Marshall County Fiscal Court
June 25, 2013

The Marshall County Fiscal Court met in regular session on Tuesday, June 25, 2013 in the Joe Williams Fiscal Courtroom, Marshall County Courthouse, Benton, Kentucky. All duly elected Commissioners: Bob Gold, Terry Anderson, Misti Drew; Assistant County Attorney Jason Damall & County Attorney Jeff Edwards were present. Mike Miller, County Judge/Executive presided.

I. GUESTS:

Judge Miller informed that James O’Bryan was scheduled to address the Court, but was unable to attend due to a work conflict.

II. CORRESPONDENCE:

A. Judge Miller read a Proclamation naming the week of August 19th to 23rd, Promote a Veteran Week”. A motion was made by Com. Gold and seconded by Drew to approve the Proclamation. All voted aye. Motion carried.

B. J. Kyle Stephens, Vice President, Rates & Regulatory Affairs, Texas Gas Transmission, LLC, sent a notice of filing before the Federal Regulatory Commission regarding the proposed abandonment of certain looped segments of mainline pipeline facilities. Judge Miller spoke with the manager of Texas Gas at the plant in Palma, and found that the proposed closure will not affect or interrupt services in our area.

C. Gary Logsdon, Manager of the Energy & Environment Cabinet, Department for Environmental Protection, Division of Waste Management informed that the Division has completed the review of the 2013-2014 KY Pride Fund Grant application, and the application was successful. Wendy Baxter informed that the $13,382.00 will be used at the Recycling Center for the installation of a Yard King mobile aluminum ramp with steel grating 20,000 lb. capacity. Ms. Baxter, who prepared the grant application, added that the ramp will save the county approximately $11,000 per year by having the ability of loading the recyclables onsite.

D. Lee Grassley with Mediacom, informed that on or about July 18th, Mediacom will be adding the Home Shopping Network to the digital broadcast basic channel line-up at no additional charge.

E. During the June 11th meeting, the Court voted to transfer the 99 year, $1 lease that was originally between the Court and the Jonathan Aurora Action Committee (JAAC) to the Aurora-Ross Fire Protection District’s Auxiliary. The lease is for the property in Aurora that houses the sorghum house and pavilion area. JAAC has disbanded but there was $16,000 in the checking account that the members decided to split between the Aurora-Ross Auxiliary and the Marshall County Tourism Commission. Judge Miller asked Emily Martin to contact Bonnie Kincannon, with the Auxiliary to see
what the plans are for the park. Ms. Kincannon informed that they are planning outdoor theater nights to play movies on a big screen. They have a 10’ x 12’ screen, but they need a projector to show the movies. Also the sorghum house is in need of a new roof. Carpenters have volunteered their time, but they need materials. They also would like permanently mounted speakers on three of the light poles. A motion was made by Com. Drew and seconded by Com. Gold to allow the Aurora Ross Auxiliary to use up to $8,000 to make improvements to the park. All voted aye. Motion carried.

III. OLD BUSINESS:

A. A motion was made by Com. Gold and seconded by Com. Anderson to approve the minutes of the June 11th and 14th meetings. All voted aye. Motion carried.

B. Following the second reading of Ordinance #2013-03 (Budget), a motion was made by Com. Gold and seconded by Com. Anderson to approve the second reading and adopt Ordinance #2013-03. All voted aye. Motion carried.

C. During the June 11th meeting, David Grove addressed the Court regarding a road in Birmingham Point Subdivision. County Attorney Jeff Edwards has forwarded the concerns of the Court to counsel for BINKY, LLC (owner of the road in question), but has not received any response. Judge Miller asked Mr. Edwards to keep the Court informed.

D. Judge Miller has spoken with Circuit Clerk Carla Marshall, about the odor/mold issue in some areas of the Judicial Facility. Ms. Marshall is still working on the situation and will let the Judge know when she has an answer. Judge Miller will keep the Court informed.

E. Judge Miller informed that there has been a reduction of $9,078.00 on the insurance premium per year for the Judicial Facility because of a recalculation of the square footage of the building. Judge Miller attended a KACo meeting last week and discussion was held about the dramatic increase for the cost of re-construction/insurance premium increases. They were told at the meeting that the reason for the increase was due to the tornado in Morgan County and that facility was underinsured. The Marshall County Judicial Facility was built at a cost of $8 million and the value for insurance has been set at $26 million. The estimate to rebuild has been set at $350 to $402 per square foot. Judge Miller checked with someone who he considers one of the most qualified and reputable contractors in the area and was told that the cost is closer to $165 to $170 per square foot and that figure is on the high end. Judge Miller asked at the meeting who does the valuation of the buildings & was told that the Administrative Office of the Courts. Edmonson County Judge/Executive N.E. Reed said that the
counties were hit with the big increase here at the end of the fiscal year and the counties didn’t have time to make any other inquiries and added that if they don’t get their pencils sharp, the counties will be shopping for other insurance choices next year.

F. Jeff Edwards distributed copies of a draft county-wide animal control ordinance during the June 11th meeting. He said that from his understanding, Calvert City is not planning to participate. Marty Johnson suggested that Calvert City be included to make the ordinance uniform county-wide and if the council decided not to participate, they would have to vote to opt out. The ordinance will be ready for the first reading during the next court meeting. Com. Drew asked if Calvert City opted out, would animal control still be responsible within the city limits. Assistant County Attorney Jason Darnall said he spoke with Greg Northcutt, Calvert City Attorney on Friday, and he indicated that the city would not be interested in any type of leash law. Com. Drew said she hoped that the city official understood that if they opted out of the Ordinance, that the Animal Control would not be picking up animals in the Calvert City limits. Mr. Johnson said with the Ordinance drawn up countywide, Calvert City would have to vote to opt out and the language would be clear. Mr. Johnson added that if Calvert City did not vote to opt out, then the Ordinance would apply.

G. Com. Anderson has been contacted by a resident of Breezel School Road and Foust Sledd Road regarding flooding that they felt was caused by the county diverting water onto their property. On the Foust-Sledd issue, he & County Road Superintendent Russell York checked the driveway culvert yesterday and it is too small to handle the water. It is on the county’s right-of-way. Com. Anderson added that during a moderate rainfall, that area would become a small creek. The one on Breezel School Road is on private property, but the property owner said there were no problems until the county diverted the water onto his property. Mr. York said that the Road Department has been going to the property every time it gets washed out and replacing gravel. He asked if the county could fix the problem one time on private property by putting in some of the larger surplus sewers instead of having to put more gravel in after every rain. Com. Anderson said it would be cheaper on the county taxpayer to fix it rather than adding gravel repeatedly. A motion was made by Com. Anderson and seconded by Com. Gold to remove the sewer on Foust-Sledd Road and replace it with a larger one from surplus. Com. Gold asked if there are enough sewers to take care of both problems. Mr. York replied that there are for Foust Sledd, but hasn’t seen the one on Breezel School Road. Com. Anderson and Mr. York will look at the Breezel School issue. Com. Anderson amended his motion to state – to replace the sewer on Foust Sledd Road with a surplus sewer; for he & Mr. York to look at the situation on Breezel School Road, and report back to the Court. Com. Gold amended his second. All voted aye. Motion carried.
H. Com. Anderson said he was contacted about another issue on Tucker Road. The road was straightened some time ago, and the original section of road that basically makes a loop was left. During flooding, the access to the loop had been washed out. It is approximately 12’ deep, but the lady who lives there asked that the washout be repaired. He said that it not needed, that the road goes straight, but the lady said that the mail carrier uses the loop section. Judge Miller offered to go with Com. Anderson. Com. Anderson added that he thought it would be too much of a cost.

I. Emily Martin spoke to the Court regarding online courses that are available pertaining to changes in relabeling hazardous materials. She has been in contact with Kirby Ramsey with the Kentucky League of Cities, and he recommended that the courses would be beneficial to the emergency personnel – Rescue Squad, Volunteer Firefighters, etc. – that could use the courses. The county has purchased an additional 100 credits. The Court member concurred to offer the credit hours to the emergency responders.

J. Sheriff Kevin Byars informed that the Pennyrile Area Narcotics Task Force will have a meeting tomorrow morning. The federal funding was received, but it is $175,000 short of what was received last year and the Sheriff said he wanted the Court to be aware. Judge Miller asked him to report back at the next meeting. The Sheriff urged everyone to talk to their representatives in Washington to urge additional funding.

K. Judge Miller informed that he received a call yesterday from Com. of Agriculture’s Office regarding a meeting in Trigg County about the mosquito problem. The meeting is scheduled for Tuesday morning, which is the next regularly scheduled Court meeting. Following discussion, the Court members concurred to hold only one meeting in July on the 16th. Judge Miller added that if anyone wanted to ride with him to the Trigg County meeting, he would be leaving the Courthouse around 8:15 a.m..

IV. NEW BUSINESS:

A. Judge Miller presented the first reading of Ordinance #2013-06 (Expanded Jurisdiction Building Code). Judge Miller asked Wendy Baxter to go over the current building inspection fee schedule (attached). Current Building & Electrical Inspector Larry “Cat” Spears will continue to do the electrical inspections, but he does not want to do any residential building inspections. Ms. Baxter has received several emails from people interested in the residential building inspections. She added that she didn’t want to cause an undue burden on the homeowner, but possibly sit down prior to the second reading & work out a fee schedule. Every structure built on private property will have to be inspected – buildings, barns, etc. If the state did the inspections, it could be a six to eight week process to even hear from the state as opposed to the county’s regular five
day turnaround. She added that there is a lot of confusion from the state level. The inspector for the City of Benton performs three inspections – foundation, installation, and final. Com. Drew asked what the point of contact would be for the county. PVA Tony Henson said that GIS & the PVA Office would be more than happy to help out the county in this process because a lot of the information gathering needed is already in place. Sandra Wright, an area realtor, asked if this would include homes being sold that had not received an inspection. Ms. Baxter replied that it was her understanding that this pertains to new construction only, but she would check. Com. Drew asked if it would be possible for someone from the state to come to a meeting to answer questions because some of the things that were originally told to the court have been changed. Ms. Baxter replied that she will make an inquiry and added that we are expired now. There are projects in her office now that are on hold because of this. A motion was made by Com. Drew and seconded by Com. Anderson to approve the first reading with the caveat that someone can come in and answer questions. All voted aye. Motion carried.

B. County Attorney Jeff Edwards has forwarded, via email, the responses to the Court he received to his inquiries last week about an attorney to conduct an investigation/audit into the charges levied against Judge Miller by Com. Drew. He had contacted three attorneys by phone and all three had initially indicated their willingness to accept the offer. However, when he received the email responses, only one was willing to do it and - an attorney from Hopkinsville, Jason Holland. At this point, Mr. Edwards recommended to either get him online or to continue to contact others. Marty Johnson asked to address the Court. He is representing Judge Miller in this matter and said that he feels there must be a more complete vetting of the people Mr. Edwards is trying to engage. He would like to be made aware of their background and credentials. He also wants to make sure that whoever is chosen has absolutely no axe to grind; no interest in this matter; has not been contacted by any member of this court in regard to this case, and that we are getting someone who will do a complete and thorough job without any undue prejudice or any background information supplied to them. Mr. Johnson said he knew that Com. Drew contacted Mr. Bishop prior to recommending him to the court previously and he thinks it is totally inappropriate for any member of this court to contact any attorney who is being considered for this purpose. Com. Anderson addressed Mr. Edwards and said there was a motion and a second from the last meeting on the table that needs to be addressed before we move forward. Mr. Edwards said he thought the motion passed. Com. Anderson replied that it didn’t – there was a motion and a second but it was never voted on. Mr. Edwards responded by saying, at this point, it’s up to the Court – you can either proceed with that individual or you could proceed with the person who responded to his inquiries. He added that he felt comfortable with the process and with the person who responded but that decision ultimately rests with the Court. Com. Anderson said we still have a motion and second
on the floor and that needs to be dealt with. Com. Drew said she made a motion (during the last meeting) to hire specific counsel but she would be willing to withdraw her motion. Com. Drew asked that Mr. Willen (Hopkinsville City Attorney & with the firm Willen & Foster) be considered. She does not know Mr. Willen and has not spoken with him about this issue. Com. Anderson said if we want to get someone no one knows, he hasn’t spoken to this individual – his name is Kent Wicker from the firm of Reed & Wicker of Louisville. He is a former prosecutor and Assistant U.S. Attorney with a great deal of experience in these issues according to his website. Com. Anderson made a motion to retain him (Mr. Wicker) and if he can’t do the job, to hire Doug Willen with Willen & Foster. Com. Anderson said he found Mr. Wicker on the Internet and feels that he has the credentials we are looking for. Com. Drew asked what credentials. Com. Anderson replied that Mr. Wicker has a great deal of experience dealing with these types of matters and none of us knows him. Marty Johnson suggested if the Court wanted to consider him, to put his name in the pot. Com. Anderson replied that he made the motion to hire him. Com. Gold said we have costs associated with this – we have a dollar amount from the gentleman from Hopkinsville that Mr. Edwards has contacted. Com. Gold added that otherwise, we are signing a blank check if we hire somebody. Com. Anderson replied that if Mr. Wicker is too high, we don’t have to hire him. Com. Anderson amended his motion and said, that we hire him pending we contact him, see what his fees are, and if he is willing we hire him. Mr. Johnson suggested that the Court consider soliciting proposals and after you receive proposals – review them and select one after you have properly vetted each person to make sure there was no conflict. Com. Drew said she did not mean to disagree with him (Mr. Johnson) but during her last meeting, she made a motion and the Judge, who is the focus of this, changed her motion - so she thinks if we are going to talk about conflict of interest – that would probably be one. She said that we have been trying to handle this as a court, and have been discreetly for some time, but now that it’s out in front of everyone we have to talk candidly and candidly I’m telling you that I made a motion as a court member and it was changed by the person that’s kind of the focus of it. And so because of that I’m interested in moving forward. So we can get this behind us. It’s been very divisive. Now everybody’s hiring counsel and its becoming something that I know I hoped it didn’t become. Com. Drew then seconded the motion and added that she wants to get this behind us. Mr. Edwards said that it’s obviously the Court’s decision - but the names he submitted - he tried to make sure that they fit the bill, but if you (the Court members) think the one that responded does not – he’s not aware of it. He has no reason to propose him over anyone else and that was the response he got. Judge Miller asked Com. Anderson to restate his motion to which Com. Anderson replied that the motion was to contact Kent Wicker from Reed & Wicker in Louisville and ask him if he will consider this job and give us a quote. Com. Drew seconded the motion. Com. Anderson & Com. Drew voted aye. Com. Gold voted no. Judge Miller abstained from voting on advice of counsel.
C. FIRE PROTECTION DISTRICT BOARD APPOINTMENTS

Aurora Ross Fire Protection District

Jerome Ragsdel’s appointment will expire 6/30/2013. A motion was made by Com. Gold and seconded by Com. Anderson to reappoint Mr. Ragsdel (new term to expire 6/30/2016). All voted aye. Motion carried.

Ricky Sirls was re-elected as a firefighter representative. His new term will expire 6/30/2017.

East Marshall Fire Protection District

Carl Boyd’s appointment will expire 6/30/2013. A motion was made by Com. Anderson and seconded by Com. Gold to reappoint Mr. Boyd. (new term to expire 6/30/2016). All voted aye. Motion carried.

Ed Logue was re-elected as a landowner representative. His new term will expire 6/30/2017.

Fairdealing-Olive Fire Protection District

Bonita Walker’s appointment will expire 6/30/2013. A motion was made by Com. Gold and seconded by Com. Anderson to reappoint Mrs. Walker (new term to expire 6/30/2016). All voted aye. Motion carried.

Henry Rogalinski was re-elected as a firefighter representative. His new term will expire 6/30/2017.

Gilbertsville Fire Protection District

Jimmy Newton’s appointment will expire 6/30/2013. A motion was made by Com. Anderson and seconded by Com. Gold to reappoint Mr. Newton. (new term to expire 6/30/2016). All voted aye. Motion carried.

Hardin-South Marshall Fire Protection District

Kenny Jones’ appointment will expire 6/30/2013. A motion was made by Com. Anderson and seconded by Com. Gold to reappoint Mr. Jones. (new term to expire 6/30/2016). All voted aye. Motion carried.
Mike Alexander was re-elected as a firefighter representative. His new term will expire 6/30/2017.

**Palma-Briensburg Fire Protection District**

Donald Kilby’s appointment will expire 6/30/2013. A motion was made by Com. Anderson and seconded by Com. Gold to reappoint Mr. Kilby. (new term to expire 6/30/2016). All voted aye. Motion carried.

Darrell Howell was re-elected as a firefighter representative. His new term will expire 6/30/2017.

**Possum Trot/Sharpe Fire Protection District**

Terry Strick’s appointment will expire 6/30/2013. A motion was made by Com. Anderson and seconded by Com. Gold to reappoint Mrs. Strick. (new term to expire 6/30/2016). All voted aye. Motion carried.

Bobby Lee Sullivan was re-elected as a firefighter representative. His new term will expire 6/30/2017.

**West Marshall Fire Protection District**

This is the initial election & appointment of the members of West Marshall following the Executive Order appointing the original board members. The election for firefighters and landowners were held per KRS and is as follows:

- Butch Wyman – Firefighter Representative – term to expire 6/30/2014
- Anthony Sledd – Firefighter Representative – term to expire 6/30/2016
- Aundrea Henson – Landowner Representative – term to expire 6/30/2015
- Gary Teckenbrock - Landowner Representative – term to expire 6/30/2017
- Johnny Hamlett – Appointment A - term to expire 6/30/2014
- Amanda Holley - Appointment B - term to expire 6/30/2015
- Rhonda Henson - Appointment C - term to expire 6/30/2016

A motion was made by Com. Anderson and seconded by Com. Gold to approve the board of trustees as presented. All voted aye. Motion carried.

D. County Treasurer Emily Martin presented the Intrafund Transfers which are as follows:
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<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Amount</th>
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<tr>
<td>Occupational Tax Admin.</td>
<td>Jail Fund</td>
<td>$10,000.00</td>
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<td>Occupational Tax Admin.</td>
<td>Road Fund</td>
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<td>Occupational Tax Admin.</td>
<td>General Fund</td>
<td>$150,000.00</td>
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Total Approved $285,000.00

A motion was made by Com. Anderson and seconded by Com. Gold to approve the Intrafund Transfers as submitted. All voted aye. Motion carried.

E. The Budget Appropriation Transfers were distributed for FY ended June 30, 2013. A motion was made by Com. Anderson and seconded by Com. Gold to approve the Budget Appropriation Transfers as submitted. All voted aye. Motion carried.

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

G. Com. Gold said he had an unrelated issue, but a gentleman that worked with him at Westlake passed away recently. He had flu-like symptoms and approximately three days later his organs began to shut down. He did not have Rocky Mountain Spotted Fever, but instead it was a bacterial born disease that can be contracted by handling ticks. Com. Gold wanted everyone to just be aware and to use caution.

H. Com. Drew asked about the possibility of having some type of ventilation for the animals in the back of the Animal Control vehicle. Dennis Lovett was available for Court, but asked Com. Drew to check with the Court. Sheriff Byars said that Motorola handles the ventilation, which comes in a kit, for their K-9 units. Following discussion, the Sheriff will check with Motorola on the cost; report to Judge Miller, and he will contact the Commissioners.

I. Jeff Edwards asked for clarification, if he to contact Mr. Wicker. The Court members confirmed that he was.

J. Twin Lakes Church across from Catfish Kitchen on Hwy. 641, David Barrett asked if the Court could contact the proper people about a flooding issue. Mr. Barrett also asked about progress on the new health department. Judge Miller replied that the brick has been removed and Pinnacle Construction is working on the repairs.
K. A motion was made by Com. Anderson and seconded by Com. Gold to adjourn. All voted aye. Motion carried.

Respectfully submitted by:

Melonie Chambers
Fiscal Court Clerk