments:

Claud Porter stated, "This ordinance amends the current ordinance and states, no person or entity within Daviess County shall offer or give away live animals as a prize or reward in connection with any raffle, protest, demonstration, promotion, or as part of any gratuity or pecuniary exchange to induce entry into any game, contest, or other competition, except livestock or hunting animal, offered or given away as a part of a farm youth education program or other similar program offered by a not for profit entity. Nothing in this section shall prohibit the auction or sale of animals. Each offering or giving away of an animal in violation of this section shall be deemed a separate offense."

Commissioner Castlen asked, "I don't know how prevalent this is, but what types of steps are we going to take to notify people that might be inclined to do this?"

Ashley Clark stated, "We discussed that during the prior animal control meeting and it was thought that letters should go out to places such as carnivals, fairs, school boards, Reid's Orchard, and the mall, to name a few. She also said that a letter will be prepared for the business license office, which if someone obtained a license for an event where they might desire to use animals as a prize they could be notified of this policy with their business license."

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

Presented in court was the **First Reading of KOC 611.11 (2012)** – An Ordinance of the Daviess County Fiscal Court Authorizing the Establishment of Assessment Warrants for the North Kentucky Highway 81 Area.

Comments:

David Hawes stated, "There is a pump station on Highway 81 across the street from the government operations center and this is a line extension that extends north from that pump station toward Highway 56. This section of line provides service to several properties along Highway 81. The total cost of this project is \$129,286. There is a system development share and a coal severance grant that was from the court that will offset the cost. The total assessment per equivalent residential unit is \$3,983.44.

Other business to be brought before the Daviess County Fiscal Court:

By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered approval to Appropriate \$12,500 for the I-67 Study.

Judge Mattingly stated, "The Mayor and I met with the I-67 coalition. They were trying to raise money to do a scoping study to try and bring an interstate from Indianapolis, Indiana down Highway 231, across the Natcher Bridge, and over to the by-pass extension then down to the Natcher Parkway connecting with I-65. If we could see this happen, it could be one of the most important economic development tools this community would have and could see in the near future. While we were there, the fiscal court and the city pledged \$25,000 for the scoping study that is necessary to present to the Indiana Department of Transportation. The cost of the project is approximately \$650 to \$700 million. The majority of that is the completion of a

section of a Highway from I-69 to Highway 231. The majority of the cost will occur in Indiana. The total cost of this study is \$200,000.”

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

James Kamuf supports this project. He encouraged the court to think about alternate forms of transportation, including high-speed rail.

Comments:

Judge Mattingly announced that the February 2, 2012 Fiscal Court meeting has been rescheduled to February 7, 2012.

Commissioner Lambert announced the retirement of Knottsville Fire Chief Terry Johnson. Mr. Johnson has been a volunteer fire fighter for over 25-years and he is to be commended for his commitment to this community.

Commissioner Lambert stated, “The city continues to ignore our verbal and written requests and concerns regarding the annexation of properties outside the city limits. There are three separate and disconnected properties along Green Acre Drive and another one in that area. My position is that we are not opposed to annexation if they take the whole subdivision or area. But to go out and pick out three lots on Green Acre or any other street is wrong and I would think that in the future we may want to have a joint meeting with the city and come to some agreement that is fair to us and fair to them and fair to the community. We have agreed to finance the convention center to the tune of \$20 million and the insurance premium tax on properties outside the city limits finance the repayment of that bond and as the city continues to annex those individual properties, they cut into the very fund that we are using to help finance the convention center and I think that is wrong and there is a better way.

Judge Mattingly stated, “I received a letter from Daviess County High School which reads in part, Daviess County High School was recently voted 2nd place winner of State Farms Friday Night Feats, which earned them \$12,500. Friday Night Feats is a video contest sponsored by State Farm, which honors big moments in high school football.”

Judge Mattingly stated, “I attended a forum called “The Different Faces of Substance Abuse” where City Commissioner Roger Stacy and I discussed the local efforts regarding substance abuse.

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

Al Mattingly
Daviess County Judge/Executive