

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 December 2011.  
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 DECEMBER 1, 2011 FISCAL COURT FILE

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Commissioner Jim Lambert opened the meeting with prayer and led in the pledge of allegiance to the flag.

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Judge Mattingly proclaimed December 2011 as "lams Home 4 the Holidays Month". Carmel McCloud thanked the court. She expressed gratitude towards the lams program for all their assistance in placing animals in loving homes.

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Daviess County Treasurer Jim Hendrix presented the Treasurer's Report for the Month Ended October 2011.

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Minutes of the November 17, 2011 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 the Court concurring said Minutes were approved and signed.

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**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 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 approval of the Amendments to the Administrative Code relating to the Capitalization Policy and Attendance and Leave.**

Mr. Hendrix stated, "The capitalization schedule is simply being updated to bring it up to date. This does not affect the statement we covered tonight, but it will affect the year-end statement where we put it on public basis with the government accounting standards for example, vehicles were capitalized if they were above \$5,000. That was put in place when a car could be purchased for \$5,000. It would be move relevant to increase that to \$15,000 along with machinery and equipment. Infrastructure is raised to \$25,000 - \$50,000. Land improvement is raised to \$25,000 - \$50,000. All this really means is that on a public financial statement the items that cost this much or more will be capitalized and depreciated. Items less than that are looked at more like an inventory because we are not a taxing entity. It really makes no sense to

have lower values here. The key is when someone picks up our financial statements and the capitalization schedule that they get a relative idea of what the county owns."

Commissioner Castlen asked, "Is this something that will cause anything that were already on the books at these lower values to be taken off?"

Mr. Hendrix replied, "No, we will go ahead and leave them and depreciate them out. This will only affect additions in this current fiscal year."

Regarding the Attendance and Leave policy, Jenny Hardesty stated, "We are amending the personnel policy regarding workers compensation leave. Employees will not earn sick or vacation leave while on workers compensation leave."

Commissioner Lambert asked about the effective date of this policy. He also asked, "When a person is on sick leave are they able to accrue sick and vacation time?"

Ms. Hardesty said it becomes effective upon passage and yes, when on sick leave an employee will accrue sick and vacation time.

Regarding holiday pay, Ms. Hardesty stated, "Some of our exempt employees are required to work on a holiday, specifically at the Transfer Station and Landfill. Instead of receiving holiday pay, they will earn comp time."

Judge Mattingly summarized, "This means that the exempt employee can take the same number of hours worked on that holiday and use it on another non-holiday workday."

**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 the approval to Amend the Salary Schedule.**

Nate Pagan stated, "We are proposing to change the wage rate for three of our seasonal positions – park attendant increased to \$10, park maintenance increased to \$8.50, and landfill attendant increased to \$12. We are doing this in large part at least for the parks because we have problems obtaining and retaining a qualified workforce. This results in our full-time personnel working a considerable amount of overtime covering work, which should be done by our seasonal employees. (Seasonal means they work from April to October). This will affect the parks budget by an increase of \$26,434 and the landfill by an increase of \$19,000."

Commissioner Lambert noted that with the hours these employees work, and the distance many have to drive to get to work, it has been and is difficult to get and keep employees.

**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 Lambert, the court considered the approval of the Clerk's Claim for Preparing Tax bills.**

**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 Lambert, the court considered approval to Re-appoint Melanie Ewing (65-2011) & Angela Clark (66-2011) to the OASIS Board - Terms: 12/01/11 – 12/01/14.

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

By a motion of Commissioner Castlen, seconded by Commissioner Lambert, the court considered approval to Declare one (1) confiscated 2007 Dodge Ram 2500 Turbo Diesel Quad Cab pickup as surplus property.

Mr. Hendrix stated, "Late this afternoon, a member of the sheriff's department asked if we could add this to today's agenda. The sheriff's department has a confiscated vehicle (vehicles they have are put in the fiscal court's name and we hold the title) that they cannot use for departmental purposes. There is a vehicle on a lot suitable for their needs. So they would get rid of this one and obtain one that they could use on a daily basis and are asking the court to declare this confiscated vehicle as surplus."

Commissioner Wathen asked, "If they trade this in on another one, is that an increase of their vehicle inventory?"

Mr. Hendrix stated, "It will probably be an incremental vehicle but at no cost to the court or the sheriff's department. It is about equal value so there is no additional money."

Commissioner Castlen asked, "So will their net be changing to one more?"

Mr. Hendrix stated, "I think their net vehicles will go up one."

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

**Comments:**

Karen Miller, Executive Director of the Owensboro-Daviess County Convention and Visitor's Bureau informed the court and public of up-coming community events.

Commissioner Castlen stated, "A few days ago, I attended the volunteer fire chiefs meeting. One of the topics they covered was city annexations, and they showed a map of different parcels of property that have been annexed into the city. They do that so the county will know what changes in jurisdiction have occurred. It was very obvious, two in particular, one in Lake Forrest and the other in Hickory Lane. When I was a city commissioner, I supported the policy, about 3 years ago, of giving property owners an incentive to annex their properties in to the city. This was done to eliminate pockets of unincorporated properties that were within the city limits. When I saw this map, it was the first time it came to my attention what the city is going, at least based on my understanding when I was a city commissioner, beyond what the commission at that time desired. That was to get rid of these pockets of county that existed within the city limits. They are going into a couple of neighborhoods where there are no other houses that are annexed into the city. Essentially, they are creating pockets of city sticking out into county neighborhoods. I do not know what we can do about it. I personally called 2 city commissioners just to give them the history as to why that policy was implemented so they would be aware of that. I know back when I was a city commissioner, I do not think I would have ever supported these last two annexations. I am not sure what action we could take other than to let the city know that we are not supportive of that. I think it could create some problems down the road - the same types of problems that we talked about eliminating when we adopted the policy. I hope the city commission will give some serious consideration to not go any further when - if they want to do a whole neighborhood, which is fine because the services remain uniform that way."

Commissioner Lambert stated, "I agree. There are a number of pockets and not only do we accept the city annexing the existing pockets within our community, but we would encourage that. I think there are some cases where they move into a subdivision and annex one house – there are storm water drainage systems, ditches, roads. If they annex one house in a subdivision then are they accepting the road out in front of that house and the ditch that has caused problems? It creates problems for fire and safety personnel, so I certainly do oppose them coming in and annexing one house in a subdivision and leaving the rest. I would support them very much continuing to annex those properties that are pockets within the county. There are places on Veach Road and other streets where one house is in the city and the next is in the county. People are confused and I get calls regularly. I got an e-mail today from a gentleman who had a problem with a street. He does not have a clue whether he is in the city or the county. Our engineer went out and looked at it and most of the streets in that area are in the county, but that particular place was in the city. It is very confusing already and we do not need to continue to complicate it. I wish the city would review their annexation policy. If they take some, they should take the whole street. I know the homeowner has a choice whether the annexation occurs or not. It is a problem."

Judge Mattingly stated, "Commissioner Castlen, you served on the city commission prior to me and I know the annexation policy that was initially created by the city was done for a 2-fold purpose - one to expand the tax base and one to expand the population of the city. When I served on the city commission, I supported fully that program. I know it became a problem when we both served on the city commission regarding the pockets within the corporate limits of the city as to who would provide service to those corporate pockets. On February 11, 2009, a reporter from the newspaper did an article that said, "*City considers annexation plan and incentives offered to homeowners. They discussed an annexation incentive for more than 200 houses that were located within the corporate limits of the city but were not annexed. The Mayor said he thought it was an excellent project.*" I completely agree with him. I still agree that it is a good program if we can eliminate those pockets because it eliminates confusion and it makes it clearer for safety personnel to determine who should respond, the city or the county. City Commissioner John Kazlauskas said, "*I think it would really make it easier on public safety.*" I completely agree knowing exactly who is going to provide services to that pocket of property. Former County Judge/Executive Reid Haire said, "*The citizens within those pockets will receive quicker and more reliable services because of the proximity to the city police department and city fire department. I think it is a smart way to try and deliver services to those citizens.*" Again, I agree. It is a smart way. Commissioners, I think I let you know that I talked to the City Manager about it and the problem I have with it is that they have expanded their program to bring pockets within the corporate limits of the city and now they are going outside the limits and creating fingers. What they do when they create those fingers is create the very same problem that the stated purpose of their annexation policy was to eliminate. It does not make a lot of sense, and it causes the court problems. Commissioner Lambert, I agree with you to some degree, if they do not annex the ditch, street, or sidewalk then we are left to deal with that and the homeowner is confused thinking he is in the city and it should be the city and it is not. If one house in Lake Forrest has a fire and the city fire department winds its way through the subdivision to find it - and yes, we have GPS and those kinds of things that will guide us better today than we did 10-years ago. However, if they go out and that fire spreads to another house, what do we do? We have to call the county fire department. It really creates some confusion. This does not enhance public safety. It decreases the public safety that the city and county commissions really are elected to watch over. The number one issue and duty of each and every elected official is public safety. As I said, the City Manager and I had a discussion and he said he sees it that the city is expanding their population. They certainly do that. I see it as creating more of the pockets that they were trying to eliminate with the original policy."

County Attorney Claud Porter stated, "I can agree with you that it will create the problems that seem to me they intended to eliminate. The problems that we have are that we get calls asking why a city police officer responded to my neighbor and not to me. That will create additional problems particularly in areas such as Lake Forrest where you have one lot in a subdivision that is in the city and the remainder of the subdivision is in the county. It does create a problem. If we have an incident that requires law enforcement to respond to the lot that is now within the

city, and it also occurs in other parts of that neighborhood, then we have to have two entities to do the investigation. The city has made it pretty clear that they will not respond to fires at non-city residents. Now, if there is a fire at the Lake Forrest city location, for example, then there should probably be a response by both city and county to protect the neighborhood. Rather than having one unit respond we have two different units responding to the same location.”

Judge Mattingly, “The argument that the city would make to that homeowner would be that they would receive faster police and fire services, but in some of those high-density areas, such as Lake Forrest, they are closer to our east station. The argument is you get free fire service. Well, I would submit that if you have a \$200,000 home and you are paying 26 cents or \$520 per year, which is a lot cheaper than the \$30 per year they are being charged for fire service now. If they were on southeast water, could the city provide them with OMU water?”

Mr. Porter stated, “No, they cannot. Once the city annexes, the infrastructure must stay the same. Utilities all have to remain the same.”

Judge Mattingly stated, “All of the aside – we need to look at what is the best in the way of providing public safety and protection for citizens. Creating more fingers out in the county certainly does not do that.”

Commissioner Lambert stated, “It is not a matter of money as we would continue to receive the property tax even if the city annexes it. I think people are getting a letter from the city offering that resident a financial incentive to allow the city to annex their property into the city. The city is going to recoup that money over a period of 5-years. Once that property goes on the city’s tax role, and their property tax and insurance premium tax and other taxes the city is recouping that sum. Therefore, it is not costing us money and the county relinquishes the service responsibilities to the city. It looks like a good deal, but it really causes problems.”

Judge Mattingly stated, “Commissioner, I agree with you that we continue to receive the property taxes, but one of the things we lose is the fire dues, which could jeopardize the ability to provide fire protection to the greater good out there. I also worry about the insurance tax. We have a \$20 million bond that is being paid for by that bond and as they annex, they annex our ability to pay that bond away.”

Commissioner Wathen stated, “When there is a call made, who determines whether the city or the county will respond?”

Judge Mattingly answered, “The dispatcher will make that determination.”

Judge Mattingly asked, “Is what the city doing, finger annexation, legal?”

Mr. Porter stated, “Corridor annexation is specifically prohibited by case law. It is something unlikely to pass any kind of muster if a challenge was made. Once you get into any area, that area becomes contiguous to the city.”

The court instructed the County Attorney to draft a letter to the city manager and state the before mentioned concerns.

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

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Al Mattingly  
Daviness County Judge/Executive