

Marshall County Fiscal Court
May 7, 2013

The Marshall County Fiscal Court met in regular session on Tuesday, May 7, 2013 in the Fiscal Courtroom, Marshall County Courthouse, Benton, Kentucky. All duly elected Commissioners: Bob Gold, Terry Anderson & Misti Drew; Assistant County Attorney Jason Darnall & County Attorney Jeff Edwards were present. Mike Miller, County Judge/Executive presided.

I. GUESTS:

A. Bobby Gifford, Director of Water Vision 2020 presented a drawdown request on KIA Fund B: #10-03, in the amount of \$975.29, payable to Aurora Electric, Inc. for the Brewers Tank. A motion was made by Com. Anderson and seconded by Com. Drew to approve the drawdown request. All voted aye. Motion carried.

Mr. Gifford advertised for telemetry on the Brewers tank and did not receive any bids. He contacted Jeff Edwards and asked if he could negotiate with an area vendor, and was advised that he would need approval from the Court to enter into any negotiation. A motion was made by Com. Drew and seconded by Com. Gold to authorize Mr. Gifford to negotiate the best price for the telemetry. All voted aye. Motion carried.

B. James Adams, Senior Manager of Commercial & Public Recreation, Tennessee Valley Authority, addressed the Court regarding Big Bear Park, which is a day use park maintained by the county. It was recently discovered that the long term easement between the county and TVA for the park area actually expired in 2011. Mr. Adams explained the difference between an easement, which is a 30 year guarantee that the county could use the land, and a license, which is revocable after 30 days by either party. The assessment fee for an easement is \$5,000 and \$1,500 for a lease assessment. Judge Miller informed that the county has invested hundreds of thousands of dollars (blacktop, boat ramps, lighting, courtesy docks, pavilions, playground equipment) and continues to pay for upkeep of the day use parks (mowing, trash pickup, Sheriff's Department patrol, Port-a-Potties). Judge Miller asked if the county stopped maintaining the day use parks, if TVA be willing to. Mr. Adams replied that if the county stopped maintaining the park, then TVA would have to make a decision – whether or not to continue maintaining it or putting a gate up and closing it. He added that TVA does maintain several parks along their reservoirs, but he hoped it did not come to that point. Judge Miller continued by saying that in consideration of what the county is spending in Marshall County Tax dollars, which is approximately \$116,440.00 per year, if TVA would consider that expenditure instead of \$5,000 for keeping TVA's property in great shape, possibly considering it as an in-kind contribution. Mr. Adams replied that he understood what Judge Miller was saying. Judge Miller then gave the background of the Association of Tennessee Valley Counties (now known as the Association of Tennessee Valley Governments), which is a seven state, 201 county wide association. The Judge went to Washington, D.C. and testified, and was part of

getting the appropriations budget restored in the 1980's. He added that TVA made the decision to do away with the appropriated budget. Com. Gold added that with this study, TVA would not be turning over a shovel of dirt. Assistant County Attorney Jason Darnall asked if this was the only location in the county with this issue. It is not, it will eventually pertain to every day use park on TVA property. Com. Drew said she didn't see this the same way and related it to paying rent by a business that doesn't own the property. She added that she didn't think \$1,500 was too much to pay because the Court's spent \$1,500 on things that have provided much less of a service. Gary Atkins, who was one of the people who got the park started, helped mow it, and maintain it before the county got involved addressed Mr. Adams. Mr. Atkins said he saw on the internet that Mr. Ronald W. Howell got 250 acres of lakefront property rent free. Mr. Adams said he was not aware of the site Mr. Atkins was talking about. Mr. Atkins added that the area residents are mighty proud of the park, and asked if the people from TVA who would be doing the paperwork on the assessments or if they would hire an outside person. Mr. Adams said the paperwork will be done in-house. Mr. Atkins replied that they are already getting paid to do their job. Marshall County Parks Director Larry Whitt asked why now, after the easement was expired for two years was this becoming an issue. Mr. Adams said TVA just discovered it. A motion was made by Com. Gold and seconded by Com. Anderson to table this issue until the information from Mr. Adams can be digested. All voted aye. Motion carried.

C. Sheriff Kevin Byars submitted the Order Approving the 2012 Franchise and Unmined Mineral Tax Settlement. A motion was made by Gold and seconded by Com. Drew to approve the Order as presented. All voted aye. Motion carried.

II. CORRESPONDENCE:

A. Lee Grassley, Senior Manager of Government Relations, Mediacom, sent a letter informing that on May 29th, Mediacom will no longer carry YouToo, Channel 156 and In Demand PPV 5, Channel 205.

B. Jeff Burton, Director of the Division of Local Facilities, Department of Corrections, informed that the Department has reviewed & accepted the Marshall County Detention Center's Plan of Corrective Action. Mr. Burton noted that Jail Inspector Sarah Hughes will be following up on Item #50 to ensure checks are being made as required by the Kentucky Jail Standards.

C. Charles Jones, Colonel, AR, KYARNG, informed that a memorial is in the planning stages, honoring members of the Kentucky National Guard who have fallen in the line of duty. To date, 145 soldiers and airmen have been preliminarily confirmed for

inclusion on the memorial. A total of \$548,509.73 has been raised in cash and in-kind contributions, but a significant amount is still needed.

D. Judge Miller read a Proclamation naming the month of May, "Thank a Veteran Month" in Marshall County. A motion was made by Com. Drew and seconded by Com. Gold to approve the Proclamation as presented. All voted aye. Motion carried.

III. OLD BUSINESS:

A. Com. Drew asked that on the minutes of the Special Called Meeting of April 29th; at the end of the paragraph on page one that began – "Discussion has been held about future needs at the park..." that her recommendation from that discussion be added. The minutes of that meeting will now include an additional line at the end of the paragraph that states, "Com. Drew suggested the possibility of exploring some opportunities with the business community in helping with some of these projects". With the addition to the minutes of the April 29th meeting, a motion was made by Com. Drew and seconded by Com. Gold to approve the minutes of the April 16th & April 29th meetings. All voted aye. Motion carried.

B. Judge Miller informed that during the April 16th annual bid opening, there was some confusion regarding the bids for culverts. In the past, Metal Culverts, Inc. of Jefferson City, Missouri submitted a bid that required a minimum order for delivery and for that reason Road Superintendent Russell York recommended the bid of Hagen & Stone of Paducah, Kentucky be accepted because they did not require a minimum order for delivery. However, this year, when the bid was submitted by Metal Culverts, Inc., no minimum bid was noted on the form and it was discovered later that it was not required. Mr. York recommended that the bid remain with Hagen & Stone because they were a local distributor and have helped the county out several times. A motion was made by Com. Drew and seconded by Com. Gold to stay with Hagen & Stone as recommended. All voted aye. Motion carried.

C. Action was tabled during the annual bids for fire extinguishers & emergency lighting for clarification. Emily Martin informed that after reviewing the bids and pulling invoices from the past, there were a lot of hidden costs with the bid from the apparent low bidder, and that company did not bid any emergency lighting. She recommended that the bid be awarded to Premier Fire & Safety, Inc. of Paducah. A motion was made by Com. Gold and seconded by Com. Anderson to accept the bid from Premier as recommended. All voted aye. Motion carried.

D. Following the first reading of Ordinance #2013-04 (Opal Lane – 25 mph speed limit), a motion was made by Com. Anderson and seconded by Com. Gold to

approve the first reading. All voted aye. Motion carried.

E. Following the second reading of Ordinance #2013-02 (Cable Franchise), a motion was made by Com. Drew and seconded by Com. Gold to approve the second reading and adopt Ordinance #2013-02. All voted aye. Motion carried.

F. Discussion was held during the April 29th meeting about changing the lens covers on the vehicle which was recently transferred from the Sheriff's Department for use by the Animal Wardens. The covers will be changes from blue to clear at a cost of approximately \$143.00. A motion was made by Com. Gold and seconded by Com. Anderson to approve the expenditure to change the lens covers. All voted aye. Motion carried.

G. The Animal Shelter representatives have been working with McCully's Automotive to secure a 2006 model cargo van. The cost for the van, including trade in of the old truck, is \$5,600. To date, \$3,000 has been raised and will be put toward the purchase of the van. The Animal Shelter Staff is still working on fundraising to help pay for the van. A motion was made by Com. Gold and seconded by Com. Anderson to put money into the 2013/14 budget to pay for the remainder of the van in case the donations for the van fall short of the needed \$2,600. Com. Gold and Com. Anderson aye. Com. Drew abstained from voting. Motion carried.

H. There has been an opening on the Refuse District Board since the resignation of Galen Edwards. Judge Miller recommended that Don Copeland, who lives in the third district, be appointed to fill the vacancy. A motion was made by Com. Drew and seconded by Com. Gold to appoint Mr. Copeland as recommended. Com. Drew, Com. Gold, & Judge Miller voted aye. Com. Anderson abstained from voting. Motion carried.

I. Com. Drew informed that she recently met with residents of old Gilbertsville and discussion was held about the county's Nuisance Ordinance. She asked about the possibility of having limited planning & zoning and added that the current Nuisance Ordinance is a ten step process unless the county pays for the cleanup up front. Sheriff Byars said he handles all of the nuisance complaints personally, but he has to prioritize. He added that the problem seems to be that there is no help from the Judicial Branch, when the complaint gets to that process, it seems to go away. He recommended jail time or big fines. County Attorney Jeff Edwards said the difference in what Com. Drew is talking about is created, the way you get there is the same, what you do once you get there - as little or as much as a zoning board - it would up to them. Com. Drew outlined the steps taken by the City of Benton. Discussion was held about setting up a work session but no date was set.

J. Jeff Edwards informed that he has been working with the City Attorneys from Benton, Calvert City, & Hardin on a unified Animal Control Ordinance. It will be ready soon for presentation to the Court.

K. Com. Drew has spoken with Troy English, Refuse Department Supervisor, who explained that due to budget cuts, the County Clean Up Days will be discontinued. She added that Troy mentioned that the county gets the Refuse Tax and she thought there might be a way to work with the Refuse to help divert some funds to help keep the Clean Up Days going. Judge Miller and Com. Drew will attend the next Refuse Board meeting, scheduled for 9:00 on Tuesday, May 14th to talk to the board.

L. Com. Drew brought up the drainage problem in Old Gilbertsville and asked who would be responsible to look at developing a drainage plan. Judge Miller informed that some time ago, the railroad worked on their property to help alleviate some of the repeated flooding. County Road Superintendent Russell York added that a lot of the problem is created when one person fixes their drainage problem and it then causes a problem for their neighbor. Com. Drew said she would go to the Property Valuation Office to check out the aerial view with addresses. During a meeting, Com. Drew said that one of the property owners offered to buy culverts for all the people on her street to help with the flooding situation.

M. The Fire Boards of Elva/New Harmony/Oak Level & Harvey-Brewers – which were combined on April 16th to form the West Marshall Fire Protection District, recommended seven board members for temporary appointment until the first election in June per KRS 75.031(1)(a). They are: Firefighter members – Butch Wyman & Anthony Sledd; Land Owner members – Aundrea Henson & Gary Teckenbrock; and appointed members Johnny Hamlett, Amanda Holley, & Rhonda Henson. Judge Miller recommended that the firefighter members & land owner members be appointed as recommended and appointed member Johnny Hamlett's term expire June 30, 2014; Amanda Holley's term expire June 30, 2015; & Rhonda Henson's term expire June 30, 2016. A motion was made by Com. Anderson and seconded by Com. Gold to approve the appointments as recommended. All voted aye. Motion carried.

N. Judge Miller declared Court in recess.

O. Judge Miller called Court back into regular session.

IV. NEW BUSINESS:

A. A motion was made by Com. Gold and seconded by Com. Drew to approve the Standing Order to pay Salaries and Utilities. All voted aye. Motion carried.

B. The Audit Report for FY ended June 30, 2012 on the Palma Briensburg Fire Protection District was submitted. A motion was made by Com. Drew and seconded by Com. Gold to accept the report. All voted aye. Motion carried.

C. An agreement between the Fiscal Court and the Department of Highways was submitted, which will provide up to \$700,000 in reimbursable state funds to the county for the construction of an entrance to the Marshall County Hospital from KY 408 (Oak Level Road). Judge Miller expressed appreciation to Rep. Will Coursey for his hard work and dedication on this project. A motion was made by Com. Gold and seconded by Com. Anderson to approve the agreement and to authorize Judge Miller to sign any and all documents on this project on behalf of the Court. All voted aye. Motion carried.

D. Emily Martin informed that the estimate from KACo on Workers Comp has gone up considerably. There is an increase of 21% from last year's cost. Judge Miller has spoken with the Judge/Executives from Calloway, Hickman, and Carlisle Counties and their increases are all larger than 21%.

E. Marshall County has received the Kentucky Department of Worker's Claims Drug-Free Workplace Renewal Affidavit for FY 2013/14. The certificate is on file in the Treasurer's Office. Sheriff Byars said he is still having trouble with the random testing being done on his staff while they are on duty. He has given the work schedule to the testing people and there are still problems. Emily Martin suggested that Randy, with Insight, meet with Sheriff Byars about this issue. She will schedule the meeting.

F. The Marshall County A & I Fair will be May 21st through 25th. The Tribune Courier is again preparing the Fair Tab, and the cost for a full page ad is \$500.00. A motion was made by Com. Drew and seconded by Com. Gold to make a \$500.00 contribution directly to the Marshall County A & I Fair this year instead of purchasing an ad. All voted aye. Motion carried.

G. Judge Miller read the Animal Shelter report for April which is as follows: Animals in the pen as of 3/31/13 – 37; brought in by Animal Wardens – 28; brought in by citizens – 54; total animals taken in – 82 (dogs – 39; cats – 10; puppies – 27; & kittens – 6); adopted – 72; animals in foster care – 0; reclaimed – 8; euthanized – 0; & animals in the pen (& in foster care) as of 4/30/2013 – 39; adoption fees - \$1,711.00.

H. County Road Superintendent Russell York submitted a list of items to be declared surplus property (attached). A motion was made by Com. Anderson and seconded by Com. Gold to declare the items as surplus and authorize Mr. York to advertise for bids. All voted aye. Motion carried.

I. Mr. York said that it's time to start either getting bids or setting up a reverse auction on mowers. There is a three to four month wait from the time they're ordered until delivery. With four new mowers, there will be six in service. The crews began mowing this morning. Following discussion about the advantages of purchasing or lease/purchasing and either going out to bids or participating in the KACo Reverse Auction, a motion was made by Com. Gold and seconded by Com. Drew to start the process to look at purchasing four mowers and have Emily Martin and Mr. York look at the best way to handle obtaining the mowers. All voted aye. Motion carried.

J. Com. Drew asked about the possibility of placing LED flashing lights on the side of the Gradeall for better visibility. Mr. York suggested that it would probably be a good idea to put flashing LED's on the sides of the tractors as well. He will check on the cost for the lights. Mrs. Martin said that funding could be utilized from the equipment fund for the Road Department.

K. Com. Gold asked if the Conservation District might have someone that could address the drainage issues in old Gilbertsville.

L. A motion was made by Com. Anderson and seconded by Com. Gold to approve payment of the bills. All voted aye. Motion carried.

M. A motion was made by Com. Gold and seconded by Com. Drew to adjourn. All voted aye. Motion carried.

Respectfully submitted by:

Melonie Chambers
Fiscal Court Clerk