

**Minutes of the December 3, 2020
Daviness County Fiscal Court Meeting
Held at the Daviness County, Kentucky Courthouse**

**Present elected court officials included
Judge/Executive Al Mattingly and County Commissioner s
Mike Koger, George Wathen and Charlie Castlen**

**DOCUMENTS RELATED TO TODAY'S DISCUSSIONS
ARE FILED IN THE CORRESPONDING FISCAL COURT FILE**

Today's meeting was limited to essential personnel, but made publically available via the Daviness Co. Fiscal Court's Facebook live page, where public questions/comments could be posted, or by contacting 270-929-1010 (voice/text).

The meeting opened in Prayer and the Pledge of Allegiance to the Flag.

Judge Mattingly opened the meeting with a Public Hearing.

Judge Mattingly: This hearing is to give the public an opportunity to make statements regarding the proposed consolidation of the Southeast and West Daviness County Water Districts to become the Daviness County Water District. This came before me by petition on October the 21, 2020, by the West Daviness County Water Board and the Southeast Daviness County Water Board. By an unanimous vote of both Water District boards, they agreed that it would be in the best interest of both of those Water Districts, as well as their customers, the people of Daviness County, to merge the systems. The petition says that both agreed or both are engaged in the distribution and sale of potential water in Daviness County. Historically, they share office space and other administrative aspects. Therefore, both boards are familiar with operations of the districts in furtherance of public policy of the Commonwealth Kentucky as declared in KRS 224 a section 1 and KRS 74.361 sec. 1, which encourage regionalization and consolidation and merger of Water Districts. Where feasible, the West District has determined it's economically feasible and desirable to merge with the Southeast District after all of those recitals. I was delivered this petition by the West Daviness County Water District, signed by Scott Kegel their chairman on November 2, 2020. The Southeast Water District presented me a petition that was like-worded and it was signed by Christine O'Bryan chairman on the 20th of 2020. They have gone through all the necessary steps to prepare for the merger. County Attorney Claud Porter has reviewed the documents and he stated, "I believe that he (Water Districts Attorney Damon Talley) is more aware of that than I am, but from what I can gather, according to statutes, yes they've complied with the requirements and you, Judge, would sign the executive order ordering the consolidation."

Judge Mattingly: Once again, I want to let everyone that's watching know that they can comment either by calling 270-929-1010 or by our Facebook live page where we're streaming this meeting live. This will be done by executive order and does not require a vote of the fiscal court, but certainly fiscal court is interested in what's going on because this affects us all.

Following a brief discussion regarding the number of board members that will make up the consolidated board, current board chair Scott Kuegel posted on Facebook that the board would be consolidated down to a 6 member board.

Judge Mattingly: If you recall, the water districts had to individually negotiating new contracts with OMU. After this merger, they will be able to negotiate a single contract. It'll make it a lot simpler.

Commissioner Castlen asked David Smith about the number of people watching this meeting on Facebook. Mr. Smith replied that 30 people were currently watching.

Judge Mattingly noted that no public comments have been received at this point, but the court will accepted comments related to this hearing through the end of this meeting. He then closed the hearing and opened the regular session of the Daviess County Fiscal Court.

On August 6, 2020, the Daviess County Fiscal Court (court) approved Resolution 20-2020 regarding the removal of the Confederate Memorial Monument. The resolution said that the court believes it is in the community's best interest to relocate the Confederate Memorial Monument currently displayed on the courthouse lawn; and will establish a community-member appointed committee to recommend a new location for the Confederate Memorial Monument; and said committee may consult with other groups and the community before making their recommendation.

On Sept 3, 2020, the court appointed members Chair Aloma Dew, Wesley Acton, Tim Kline, Anne Damron, and Kenny Barr to serve on this committee. Numerous committee meetings took place between Sept. 23 & Nov. 11, 2020, and based upon public comments and committee consensus the following represents the committee's written recommendations:

*The majority decision for relocation was to move the statue: (1) to the Owensboro Museum of Science and History (OMSH), **without the base**. The feeling was this would be an indoor safe space and could be used to provide historic background. This site received the most positive comments and committee members agreed this would be the best site; (2) Owensboro Museum of Fine Art (OMFA), **without the base**. Because George Julian Zolnay was a well-known and respected sculptor, because he had family ties to Owensboro as husband of Abigail Gillim; because a trove of Zolnay papers have been discovered at the Smithsonian American History Museum, and because the model for the statue was an Owensboroan and former Union soldier, the committee felt this was another safe spot and could be used for art education. This site received third most comments in favor after Elmwood Cemetery, but the majority of the committee felt the two museums would be safer and better able to be used for education. The third part of the relocation recommendation is for the base to be moved to the site of the Battle of Panther Creek on Highway 431, contingent upon approval by the owners of a piece of property at that site, the United Daughters of the Confederacy. This was the site of the only Civil War battle between regular Union and Confederate troops in the county and is listed in the Official Records of the War of the Rebellion. It is an important part of history and the committee felt this was appropriate. It seems important to note that the President of the Mollie Morehead Chapter 2605, local United Daughters of Confederacy group approved placing the statue at the OMSH, but had also favored Elmwood or OMFA. We never received possible sites from the State Chapter of the UDC. The majority of the committee has asked that their concern over the possibility of the statue being placed in storage be passed on to the Fiscal Court. We as a committee, would like to thank you for the honor of serving on the Monument Relocation Committee and hope that we have fulfilled our charge. This was an emotional issue and there was never one site that would please everyone. We have considered all the comments and had spirited discussions before reaching our recommendations which we hope you will accept.*

Judge Mattingly: I want to acknowledge their hard work and willingness to serve on this unpopular committee. We will take their recommendations under consideration. The recommendations are going to require some work on our part, on the staff's part, on the judge's and some of the Commissioner's part to take a look at some of the places that they recommended. We'll take it under advisement and I'd like to look at it some probably come back into February. Somebody might say, "well that's an arbitrary date", well the end of February happens to be the end of the six months that we gave the commission to submit recommendations to us. If we could get it all done within that time frame, I would be very pleased. He then reviewed the committee's recommendations, which are listed in italic above. He, as well as the entire court, thanked all committee members for their time and consideration to this emotionally charged community issue.

By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered for approval; Minutes of the November 19, 2020 Court Meeting.

The vote was called and with all present members voting in favor, said motion passed.

By a motion of Commissioner Wathen, seconded by Commissioner Koger, the court considered for approval; All Claims for All Departments.

The vote was called and with all present members voting in favor, said motion passed.

By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered for approval; Fund Transfer of \$570,000 from the General Fund to the Bond Fund.

Treasurer Hendrix: Requested permission to transfer \$570,000 from the general fund to the bond fund to pay the public safety radio system debt. It's a normal budgeted item.

The vote was called and with all present members voting in favor, said motion passed.

By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered for approval; **Resolution 32-2020** and Agreement regarding FY 20/21 Rural Secondary Program Funds.

County Engineer Mark Brasher: This is for the North Jackson Road bridge and it is a modification to the existing agreement. This adds \$180,000 to fund this bridge project.

The vote was called and with all present members voting in favor, said motion passed.

By a motion of Commissioner Castlen, seconded by Commissioner Koger, the court considered for approval; **Resolution 26-2020** Establishing a Daviess County Bar and Restaurant Relief Fund for \$250,000.

Judge Mattingly: We all know that it's been a long hard road from the beginning, until now, with COVID. There was a huge shutdown of bars restaurants other businesses and it has created a lot of problems for bars and restaurants, in particular. The governor has again shut them down allowing only to-go or delivery items. However, bills don't stop - light bill, gas and water bills, rent... This plus the employer's concern for the welfare of their employees and families. I am proposing that we take \$250,000 of the approximate \$1M balance that is in the Daviess County Economic Development Fund and help those struggling bars and restaurants. The economic development fund was funded by the sale of the old industrial property out on Daniels Lane, where the hospital is located. We replenish that fund over a period of time. The governor's executive order has dealt a blow to those folks. Currently, many small businesses are applying for COVID-related state funds up to \$20,000. Restaurants and bars inside the corporate limits of the city were able to participate with a city fund to help them get by, but that left the bars and restaurants of Daviess County outside the corporate limits with very little relief. They still had the same relief that the everybody in the county could get but they had no relief from Daviess County, at the time. We have all talked about what we could do to help and thought the best thing to do would be to look at those bars and restaurants that paid an occupational and net profits tax to Daviess County and to take some money out of the economic development fund for COVID-related financial aid. I'd propose that a portion of that fund be dedicated to provide assistance to Daviess County bars or restaurants with indoor dining, they're located outside of the corporate limits of the city. Each business would be eligible for \$5,000 in assistance. Now that's the corporate limits of the city of Owensboro. Any restaurant that would be in the corporate limits of Whitesville, since they too pay Daviess County occupational and net profits tax would also be eligible for these funds.

David Smith: These bars/restaurants have been shut down this year 25% of the time. So, 25% of the days, to this point, they have been completely shut down. They have been open at 50% capacity for about 30 days. They were at 33% capacity for 11 days and at 25% for 4 days. They were open for 22% of the year at 100% capacity before COVID hit. The problem is that was in first 2.5 months in 2020 and as a general rule, those are not good restaurant months. The truth of the matter is, I've some friends in the restaurant business in Louisville and they mentioned that November and December are there months to get them through the winter, because of all the Christmas parties that they can book. Unfortunately, the governor has ended all Christmas parties, at restaurants at least. As a member of the Economic Development Board, I think the board would agree to this type of spending. We generally have only spent money from the economic development fund on primary jobs - those that bring dollars into the community. We generally do not spend this money on what's called secondary jobs, but the reality is, given these numbers, those businesses aren't going to exist in a few months. A lot of these restaurants are in rural areas. That is the only place they can go to get a meal, including senior citizens. They not only provide a needed service to these rural communities, they provide a local flavor of economic development. This fund is patterned after the state's rules, so if you're a publicly traded company, you know a stock market company, you're not eligible for this. This is geared towards the mom-and-pop type enterprises. From available data, there could be up to 30 qualifying businesses that could apply for this grant.

Judge Mattingly: While this may not be job creation, it certainly is all about job retention. We have in the past, talked about using economic development money to help factories buy new equipment so that they can compete better and they can keep jobs here.

David Smith: This COVID Relief Fund is limited to “Dine-In” restaurants only. Those rural restaurants that are take-out only, are not affected by the governor's executive order and do not qualify for this county relief funding.

At this point in the meeting, no Facebook live posts have been submitted, according to David Smith.

Commissioner Castlen thanked the judge and staff for this initiative. He stated, “It is unfortunate that we are even having the dialogue, but it is a reality.” Responding to the above statistics, he stated, “I didn't have a clue that it was that serious, that harsh, that they've been hit.”

Judge Mattingly: This has come at exactly a bad time because I would dare say that a lot of their revenues come in that Thanksgiving and Christmas area. I know a lot of folks who have had restaurants reserved for a Christmas party, but had to cancelled it. We can't have a Christmas party and there's a lot of that thanksgiving dining that would be done out at a restaurant. It was canceled. This is the 2nd time around, specifically for restaurants. This time, the closure only applied to bars and restaurants.

To be able to help in this way, Commissioners expressed their support for this spending. Commissioner Wathen stated, “I think this is what economic development should be all about is the small businesses and helping them out. I am glad we are doing this.”

Commissioner Wathen asked how businesses will be notified about this.

Mr. Smith: I have a feeling that most of them will figure it out rather quickly.

Commissioner Wathen: Maybe after a certain length of time, if someone has not applied, we should reach out to them making sure they are aware.

Mr. Smith: I will ask the Health Department for an updated listing to ensure that everyone eligible to apply may have an opportunity to so prior to it ending.

Judge Mattingly: I received an earlier email from someone asking why this was not inclusive of the city as they also pay county taxes. I responded, saying that city businesses only pay the city for city occupational net profit tax and only county businesses pay county occupational net profit tax. All citizens pay property taxes. Since we are using this as an economic development tool for those county businesses, only county restaurants and bars are eligible to apply for this grant. In the past, we have taken our economic development monies and put it directly into projects within the city, which would benefit them. The number one reason that we didn't go to city residents or city bars and restaurants is that we don't have enough money to do that. Secondly, if you recall what I said originally that the governor has made available to all state bars and restaurants a grant of up to \$10,000 each if they apply and qualify. County-wide businesses have that available to them. The city has or is participating in a city only business relief fund. County businesses have not had that opportunity. If you want to talk about how the monies are distributed, the monies that will be used for this will be county occupational and net profits tax money paid into us by those very businesses that will be applying for county relief funds. Those bars and restaurants within the city limits of Whitesville may also apply as they pay the county's occupational and net profit tax. I don't have enough money to do it for everybody. County bars and restaurants will be asked to provide certain documentation as proof of eligibility. There are no restrictions on the way you spend the funds. You may spend them in whatever manner you see fit to help your business out. Forms may be found on our website at www.daviessky.org.

David Smith: Deadline to apply for this grant is midnight on December 21, 2020.

Judge Mattingly: We would like to have applications turned in next Monday so we may cut those checks.

Judge Mattingly: Under court comments, I would like to discuss liquor license fees paid by bars.

The vote was called and with all present members voting in favor, said motion passed.

By a motion of Commissioner Wathen, seconded by Commissioner Koger, the court considered for approval; Declare Surplus and Transfer County-owned interest in Property at 711 West 3rd St. to the City of Owensboro.

Judge Mattingly: As you are aware, the county owned a very minority interest in property at 711 W. 3rd St. We own that with the city of Owensboro. That is a block west of the gas company's new building that was built downtown. During the discussion with Big Rivers on their move here, they expressed an interest in relocating their corporate headquarters there in that block. This is just taking our interest in that property, declaring it to be surplus, and transferring it over to the city of Owensboro.

The vote was called and with all present members voting in favor, said motion passed.

By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered for approval; Award the following as recommended by Assistant County Treasurer Jordan Johnson:

- **RFQ 16-2020: Four (4) Batting Cages for Panther Creek Park to Beacon Athletics**

Daviess County Fiscal Court received three (3) responsive quotes for the provision of one (4) new batting cages to be installed at Panther Creek Park for the Daviess County Parks Department. Beacon Athletics is the lowest and best evaluated quote received, having no exceptions to the specifications. It is our recommendation to pursue the lowest and best evaluated quote submitted by Beacon Athletics in the amount of \$15,969.00.

Commissioner Wathen: We have all kinds of tournaments and I get calls from people asking why we do not have batting cages in the park. I'm really glad we are putting these in.

- **Bid No. 48-2020: Bituminous Hot Mix & Pavement Milling to Yager Materials**

Daviess County Fiscal Court received one (1) bid for bituminous hot mix and pavement milling. Yager Materials is the only bid received, having no exceptions to the bid specifications. It is our recommendation to award Bid No. 48-2020 to Yager Materials for the respective schedule of rates above for the contract period extending from January 1, 2021 to December 31, 2021.

Judge Mattingly asked, "Mark, bituminous pavement milling; county trucks versus vendor trucks, is that where the county provides a dump truck and hauls off the result and is the other where they'll provide the billing equipment and haul it all off?"

Mr. Brasher concurred.

Mr. Johnson: The remaining bid items (#49-2020 - #55-2020) are service contracts for county right-of-way mowing for calendar year 2021. Represent are the 7 sections that total approximately 478 miles of mowing. Each section is bid individually to allow for participation from smaller companies that may only want to cover a particular section. However, for all 7 bids, BJ Ward was the only bid received having no exceptions to our bid specifications. We typically conduct three mowing cycles annually, which would total \$118,224. This is a 30% increase from the prior rates, but we held the priorities for 4 years under that contract. This means that it's effectively a 6% annual increase for the total contract period. We believe these figures to be reasonable and recommend award of all sections to BJ Ward.

Judge Mattingly: How many times may renew the mowing contacts at this same rate?

Jordan Johnson: We may renew up to 4 additional periods at this rate.

Judge Mattingly: We often get calls from folks about when we mow the right-of-ways, saying that we leave grass on the highways. We have talked to the contractor in the past, and sometimes it's not our contractor, its other people who are mowing and blowing their weeds and grass out into the road. I want to reiterate each year that that's very important that they have somebody that follows up and cleans the grass from the road. If debris is left on roadways is can be dangerous and cause accidents.

Mr. Brasher: They have begun to use a blower on the back of a truck to immediately blow any debris off the road. Within this contract, our contractor has up to 48 hours, following a complain, to remove debris left from mowing. Because they follow the their mowing with a blower, we haven't needed to enforce that language.

- **Bid No. 49-2020: Mowing of County Right-of-Ways; Sec. A to BJ Ward**
- **Bid No. 50-2020: Mowing of County Right-of-Ways; Sec. B to BJ Ward**
- **Bid No. 51-2020: Mowing of County Right-of-Ways; Sec. C to BJ Ward**
- **Bid No. 52-2020: Mowing of County Right-of-Ways; Sec. D to BJ Ward**
- **Bid No. 53-2020: Mowing of County Right-of-Ways; Sec. E to BJ Ward**
- **Bid No. 54-2020: Mowing of County Right-of-Ways; Sec. F to BJ Ward**
- **Bid No. 55-2020: Mowing of County Right-of-Ways; Sec. G to BJ Ward**

The vote was called and with all present members voting in favor, said motion passed.

By a motion of Commissioner Castlen, seconded by Commissioner Wathen, the court considered for approval; Promote A. Ray Cooper to Road Dept. Utility Laborer eff. 12/4/2020.

The vote was called and with all present members voting in favor, said motion passed.

By a motion of Commissioner Castlen, seconded by Commissioner Koger, the court considered for approval; Hire Marvin Ammons as Road Dept. Service Technician upon successful completion of pre-employment screenings.

The vote was called and with all present members voting in favor, said motion passed.

By a motion of Commissioner Castlen, seconded by Commissioner Koger, the court considered for approval; Appoint Harry Pedigo #12.10.2020 to the Library Board, filling the unexpired term of James Kulman for the partial Term: 12/3/2020 – 9/13/2021.

Lauren Osowicz is the Director of Annual Giving at Brescia and was also interested in serving on the Library Board. However, we also have an appointment to fill on the GRADD Board, which she has agreed to serve and will be on the next agenda for consideration to appoint.

The vote was called and with all present members voting in favor, said motion passed.

No other business was brought before the Daviess County Fiscal Court.

Public Comments:

Judge Mattingly asked David Smith is there have been any public comments posted. Mr. Smith noted only the above posting by Water Board Chair Scott Kuegel regarding the number of board members to be appointed to the new consolidated board, as noted above.

Comments by Daviess County Fiscal Court:

Judge Mattingly: Regarding liquor license fees paid by bars (businesses serving liquor-by-the-drink establishments), we are looking to see if it is possible for the county to waive that fee for bars located outside the city limits of Owensboro, but within the city limits of Whitesville. We've not had a chance to talk about this. I don't know if it's legal or not, but when liquor licenses are renewed, and again, this is only outside the corporate limits of the city, those businesses pay a fee, my proposal is going to be that we waive the fee for 2021. Now, that does not mean they get a pass. They still have to apply/renew their license just as they would, but they won't be required to pay the fee for that license. I'm not aware of any legality or legislation that would prevent us from doing that, but asked County Attorney Porter for his thoughts regarding this.

County Attorney Porter: I would like to at least took at this more to find out what regulations there are and if there are statutory requirements. There may be ones that the county can waive. There are also state fees which we cannot waive. I'd like to at least do a little checking before I give you a definitive answer.

Judge Mattingly: That is why I am bring this up. If the commission doesn't want to move in that direction, then we don't need you to look any further. He asked for the court's consensus.

Commissioner Wathen: If we can't wave it, can we also look at reducing it?

County Attorney Porter: If they are ones that are not required by the state, I think that's true. I just need to look at our ordinance and the statute to see what the requirements are.

Judge Mattingly: Then I think what I'm hearing is that nobody would be opposed to you looking into it and that we might make that consideration. It is just one more way of letting those small businesses, typically those small bars and places that serve alcohol our mom-and-pops. Without hearing a hard objection, Claud would you look at it for us to talk about maybe at the next meeting?

Commissioner Koger asked for prayer for City Commissioner Larry Conder as he has been ill for the last few weeks and I know he could use those prayers for a speedy recovery.

Commissioner Wathen: Spoke about Christmas Lights at Panther Creek. He noted that the number of cars has increased. New this year, we have Independence Bank, the hospital, and Swedish Match as local sponsors. The fee is \$5.00 per car, no matter how many people you have crammed in. Projections are that we may end up doing \$40,000 this year, which is just unheard of. That amount would be split and divided amongst the participating non-profits. They are still doing a scavenger hunt, sponsored by Independence Bank and if you turn your scavenger hunt map to an Independence Bank, that may qualify you to win Apple iPad Air.

Judge Mattingly: I was on a zoom call yesterday, with the governor and a couple hundred judge executives and mayors. The governor announced that he was releasing \$50 million in CARES Act monies that was being held back from the original \$300 million. As you recall, Daviess County Fiscal Court received \$3.4 million. The city of Owensboro received \$4.3 million. We had used up, submitted for reimbursement, salaries from the sheriff's office, fire department, and we had used all of our cares money. This additional \$50 million is allocated for cities and counties that had used up their initial allocation. We need to apply for it by 12/11/2020 and Daviess County has been allocated an additional \$1.17 million. That is pretty cool. We did not anticipated that funding.

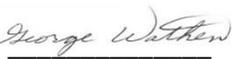
Judge Mattingly: On a personal note, I ask that you pray for my sister Connie. She was admitted to the hospital yesterday and is not doing well. She doesn't have COVID, but has some other issues. I wanted her to know that that we're thinking about her.

Judge Mattingly: I invite the public, to come out to the gun club this weekend for the Puzzle Pieces fundraiser.

Without objection, Judge/Executive Mattingly adjourned the meeting.

SO ORDERED THAT COURT STAND ADJOURNED.

Judge-Executive Al Mattingly  Commissioner Charlie Castlen 

Commissioner Mike Koger  Commissioner George Wathen 

I, duly appointed Daviess County Fiscal Court Clerk Jennifer Warren, hereby certify that the above corresponding Order Book minutes were approved by the court on December 17, 2020.



Jennifer Warren
Daviss County Fiscal Court Clerk