

Marshall County Fiscal Court
June 24, 2011

The Marshall County Fiscal Court met in regular session on Friday, June 24, 2011 in the Old Circuit Courtroom, Marshall County Courthouse, Benton, Kentucky. All duly elected Commissioners, the County Attorney and Assistant County Attorney were present. Mike Miller, County Judge/Executive presided.

I. GUESTS:

A. Lori Blakley, Director of Pennyrile Narcotics Task Force addressed the Court. The Task Force was formed in October of 1988 covering nine counties, and since that time, it now covers 20 counties. Marshall County came on board with Pennyrile in 2005. The Task Force operates off of grant funds from the Justice Cabinet, Office of Public Safety and the grant provides 75% of federal funds and the other 25% must be provided by the participating agencies through cash match donations. On June 9th, notification was received that the budget was going to be cut by 5% this year. Since 2005, there have been 1,146 narcotic cases made in Marshall County alone. Marshall County has an officer assigned to the Task Force and \$25,000 of that officer's salary is reimbursed by the Task Force. A vehicle is supplied and fuel is paid for in that vehicle. Most of the counties make a donation based on population. Ms. Blakley asked that the Court consider making a contribution based on population. Judge Miller asked what amount was needed and Sheriff Byars said that his estimation is \$2,500 to \$3,000. A motion was made by Com. Anderson and seconded by Com. Gold to participate in funding for the Pennyrile Narcotics Task Force in an amount not to exceed \$3,000 at this time. All voted aye. Motion carried.

B. Judge Miller said that in the past few days our community has lost several fine people that we have all known and interacted with over the years – Jean Smith, George Middleton, Martha Selwitz, and Frank J. Nichols. He added that all will be missed and asked that their families be remembered during these trying times.

C. Martin Johnson addressed the Court on behalf of a resident of Bub Myers Lane. In 2002 when the coupled moved approximately 800' of the road was paved, but county records indicate that 963' is actually county maintained. Since that time, they have made several inquiries about getting the rest of the road paved to their driveway. They want to have their driveway paved, but are reluctant to do so unless the road to the driveway is paved. Jeff Edwards has checked the road and the gravel portion of the road has been maintained past the house. Com. Anderson will look at the road and report back to the Court. A petition form was given to Mr. Johnson for his clients.

D. Wendy Baxter informed that she & John Miller have been working on a Kentucky Pride Grant. They have received confirmation that the grant in the amount of \$33,371 has been awarded and will be used to purchase a skid steer with a 66" bucket, a 66" grapple bucket, and 42" forks using the state contract price from Whayne Supply Company. The Recycling Department will use the construction of their new building as

the required 25% in-kind match. The skid steer will be delivered in August and construction of the new building will not begin prior to July 1, 2011. A motion was made by Com. Drew and seconded by Com. Anderson to accept the \$33,371 in grant funds and purchase the skid steer, buckets, & forks using the state contract price from Whayne Supply and to use the new building as the required match. All voted aye. Motion carried.

E. Bobby Gifford, Director of Water Vision 2020 addressed the Court regarding the following:

- A booster pump station is needed for the Brewers line expansion and he has located a suitable site. Adam & Angela Norwood own property next to 529 Aurora Hwy. in Hardin, and they have agreed to sell one-half (1/2) acre to the Fiscal Court at a cost of \$10,000, which will then be reimbursed from the KIA Fund B to the Court when the deed is signed by both parties. A motion was made by Com. Gold and seconded by Com. Anderson to approve the purchase of the property. All voted aye. Motion carried.
- A drawdown request on WX21157046 in the amount of \$5,042.00 (Paul Cloud Engineering - \$1,300.00 & R & R Piping Co. - \$3,742.00) for the completion of work on Maddox Lane less 10% retention. A motion was made by Com. Anderson and seconded by Com. Drew to approve the drawdown request as presented. All voted aye. Motion carried.
- Two change orders on WX21157050 for the Brewers & Oak Level Tanks. On the Oak Level Tank – an increase of \$6,836.90 changing the total contract price to \$19,356.90; and on the Brewers Tank – an increase of \$830.00 changing the total contract price to \$3,367.00. A motion was made by Com. Drew and seconded by Com. Gold to approve the change orders as presented. All voted aye. Motion carried.
- A draw down request on WX21157050 (Brewers & Oak Level Tanks) in the amount of \$123,968.18 from KIA Funds. A motion was made by Com. Gold and seconded by Com. Drew to approve the draw down request as submitted. All voted aye. Motion carried.

F. Bob Johnston, Chairman of the Marshall County Cemetery Committee addressed the Court. Six years ago, the Committee was given the task of locating, mapping & identifying all of the cemeteries in the county. They have completed that task and there are 259 cemeteries in Marshall County. He presented a map of all of the cemeteries. Judge Miller added that the Committee has also cleared many of the cemeteries and expressed appreciation for the hard work.

G. Judge Miller recognized Benton City Councilman Butch Holland.

H. Marshall County Ambulance Service Director Mark Harrison addressed the Court regarding an application for funding from the Kentucky Office of Homeland Security. Over the past four years, Marshall County has joined in a regional effort with eight or nine other western Kentucky counties, collectively known as the Region One Emergency Medical Strike Team which to date has received \$419,000 in funding for equipment. Mr. Harrison added that the number of counties involved change each year and this year they are Marshall, Graves, & McCracken based on needs. There are two applications and the guidelines for the grant require no matching funds. The first application is for Communications for radios in the amount of \$48,911.20. The second application is for medical equipment, including three cardiac monitors, which is approximately 90% of the request of the total amount of \$146,993.91.

- A motion was made by Com. Drew and seconded by Com. Gold to approve the application with Graves & McCracken County for funding on the Region One Emergency Medical Strike Team for communication equipment in the amount of \$48,911.20. All voted aye. Motion carried.
- A motion was made by Com. Gold and seconded by Com. Anderson to approve the application with Graves & McCracken County for funding on the Region One Emergency Medical Strike Team for medical equipment in the amount of \$146,993.91. All voted aye. Motion carried.

I. Sheriff Kevin Byars informed that a Grant Application has been prepared for funding from the Kentucky Office of Homeland Security for a Tactical Team/Rescue Unit for barricade situations. The amount applied for is \$23,230 and no match is required. A motion was made by Com. Gold and seconded by Com. Drew to approve the grant application and authorize Judge Miller to sign the document on behalf of the Court. All voted aye. Motion carried.

J. Ray Langston, owner of Clean Earth Recycling addressed the Court and said he was present because of actions of the Marshall County Refuse Board. Mr. Langston read a statement to the Court which is as follows:

“To the Fiscal Court Members and My Friends and Neighbors of Marshall County, I, Ray Langston have decided to close Clean Earth Recycling as of July 1st of this year. I apologize for any inconvenience this may cause my friends and neighbors.

Due to failing health and the heavy criticism I have received from the local media and county officials, during the recent controversy over the refuse site, the people of Marshall County have been led to believe that I have profited at the county's expense. Nothing could be further from the truth.

I still want the county to have use of the refuse center located behind Clean Earth, at no expense to the county, until October 1st of 2011. I wish to express my thanks to all the people who have supported me through this difficult time.

May God Bless and Keep You,
Ray Langston, Clean Earth Recycling”

Mr. Langston said he also had a petition with 700 signatures requesting that the refuse center remain at Clean Earth or in the area. He restated that he is closing Clean Earth but offered to leave the refuse center on his property, free of charge until October 1st.

Mrs. Langston said she would like to know, since all this has been going on and what's been said about Ray, why and what they have done illegally. She asked for an explanation. Judge Miller answered that he knew of nothing illegal that's happened. Mrs. Langston said that Com. Anderson has said in the press that they have received the money illegally, that they did not have a contract and they do have a contract. Now people believe that they've received \$2,000.00 a month since 1992 which is not true. They have done what was asked of them, and if they want to go back to the former Fiscal Court, they can find that out. She wanted people to be told they are not thieves and also on that \$2,000 per month – they had to pay taxes on it – it's not been free money - besides all the equipment they've had used, dock they've had built and the things that they have done for the county. Com. Anderson said it has nothing to do with Ray, that Ray is a nice fellow, he likes him and he always has and it has nothing to do with them. If there's an error, it's the county officials that made it – not Ray Langston. He knows of nothing Ray Langston has done wrong. The problem is the Board of Directors of the Refuse District and the Court. The service needs to be bid out. Judge Miller said when you go back, he talked to two former Refuse Board Chairmen and they said it goes way back. At that time, the law said we couldn't take anything at the landfill with Freon and back then, recycling was not a money making business. Then there were two options either Clean Earth or LWD. Judge Miller expressed his appreciation to the Langston's for offering to keep the transfer stations open until October 1st.

II. CORRESPONDENCE:

A. Two of the members of the Marshall County Ethics Board, Bob Prince & George Carter have asked to be excused from an upcoming hearing due to conflicts. Replacements will need to be named prior to the hearing.

B. Tom Hiter, who is a member of the Cemetery Board sent a letter regarding the accomplishments of the Board.

C. Dr. Mark Vigliotti, Department of Homeland Security/FEMA sent a letter of commendation and recognition for Melissa Combs, Director of Marshall County Emergency Management for her dedication, work, and support during DR 1976 KY May – June 2011 (flooding).

D. George Riedel, CFM, Deputy Executive Director of the Association of Floodplain Managers informed that Andy Lepisto successfully completed the process and examination to become an ASFPM Certified Floodplain Manager.

E. Judge Miller presented a Designation of Applicants Agent Resolution, TAB V-3-2, appointing Melissa Combs, Marshall County Director of Emergency Management as the Fiscal Court's agent to file in the appropriate State office for the purpose of obtaining certain Federal financial assistance under the Disaster Relief Act. A motion was made by Com. Gold and seconded by Com. Drew to approve the Resolution as presented. All voted aye. Motion carried.

F. Judge Miller presented a Designation of Applicants Agent Resolution, TAB V-3-2, appointing Wendy Greer, Marshall County Road Department as the Road Department's agent to file in the appropriate State office for the purpose of obtaining certain Federal financial assistance under the Disaster Relief Act. A motion was made by Com. Drew and seconded by Com. Gold to approve the Resolution as presented. All voted aye. Motion carried.

G. Lori Kent, Marshall County Health Department informed that Marshall County was one of ten communities recently awarded a grant through the Kentucky Department for Public Health for a Farm to School Program, which will promote nutrition and agricultural education for students. Marshall County received \$5,400 for the project.

III. OLD BUSINESS

A. A motion was made by Com. Anderson and seconded by Com. Gold to approve the minutes of the June 6, 2011 meeting. All voted aye. Motion carried.

B. County Road Superintendent Russell York informed that the new fuel tanks are being delivered today and will be installed beginning next Friday.

C. Judge Miller and Mr. York discovered that the city of Hardin is putting a 2002 truck, a trailer that's been used approximately six times, & a snow plow up for bids. Judge Miller asked for permission to negotiate with city of Hardin. The Commissioners concurred.

D. Jeff Edwards had the animal shelter committee meeting last week and proceeded with setting policy for the shelter. Another meeting is scheduled for July 28th. Mr. Edwards also met with Judge Miller and members of the National Humane Society at the Animal Shelter. Judge Miller informed that the National representatives, from

Washington, DC & Louisville and they were very complimentary of our shelter and the operation.

E. Butch Holland, Benton City Councilman addressed the Court regarding a persistent problem with unleashed animals in the city limits. The Council is contemplating hiring a full-time law enforcement person that has authority to deal with unleashed animals and threats to the community. Judge Miller said that the county does not have a leash law and in a rural county like ours, it would be very difficult to enforce. Com. Drew suggested that the county and city consider working together on this issue. Judge Miller said he would be glad to meet with the city at any time about that possibility.

F. Following the second reading of Ordinance #2011-03 (Budget), a motion was made by Com. Gold and seconded by Com. Anderson to approve the second reading and adopt Ordinance #2011-03. Com. Anderson asked the County Attorney if he had any questions about the Ordinance. He replied that he did not. Com. Drew asked about the \$20,000 line item on the gas cap for the Sheriff's Department. County Treasurer Emily Martin said that a dollar amount wasn't discussed, but she placed an amount in that could be amended at a later time as needed. Com. Drew also asked Jeff Edwards what qualifies an entity as a quasi governmental agency. He replied any agency participating in the county retirement system would qualify, that would be a good way to qualify for that purpose. All voted aye. Motion carried.

G. Judge Miller informed that some time ago, an in Interlocal Agreement between the Marshall County Fiscal Court and the North Marshall Water District was drawn up to allow Water Vision 2020 Director Bobby Gifford to work as Interim Superintendent for the water district. Everyone agreed that the water district would pay one-half the cost of his salary as Interim Superintendent but not formal action was taken. Judge Miller read a proposal for the Court's consideration. A motion was made by Com. Gold and seconded by Com. Drew to approve the Interlocal Agreement as presented. All voted aye. Motion carried.

H. The Marshall County Fiscal Court Audit for 2010 has been completed and will be in the Judge/Executive's Office for review. A motion was made by Com. Gold and seconded by Com. Drew to accept the audit report as presented. All voted aye. Motion carried.

I. Jeff Edwards sent a letter to the adjacent property owners of Palmer Cemetery regarding a ten foot limited use access to the cemetery for maintenance. He reported that he has only received one reply and it was favorable. He recommended that more time be given to receive any responses and then proceed from there.

J. Jeff Edwards sent a letter to Ms. Gaye Dawson regarding a petition for county maintenance of the roads in Dawson Subdivision (Dawson Lane, Aubrey Court, Cricket Court and Bryant Adam Court). After review, it was determined that the roads are ready for a public hearing. Judge Miller scheduled the public hearing for approximately 11:30 on Tuesday, July 19th and appointed Josh Tubbs, Russell York & Bobby Gifford as road viewers.

K. Code Red, which is a ring down warning system, was discussed. Butch Holland said that the Benton City Council has seen a presentation from Benton Fire Chief Harry Green. Judge Miller said that he would like for all of the cities and the county to go together on this system. Com. Drew asked Melissa Combs if she would get an estimate on the cost for the cities and county if all entities participate. A motion was made by Com. Drew and seconded by Com. Anderson to come up with an estimate as recommended. Jason Darnall, City Attorney for Hardin said Hardin is interested and Councilman Holland said Benton is also in favor of participation. All voted aye. Motion carried.

L. Judge Miller asked to vary from agenda and go into executive session. A motion was made by Com. Gold and seconded by Com. Anderson to go into executive session to discuss personnel. All voted aye. Motion carried.

M. Judge Miller called Court back into regular session and informed that a hearing has been set for Tuesday, June 28th at 10:30 a.m. in the Fiscal Courtroom regarding a personnel issue. The employee will be notified.

N. During executive session, discussion was also held about the items up for bid from Hardin. A motion was made by Com. Anderson and seconded by Com. Gold to authorize Judge Miller to bid on behalf of the county the items that Hardin has for sale if it is determined by the county attorney if it is a legal bid. All voted aye. Motion carried.

IV. NEW BUSINESS:

A. Judge Miller read a request from Marshall County Emergency Management regarding Hazmat 1 Support. Last year, the county assisted in the regional effort at the level of \$0.39 per capita. This year's per capita according to the 2010 Census – 31,448 x 0.39 = \$12,264.72. A motion was made by Com. Gold and seconded by Com. Drew to approve the request and continue Hazmat 1 Support in the amount of \$12,264.72. All voted aye. Motion carried.

B. County Treasurer Emily Martin submitted the Marshall County Fiscal employee salary schedule for FY 2011/12. A motion was made by Com. Gold and

seconded by Com. Anderson to approve the schedule as presented. All voted aye. Motion carried.

C. A motion was made by Com. Gold and seconded by Com. Anderson to appoint Emily Martin County Treasurer until June 30, 2015. All voted aye. Motion carried.

D. Mrs. Martin submitted the Budget Appropriation Transfers. A motion was made by Com. Gold and seconded by Com. Anderson to approve the transfers as presented. All voted aye. Motion carried.

E. Mrs. Martin submitted the Payroll Fund Accounts Receivable Report as of June 30, 2011. A motion was made by Com. Gold and seconded by Com. Anderson to approve the report as submitted. All voted aye. Motion carried.

F. Mrs. Martin submitted the Intrafund Transfer recommendations. A motion was made by Com. Drew and seconded by Com. Anderson to approve the transfers as recommended. All voted aye. Motion carried.

G. Judge Miller attended a recent KACo Board meeting and updated the Court on the efforts of the Jailers through their state association in the joint attempt to try to convince the state not to enter into a contract with private prisons to house state prisoners. Judge Miller urged the Commissioners to also contact their state association in support of this effort.

H. A motion was made by Com. Drew and seconded by Com. Anderson to approve the Treasurer's Report, subject to audit. All voted aye. Motion carried.

I. Judge Miller presented a contract with Pepsi Mid-America for the Court's consideration regarding the vending machines in the Courthouse. A motion was made by Com. Drew and seconded by Com. Gold to approve the contract as presented. All voted aye. Motion carried.

J. The Chairman of the Fairdealing-Olive Fire Protection District had no nominees or applicants for the two positions on the Board of Trustees. The positions of Matthew Hilbrecht (appointee) and George Knecht (firefighter) will both expire June 30, 2011. A motion was made by Com. Gold and seconded by Com. Anderson to re-appoint Mr. Hilbrecht and Mr. Knecht. All voted aye. Motion carried.

K. SPECIAL DISTRICT APPOINTMENTS

FIRE PROTECTION DISTRICTS:

Aurora-Ross:

- A motion was made by Com. Gold and seconded by Com. Drew to re-appoint Harry Holliday. All voted aye. Motion carried. His three-year term will expire 6/30/2014.

East Marshall:

- A motion was made by Com. Anderson and seconded by Com. Drew to re-appoint Jimmy Cothran. All voted aye. Motion carried. His three-year term will expire 6/30/2014.

Elva/New Harmony/Oak Level:

- A motion was made by Com. Drew and seconded by com. Anderson to re-appoint John Hamlett. All voted aye. Motion carried. His three-year term will expire 6/30/2014.

Gilbertsville:

- A motion was made by Com. Anderson and seconded by Com. Drew to re-appoint Jean Sanders. All voted aye. Motion carried. Her three-year term will expire 6/30/2014.

Hardin-South Marshall:

- A motion was made by Com. Gold and seconded by Com. Anderson to re-appoint Rena Jones. All voted aye. Motion carried. Her three-year term will expire 6/30/2014.

Harvey-Brewers:

- Gary Sutherland resigned as one of the firefighter representatives. Nathan Holley has agreed to serve if appointed to fill the unexpired term, which will end 6/30/2012. A motion was made by Com. Gold and seconded by Com. Anderson to appoint Nathan Holley to fill the unexpired term of Gary Sutherland. All voted aye. Motion carried.
- A motion was made by Com. Gold and seconded by Com. Anderson to re-appoint Gary Park. All voted aye. Motion carried. His three-year term will expire 6/30/2014.

Palma-Briensburg:

- A motion was made by Com. Drew and seconded by Com. Anderson to re-appoint Weldon Solomon. All voted aye. Motion carried. His three-year term will expire 6/30/2014.

Possum Trot/Sharpe

- A motion was made by Com. Anderson and seconded by Com. English to re-appoint Robert Johnson. All voted aye. Motion carried. His three-year term will expire 6/30/2014.

JONATHAN CREEK WATER DISTRICT:

- A motion was made by Com. Gold and seconded by Com. Anderson to re-appoint Mike Edwards to a four-year term which will expire 6/30/2015. All voted aye. Motion carried.

MARSHALL COUNTY CEMETERY BOARD

- A motion was made by Com. Anderson and seconded by Com. Gold to re-appoint Tom Hiter to a four-year term which will expire 6/30/15. All voted aye. Motion carried.

SANITATION DISTRICT #1:

- A motion was made by Com. Anderson and seconded by Com. Gold to re-appoint Leslie Landers to a four-year term which will expire 6/30/2015. All voted aye. Motion carried.

SANITATION DISTRICT #2:

- A motion was made by Com. Gold and seconded by Com. Anderson to re-appoint Randy Travis to a four-year term which will expire 6/30/2015. All voted aye. Motion carried.

L. Com. Drew made the following statement, "I had asked that the issue of the Refuse be addressed this week and I know that Mr. Langston was here this morning and I know that this has become very personal for a lot of people - it shouldn't have. I think when this all began last year, Com. Anderson tried to handle this in a very non-public way. He tried to deal with this issue directly with the folks at the Refuse District and it never would have come to such a public display. And I wish Mr. Langston and his family were still here because what I wanted to say was this wasn't personal until my phone started ringing with people saying that they had been asked to sign a petition wondering why I was shutting down the refuse station over there. I have never attempted to shut down Clean Earth Recycling. I have never attempted to shut down

that particular station. It's my understanding that once Danny Newton, who is the Chairman of the Refuse, once they all decided it was in the best interest of the taxpayers to go to Mr. Langston and explain that they could no longer make those \$2,000 monthly payments, Mr. Langston took it upon himself to hang that sign and start the petition. That had nothing to do with myself. That had nothing to do with Mr. Anderson, or Mr. Gold or anybody that I know of from this Court. As far as what the previous Court did – I can't answer for that but I would hope that somebody at some point on the previous Court would have understood the very basics of legal contracts. And the very basics are – the only contract we have on file goes back to 1992 and it simply states that Mr. Langston would agree to allow the county to put a transfer station on his property in exchange for the right to keep any recycling material that was brought out to his station. At some point, somebody else decided to do something different. I didn't make that decision. Nobody else up here – none of the Commissioners made that decision and as to who did that, I can't speak for them. I certainly don't think that reflects negatively on Mr. Langston. However, at some point we have to do what's best for the taxpayers and what's best is to make sure that we have legal agreements on file. I'm not going to go out and give taxpayer property away to my friends and neighbors or anybody else so it's not about Mr. Langston being a nice person, it's not about attacking his integrity - it's about the fact that somebody made a deal that should have been documented and if we needed to pay for services we should have documented that we had a contract to pay for those services. It's very simple and a very simple issue. It's gotten very complicated and very personal and that's a shame because at the end of the day, the taxpayers are going to be saving a whole lot of money. Clean Earth Recycling, in my opinion does not need to close – they do provide a very valuable service – people can take their white goods there and they can get a little bit of money instead of having to throw something away. I think that's a good service to provide to the community. It's not my intention as a Court member to take that away from anyone. And if that's Mr. Langston's decision, I hate and regret that he's decided to do that. But in the best interest of the taxpayer, we cannot give surplus materials away and we cannot operate without a contract. It's very simple.”

M. The North Marshall Water District Budget for FY 2011/12 was submitted. Copies of the budget will be distributed to the Commissioners and action will be taken at the July 19th meeting.

N. The Marshall County Reapportionment Committee submitted the report from the meeting of June 6th. The members are Kenneth Howell, Mike Donald, Billy Driskill, & County Clerk Tim York. The Committee recommended that the dividing lines for the County Commissioner District not be changed. A motion was made by Com. Drew and seconded by Com. Anderson to accept the report and recommendation of the Reapportionment Committee. All voted aye. Motion carried.

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

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

Respectfully submitted by:

Melonie Chambers
Fiscal Court Clerk