

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 17th day of November 2011.
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 NOVEMBER 17, 2011 FISCAL COURT FILE

Commissioner Charlie Castlen said the opening prayer and led the court in the pledge of allegiance to the flag.

Minutes of the November 3, 2011 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, and the Court was directed to spread upon the Fiscal Court Order Book the Minutes along with any exhibits, orders, ordinances or resolutions that pertain to same.

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 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.

By a motion of Commissioner Lambert, seconded by Commissioner Castlen, the court considered approval of the Budget Amendment for the Daviess County Clerk.

County Clerk Osborne stated, "This is to reallocate \$20,000 for operating expenses and \$5,000 for capital expenses. There is no change to the bottom-line of the Clerk's budget."

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 Judge/Executive Mattingly, the court considered approval to Contract with MML&K Government Solutions to provide advocacy/lobbying services for Daviess County Fiscal Court.

Nate Pagan stated, "After a lobbyist was included in this year's budget, we prepared and submitted request for proposals. We received nine responding proposals and all were reviewed and scored. The agencies with the two highest proposals were brought in for interviews. After deliberations, it is recommended that the court contract with MML&K Government Solutions to provide advocacy/lobbying services for Daviess County."

David Smith, "Through our process we looked at what we thought these people could provide as far as their Frankfort connections. What MML&K brought to the table also was an office in Washington, D.C. So what we foresee is that not only will they help us on our community priorities list, but outside of that the regulations regarding solid waste, jail, and legislative issues that come up regarding those subjects that we could see them providing a great deal of on-the-ground intelligence. We cannot mistake the fact that these people are in Frankfort everyday in the halls of government, listening to what is going on, both from regulatory and grant funding standpoints."

Judge/Executive Mattingly, "I have talked with the Chamber, our legislative delegation, EDC, and the City of Owensboro. In my opinion, what I see us doing is no less than spending money for advertising. We are advertising our community. We are spending money to market the priorities of Daviess County Fiscal Court. It is no different from having a salesman on the road that is out representing your company, in this case, the Daviess County taxpayers. The cost of this service is \$42,000 a year, plus their expenses are capped at 10% of that cost. I believe that back when we delivered the State of the County address, I talked about this. We discussed this as we put it in this year's budget." He also noted that our legislative delegation does a great job, however they are also business people and cannot be in Frankfort 24 hours a day, 7 days per week. He further stated, "Daviess County needs someone representing us full-time - talking about Daviess County and looking out for our best interests and needs. If we could get one of the projects on our priorities list, it could return many times over the cost we incur for a lobbyist."

Commissioner Lambert stated, "This is a little like kissing the cousin. I am not convinced it will or will not be worth the money. This is a one-year agreement and I am willing to try, and then determine if it is worth it. This is new water for us. I know the value of lobbyists at times, and at the same times I know we do not always particularly like lobbyists."

Judge/Executive Mattingly said that the court is agreeing to spend a little less than one-tenth of one percent of the county's yearly budget on this contract. He noted that many businesses spend as much as 5% of their annual budget promoting, marketing, and advertising their business. He believes this is a worthy investment and the right thing to do to promote Daviess County."

Commissioner Castlen, "When this was first proposed, I was lukewarm about it. It is somewhat easier for me to vote in favor of trying this because it is limited to one-year." He also mentioned that the various trade groups have lobbyists, which represent them, and they benefit from their representation. He stated, "I can see the potential benefits."

Judge Mattingly stated, "Many counties, associations, and organizations have lobbyists that work on their behalf."

Commissioner Wathen stated, "This is a tough decision for me. It is something new, and I am not familiar with it. I have given this a lot of thought. I have talked to some of our state legislators and got their feedback. I have read this contract and have gone back and forth. I guess the bottom-line concern for me is how we are going to verify whether they are having successes or failures. That is the greatest obstacle I see. I think if they do as they have said they would, and give us reports constantly, at least on a monthly basis, but more often when things come up that we need to know about, perhaps that would be easier for us to verify their successes and failures. When we all ran for office last year, one thing we said was one of the most important things is that we do everything we can to bring jobs and growth to Daviess County. Part of what we need to do as a commission is step out a little bit and try some things that have not yet been tried. Personally, I intend to stay on top of these guys and ensure that we are monitoring their successes and failures."

Judge Mattingly stated, "As I have said, I have spoken to our legislative delegation as well as the Chamber. One of their concerns included that perhaps we would be sending mixed signals. I have talked to the Chamber and told them if this contract passes tonight that one of the first things we want to happen would be a meeting between MML&K and the Chamber's lobbyist. I would also like for MML&K to meet as soon as possible with legislative delegation because we

do not want send mixed signals. I want them to be on the same page advocating for Daviess County. It is new for all of us, but I believe for the small amount of money we are going to spend the return will be much greater.”

Tom Morton stated, “I think that you all are doing wrong by getting this lobbyist. When all of you all ran, we were trying to get government smaller, not bigger. I think you, as fiscal court, should go to Frankfort and represent Owensboro the way it is supposed to be represented. You are not going to be able to pay anyone to do it the way you could do it. Now, I would feel a little better about it if a portion of your salary were going to pay for this lobbyist, since he is doing your job. I know that is not going to happen because you all never listen to me. When you all do things like this - like having all of these surveys downtown, which cost thousands and thousands of dollars – all you would have had to do is go outside and talk to people that elected you. Owensboro has been through so much money, it is unreal and not right. The ones that elected you all did so because they wanted smaller government, and they wanted someone who would go and represent them. You all are going to do what you want any way, but I wanted to publically tell you that I am against it, and I think you all should be too.”

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 approval to Apply for the KY Emergency Management Agency (SAR) Search and Rescue Grants.

Mike Jones, Dive Team Chief, stated, “We are requesting approval to apply for a grant which could reimburse the court for new face masks and dive suits for the divers. The current equipment is over 10-years old and worn out. We are in need of new equipment estimated at \$18,500. We are asking for the court to approve this grant application whereby the court will purchase the equipment and submit a reimbursement request to the state for the cost of the new equipment.”

Jim Ashby, Search and Rescue Team Leader, stated, “I wanted to tell you what our part of the grant included. We are asking for a base station and a high intensity antenna for HAM radios to improve ground communications. The other request we are making is to purchase some Rhino Radios. The total cost for these items is \$1,422.48.”

Commissioner Castlen asked, “There is no match on these grants. We pay 100% of the cost and hope that the state approves your applications and our request for reimbursement. Is that correct?”

Mr. Jones agreed.

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 approval to Authorize the Judge/Executive to Negotiate a Contract with the McLean County Fiscal Court regarding the Housing of Inmates and Animal Shelter services.

Judge Mattingly stated, “Since September 1st of this year, we have been housing McLean County animals for a cost of \$1,500 per month. We have had the opportunity to negotiate with McLean County to extend this contract until December 31, 2012. I have asked the McLean County Judge/Executive to consider housing McLean County inmates in the Daviess County Jail. McLean County Fiscal Court is spending approximately \$85,000 per year on housing their inmates. If we were to take their inmates, it would cost us approximately \$2.00 per day extra, for food, and we would be paid \$27 per day, per inmate. This is one of those win-win situations for

both parties. McLean County Fiscal Court has already approved this negotiation process. This will save McLean County approximately \$16,000 per year on their animal control and the \$85,000, less the food allowance, would go to partially offset our roughly \$1.9 million to support the Daviess County jail. There are still some issues which require negotiations.”

Commissioner Wathen asked, “This is just for one-year, correct?”

Judge Mattingly stated, “Correct.”

Commissioner Wathen asked, “The most important factor is that we receive the additional inmates. If that happens then we will continue to keep their animals, correct?”

Judge Mattingly stated, “Correct.”

Commissioner Lambert knows it is the intent of the court to have a written document specifying the terms and conditions of the Judge’s negotiations, including monetary consideration.

Following the contract negotiation, there will be a final document presented to the court for approval.

Tom Morton stated, “I wasn’t really mad when I got here today, but I believe I could get real mad, real quick. I had a guy run over my truck and he did not have insurance. As far as I know, he still has not received a ticket for not having insurance, and I have not received any money from him to fix my truck. In addition, our jail is too full and ain’t got no room for him. Secondly, I caught a guy, on camera, stealing and then selling what he stole. Because of the bed-shortage at our jail, he is not incarcerated.” Mr. Morton believes we should take care of our jail and our citizens before opening the jail to other counties.

Judge Mattingly said, “I agree with taking care of our citizens, but we have no control of what happens in the judiciary court system. There is room in our jail for additional inmates. Part of our problem is that the state is releasing inmates in an effort to save the state some money and we still are faced with the constitutional responsibility for having a place to put prisoners. I can assure you that the contract I will negotiate would not affect the ability of the Daviess County Sheriff, Jailer, Attorney, or anyone of putting someone in jail.” He further recommended that Mr. Morton discuss his concerns relative to what has happened to him with the County Attorney’s office.

Tom Morton stated, “I am not going to stop until I get this resolved.”

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 approval to Release the Bond for Greater Vision Baptist Church for Sanitary Sewers.

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 Lambert, seconded by Commissioner Castlen, the court considered approval to Accept the Retirement Resignation of John Horn, effective 11/30/11.

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 Lambert, seconded by Commissioner Castlen, the court considered approval to Re-appoint George Stuart to the RWRA Board – Term: 1/1/12 – 1/1/16.

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 approval of the **Second Reading of KOC F.4 - An Ordinance Adopting a Non-Exclusive Franchise Agreement with Time Warner NY Cable LLC d/b/a Time Warner Cable to Provide Cable Television Services in Daviess County, Outside the Corporate Limits of the Cities of Owensboro and Whitesville.**

County Attorney Porter stated, "We have had a cable ordinance for a long time – of course the state laws have changed and we don't get the same kinds of fees from the cable companies that we used to. We have negotiated, along with the City of Owensboro, with Time Warner Cable and have proposed this ordinance. This is a non-exclusive agreement, meaning that someone else could provide that service, but the service could not be more favorable to the new company nor less burdensome to the new company if they were to adopt it or an agreement would be nullified and they would have the right to renegotiate. It is a 10-year non-exclusive ordinance. It allows them to use our roads, streets, and other right-of-ways to hang their cables." He further stated, "Over the next 10-years, we are getting approximately \$300,000 to be divided among the schools, the county, and the city. These funds will be used for upgrading video and processing equipment for programming. The schools will also have the opportunity to purchase additional equipment for their programming."

Judge Mattingly, stated, "The prior agreement was for 15 years. This is a 10-year agreement."

Mr. Porter responded to a question Commissioner Lambert asked about rates charged by the cable franchise. He stated, "We have no control over cable rates charged to subscribers or the channels they use or the tiers or offerings that they make. Rate pricing is strictly governed by federal law. All we do is provide them a place and allow them access to roads, poles, and other places so that they can hang their cable and then we have certain connection requirements that they have to make."

Commissioner Castlen asked, "So, when you make the statement that this is non-exclusive, you mean that someone else could come in if they wanted to. For the most part, the prices that a competitor charges would not be set by us either, correct?"

Mr. Porter responded, "Yes, anyone could come in as this is a non-exclusive agreement. However, we could not regulate the pricing of any of the cable providers."

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

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

Mark Brasher presented the following update regarding the Drainage Advisory Committee.

He stated, "The Drainage Advisory Committee has met five times. Up until now, we have been trying to get our feet underneath of us in regards to existing laws that govern private property. We have reviewed the budget for equipment and labor. We have reviewed the history of what the Daviess County Public Works have done for creek, streams, and ditches. At this point, we are moving forward with a new maintenance policy for the community in regards to what has been done in the past and to get us back in line with state statutes. We are looking at creek maintenance criteria and improvements. I know flooding is a huge concern, and we are looking in the direction of a storm water master plan. That is where we are at and where we are going."

Judge Mattingly, stated, "When you have those policy and procedures refined, is it the board's intention to allow public comments?"

Mr. Brasher replied, "Yes, our meetings are open to the public and meeting notices are delivered." He also announced the board resignation of Mattie Boarman and requested the court appoint a replacement.

Commissioner Wathen, "One of the things the committee talked about was any recommendation the committee makes has to come before and approved by the fiscal court. That will be the natural progression."

Mr. Brasher further stated, "We had a meeting last night and in regards to this fiscal court approving the expenditure of money, the advisory committee is asking approval to purchase four to six rain gauges costing approximately \$225. That money is within EMA's account, per Walther Atherton. We do recommend this purchase and have citizens willing to read and report on the findings. They have also asked the sign shop to create some stream gauges. I request approval to purchase the materials necessary to construct the stream gauges. It should not be very expensive, but I would like to have that permission."

Commissioner Wathen state, "The plan there would be for four or five stream gauges on Panther Creek and one on the Green River."

Commissioner Lambert is hopeful that the drainage commission is able to develop a systematic county-wide plan and not just a plan for one creek.

Judge Mattingly agrees and said that is the charge entrusted to the drainage commission.

Commissioner Wathen stated, "The commission is looking at the whole county. They are ensuring that whatever rules we apply to monitor ditches and creeks is applied county-wide. It just so happens that they thought the best thing to do was – there was some evidence they were looking for a long Panther Creek on these monitors. Just because they were doing Panther Creek does not mean they are not looking at all of the creeks and ditches with the same criteria."

By a motion of Commissioner Wathen, seconded by Commissioner Castlen, the court considered approval to purchase four to six rain gauges costing approximately \$250 for the use and distribution by the Daviess County Drainage Commission. These dollars will be taken out of the Emergency Management Agency's budget.

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 Wathen, seconded by Commissioner Castlen, the court considered approval to Recap four (4) foam filled tires mounted on rims for Transfer Station Loader from Tire Mart for \$12,980.

David Smith said, "The Transfer Station loader needs 4 new tires and the Transfer Station Manager has received three bids for this need. The Transfer Station budgeted \$100,000 for Tires and Tubes and, to-date, less than \$20,000 has been spent."

Tom Morton informed the court that re-capping will not work and recommended that the court not re-cap, but instead replace the tires.

Mr. Smith said both options have been explored and it is the recommendation of the Transfer Station Manager that the court explore the option to re-cap instead of replacing at this time.

Judge Mattingly asked Mr. Smith if there is a guarantee on these foam filled tires and Mr. Smith said he would discuss this with the Transfer Station manager tomorrow.

Commissioner Lambert stated, "Since Mr. Horn is retiring, I hope someone will monitor this purchase and report back to the court on what type of service we receive from the foam filled tires."

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

Comments:

Tom Morton stated, "A couple of days ago, a good friend of mine died, Floyd Ray, and I ask that prayers be said for him and his family during this time of loss."

Commissioner Castlen stated, "Last night I attended the volunteer fire chief's meeting and there were a couple of items that they asked me to share with the public. The second annual Firefighters for Food is taking place and all fire departments are taking donations of non-perishable food items. In addition, T-shirts are on sale at local fire departments with proceeds benefiting Christmas Wish.

Commissioner Wathen stated, "With the recent time change, I thought it would be a good time to think about returning our meeting time to 4:00 p.m."

Judge Mattingly announced, "St. Benedicts Homeless Shelter is in need of steel-toed boots, coveralls, and other work-related Clothing. If you are able to assist with any of these needs, please contact the shelter."

He also announced that Habitat for Humanity called and invited the court to the 100th Habitat House, which will be held this Sunday at 2:00 p.m.

Judge Mattingly stated, "Friday afternoon, a flag dedication ceremony was held in memory of Specialist Brandon Mullens. It was a very moving ceremony." A community thank you from the parents of Specialist Mullens was read aloud by Judge Mattingly.

The court wished all a happy and safe Thanksgiving.

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

Al Mattingly
Davie County Judge/Executive

