

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 5<sup>th</sup> day of April 2012  
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 5, 2012 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/Executive Al Mattingly proclaimed April 2012 as Fair Housing Month and National Child Abuse Prevention Month. He also proclaimed April 6, 2012 as Arbor Day.

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A presentation of the Daviess County Conservation District's Nutrient Management Specialist Position was given by Jeff Rice.

Jeff Rice stated, "We, the Daviess County Conservation Districts, have a position that will benefit landowners of Daviess County. We have a program that the Lower Green River has been taking part of on a national initiative by the NRCS. Much of Daviess County is in this Mississippi River Basin Initiative (MRBI) to lower nutrients going into our water. The hypoxia that people have heard about, down in the Gulf of Mexico, has been blamed on a lot of things, but nutrients is a part of that. Hypoxia is a dead-zone where there have been fish to die and plant life that cannot grow due to the excessive amounts of nutrients. This is a nation-wide initiative that is being put on by NRCS. Many of the states that have watersheds that go into the Mississippi and of course our Green River goes into the Ohio River and then to the Mississippi and then on down into the Gulf of Mexico. This initiative is to lower those nutrients that are getting to the Gulf of Mexico through our watersheds. Farmers are good stewards of the land but there are some practices that we need to follow regarding educating our landowners and our farmers about how they can help lower the nutrients – they are not using any more than they have to because they are very expensive. However, there are some practices they can use to keep some nutrients from getting to our watersheds. In that, there is a position that has come about, Nutrient Management Specialist Position. January 1, 2012, we have hired someone for this new position and her name is Jenny Haney. She is representing that program and with that there are a lot of cost share programs that will come to landowners and help them with these practices."

Duane Sandefur, District Conservationist, stated, "This MRBI position is going to be a 50/50 match between the USDA (National Conservation Resource Service) and the Daviess County Conservation District. Since January 1, 2012, with this MRBI initiative, and the Equip Initiative as a whole, we have 14 contracts that have been approved for a total of \$239,000. With all of the nation-wide budget cuts due to the economy, the NRCS has been forced to also cut back and eliminate some positions. I have one employee in my office and two years ago, I had three. So that is why NRCS along with the Conservation District is trying to do a 50/50 match to come up with the money to fund Ms. Haney's position."

Ms. Haney addressed the court and reviewed her background, which has equipped her for the position of a Nutrient Management Specialist for the Conservation District.

Judge Mattingly stated that this position is a multi-county position benefitting Daviess, McLean, and, Ohio Counties.

Mr. Rice stated, "The cost share programs are important. In taking part in this initiative, we want to make sure that we are getting the word out and education out there. For what farmers sign up in cost share programs, they may have one farm that gets signed up but most of the time those practices go on to all farms and things."

Judge Mattingly asked, "The cost share is between the farmer and the federal government or...?"

Mr. Rice replied, "The farmer pays 25% on a lot of them and then the NRCS will pay the other 75%."

Judge Mattingly asked, "The cost share that you are talking about today is Daviess County's portion of Ms. Haney's salary, correct?"

Mr. Rice replied, "That is correct." He further stated, "The funds available for landowners that complete the practices total \$239,000."

Commissioner Lambert recognized and thanked Duane Sandifer for his help during the windstorm and hurricane of recent years.

Commissioner Castlen asked, "Duane, when you made reference to the contracts that you all already have signed – so these are new dollars that are coming in to our community to assist farmers with implementing these practices, correct?"

Mr. Sandifer stated, "Yes."

Commissioner Castlen asked, "If we didn't have this position, we would not be getting this money?"

Mr. Sandefur stated, "We would probably still be getting the money. I just do not know how we would be getting it on the ground. That is the hardest part. Like I said, with our office staff getting cut drastically, without this position it would be hard to get everywhere in Daviess County that we need to be."

Commissioner Castlen asked, "Is there a cap on what we can get – how high can we go?"

Mr. Sandefur replied, "No, it is a bit confusing, but it is the Equip Program that is broken down into two different main functions. We have the MRBI, which is what this position is for and then we have the regular Equip. So, we turned in 21 applications and of those 18 were duplicates because you could sign up for each program. So, out of that we got 14, which is pretty good. This MRBI is going to be going on for the next 3-4 years. This position, so far, has been allocated with NRCS and the Conservation for 3-years."

James Lacey-Kamuf asked for clarification on what this program is and the acronyms being used by the presenters.

Judge Mattingly stated, "This initiative is simply to try and clean-up the water that is going into the Ohio, which then goes into the Mississippi and empties into the Gulf of Mexico – try to reduce the amount of nutrients that are going into the water from farming operations from land use. It is a federal program and Ms. Haney has been hired to be the Nutrient Management Specialist for the Conservation District. Basically, it is a program designed to help clean-up the inner waterways of the U.S."

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Daviess County Jailer David Osborne presented the Daviess County Detention Center's Quarterly Report for January - March 2012.

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The Daviess County Extension Special District Budget 2011/2012 was presented to the court.

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County Treasurer Jim Hendrix presented the Treasurer's Report for the month ended February 2012.

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The following petition to Discontinue Roads was presented to the court:

Comes the Petitioner, Mark Brasher P.E., Daviess County Engineer, and states as follows:

I am the Daviess County Engineer and have general charge of all county roads and bridges within Daviess County.

In reviewing the Daviess County Road, Bridge and Street System (KOC 620.15 (88) R.7 as amended), the following county roads are no longer used by the general public and pose an unnecessary expense to county taxpayers:

- **Boone Road**- beginning at Hwy 1554 and ending at a dead end for a distance of 1.010 miles.
- **Ed Foster Spur (Wellness Place)**- beginning at Ed Foster Road and ending at a dead end for a distance of .228 miles.
- **French Island Spur**- beginning at Hwy 1554 and ending at a dead end for a distance of .117 miles.
- **Jarboe Lane**- beginning at Burton Road and ending at a dead end for a distance of .163 miles.
- **Keene Road (portion)**- beginning 800 feet North of Hwy 60 and ending at Laketown Road for a distance of 1.301 miles.
- **Old Deserter Creek Road**- beginning at Deserter Creek Road and ending at a dead end for a distance of .187 miles.
- **Paul Edge Road**- beginning at Deserter Creek Road and ending at a dead end for a distance of .271 miles.
- **Reeder Road**- beginning at Hwy 258 and ending at the McLean County Line for a distance of .187 miles.
- **Short Station Spur**- beginning at Short Station Road and ending at a dead end for a distance of 0.54 miles.

WHEREFORE, pursuant to KRS 178.070 and 178.116 Petitioner recommends and requests that the Daviess County Fiscal Court discontinue the above listed roads and possession revert to the owner or owners of the tract(s) of land to which it originally belonged unless a public need is served by the road or the road provides a necessary access for a private person. If any road serves a public need or provides necessary access for a private person, the Petitioner recommends that the county discontinue its maintenance of that road(s) and the road(s) shall remain open in accordance with its condition and use for the access of the private parties involved, following the required statutory notice and hearing.

Judge Mattingly stated, "A couple of these roads are already closed in effect, are they not? And they have gates."

Mr. Brasher stated, "Two of the nine roads have permanent gates up. One of the nine roads is gated a portion of the year to help in water irrigation. Presently, three of the roads are partially or permanently closed."

Commissioner Lambert stated, "We have had some people from Old Deserter Creek Road, which is in far eastern Daviess County, present some concerns. This road was relocated back in 1976. The old road was abandoned and what is now Deserter Creek Road was built - the road was moved from one location to another. Also, Deserter Creek has been dredged and realigned so that is an area where the county line between Daviess and Ohio Counties goes back and forth across the creek, and so there has always been a great bit of discussion in that area about where the county line is. It is not a straight line, and there are no fences or markers up. There are some people concerned about the potential discontinuance of that road. Currently, there is no

one living across the creek at the end of that road, but there are people who own property, and there is some oil production over there that must be transported. There are some people who own land that do not live there, but they do farm that area, and their theory is that they will be shut out or locked out or not be able to get to their property." He encouraged all who are interested in the discontinuance of these roads to attend the April 19, 2012, court meeting where we will offer them an opportunity to discuss their concerns with the members of this body.

County Attorney Claud Porter stated, "We are not closing any roads. We are discontinuing roads, and there are certain roads, depending on the circumstances which exist, and depending on the circumstances, they will remain open as "public roads". A public road is not a county road. A county road is a road in which the public uses but the county has agreed to maintain that road. These roads were all on our list of ones to maintain, so they are all county roads. Each one of the roads that we intend to discontinue have different sets of circumstances and when we complete the ordinance, I plan to put it under which statute we are operating. It depends on which one we operate on as to whether the property will revert to the person who owns it or, in the statutory language, to the original owners, which creates some problems. Any of the roads in which there is either a public need served or in which it provides necessary access to a private person - once we discontinue the road it would discontinue the county's maintenance of the road but the road will remain open as a public road. That is, access will continue to persons on that road as part of a public road. There are two roads on this list that we have never maintained, and under one of our provisions, KRS 178.070, if we discontinue the road under those circumstances, unless a person wants to maintain it - KRS 178.070, once we do that all of those will remain public roads. If we discontinue under KRS 178.116 and there is anyone of these three conditions; a public need, a private access needed, or we have maintained it during those times, then someone would have to petition and request that the road remain open. The safest thing is for someone to ask and say that they want the road to remain open as a public road. We are going to go back through the list, and I am going to list in the ordinance which ones will be closed, which ones will revert, and which ones will remain open as public roads."

Commissioner Lambert stated, "There are some people who think this discussion should be about where the county line is. This is not a discussion and will not result in a vote about where the county line resides. There is a bridge that is part of the issue, and this is not about the county extending the current boundaries or changing the boundaries or including who is responsible for the bridge."

Mr. Porter stated, "The basic premise is that we are going to stop maintaining all of these roads, and the roads will remain open for public use."

Commissioner Castlen stated, "If one of these roads we say will stay open as a public road but we will not be maintaining it anymore, if someone does gate it or otherwise tries to control the access - does that become something your office deals with?"

Mr. Porter stated, "Yes, my office will deal with it, at least initially."

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Minutes of the March 15, 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 present court members concurring said Minutes were approved and signed.

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**By a motion of Commissioner Castlen, seconded by Commissioner Lambert, 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 Lambert, seconded by Commissioner Castlen, the court considered for approval the ASPCA Grant Agreement benefitting the Daviess County Animal Shelter for \$7,500.

Nate Pagan stated, "This grant is to reimburse the county for their care of the 15 horses we seized on Pond River Road."

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 Lambert, the court considered for approval the Memorandum of Agreement between The Commonwealth of Kentucky Office of the Governor, Department for Local Government, and the Daviess County Fiscal Court relating to an Economic Development Incentives Project.

Jim Hendrix stated, "A couple of months ago, as you recall, the court approved (LGED/Coal Severance monies) that we use \$409,948 of some existing money to pay the \$500,000 that had been promised to the Carnage Village lab renovation. We have been made aware that there are two amounts \$43,488 and \$41,752 that are due to expire for June 30, 2012. We passed a resolution a month ago that we would apply for that money and this is that memorandum of agreement in association with that resolution. Once the court approves this, and the state funds it, then we will be able to draw \$85,240 to apply towards the \$500,000."

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 Lambert, seconded by Commissioner Castlen, the court considered approval to appoint David Millay and Walter "Buck" Isbill as Viewers to view Boone Road, Ed Foster Spur (Wellness Place), French Island Spur, Jarboe Lane, portion of Keene Road, Old Deserter Creek Road, Paul Edge Road, Reeder Road, and Short Station Spur.

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 Lambert, seconded by Commissioner Castlen, the court considered approval of **Resolution No. 5-2012** and Agreement relating to Rural Secondary Program funds.

Mr. Brasher stated, "This is an annual program between the transportation cabinet and counties in which the transportation cabinet will fund 80% up to \$80,000 in regards to bridge and structure crossings on county roads. What we have done here is that they are applying two-years, last year and this year, to put towards the structure replacement of Daniels Lane over Yellow Creek."

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 Lambert, seconded by Commissioner Castlen, the court considered approval of **Resolution No. 6-2012** regarding the 2012 Recreational Trails Program Grant at Horse Fork Creek Park in the amount of \$186,000 and Authorization for the Judge/Executive to sign any and all documents related to said grant.

Nate Pagan stated, "This grant is for an elevated nature trail at Horse Fork Creek Park, re-sealing 1.7 miles of the Horse Fork Greenbelt from Brookhill Subdivision east to Millers Mill Road, and constructing a new parking lot across from Horse Fork Creek Park located on Fairview Drive."

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 Lambert, seconded by Commissioner Castlen, the court considered approval of **Resolution No. 7-2012** – Utilizing County Funds for the Transportation of Non-Public School Students.

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 Lambert, the court considered approval to appoint Steve Lewis (03-2012) to the **Parks Board** TERM: 4/1/2012 – 4/1/2015.

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 Lambert, seconded by Commissioner Castlen, the court considered approval to appoint Vonnie Williams (04-2012) to the **Board of Assessment Appeals** TERM: 4/19/2012 – 4/19/2015.

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 Lambert, seconded by Commissioner Castlen, the court considered approval to appoint Wesley Acton (05-2012) and Gary Adams (06-2012) to the **Greenwood Cemetery Advisory Committee** TERMS: 4/19/2012 – 4/19/2015

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 Lambert, the court considered approval to appoint Commissioner George Wathen (07-2012) to the **Owensboro-Daviess County Convention and Visitors Bureau**. He will be filling the unexpired term of Anne Baker-Leazenby with a term effective today and expiring on 6/30/2013.

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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Comments:

James Mattingly asked, "How many time per year do county right-of-ways get mowed?"

Mr. Brasher said they are mowed 4 times per calendar year.

Judge Mattingly stated, "I attended a press conference from the Tobacco Control Coalition on March 27, 2012, and they were talking about the results of the tobacco/smoking ordinance. They made mention of the fact that indoor air quality was assessed at 6 businesses before and after the implementation of the ordinance. The most recent study shows that the overall level of indoor air pollution declined 58% - still 2.2 times higher than the national average for air quality standards for outdoor air. What that means, I do not know."

Judge Mattingly announced the following

- The courthouse will close tomorrow at noon in observance of Good Friday.
- The May 17, 2012, court meeting will be at the Yelvington Fire Department in Maceo.
- The court will hold budget work sessions on April 23 & 24, 2012, in the courtroom.

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

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Al Mattingly  
Daviness County Judge/Executive