

**Minutes of the April 15, 2021
Daviness County Fiscal Court Meeting
Held at the Daviess County, Kentucky Courthouse**

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

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

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

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

Judge Mattingly: I want to take a moment to express Daviess County Fiscal Court's condolences to the family of Shartez McHenry who was a member of the Owensboro Police Department. We know how close-knit our law enforcement community is and Shartez was a member of the police force for 14 years. Our prayers go out to that family. I also want to take the opportunity to send out our condolences to my a good friend Chris Belcher who lost his wife Vicki this morning. Vicki was the daughter of Gesi Lowe, also a friend of the court. We just want you to know that you're in our thoughts and prayers.

Assistant County Treasurer Jordan Johnson presented the Treasurer's Report March 31, 2021.

By a motion of Commissioner Koger, seconded by Commissioner Castlen, the court considered for approval; Minutes of the April 1, 2021, 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 Castlen, 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 Koger, seconded by Commissioner Wathen, the court considered for approval; County Road Aid Coop Program **Resolution No. 7-2021** and Contract with the KY Transportation Cabinet for fiscal year 2021/2022.

Mr. Johnson: This agreement allows for the provision of county road aid funds for construction, and/or maintenance of certain roads and bridges within the county. These funds are derived from the state gas tax allocated via the fifths formula. This year's apportionment is \$1,525,161. We will receive 97% of this figure, which is \$1,479,407. The remaining 3% is withheld by the state in an emergency fund. This agreement is the same as in prior years with the exception of how funds are distributed. Historically, they were distributed on a strict 60/40 methodology on certain dates throughout the fiscal year. However, for this apportionment, funds will be distributed based on available KYTC financial resources. We anticipate no issues with this alteration.

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; Passageway Easement with G.L.O.F., LLC.

Judge Mattingly: This has to do with an easement that gives passage from one piece of property owned by Diamond Lake to another piece of property by Diamond Lake. We happen to have bought the property and when we closed off the water rights, we also closed the easement off. This will restore that easement.

Commissioner Castlen: This will go with any future property owner, correct?

Judge Mattingly: Yes, it will.

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; Amended Material Handler Lease Agreements with Ricky Moore Trucking, LLC.

David Smith: About a year ago, we approved the original agreement with Ricky Moore regarding this material handler. That agreement implied that Mr. Moore would be the handler's owner following agreed upon terms. This amendment rectifies this agreement to more fully state the handler is a "lease-to-own" piece of equipment, at which time Mr. Moore pays it off, he shall have full ownership of that handler.

Judge Mattingly: That was the intent of the original agreement, but Mr. Moore asked the court to make this amendment. It also had some tax consequences.

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

By a motion of Commissioner Koger, seconded by Commissioner Wathen, the court considered for approval; Hire Julie Gray as a Veterinarian eff. upon successful completion of pre-employment screening.

Judge Mattingly: This is something we have talked about for about a year. We found it difficult to get the sheltered animals the appropriate and timely veterinary services. We actually submitted RFP's to local veterinarians, which no replies were received. At that point, we were faced selecting one of two paths. We could increase the euthanasia rate or we could construct an onsite clinic and hire a veterinarian to operate it. We chose the latter. Soon, we will have a facility designed and constructed, which will be located at the operations center. I don't want to say we will do all of our veterinarian services out there because we are not going to be able to do major surgeries and things like that, but predominantly the spay and neuters and those kinds of things that we need to do on animals before we adopt them or send them out.

David Smith: Dr. Gray will begin employment on 4/5/21 and will be a vital part in clinic's design.

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; Hire Garrett Snyder and Nathan Lanham as Road Dept. Seasonal Interns eff. 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 Wathen, seconded by Commissioner Koger, the court considered for approval; Hire John Sampley as a Part-Time, Year-Around worker in the Parks Dept. eff. 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 Wathen, seconded by Commissioner Castlen, the court considered for approval; Hire Joseph Schmid as a Seasonal Worker at Yellow Creek Park eff. upon successful completion of pre-employment screening.

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

By a motion of Commissioner Koger, seconded by Commissioner Wathen, the court considered for approval; Hire Kenneth Rideout, Drake Renfrow, and Martin Hamilton as Seasonal Workers at Panther Creek Park eff. 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 Koger, seconded by Commissioner Castlen, the court considered for approval; Reappoint Bryan Reynolds (S6T) [#5.2.2021](#) & Gesi Lowe (S3T) [#5.1.2021](#) to the DC-SWEEP Board; TERMS: 5/1/21 – 5/1/2024.

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

By a motion of Commissioner Wathen, seconded by Commissioner Castlen, the court considered for approval; Appoint Gail Niehaus #5.4.2021 (Dana Thornberry S3T) to the PVA Assessment Appeals Board; TERM: 5/3/21 – 5/3/2024.

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

By a motion of Commissioner Wathen, seconded by Commissioner Castlen, the court considered for approval; **Second Reading of KOC 921.676 (2021) 03-2021:** An Ordinance Amending a Zoning Classification Set Forth in the County Zoning Ordinance of February 5, 2004.

Comments:

Judge Mattingly: We had folks on both sides of this issue here with us last time, including some petitioners. The court afforded all, including others who attended the February 2021, OMPC rezoning meeting the opportunity to express their concern. The court has thoroughly reviewed all of the evidence with regard to this rezoning. This court has a few options pertaining to rezoning petitions: We could have thrown everything out and held our own findings of facts, which we have not done, nor do I think that would be wise. We could have done nothing and in about a month, it would automatically become law, which I don't think is fair to either side. We could have reviewed all of the evidence and made a decision as to whether we uphold or overturn the planning commission's decision to rezone, which we are doing. Tonight, we will make that determination by voting on this ordinance. A favorable vote will uphold the planning commission's decision and a vote no will overturn said decision. Earlier today, Commissioner Wathen and I discussed points made by both sides. The folks who filed appeals, and I think we all agree that nobody likes to see a change in their neighborhood, particularly the addition of an apartment complex next to an existing single-family residential neighborhood, but at the same time, a residence is a residence regardless of it being single family, multi-family, or mixed use. I know there was some concern discussed with regard to the rezoning being a commercial operation because they were going to be leasing property. There was concern voiced about the need for a traffic study due to the adjoining narrow county roads and their ability to adequately handle the additional traffic. The requirement threshold for a traffic study to be done is for complexes which exceed 140 units, and this one does not meet that threshold. As far as I'm concerned, if there's a group of people who believe that should be changed, I think they should petition the OMPC, the county engineer's office, and the state where we get these rules and regulations from to make that change, but you don't change it when somebody has started the process.

Commissioner Wathen: I would like to see, as a condition, that some sort of screening be required on both roads. I think it would be beneficial to the existing neighborhoods.

Judge Mattingly: We can certainly add conditions to this. We would need a motion and a second to include additional conditions. I agree with you on the screening concern. One of the concerns I have is when you have apartments, a lot of times you have young folks and where there are young folks you have kids and when you have apartments that are so close to county roads, not county streets these are county roads, kids tend to be rambunctious and don't look where they are running. They can find themselves running out in the road, and I would hate to see a child run out into one of those county roads and get hit. The first condition that I would like to add would be to construct ornamental fencing within the property

boundaries and outside of the easement down the Daniels Lane side down the Hayden Road and actually down that west side where the single family homes are located. That kind of keeps the children confined into the apartment complex. We must be careful, and the county engineer assures me that he will be consulted regarding site triangles. I don't want to require screening and end up having it placed and it block people from being able to see and get out on the road, and at the same time, we don't want to block the site triangle at Daniels Lane and Hayden Road. Then the second thing that you do, and you can't put enough screening in there to completely block out the apartments. What you do is, you kind of put screening in to break up the outline of the apartments. I think that we would like to see screening along the property boundaries, meaning along the east, south, and west sides. Screening to include trees no more than 30 foot apart and again, being cognizant not to block the view for anyone travelling throughout. I think when the development plat is presented to OMPC, the additional screening conditions will follow the will of the court.

By a motion of Judge Mattingly, seconded by Commissioner Castlen, the court considered for approval; Amending this ordinance to add the following conditions:

- **Condition #6:** Ornamental fencing to be installed within the property boundaries and outside the easement down the east, south, and west sides.
- **Condition #7:** Construct screening along the property boundaries with trees no more than 30 feet apart down the east, south, and west sides, taking into consideration the site triangles at the entrance and exit to the apartments and at Daniels Lane.

[OMPC approved conditions 1 – 5 during their Feb 2021 meeting. The above makes conditions 6 & 7.]

Without public comment, the vote was called and with all present members voting in favor, said motion to amend passed.

Judge Mattingly: Now I call for a vote on the ordinance, as amended.

Without public comment, the vote was called and with all present members voting in favor, said motion passed.

No other business was presented.

No Public Comments were received.

Comments by Daviess County Fiscal Court:

Commissioner Koger: It was nice recently seeing ball tournaments taking place at Panther Creek Park.

Judge Mattingly: First, we did drop into the yellow, but have seen a recent up tick back taking us back to orange. I think that's just going to be for a short term. I hope, anyway. We don't see a large increase in the number of cases, as a result of spring break. We know that Henderson County recently had quite an increase in cases, which included an outbreak in their jail. I see a comment on our Facebook live page from someone berating the county for not enforcing all the governor's mandates. Actually, that is the health department's responsibility, and they have responded to a number of reported violations resulting in some shut downs. The county does not have the personnel and quite frankly neither does the Sheriff's Department or OPD to do those kinds of things. It was a health mandate, but one of the things that they said that just kind of bothered me was that Daviess County, because of the lack of enforcement by the city and the county folks, had more cases than Vanderburgh County and Vanderburgh County is twice as big as Daviess County. I don't have my figures in front of me, but that's just not true. Now, people are absolutely entitled to your own opinion, but you are not entitled to your facts. The CDC's website can prove that. What David and I found is that there is relatively little difference across the nation as to the number of cases per hundred thousand people, regardless of what mandates were put in place.

Judge Mattingly: We are near the end of a journey that started in June of last year, when a proposal was made to move the Confederate Monument off the Courthouse lawn. We delayed action, and I think rightly so, in order to give all interested parties an opportunity to express their opinion. In August 2020, the court voted 4-0 to move the monument from the courthouse lawn. We then formed a committee who were charged with taking public comments and return to the court some options. They did that in December 2020. They recommended the following few possible relocation sites:

- Owensboro Museum of Science and History (without the base, because their building couldn't handle both).
- Owensboro Museum of Fine Art (without the base, for the same reason as above).
- Move the base to the site of the Battle of Panther Creek on Hwy 431, contingent upon property owner approval.
- Elmwood Cemetery, but that site wasn't recommended directly to us.

Following the Holidays, I hoped we could decide on a location. However, of the above recommendations, either accommodations were not possible or the necessary approvals were not granted. I am currently working on another option with another entity and hope to have details ready to present at the May 20, 2021 court meeting. Until then, I ask for your patience. I understand there are folks who will say we have been patient for 120 years, and I understand that. I don't begin to understand the heartache that the monument causes you. I know the heartache that it causes those who want it to stay there, but we are working diligently to uphold the integrity of this court and do what the court voted to do back in August 2020.

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 May 6, 2021.

A handwritten signature in cursive script that reads "Jennifer Warren". The signature is written in black ink and is positioned above a horizontal line.

Jennifer Warren

Daviess County Fiscal Court Clerk