

PUBLIC HEARING and 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 May 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 MAY 3, 2012 FISCAL COURT FILE

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

PUBLIC HEARING

A public hearing was held to receive comments relating to the closeout documents for the 2011/2012 Community Development Block Grant Funds for Owensboro Regional Recovery (ORR) for \$250,000, and the 2012/2013 Community Development Block Grant Funds for Owensboro Regional Recovery for \$250,000. Barry Johnston of GRADD presented this hearing.

Mr. Johnston stated, "This is an excellent program. We are very fortunate to have it in our area. This does not just help the men that live in Owensboro-Daviess County, but all throughout the state. This is one of ten facilities currently in Kentucky. The state anticipates constructing 4 additional facilities in Kentucky."

ORR Executive Director Sara Adkins expressed support of this grant and the ORR program.

Without further comments, said hearing closed.

REGULAR AGENDA

Judge Mattingly proclaimed May 9, 2012 as Children's Mental Health Day. Michelle Hickman of RiverValley Behavioral Health thanked the court for the proclamation.

Judge Mattingly proclaimed May 2012 as Community Action Month. Aubry Nehring and Board Chair Daisy James thanked the court for the proclamation.

Phil Lambert of Q-Wireless presented a ConnectGRADD update. He stated, "In the last 6-months, we have deployed the WBKR tower, and it is working well for us. We also have deployed the Bon Harbor tower. This brings the total Daviess County towers to eight and the total project towers to 56. We have a ninth tower planned for Whitesville. We have 3,100 customers on the network, and 560 of which are in Daviess County. The coverage of Daviess County homes is around 65%."

Tom Massie of GRADD stated, "We have closed out the ten-year loan in the amount of \$837,855 with KIA. Our first payment is due in June of \$46,898 and that is a semi-annual payment at a

2.2% interest rate. We have about 3,000 customers now and we are collecting a little over \$9,000 per month in fees to make that semi-annual payment. We hope that at the end of this year we will be up to around 4,000 customers, which will bring in about \$12,000 per month.”

The court listened to a presentation by Mike Riney, Chair of the Daviess County Drainage Commission regarding the following proposed Daviess County Storm Water Maintenance Policy:

STORMWATER MAINTENANCE POLICY

Prepared by:
Mark Brasher, P.E. – Daviess County Engineer
Claud Porter – Daviess County Attorney
Daviess County Drainage Advisory Commission

Purpose:

The Daviess County Storm Water maintenance policy shall encourage the regular maintenance of Daviess County waterways which will minimize local flooding, reduce stream channel erosion and protect the health, safety and property of Daviess County citizens. Additionally, the policy will provide a framework and guideline for the County Engineer and Fiscal Court to respond to requests from landowners for assistance in maintaining primary water ways in Daviess County necessary to prevent pervasive and persistent local flooding and protect the health, safety and welfare of Daviess County citizens.

Primary Waterways:

Primary waterways, in this policy, drain a watershed greater than 10,000 acres or form major drainage ways (outside the corporate limits) for the City of Owensboro. The primary waterways covered by this policy are listed below. Additional waterways within Daviess County may require attention from the County's Storm Water Policy but County Engineer will respond to requests for service only as needed and required to abate pervasive flooding and protect public health, safety and welfare.

Primary Water Ways Monitored:

Panther Creek
Panther Creek North Fork
Panther Creek South Fork
Pup Creek

Primary Water Ways, Not Monitored:

Rhodes Creek (South) Horse Fork Creek
Rhodes Creek (North) Big Ditch (Carter Road Ditch)
Yellow Creek Harsh Ditch (outside US 60)
Knoblick Creek (W, M, E) Goetz Ditch

Blackford Creek and Deserter Creek form the dividing line for the county; County may maintain these waterways as a joint effort with the adjoining county governments.

Level of Service:

Daviess County shall monitor, encourage and promote the regular maintenance of primary waterways to prevent the creation of the threat of pervasive flooding in the drainage area of primary waterways.

The threat of pervasive flooding on primary water ways shall mean an obstruction or blockage within the channel of a primary water way which creates a difference in depth of the water within the channel of more than 40% of the channel depth above and below the blockage or obstruction. Pervasive flooding shall also include a blockage in the channel of a primary waterway which equals 50% or more of the channel cross sectional area but does not create a difference in depth of water above and below the channel blockage.

Maintenance of water ways by Daviess Fiscal Court, under this Storm Water Maintenance Policy, shall include only that action reasonably necessary and prudent to maintain the flow of water in the channel of primary water ways, to prevent the threat of pervasive flooding and to protect the public health, safety and welfare.

Planned Developments:

Daviess County Fiscal Court (County) shall maintain all storm water drainage systems within Planned Developments, for which the developer recorded drainage and access easements but only as necessary and prudent to maintain water flow within the development and protect the public health, safety and welfare.

General Guidelines:

1. This Storm Water Policy covers primary water ways where the owner or developer granted Daviess County Fiscal Court a recorded access and maintenance easement. This policy shall cover primary waterways without access easements, in the discretion of the County Engineer who shall use the same methods to determine whether a primary waterway without access easements should receive any service included in this policy.
2. Property owners shall maintain water ways surrounding or adjoining their property to reduce restrictions, impediments, improve flow in the water ways and to prevent or abate a risk of pervasive flooding.
3. At their own expense, Owners shall maintain other waterways which lack access and maintenance easements to County; County or its contractors, shall maintain these waterways only as permitted by Kentucky law and this Storm Water Maintenance Policy.
4. County may excavate in water ways or remove vegetation from waterways only as necessary and prudent to abate a pervasive flooding and to protect public safety, health and welfare.
5. County may remove vegetation, snags or remnants in waterways only if owner granted County a recorded access and maintenance easement to the water way and if the impediment creates a risk of pervasive flooding. County shall remove vegetation in eligible water ways using a method which will minimize impact to the riparian areas and protect the biological and physical integrity of the existing riparian areas to reduce sediment, erosion and pesticide runoff; yet provide increased wildlife habitat.
6. County shall not remove sediment from water ways covered by this policy. County may remove dead and live vegetation restricting the flow or capacity of the water way if the impediment creates a risk of pervasive flooding and removal is necessary, prudent and conditions or circumstance require removal to protect the public health, safety and welfare.
7. County may provide necessary and prudent efforts, including labor, equipment and material necessary to abate a risk of pervasive flooding in the listed waterways to remove obstructions or impediments causing a risk of pervasive flooding and threatening public health, safety and welfare.

Types of Materials to be Removed from the Waterways:

1. Log jams.

County shall remove only log accumulations identified by the County Engineer that obstruct or impede flows in primary water ways which result in significant pooling or sediment deposit, create a risk of pervasive flooding and threaten public health, safety and welfare.

2. Other logs.
 - a. Affixed logs. County may remove or dislodge embedded, jammed, rooted or waterlogged logs in the channels or floodplain of primary water ways if they create a risk of pervasive flooding and threaten public safety, health and welfare.
 - b. County will consider embedded logs parallel to the channel flow as a blockage only if they create a risk of pervasive flooding and threaten public health, safety and welfare.
 - c. County may remove affixed logs crossways to the water flow which trap debris and result in significant flooding or sediment deposits which create a risk of pervasive flooding and threaten public health, safety and welfare.
 - d. County may remove logs in the channels of primary water ways that are not rooted, embedded, jammed or sufficiently waterlogged to resist movement by stream currents only if they create a risk of pervasive flooding and threaten public health, safety and welfare.
3. Rooted trees.
 - a. County may remove rooted trees, alive or dead, only if they:
 - i. Are in a primary water way
 - ii. lean over the channel at an angle greater than 30 degrees from vertical,
 - iii. are dead, dying or show severely undercut or damaged root systems,
 - iv. rely upon adjacent vegetation for support,
 - v. may fall into the channel within one year,
 - vi. create a channel flow blockage and
 - vii. create or may create a risk of pervasive flooding and threaten public health, safety and welfare.
 - b. County may remove rooted trees from a primary water way floodplain if:
 - i. County equipment must access any primary water way
 - ii. To remove debris, logs or other flow impediment
 - iii. Which creates, or may create, a risk of pervasive flooding and threatens public health, safety and welfare.
4. Small debris accumulation in primary water ways.
 - a. County may remove small debris accumulation if:
 - i. collected around a log or blockage and
 - ii. Only if removal required to increase flow velocity
 - iii. After other blockages are removed from the primary water way.
5. Sediments and soil.
 - a. County will not remove sediment plugs in the channel of a primary water way.
 - b. Such removals are regulated under Section 401/404 of the Clean Water Act.
 - c. County Engineer will evaluate sediment and soil accumulations in primary water ways to determine if County should engage in any permitted activities to maintain the primary water way stream channel.

Revegetation Measures:

County may require landowners to reseed or replant disturbed areas with plant species, which will stabilize soils and benefit wildlife as part of this policy to maintain primary water ways, abate a risk of pervasive flooding and protect public health, safety and welfare.

The court thanked all members of this commission for their time and talents devoted to the development of this comprehensive policy.

Judge Mattingly recommended that the court hold a work session to discuss, in greater detail, this proposal.

Due to a prior commitment, Commissioner Lambert left courtroom at this point in the meeting. He did not return.

Minutes of the April 19, 2012 meeting were submitted to fiscal court members for review prior to today's meeting and on a motion of Commissioner Castlen, seconded by Commissioner Wathen with all the present court members 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 present court members voted in favor; motion passed.

By a motion of Commissioner Wathen, seconded by Commissioner Castlen, the court considered for approval the Daviess County Clerk's Claim for Calculation of Motor Vehicle and Boat Bills for 2012.

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

By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered for approval the Closeout Documents for the 2011/2012 Owensboro Regional Recovery Community Development Block Grant.

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

By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered for approval **Resolution No. 08-2012** regarding the 2012/2013 Community Development Block Grant Funds for Owensboro Regional Recovery for \$250,000, approval to apply for said grant, and authorization for the Judge/Executive to sign and submit any and all documents related to said grant.

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

By a motion of Commissioner Wathen, seconded by Commissioner Castlen, the court considered for approval the Right-of-Way Plat and Temporary Construction Easements relative to the Crooked Creek Road Hazardous Mitigation Grant Program, and authorization for Judge/Executive to sign any and all documents related to same.

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

By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered for approval the Interlocal Agreement between the City of Owensboro and Daviess County relating to the 2012 Byrne Justice Assistance Grant (JAG) Program Award, and authorization for the Judge/Executive to sign and submit any and all documents related to said grant.

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

By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered for approval the Agreement for Employee Assistance Services with Owensboro Medical Health System.

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

By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered for approval the Strategic Health Risk Coach and Benefit Placement Services.

Jim Hendrix stated, "This document formalizes an agreement we are going to enter into with KACo and Peel and Holland. As you know, the court receives good-level services at very affordable prices for liability insurance and workman's comp. insurance. We have not previously used them for health insurance, but at this point, Commissioner Castlen and I have met with

them, and we think they have a program that can benefit us. We will have access to people who understand actuarial data who can talk to the vendors directly, talk in the same language they talk, and can model information that we just absolutely do not have access to. Their ability to do that, I think we are convinced, there will be some substantial cost savings. While there is a fee of \$35,000, this is not an incremental expense to our health cost, rather if when you look at the service provided it is really moving pieces around where we may be paying commissions or service fees somewhere else. Now they will be paid here. They will not be paid twice. My assessment of this is that our worst case is that we will be no worse than equal. I think there will be a substantial savings on the front end with the vendors and potential savings with the claims. I would recommend approval of this document.”

Commissioner Castlen stated, “I am confident that we will see savings way beyond this fee.”

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

By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered for approval to Accept the resignation of part-time Victim’s Assistance Advocate Marilyn Duncan, effective May 1, 2012.

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

By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered for approval to Hire Mildred "Faye" Wilkerson as a part-time Victim’s Assistance Advocate effective May 1, 2012.

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

By a motion of Commissioner Wathen, seconded by Commissioner Castlen, the court considered for approval to Hire William R. Harper as a Mechanic in the Department of Public Works effective May 14, 2012, subject to successful completion of pre-employment testing.

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

By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered for approval to Appoint Joe Sublett (10-2012) to the **DC-SWEEP (MAYOR’S APPOINTEE). TERM: 5/1/2012 – 5/1/2015**

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

Comments:

Judge Mattingly stated, “Commissioners, I have one item that I want to bring to the court. You know, early on in our term, we were asked by the city to consider adding the 1% room tax. They asked us to consider placing that fee to the rooms to help pay for the operation of an events center. At that time, the events center was in a state of flux – we did not know where it was going, so the commission did not do anything regarding that. I was at City Hall the other day, and they asked that we reconsider the tax. Global Spectrum has been hired by the city as the management team for the events center. All of the meetings that we have been to we have heard the statement that event centers operate at a loss. The loss is paid for out of the general

revenue from the taxpayers of Daviess County. At our next meeting, I am going to bring forward an ordinance that would increase the room tax by the 1% that is left. That 1% is specifically dedicated to the operation of an events center. I just wanted to let you know that in advance."

Commissioner Wathen asked, "When you say the 1% that is left, you mean it is 1% left of what we could assess the visitors of Owensboro, correct?"

Judge Mattingly stated, "We can assess visitors of Owensboro – it can only be used for the operation of an events center. It cannot be used for anything else. As you are familiar, we have a 3% room tax right now that goes to the operations of the convention and visitors bureau. There is a 2% tax placed on rooms, and that tax is for repairs at the RiverPark Center, as well as repairs at the museum of fine arts. That 2% is bonded indebtedness, and we continue to pay for that. The state has also made a provision that a community may add a 1% tax on all hotel/motel rooms, and that tax can go to the operation of an events center. That 1% tax I will be proposing at the next meeting. This community is putting 100 million dollars into an events center so that we can attract visitors to Daviess County. I think we would be remiss if we did not do like other communities in the state and allow those visitors to help pay for those amenities."

Karen Miller stated, "Just to clarify, there is an additional 1% tax that the state has put on that you all have no control over. It goes towards marketing dollars – so there is 3% that comes to the convention and visitor bureau, 2% to address that bonded indebtedness, 1% that hotels/motels pay directly to the state for marketing funds and this is an additional 1%, which brings it to the total that is allowable." She also announced some upcoming community events.

Commissioner Wathen stated, "Today, the Judge and I attended a luncheon at Atmos Energy and had a roundtable with Senator Rand Paul. Senator Paul gave a brief statement on the economy, and noted how he felt things were going. He also addressed questions from those local leaders who attended."

Commissioner Castlen stated, "Last Friday I attended the Workers Memorial Day Service and that was very well done. It is a way to recognize those who have lost their lives in the workplace. Today was the National Day of Prayer. It was well done, and I encourage those who have not attended this event to do so next year. He also encouraged the public to attend the May 17, FOP's 27th Annual Police Memorial Service."

Judge Mattingly announced that the next court meeting is on May 17 at the Yelvington Fire Station in Maceo, Kentucky at 5:00 p.m.

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

Al Mattingly
Daviess County Judge/Executive