

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 1<sup>st</sup> day of October 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 OCTOBER 1, 2013 FISCAL COURT FILE

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

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Minutes of the September 19, 2013 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.

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**By a motion of Commissioner Lambert, 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 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 the Update and Approval of Employees Health Related Renewal Agreements and to Authorize the Judge/Executive and County Treasurer to Execute Any and All Documents Necessary to Implement the Agreements to be Effective for the Plan Year November 1, 2013 thru October 31, 2014.**

County Treasurer Jim Hendrix stated, "The renewal will continue the same benefit plans as the current policy year. All benefits are being renewed with no increase in the premium. The health insurance benefit does reflect some anticipated cost increases, about \$40,000 - \$44,000. However, the expected increases are less than the amount that we are currently funding with the premiums that we are assuming. Therefore, no increase is required. Being able to continue the same benefits with no increase in premiums is certainly a welcome surprise. I recommend approval."

**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 Wathen, the court considered for approval the MOA's and Resolution Nos. 14, 15, and 16-2013 relating to the extension of waterline projects for Newcut Road, Hall School Road, and McCarty/Smock Roads.**

Judge Mattingly stated, "We went to the three districts (commissioners) and asked them to recommend a project in each district that they would like to see us start. We had to balance

those projects with the amount of money we had. They each submitted a project. We have at least 50% of the people who were on those lines agreeing to participate in the project. Now, there are some who will not participate in the project. And these lines may not get extended as far as they need to be simply because we did not have a participant further out that road. As I have said in the past, I suspect that this will be that last time this offer is made to residents out in the county. Once we finish these projects, we will be substantially – we will have statistically provided potable water to all the residents of Daviess County.”

Commissioner Lambert noted that this listing of roads is not all of the roads, which will be done. These roads are just the roads that the court is starting with. He stated, “If you don’t see your road on this list, don’t be alarmed.”

**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 Wathen, seconded by Commissioner Castlen,** the court considered for approval the Addendum to a Memorandum of Understanding dated December 20, 2011, regarding Animal Control and McLean County Inmates.

Judge Mattingly stated, “Two years ago, we signed an agreement with McLean County regarding Daviess County providing animal shelter services for them, and in return McLean County would bring their prisoners to Daviess County and would pay approximately \$27 per day for housing said prisoners. This agreement has worked well and after speaking with Judge/Executive Thurman of McLean County, he has agreed to extend this agreement for another year.”

Commissioner Wathen noted this is a fine example of counties working together for mutual benefit.

**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 Advertise for Seasonal Park Attendants beginning November 29, 2013 and running thru January 2, 2014.

**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 Advertise for a Service Technician in the Department of Public Works in the event the position is not filled internally.

**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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County Attorney Claud Porter Read in summary the **First Reading of KOC 1010.6 (2013) - An Ordinance Establishing an Animal Control and Protection Policy.**

**Comments:**

Judge Mattingly stated, “We hope this ordinance will balance the rights of the animal rehabbers and rescuers with the rights of the homeowners and the people who live next door to you. It is not always going to be perfect.”

Commissioner Wathen noted receiving calls from people in the agriculture business who wanted to know if this ordinance was going to affect them. Commissioner Wathen does not think farmers will be affected by this ordinance as it deals with individuals owning property of less than 2-acres.

Kristen Allen of Strike the Gold Court asked about the section dealing with "keeping of non-domestic animals". She asked, "When it says shall register ownership with the Director of Daviess County Animal Shelter within 30-days of obtaining such animals and provide the director with a copy... Do you want us to register each animal that we receive with her or?"

Attorney Porter stated, "If you have a permit for each animal, yes. If the permit permits more than one animal – the permit should explain what – the permit should be included what we will need. You will only need a permit for each of the permits you have from the state."

Ms. Allen asked that Sheila Ray, also known as the "Rooster Lady", be grandfathered allowing her to continue to rescue roosters and proceed as she has for many years without a single complaint. Ms. Allen said Ms. Ray does a very good thing for the roosters, and she should be permitted to continue to help the roosters.

Attorney Porter stated, "There is an exception for hens, but not for roosters, and there is a reason for that." He also stated, "We are not going out looking for people. And if we have not had complaints on someone for that length of time I cannot tell you what one neighbor might do or what might happen if a neighbor moves, but we do not go out looking for people."

Judge Mattingly reiterated stating, "We are reactive. We react. We do not send an animal control office out to a neighborhood looking for violations."

Earl Henderson of Strike the Gold Court thanked the court for creating this ordinance.

John Austin of 227 Saint Ann Street asked, "I know it says in the one application each of the foster homes and you are going to indicate a maximum number of animals that you intend to place in any one of those homes. What I am curious about is, is this attempting to mandate that the director of the animal shelter is going to have to go – let's take a rescue that has 10 foster homes. Is the director going to have to go to all 10 homes prior to making a ruling on the issuance of the kennel license or is it simply a thing where she is going to have the ability to spot-check should she want to or chose to in the process?"

Attorney Porter stated, "I anticipate that when a not-for-profit organization intends to include or file for the license or for the permit or the kennel license, they would list each of the addresses and the maximum number of animals at each place. She would review those, the address, and number of animals. Unless there is an indication of a problem or has been a problem at any one of those addresses, I would not anticipate checking any of them. Now, here is where it comes in, if the neighbor then reports that someone has 6 dogs at the address and we check and the application says that there is only a permit for a maximum number of 3 then we will certainly have to send someone out to find out if there is a problem and what that problem is."

Mr. Austin asked, "What is the criteria? Are we leaving the criteria for the issuance of the license up to the director's discretion?"

Attorney Porter stated, "At this time, there is no numerical definition of maximum number. However, the ordinance does include provisions that an excessive number of animals can be evidence of a nuisance. So just simply having a dozen dogs in one place may be evidence of a nuisance because of noise, because of smell, because of excessive running or barking. And there may be another place where 7 animals may be too many. So, the answer to your question is yes, it is going to be left up to the discretion of the animal control officer, and then I make the final decision about whether we would file any requests – under our provisions it would be called a notice of disturbance. We can issue those and then the person would have a certain amount of time to correct the violation and if they correct the violation within that time that would be the last time we would do anything unless we got another complaint. If we came back

after, let's say it was a 30-day notice, and the person had not corrected the notice of disturbance we could issue a citation that would require them to come into court."

Mr. Austin asked, "In the event that the organization, during a given year, adds a foster home, would there simply be the expectation that you self-report the additional foster home?"

Attorney Porter stated, "Yes."

Jane Payne of 2630 South Griffith noted that she lives beside a home that operates a dog rescue, which currently houses 12 dogs. She asked about regulations regarding kennels.

Commissioner Lambert referred her to section 8 of the ordinance.

Ms. Payne asked, "Don't you think they ought to have like 100-feet from a residence? Just like other animals. That would be nice."

Attorney Porter stated, "One of the things that could cover your situation is the definition of a public nuisance. One of the criteria is the number of animals, the noise – whether the noise escapes that property, and I cannot imagine the dog barking unless it is inside that does not escape that person's property so all of those things would be included in determining whether they created a nuisance."

Ms. Payne stated, "I still feel like it should not be in a residential area whenever they are 10-feet from my bedroom window."

Attorney Porter stated, "Again, once the ordinance is included, you may report – in fact, you may report that now. Some of those things are included in our current ordinance. If someone has an excessive number of animals or they create an excessive amount of noise it is something that we may issue a notice of disturbance."

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

**By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered for approval to Advertise for Bid No. 31-2013: Two (2) Physio-Control Lifepak 15 Units.**

**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 Lambert, the court considered for approval of a Fund Transfer from the General Fund to the LDEA Fund.**

**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 announced Daviess County Fiscal Court's October 2013 Employee Anniversary Recognition - HR/Legal Generalist Jennifer L. Hardesty, 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