

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 5th day of July 2012
Present were Judge/Executive Al Mattingly and
County Commissioners George Wathen and Charlie Castlen

DOCUMENTS RELATED TO TODAY'S DISCUSSION
ARE FILED IN JULY 5, 2012 FISCAL COURT FILE

Commissioner Jim Lambert was absent.

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

Treasurer Jim Hendrix presented the report of the Audit of Daviess County Fiscal Court for Fiscal Year Ended June 30, 2011.

Minutes of the June 21, 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 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 present members of the court voted in favor; motion passed.

By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered for approval the Fund Transfers from the General Fund to the Bond Fund and Jail Fund and from the Solid Waste Operating Fund to the Solid Waste Debt Service Fund and the Construction Fund.

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 the AmeriCorps Host Agency Agreement with GRADD for the Homeless Council of the Ohio Valley.

Nate Pagan stated, "This is for a caseworker for the Homeless Council of the Ohio Valley."

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 Castlen, seconded by Commissioner Wathen, the court considered for approval the Renewal of Contracts for FEMA Public Assistance Disaster Funding.

Richard Payne stated, "This is a continuation of the on-going grant dealing with the Crooked Creek project."

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 the Professional Services Contract with the Green River Area Development District and Elizabeth Munday Senior Center.

Tom Vittitow stated, "This is for a feasibility study regarding our building project."

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 Castlen, seconded by Commissioner Wathen, the court considered for approval the County Request and Agreement for the 2012/2013 Waste Tire Grant Funding.

David Smith stated, "It is a partial return of the \$1.75 state tax that is paid on every ton of trash that enters the landfill."

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 the Purchase of a John Deere 6330 Cab Tractor and attached Tiger mower, per KY State Bid Contract and Master Agreement.

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 Castlen, seconded by Commissioner Wathen, the court considered for approval to Hire Thomas C. Bell, Jr. as an Animal Control Officer in the Department of Animal Control effective upon 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.

By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered for approval to Hire Jerry W. Floyd as a Service Technician in the Department of public Works effective upon successful completion of pre-employment testing.

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 Castlen, seconded by Commissioner Wathen, the court considered for approval to Promote Jerry E. Reddish, Jr. to Heavy Equipment Operator in the Department of Solid Waste effective July 9, 2012.

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 Castlen, seconded by Commissioner Wathen, the court considered for approval to Appoint Barry Carden (16-2012) to the Dental Clinic Board of Directors (This is Mr. Carden's third term) TERM: 6/30/2012 – 6/30/2014.

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 KOC 620.44 (2012) – An Ordinance Relating to the Temporary Alteration of Free Silver Road by Closing and Relocating a Section of Free Silver Road.

Comments:

Judge Mattingly stated, "Attached to this ordinance is the new agreement. The \$1 million bond would be reduced to \$500,000 from the date that Western Kentucky Minerals restores the original Free Silver Road contour. This is all to the specifications of the county engineer. That bond would then be reduced to \$250,000 from the date the county accepts the restored and relocated Free Silver Road, and that bond can be in place for up to 5 years."

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

County Treasurer Jim Hendrix read the **First Reading of KOC B.48 (2012) – An Ordinance Relating to the proposed Refunding of Series 2003A and Series 2003B Bonds.**

Comments:

Mr. Hendrix stated, "We are going to refinance two bonds that we have outstanding – maturity date is 2028. The time is right to re-do these. The indicated interest rate today is between 2.5 - 2.75 percent. We have had good luck on a couple of bonds that we have done in the last couple of years."

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

Judge Mattingly discussed the following proposed procedure regarding the zoning change to coal mining at Girl Scout, Russell Roads and U.S. Hwy 231. Said proposed procedure follows:

Procedure Proposed for Daviess Fiscal Court to consider the requests that the Daviess Fiscal Court make the final decision on Western Kentucky Minerals and others application for a zoning change on Girl Scout Road, Russell Road and U.S. Highway 231 from A-U Urban Agriculture and A-R Rural Agriculture to EX-1 Coal Mining.

According to Kentucky law and the procedures of the Owensboro-Daviess County Planning Commission, the Planning Commission held a public hearing on May 10, 2012.

At that hearing, the Planning Commission heard from the Applicant and residents who opposed the application for a zoning change to Coal Mining. After hearing the testimony of all the participants the Planning Commission found that the application complied with the comprehensive plan and made findings of fact supporting its recommendation to approve the application for a zoning change to permit coal mining in the designated area.

Within the time allowed, persons aggrieved by the Planning Commission's recommendation to approve the application permitting coal mining filed a request with the Planning Commission for the Daviess County Fiscal Court to make a final decision on the application for a zoning change.

The Daviess Fiscal Court will consider the requests filed by the aggrieved persons at a meeting of the Daviess Fiscal Court on July 19, 2012 at 5:00 p.m. local time in the Daviess Fiscal Courtroom, Second Floor of the Daviess County Courthouse 212 Allen Street Owensboro.

The Daviess County Fiscal Court members having reviewed all documents, exhibits, testimony, etc. from the May 10, 2012, meeting of the Planning Commission, and will at its meeting on July 19, 2012, proceed as follows:

- a. Consider the record, testimony and exhibits of the May 10, 2012, Planning Commission meeting;
- b. Ask questions of the Planning Commission staff and the parties who commented at the May 10, 2012, Planning meeting;
- c. Allow a comment period by those who spoke at the May 10, 2012, Planning meeting. This comment period may be limited based on the number of persons who wish to speak;
- d. Request each person present at the meeting sign a register with their name and address;
- e. Request each person present to note if they spoke at the Planning Commission hearing on May 10, 2012 and whether they want to speak at the Fiscal Court meeting;
- f. Request that each person wishing to speak identify briefly the subject they wish to address;
- g. Notify the public, participants and representatives that after considering the application, the Planning Commission recommendations, including its findings, the record of the May 10, 2012 hearing and the statements from the aggrieved parties at the Fiscal Court meeting on July 19, 2012 they will vote on the application and the aggrieved parties' request at the regular meeting of the Fiscal Court on August 2, 2012.

At the August 2, 2012, Fiscal Court Meeting, a decision and vote will be taken as to the zoning. Any decision at this meeting may be appealed to the Daviess Circuit Court within thirty (30) days of the Fiscal Court's decision.

Hearing date: 7-19-12
Hearing time 5:00 p.m. CDT
Location: Fiscal Courtroom, Daviess County Courthouse
Fiscal Court decision presented at August 2, 2012 meeting.

Judge Mattingly stated, "We had two choices, either consider the record or throw it all out and start over. I do not think the court wants to start over. A lot was said at prior meetings, and each one of us have toured the site, and reviewed the testimonies, which was presented."

Commissioner Wathen stated, "One of the things that we might want to think about clarifying is if we have people to speak – are they going to speak on the subject that they spoke on before or are they going to expound on that or are they going to bring up new issues or..."

Judge Mattingly stated, "If you appeal the record, you are appealing the evidence and testimony that was presented, and the decision made. I think that new testimony would not be allowed because that is outside of the record – outside of the appeal. If you wanted to hear new evidence, you could throw out the entire record and start over."

Commissioner Wathen stated, "I just didn't want people to be compelled to come in and say the same thing over again."

Judge Mattingly stated, "What they said at those meetings is already part of the record. That is what the original decision was based on, and that is what the appeal will be based on."

Comments:

Executive Director of the International Bluegrass Music Museum Gabrielle Gray commended the court and its staff for all of their assistance at the 2012 ROMP festival. She reported another successful year and anticipates attendance to increase again next year.

Executive Director of the Convention and Visitor's Bureau Karen Miller reported on upcoming community events.

Commissioner Castlen announced a new event at this year's fair which will be presented by the Green River Firefighter's Association. This event is called the firefighter's challenge and will be on July 11."

Judge Mattingly thanked western Daviess County residents for heeding the voluntary water conservation efforts. He also recognized the current burn ban and explained that the ban will not be lifted until sufficient rainfall has occurred.

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

Al Mattingly
Daviess County Judge/Executive