

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 3rd day of April 2014
Present were Judge/Executive Al Mattingly and
County Commissioners George Wathen and Charlie Castlen

DOCUMENTS RELATED TO TODAY'S DISCUSSION
ARE FILED IN APRIL 3, 2014 FISCAL COURT FILE

Commissioner Jim Lambert was absent.

Judge/Executive Al Mattingly opened the meeting in prayer and led the court in the Pledge of Allegiance to the Flag.

Judge Mattingly proclaimed April 2014 as Fair Housing Month, and March 29, 2014 as Virginia Braswell Day.

Minutes of the March 20, 2014 meeting were submitted to fiscal court members for review prior to today's meeting and on a motion of Commissioner Wathen, seconded by Commissioner Castlen with all present court members concurring said Minutes were approved and signed.

**By a motion of Commissioner Wathen, seconded by Commissioner Castlen, the court considered approval of all Claims for all Departments.
Without further discussion, Judge/Executive Mattingly called for a vote on the motion. All present 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 Promote Zachary Winkler from Service Technician to Heavy Equipment Operator in the Department of Public Works effective April 7, 2014.
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 Appoint Cynthia Alvey (05-2014) to the Medical Control Authority Board - TERM: 3/1/2014 – 3/1/2018.
Without further discussion, Judge/Executive Mattingly called for a vote on the motion. All members of the court voted in favor; motion passed.**

Comments:

Judge Mattingly set the hearing dates for the appeal on the property on Highway 60 East and Worthington Road. Those dates will be April 17 and May 1. He stated, "I have had the opportunity to talk to both sides and explain to them the procedures that we would go through. Basically, it is going to be the same that we have used in the past where we will take no new testimony. This is kind of an odd situation in that there was no one at planning and zoning to speak in opposition, but we had an appeal made by someone who was not there. So, to be fair we will allow the lady or her attorney to present her case, based on the facts that were presented at the zoning hearing. The attorney for the people who asked for the rezoning will then present their case. She would then have an opportunity for a few minutes to question him – he would have an opportunity for a few minutes to question her. We will take it under advisement and then we will probably at the second reading we will give them both an opportunity to speak for a couple of minutes."

Commissioner Wathen stated, "You said they would be questioning each other, but their questions would be directed to us, correct?"

Judge Mattingly responded, "Yes, they will direct them to us."

David Payne of 500 Graystone Drive stated, "I am not really for or against. I have a problem with changing zoning laws. I do not know which way I want. I do not think we can stop it from going there. So, I do not know if I want it there under the rules of the zoning board or under the conditional use permit. The only thing I have to say now is that if it is over turned by you and it goes to a conditional use permit, then anybody can get up and voice their opinion at that time. Is that right?"

Judge Mattingly stated, "If we over turned it then the person who requested the zoning... If we said, no you cannot zone it. We find against the planning commission. That person would then have the right to appeal it to circuit court. There is no law that has been changed that would apply to this particular case. There is consideration going forward that we would allow this type of operation in A-U and A-R zones under a conditional use permit. And the reason that we have asked for that text amendment and why we would do that is, in a rezoning once it is rezoned light industrial anything that would qualify to go in a light industrial zone could go there. So, if they sold the property 10 years from now and a metal stamping factory decided to come in there that operated 24 hours a day, there would be nothing that could be done. If we had of had the proposed conditional use in A-U or A-R when they applied, they could have applied for a conditional use permit and that conditional use permit follows the operation. I think it gives the neighbors a degree of certainty as to what can and cannot go there under a conditional use permit. Under a zoning of light industrial, anything that qualifies can go there. But no law has been changed to allow them to do anything and even if we were to change the law today, it would not apply to them."

Mr. Payne stated, "So, at the last zoning meeting I was at when they changed those ordinances to allow that – they voted that in."

Judge Mattingly interrupted, "No, no, they did not vote that in. Daviess County Fiscal Court sent that text amendment over and asked them to look at it and could they live with it and were they in agreement with it. They said yes. So, it has come back to us. We have not acted on it yet at all. We are not going to act on it probably until this issue is settled."

Mr. Payne stated, "That is where my confusion is. I was at that meeting and Ward said we are going to vote for changing these amendments to allow farm equipment and industrial equipment type businesses to be allowed. And it was a vote and they approved it and they said motion passed."

Judge Mattingly explained, "It was a vote on the text amendment to send it back to us with their approval. They do not vote any rules or regulations in. Either they come from the state or the Cities of Owensboro or Whitesville or the County of Daviess and we have to adopt those for them to apply."

Commissioner Castlen stated, "One thing I thought I heard him ask is if let's fast forward and say another company comes in and wants to do the conditional use permit. At that meeting, Gary (Noffsinger), I guess, in general, let's ignore this location, but when a company, when an applicant does a conditional use permit do neighbors get an opportunity to come in and speak for or against?"

County Attorney Claud Porter stated, "Yes. The same kind of notice is required for a conditional use permit as changed in the map amendment."

Mr. Payne asked, "Once a business has the right to build, who decides where those entrances would be?"

County Engineer Mark Brasher stated, "Both 60 West and Worthington Road are state highways so they would have to apply for an access point permit from the highway department."

Comments:

Tom Morton stated that he is a cancer survivor and notified the court and the public that he is back and feeling much better.

Commissioner Wathen noted that the county has many road closures due to high water. He warned the public to stay away from water-covered roadways.

Mr. Brasher said there are currently 24 roads closed.

Judge Mattingly announced Daviess County Fiscal Court's April 2014 Employee Anniversary Recognitions:

- Daniel Bellamy, Fire Department Engineer – 10 years
- Ronald Bobo, Fire Department Engineer – 10 years
- Trason Campbell, Fire Department Engineer – 10 years

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

Al Mattingly
Daviess County Judge/Executive