

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 4<sup>th</sup> day of April 2013  
Present were Judge/Executive Al Mattingly and  
County Commissioners Jim Lambert,  
George Wathen and Charlie Castlen

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DOCUMENTS RELATED TO TODAY'S DISCUSSION  
ARE FILED IN APRIL 4, 2013 FISCAL COURT FILE

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

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Judge Mattingly proclaimed April 2013 as Fair Housing and Child Abuse Prevention Month.

Barry Johnston of GRADD thanked the court for the Fair Housing Month proclamation. Vicki Embry of the Court Appointed Special Advocates (CASA) thanked the court for the Child Abuse Prevention Month proclamation. Ms. Embry announced various activities taking place recognizing Child Abuse Prevention in the month of April.

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The Daviess County Extension District's 2013-2014 Budget was presented for recording.

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Jason Ward, Engineering Manager for the KY Transportation Cabinet presented the Rural Secondary Road Program recommendations as follows:

*ROUTE	TYPE OF WORK	LIMITS OF WORK	LENGTH
KY 1554	Asphalt Resurfacing	M.P. 0.0 to M.P. 2.247 KY 56 to KY 960	2.247
KY 2127	Asphalt Resurfacing	M.P. 0.0 to M.P. 3.773 KY 1207 to KY 554	3.773
KY 298	Asphalt Resurfacing	M.P. 2.685 to M.P. 5.261 South Fork Bridge to US 231	2.576
KY 1207	Asphalt Resurfacing	M.P. 0.0 to M.P. 2.951 KY 81 to Jackson Rd N.	2.951
<b><i>FLEX FUNDS</i></b>			
KY 279	Asphalt Resurfacing	M.P. 1.705 to M.P. 5.062 Hayden Bridge Rd to Stephens Rd	3.357

Mr. Ward stated, "This year, there is approximately \$1.2 million in the Rural Secondary program for resurfacing or bridge work projects. If you look at the first page (\*See above recommendations), it lists the breakout of how it is done. There is a breakout for spending on state roads only, which is \$866,000 for FY 2014. Then there is another roughly \$270,000 that is what they call the flex fund that can be used on either state rural secondary roads or county roads."

Commissioner Wathen asked, "On the KY 279, the flex funds, now if we determine that we do not want to do that road, you are saying that that becomes part of a flex fund and we could use it for the county?"

Mr. Ward replied, "Yes, or we could use it on a different state route if you prefer."

Mr. Ward, stated, "By law, for rural secondary programs, we are required to meet with fiscal courts once a year. The reason for the law is so that we are making sure that we are repairing the roads that are in the most critical need, and that we are paving the roads that the citizens of the county are wanting. We look at the roads and try to find the ones that are in the most need for resurfacing. The revenue generated from the gas tax funds the rural secondary program, and that money must be spent on rural secondary roads in the county that the money is allotted. If we have money left over, say in an adjoining county like Ohio County, we cannot spend that money in Daviess County. Once it is assigned to a county, it stays in that county. Previously, the way it worked was that the total amount of funds that were allocated to a county 20% automatically went to the flex fund portion that could be used for either state rural secondary roads or county roads. This year it changed. Beginning last year, we started going and doing field reviews of all the rural secondary routes in the same manner that we do on our MP routes. Based on those reviews, each county is given a grade on the condition of their rural secondary roads. The grading system goes from A, which is the best road condition to D, which is the worst road condition. In District II, we have 11 counties, 8 of the 11 scored C's, 2 scored B's, and 1 scored a D. Daviess County scored a C. Based on the grade of the rural secondary roads the way the flex fund was broken out was by a tier method. If you have an A grade, which we didn't have any, then 25% of the total rural secondary program for that county was going to be available as flex funds. A B grade got 20%, which is what everybody got last year. If you got a C, you got 15%. If you got a D, then you got 10%. We only evaluate state roads, we don't evaluate county roads, and the worse the state rural secondary road conditions are, they felt like the more money that needed to be spent on those roads to bring them up to a higher level of service."

Judge Mattingly stated, "In effect, the new system looks at the overall quality of the entire rural secondary transportation network in a county, and it is trying to bring it up to a certain standard. It will continue to do that or that is the effort – to bring it up to a certain standard all across the state."

Mr. Ward agreed and stated, "All 120 counties are subject to this grading system. If we get the roads up to a higher grade over some time, as long as the current system stays the same, the more money will be available in flex funds."

Commissioner Wathen asked, "So this represents all of our flex funds - whatever we can do, 3.357 miles, right?"

Mr. Ward stated, "There is approximately \$19,000 that has not been allocated. The total flex for Daviess County is right at \$270,000. This estimate is \$251,000, which means that we would probably maybe extend it a little bit or maybe keep that money in case we have to write a change order. Whatever money is not spent will rollover into next year's rural secondary program. It doesn't go away."

Judge Mattingly explained that County Engineer Brasher supports the four recommended rural secondary road projects as proposed.

Mr. Ward stated, "If you all are good with the first four, then a resolution saying that you all approve those four would get us started. Once you make a final determination on the flex fund, then you can do that in a separate resolution. In order for us to proceed, I have to have your approval and a copy of today's meeting minutes. Until that happens, this does not move forward."

**By a motion of Commissioner Lambert, seconded by Commissioner Castlen, the court considered for approval to Accept the Rural Secondary Road Program as recommended except for the Flex Fund recommendation. The court will provide a road name(s) for those flex funds by the next court meeting.**

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

Judge Mattingly stated, "I will have Mark Brasher put together a resolution that we will pass at the next meeting for the flex fund."

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The Report of the Audit of the Daviess County Clerk for the Year Ended December 31, 2011 was presented for recording.

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Minutes of the March 21, 2013 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 present court members concurring said Minutes were approved and signed.

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**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.**

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**By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered for approval to Appoint Ward Pedley to the OMPC for a term of April 1, 2013 – December 31, 2016.**

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

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**By a motion of Commissioner Lambert, seconded by Commissioner Castlen, the court considered for approval to Appoint Larry Boswell to the OMPC for a term of April 1, 2013 – December 31, 2015.**

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

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

Judge Mattingly stated, "Several Commissioners and I have received calls regarding poultry houses in Daviess County, and I have asked the County Attorney if he could talk just a little bit as to the regulations that regulate poultry houses."

County Attorney Claud Porter reviewed the following portion of the county's poultry ordinance **(KOC 840.1 (2004))**:

1. Poultry Operations shall be located no closer than 1,500 feet from another Poultry Operation, as measured from the nearest Poultry House on each tract. A Poultry Operation shall be a minimum of 2,000 feet from a city limit or the nearest Rural Community.
2. A Poultry Operation with three or four poultry houses shall be a minimum of 1,000 feet from the nearest dwelling not owned by a poultry producer with tunnel ventilation fan outlets a minimum of 1,250 feet from the nearest dwelling.
3. A Poultry Operation with more than four poultry houses shall be a minimum of 1,500 feet from the nearest dwelling not owned by the poultry producer with tunnel ventilation fan outlets a minimum of 1,750 feet from the nearest dwelling.
4. Setbacks relating to dwellings, churches and property lines may be waived by the owner of these facilities by obtaining a sworn affidavit from the owner that he/she is agreeable to the waiver.
5. When a Poultry Producer entity decides to construct a Poultry House in Daviess County, the producer shall apply to the County Engineer for a permit for construction/operation of a Poultry House 30 days prior to the beginning of construction/operation. The application must contain the following information:

- a. The name, address and telephone number of the entity seeking the permit and the same such information for anyone having the contractual authority to direct the manner of construction of the Poultry House, or the manner in which poultry will be housed. Any such entity exercising such authority shall ensure that the operator of the Poultry facility has applied for and been granted a permit.
  - b. The location of the proposed facility, the acreage of the site and the number of houses proposed.
  - c. Certification that all applicable portions of this ordinance will be complied with.
  - d. Number of chickens proposed for the facility.
  - e. Any setback waivers obtained from surrounding property owners.
  - f. Verification reflecting distances where nearest homes are located in relation to proposed Poultry House, composters and lifter storage facilities.
6. The Poultry Operation must have a litter storage building and a composter built on site. The lifter storage building shall be of sufficient size to accommodate the normal volume of litter. The composter may be built in the lifter storage building or may be built separately.
  7. Poultry Houses shall be situated on the farm so as to create the least possible impact on neighboring homes and residents. This shall include, but is not limited to, directing exhaust fans away from the nearest neighboring homes.

**B. New And Existing Poultry Operations**

1. Poultry Operations shall be limited to a max. of 6 Poultry Houses and 1,200 Poultry Units per 35-acre tract.
2. If federal, state or local setback restrictions are insufficient to address the odors and dust on neighboring properties from the Poultry Farm, the owner of the Poultry Operation may be required to provide a screening of sufficient length and height to absorb and dissipate odors and dust.
3. The Operator of each Poultry Operation shall employ best management practices to control odor and dust. Incineration shall not be employed as a mortality disposal method.
4. Poultry Operations in compliance with this ordinance at the time operations commence shall be exempt from subsequent setback violations due to construction on adjoining parcels, including, but not limited to, the building of new homes, churches, and schools. In addition, any such construction shall not prevent the otherwise compliant expansion of the operation.
5. Upon receipt of a complaint relating to a specific Poultry Operation, the Solid Waste Engineer or his designee shall contact the appropriate State Regulatory Agency regarding the complaint. The Solid Waste Engineer or his designee shall document the complaint and take necessary follow up actions to insure a proper resolution of the complaint.
6. It is the intention of the Daviess County Fiscal Court to make this law severable in the event any portion of it is determined to be unconstitutional, unlawful, or contrary to existing regulation. Thus, any offending objection would be severed and stricken from this ordinance, without affecting the balance of the ordinance.

Mr. Porter encouraged anyone who may have questions about this issue to call him at his office at 685-8442.

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**Comments:**

Judge Mattingly stated, "I want to thank the community for the wonderful outpouring of support for the Cable family. All the Commissioners and myself were there at the airport and then at the funeral home."

Judge Mattingly stated, "I received a letter from Daviess County Lions Club fair. They just wanted to express their sincere thanks to fiscal court for helping support their building. That building has come in and they are working on getting it erected."

Judge Mattingly recognized the following Daviess County Fiscal Court April 2013 Employee Anniversaries:

- Transfer Station Truck Driver Keary Wade Boone, 5 years
- Director of Information Services Wayne Swift, 10 years
- Solid Waste Coordinator Mike Hamilton, 15 years
- Parks Maintenance Assistant Mark Irby, 15 years

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

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Al Mattingly  
Daviess County Judge/Executive