

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 6th day of December 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 DECEMBER 6, 2012 FISCAL COURT FILE

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

Local state legislators presented an update regarding the General Assembly.

Senator Joe Bowen stated, "The biggest challenge in 2013 will be in regard to the state employee pension situation that we are in and the unfunded mandate. Currently, that is a 33.5 billion dollar underfunded mandate that we are challenged with. There has been a task force, this past interim, looking into that and trying to come up with a recommendation as to how we go forward. They have done that, but the report is not final yet. This situation has been a challenge for us for many years. It gets more critical with each passing year. The reason why it is in the shape that it is in is multifaceted. The stock market has not preformed like we hoped, and the funding has not been what it should be by the general assembly. The state has been challenged over the past several sessions, and it has made it difficult to meet some of the financial obligations that we are faced with. Also, the formula does not provide for folks to live quite as long as they are living in today's world, and the escalating cost of health insurance. So it has been a perfect storm getting us to where we are with this unfunded mandate. It is something that is looming heavily over us. It is something that we will attempt to address this session, and it is of an imperative nature that we do that. Every issue that we face in Frankfort is important – some more imperative than others. This is of an imperative nature. That coupled with the Medicaid managed care issue that we have. We currently have turned over our Medicaid challenges to a managed care organizations (MCO). This got off to a rocky start. We have some real challenges with implementing this plan, and it has not gotten a lot better. So what we are faced with now are these MCO that are charged with managing our Medicaid situation. They have been challenged with making payments to providers, and providing the services recipients need. There is an impasse of sorts between the cabinet for health and family services and the Medicaid managed care organizations. So it is a big problem, and it is very in depth. We are going to have to deal with this issue this session and hopefully we can meet the challenges it presents without having to carry it over into the next session and so on. In theory, MCO is a good idea, and other states are using MCO to meet their Medicaid needs. We need to fine-tune ours, and perfect it. I think we can do that, but we have some rough patches to work through. Tax reform is also of an important nature. I do not know that it is as imperative as some other issues that we are looking at, and I do not know that this 30-day session will provide us the time to address tax reform in the depth that it really needs to be addressed. The public continues to talk about expanded gambling. That has the potential of coming up once again. I think our governor is motivated to get that issue back out. We still have to re-district our legislative districts. There is some disagreement over whether we have to get that done this session or if we could carry it over to the 2014 session. These are the big issues. There are always a lot of issues. Much has been made about industrial hemp and the state permitting the growing and manufacturing of this product. Currently, there are federal statutes that prohibit

that, but states have taken it upon themselves to draft legislation that allows that. Potentially it is an issue that we could address. A statewide smoking ban seems to be gaining traction with some legislators. Personally, I am co-chair of the administrative regulations review sub-committee. This is a very busy committee. Every cabinet and every agency has the potential to modify new regulations, and they can be anything dealing with horse racing to health care to EPA to law enforcement - just the whole gamete of government operations come before our committee. That is a broad view of what we are going to face."

Representative Tommy Thompson stated, "Joe did a good job of framing the issues that we are going to dealing with in the next session. This is our short session, which is coming up and it is very short – there really is only about a 4-week window in which to do business. With all of the issue we are faced with, it is really a compressed time frame. On the pension side, most states are facing this issue. It is something we have to deal with, with two objectives in-mind. We have to make sure that we protect the promise that we have made to Kentucky members of this system, and provide a financial blueprint so that that plan stays viable and solid. It is a tough situation to deal with. If we do not do something about it, it will strangle the resources of this state, and you all know the issues it presents at a county level. There is a little bit of good news in otherwise somewhat of a gloomy picture. When the task force revealed some of their early recommendations just recently, one of the central options they had was going to a 100% funding of the required contributions. Right now we are only contributing about 53% of that required contribution, and next year it will be about 57%. They have suggested that, starting with the next biennium, we go to 100% funding. They did not really deal with the big elephant associated with that recommendation - funding. That gap to move from where we are now to 100% is about \$327 million of additional revenue. That is good, and that will certainly help solidify the fund, and start attacking and reducing our unfunded deficit but where do we get that money? That is where the challenge is. Now, some of that \$327 million is federal money, and some of it is going to be agency money so the general fund portion of that is around \$160 - \$170 million. That is a lot of money when our economy is only growing about 2% a year. I got some information today that is really good from the county's perspective for the county employment retirement system (CERS), which you all have to make 100% already. That news is that KRS is projecting that your rates next year are going to go down. They are going to go down because, as you know, the system moved to a health plan that Humana came out with. It was a Medicare advantage plan. The combination of that and doing away with the subsidy for dependents has resulted in a nice savings of over \$200 million. The expected and approximate savings to the county will be about \$89,000. That is a temporary, one-year downward adjustment because of those savings. Hopefully some of that can be realized going forward, but what is good is that if in fact the second big option that this task force came out with was to suspend the cost of living adjustment (COLA), and if the COLAs are suspended going forward you all would see employment rates flatten out significantly. The COLA is a huge contributor to the unfunded liability because it is not pre-funded or paid for in advance so it just adds to that unfunded liability. With the COLA being suspended, it really provides some stability to those employer rates going forward. One final thing that the plan recommended was for new-hires, starting in the next biennium, could go to a hybrid cash balance account, which would be a combination of a defined benefit and a defined contribution plan where there will be some risk sharing by the employee. Right now, the employee has no risk because it is all a guarantee defined benefit. In that hybrid plan, they would guarantee the employee a 4% return and any returns that were over that, the employee would get 75%. Another big issue is tax reform. We have a tax panel that has been working on this for a number of months, chaired by Lieutenant Governor Abramson. Today is their last meeting, and we will get some information soon regarding that meeting. Some of the early recommendations for enhanced revenue total about \$400 million, the biggest of which is increasing the cigarette tax from 60 cents to one dollar. That would raise about \$120 million. They have talked about tweaking down the corporate rates a little bit, helping on property taxes a little bit so that \$400 million of new revenue that they talk about generating is now about \$300 million, and some believe we need about \$700 million of new revenue. We need to reform our tax code, and we need to make sure we have a tax code that is simple, fair, adequate to meet the needs of Kentuckians, and is competitive so that we can attract human capital and industry here. Another big issue is re-districting. Another thing we will be dealing with in the session includes special tax districts. Our new auditor Adam Edlen has been looking at the tax districts around Kentucky. As you know, two principle ones are the

library tax and then health department tax – concerned that there is not enough oversight for those special taxing districts and that those taxes are levied by people that are not elected. The auditor is going to come out with some new recommendations.”

Representative Jim Glenn stated, “We live in a world economy that is totally in a change right now. These problems we are facing are not isolated to Kentucky – they are worldwide. I put in a bill this year regarding alzheimer’s disease, which is a huge problem in our society. This disease is going to triple in the next few years. I have asked for additional training for our police, fire, and EMT. There is no cure for this disease, and it is growing quickly. Another thing I have asked for is for us to take a look at how we tax our roads. With cars becoming lighter, that means we are going to be taking in less revenue. There is a company in France that is producing a car that runs on compressed air. It does 60 miles per hour. There is a plant in Mexico and a plant in India. That is another concern, as it uses no gasoline. This is something we are going to have to look at how it is going to impact us long-term. Tax reform is another concern. Most of the things we are looking at regarding revenue is dated in 1950. We need to update it so that we can be competitive in the future. We need the money to fund our companies and our educational system.”

Judge Mattingly thanked the local delegation for taking time to come by and update the public on the 2013 general assembly.

Commissioner Wathen appreciates the spirit of cooperation, which is demonstrated between our local state legislators. He asked about a local community tax issue.

Representative Thompson stated, “Some local officials have advocated for the ability to amend Kentucky’s constitution to allow local communities to put a special community sales tax on top of the state sales tax, which a lot of communities around the country are doing. As you all know, you are very limited on the revenue sources that you have by Kentucky’s constitution. What they were advocating to the tax commission to do is say give us the authority to first, ask Kentuckians to allow for a constitutional amendment and secondly, ask them to approve an add-on sales tax.”

Senator Bowen stated, “Speaking about the tax and some of the issues that we are going to be dealing with, and when we look at the recommendations from the task force, much has been made about the additional tax on cigarettes. If you look at it from a health care stand point, that is a wonderful thing, but if you are looking at it as a tax tool, that is probably not a wise tax move because you are taxing a dwindling industry. So what you really want to do is broaden your base. You want to spread your base out and capture a larger base of tax. That is the challenge that the task force has had on how do we broaden our base and make it fair as opposed to just overtaxing one particular product or entity. That is something that is going to be incumbent upon us - to create a tax code that is fair. That is why, to do this in such a short session would probably be a rush to judgment. I really think we would be better served to address that issue at a later date. There is a lot of good news out there including highway construction, the bridge project, widening Highway 54. It is not always doom and gloom.”

Judge Mattingly stated, “I think Auditor Adam Edlen is doing a great job, particularly with regard to special districts. Mainly the library, extension and health districts. I hope, when it comes down to the question of whether or not local government has to oversee and approve those increases in taxes, that you remember by us overseeing them we do not get to decide what they spend it on. That would not be a good thing. If you are going to do that and want to make them that much more responsible to the public, make those positions elected positions. What you do is make us take the heat and we do not have any control over how they spend it.”

Danny Thompson asked if there is anything that can be done about those special taxing districts and unelected representatives serving on those boards?

Judge Mattingly stated, “When the auditor decides how he is going to proceed, you will have an opportunity to contact your state legislators and give them your comments. Currently, those boards are public – the public can attend those meetings.”

Judge Mattingly expressed thanks to the legislators for being here and presenting information this evening.

Judge Mattingly recognized the 2012 Christmas at Panther Creek Poster contest winners and presented them with \$25 gift cards donated by Independence Bank.

Ross Leigh said, "Daviness County Fiscal Court Parks and Recreation hosted a poster contest for all kindergarten through fifth grade students promoting Christmas at Panther Creek. Independence Bank sponsored the event with 6-\$25 gift certificates. 157 posters were submitted."

Contest winners were:

- Kindergarten - Elizabeth Thompson - Sorgho Elementary School
- First Grade - Abbygail Towery - Sorgho Elementary School
- Second Grade - Dusty Burns - Sorgho Elementary School
- Third Grade - Aaron Self - Owensboro Catholic K-3 Campus
- Fourth Grade - Ella Bartholomy - Meadow Lands Elementary School
- Fifth Grade - Hannah Jo Thompson - Sorgho Elementary School

The court received into record the Southeast and West Daviness County Water Districts Budgets.

Treasurer Jim Hendrix presented the Treasurer's Report for the month ended October 31, 2012.

Minutes of the November 15, 2012 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.

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.

By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered for approval the County 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.

By a motion of Commissioner Lambert, seconded by Commissioner Castlen, the court considered for approval of the Release and Indemnity Agreement with RWRA.

David Smith stated, "This is from solid waste. It is where the county takes the leachate out of the landfill and delivers it to RWRA for them to treat and dispose of. RWRA requires this agreement of all haulers."

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 the Letter of Agreement with MMLK Government Solutions for Government Relations Services.

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 for approval to Appoint Liz Ann Thompson (27-2012) to the OASIS Board - TERM: 12/1/2012 – 12/1/2015.

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 Appoint Marty Traylor (28-2012) to the Airport Board - TERM: 1/8/2013 – 1/8/2017.

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

Comments:

Alan Stuart stated, "My family owns the Stuart Group, which is made up of three different companies. The one I want to talk about today is S and V, a fabrication shop. We feel that this court is getting ready to consider a loan to one of our competitors. We think this is stepping out of the boundaries of the court. We feel that it is not in all of the other fabricators best interest that this court can supply a low-cost loan to this company. They are getting state incentives of approximately \$224,000. If the Messenger-Inquirer was correct, that was included as part of the state tax incentives. We feel like this may give our competitor somewhat of an advantage over us. We can hire this work done now, just as they can, and in which they are doing. To get this piece of equipment will now enable them to do it in-house, which will save them money and give them a little edge over us. It is not going to break us, but can every fab shop in Daviess County come to the court and ask for money for equipment?"

Judge Mattingly stated, "Yes."

Mr. Stuart said, "We are getting ready to spend \$30,000 on a piece of equipment. Can we request a low-cost loan to assist with this purchase? How is this justified?"

Judge Mattingly stated, "I do not know about the justification, but you would not come here. You would go to Economic Development and they have a form where you could make application for a loan or a grant. This is a loan to On-Time Fab. We are trying to enhance employment in this community, and feel that anyone who is willing to step forward and invest their own money, who would borrow money from the bank, and could use a bridge loan which they are going to pay back to Daviess County Fiscal Court is worthy of consideration. Now, the court does not make those decisions initially. They go to a board of people on an economic

development advisory board, and they look at the ability of the business to expand, to create jobs, and to pay back the loan. The issue is this, do we reduce all economic development to the lowest level or do we try to support those who are willing to step forward and take a risk and take a chance?"

Commissioner Castlen stated, "Rather than saying we want to hold everybody to the lowest level, you asked if all local fabrication shops could come here and request a loan. I would say absolutely. I would encourage that. One of the things that we have been a bit disappointed with is that we took what we thought was a bold move to make this million dollars available to business' that were looking for an opportunity to grow, but were unable to get this financing they needed, and this was another option to help them grow. Rather than looking at On-Time Fab being in a superior position to yourself, I would love for all the fabricators to come to us and get similar equipment, and make this the mecca of whatever it is that you produce, and let this be the place where your customers would come from all across the world for this item. That is how I view this."

Commissioner Lambert stated, "In the Messenger-Inquirer article, it would imply, I think the numbers were correct, the amount of the loan was \$72,000, as I recall. The total incentives potentially gained by On-Time Fab at the end of a 10-year period, would be equal to the \$224,000, as quoted in the Messenger-Inquirer. You could have read the article and believed that that money is all up-front. In order to get that total of \$224,000, the company would have to meet all of the benchmarks, have the 10 new employees, make the investments, and hit every benchmark every year for a period of 10-years, and at that time, those funds would have accumulated to \$224,000. You could read the article and think that they got that money up-front or you could believe that company was using the \$72,000 to buy their piece of equipment and that would not be correct. I am not saying that the Messenger-Inquirer presented false information. I think by reading just what you saw in the paper, you maybe would not understand how the state incentive works. We certainly do not mean to harm or cause a cutback in anyone's business."

Commissioner Wathen stated, "I took a tour of OCTCS's automotive repair shops and technical training rooms. It is really fascinating to see what they are doing. They have cars and small pickup trucks. They have diesel trucks. They are doing a lot of things there that we can be proud of."

Judge Mattingly noted that the 12/20/12 fiscal court meeting will be held at the Masonville Volunteer Fire Station, and the 1/3/13 fiscal court meeting has been rescheduled for 1/10/13.

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

Al Mattingly
Daviness County Judge/Executive