

Marshall County Fiscal Court
August 2, 2011

The Marshall County Fiscal Court met in regular session on Tuesday, August 2, 2011 in the Joe Williams Fiscal 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. George Milam, Chairman of the Marshall County Arts Commission gave a PowerPoint presentation on the proposed Children's Performing Arts Center, which will be located on property at the corner of Elm Street and 13th Street. Highlighted on the presentation was the architectural rendering of the building, which can be used for multiple purposes including performances, dinner theatre, classes, weddings, receptions, showers, etc. The Arts Commission currently has a commitment of \$625,000 toward the project.

B. Lauren Sirls asked that the Court consider adopting an Ordinance regulating pawn shops, more specifically having some type of tracking ability for merchandise. She had items stolen from her house, and with rules more strict than those required by KRS, it would have been easier to possibly track those items.

C. Bobby Gifford, Director of Water Vision 2020 presented the following for the Court's consideration:

- A drawdown request on WX 21157046 in the amount of \$5,370.60 (water line extension on Amber Lane & Bryant Road). A motion was made by Com. Gold and seconded by Com. Anderson to approve the drawdown request as presented. All voted aye. Motion carried.
- A drawdown request on WX211570250 in the amount of \$11,163.63 (CSS Pipe - \$782.13; Paul Cloud Engineering - \$3,081.50; & R & R Pipe - \$7,300.00). A motion was made by Com. Gold and seconded by Com. Anderson to approve the drawdown request as presented. All voted aye. Motion carried.

D. Charlotte Keogh inquired about a complaint she made to the Marshall County Ethics Commission regarding the North Marshall Water District. She said she heard that two of the three members had recused themselves regarding her request and added that she hasn't heard anything else from the Court. Judge Miller said that farther down today's agenda, the Court will deal with naming temporary members to hear the complaint.

E. Dennis Dunn spoke to the Court about Phillips Road and the dangerous situation that exists due to the narrow road. Two vehicles cannot meet on the road and one would have to back out onto Jackson School Road. His son lives on Phillips Road and he asked that the Court consider taking the property needed to widen the road if the property owner refuses to give the needed right-of-way. Com. Gold said he has spoken

with the property owner before and he was not willing to give the right-of-way. Judge Miller asked Com. Gold to speak to the property owner again and report back to the Court.

F. Melissa Combs, Director of the Office of Emergency Management updated the Court on Code Red. Calvert City has decided to go with Code Red independently and not join in with the county, Benton & Hardin as hoped which would have reduced the cost for all involved. The cost now is approximately \$16,000 per year. Ms. Combs will meet with the city of Benton on the 15th and the city of Hardin next month and report back to the Court.

Ms. Combs also expressed appreciation to the Road Department for assisting the fire department with a house fire on Saturday. The Red Cross, Rescue Squad, and three fire departments responded. She added that everyone worked well together.

II. CORRESPONDENCE:

A. George Knecht submitted his letter of resignation as a firefighter representative on the Fairdealing Olive Fire Department Board of Trustees. The board's recommendation for his replacement is Tommy Dobbs. A motion was made by Com. Drew and seconded by Com. Gold to appoint Tommy Dobbs to replace George Knecht as recommended. All voted aye. Motion carried.

III. OLD BUSINESS:

A. Com. Gold informed that on page 2, item E. in the July 19th minutes, one of the tanks was referred to as the Olive tank and it is actually the Oak Level tank. With that correction, a motion was made by Com. Gold and seconded by Com. Drew to approve the minutes as presented. All voted aye. Motion carried.

B. Russell York & Com. Anderson have looked at Bub Myers Lane and Com. Anderson said it appears that the section in question hasn't been maintained by the county. He spoke to Martin Johnson about it and Mr. York has gotten estimates to get the section of road up to county specifications for acceptance. The section of road in question is approximately 150' and if it is brought up to the current county specs, it will be wider than the rest of the road so the estimate will be for the same width as the current road. Com. Anderson will present those to Mr. Johnson so he can share them with his clients and see what they want to do.

C. Judge Miller informed that Barney Thweatt has agreed to serve on a temporary basis if appointed to the Marshall County Ethics Commission. A motion was

made by Com. Gold and seconded by Com. Drew to appoint Mr. Thweatt to serve on a temporary basis. Com. Gold & Com. Drew voted aye. Com. Anderson recused himself. Motion carried.

A motion was made by Com. Drew and seconded by Com. Gold to appoint Mike Donald to serve on a temporary basis to the Marshall County Ethics Commission. Com. Drew & Com. Gold voted aye. Com. Anderson recused himself. Motion carried.

D. Russell York reported that the State Fire Marshall still has not inspected the new fuel tanks at the Road Department.

E. Wayne Onkst, State Librarian & Commissioner of the Kentucky Department for Libraries & Archives informed that Peter Wolff's term as a Trustee on the Marshall County Public Library Board expired August 1st and submitted the following names for consideration to fill the vacancy (new term to expire August 1, 2015): Peter Wolff & Paul Thurman. A motion was made by Com. Drew and seconded by Com. Gold to reappoint Peter Wolff. All voted aye. Motion carried.

F. Following the second reading of Ordinance #2011-05 (Reapportionment), a motion was made by Com. Drew and seconded by Com. Gold to approve the second reading and adopt Ordinance #2011-05. All voted aye. Motion carried.

G. The Court held a public hearing on July 19th to consider discontinuance of maintenance of Destin Lane & Grass Lane. A motion was made by Com. Anderson and seconded by Com. Gold to discontinue maintenance of Destin Lane & Grass Lane. All voted aye. Motion carried.

H. The Court held a public hearing on July 19th to consider accepting the roads in Dawson Subdivision (Dawson Lane, Bryant Adam Court, Aubrey Court, & Cricket Court) into the County Road Maintenance System. A motion was made by Com. Anderson and seconded by Com. Gold to accept the above named roads into county maintenance. All voted aye. Motion carried.

I. Judge Miller asked for an update on Denzel Martin Road. Com. Anderson said Ray Davis wants the road closed and from his understanding through Mr. Davis, the other residents along the road have other means of ingress and egress from their property. Mr. Davis was given a petition some time ago, but it has not been returned.

J. Com. Drew asked the status of the old drugstore in Possum Trot. Currently the block is being torn down and the area is being cleared.

IV. NEW BUSINESS:

A. Judge Miller informed that Gary Clark submitted his resignation as a member of the North Marshall Water District Board and he recommended that Joe Draffen be appointed to fill the remainder of the unexpired term. A motion was made by Com. Drew and seconded by Com. Gold to appoint Joe Draffen as recommended. All voted aye. Motion carried.

B. Josh Tubbs' and Judge Miller's terms expired June 30th on the Marshall County Calvert City Riverport Board. A motion was made by Com. Gold and seconded by Com. Anderson to reappoint Josh Tubbs and Judge Miller to the Riverport Board. All voted aye. Motion carried.

C. Discussion was held about the abandoned railroad trestle over Wades Creek near Hardin. The County Attorney advised before the county works on the property, a survey has to be done. A motion was made by Com. Drew and seconded by Com. Anderson to contact the County Surveyor to begin work on the survey. All voted aye. Motion carried.

D. Gary Teckenbrock, Foreman of the Special Projects Crew has checked the two 23 year old HVAC units on the roof of the Courthouse. Over the past several years, the units have been repaired numerous times and may now be costing as much to keep them running as it would be to replace them. He presented quotes which are as follows:

Option #1: Replace 4 ton roof top unit only (this unit is the worst of the 2) - \$5,646.00

Option #2: Replace both roof top units (one 5 ton & one 4 ton) - \$10,708.00.

A motion was made by Com. Gold to replace both units. Com. Anderson suggested that the units be bid. Following discussion, Com. Anderson seconded the motion made by Com. Gold to contract with C & C Heating & Cooling and replace both units. All voted aye. Motion carried.

E. County Treasurer Emily Martin presented an Intrafund Transfer request from the Occupational Tax Administrator Fund to the General Fund in the amount of \$200,000. She explained that during a previous meeting she requested to transfer \$850,000, but only transferred \$650,000 and wanted the Court to know that she was transferring the remaining \$200,000.00.

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

G. Judge Miller informed that all of the information hasn't been submitted from the special taxing districts recommending their 2011 tax rates. The county's rate has been the same for some time - 10 cents on real property & 11.2 cents on tangible property. The first reading of the proposed tax ordinance is scheduled for the next Court meeting. Judge Miller said action on the county's portion could either be voted on today or during the next meeting. A motion was made by Com. Drew and seconded by Com. Anderson to make no change to the county tax rate and leave it at 10 cents on real property & 11.2 cents on tangible property. All voted aye. Motion carried.

H. A motion was made by Com. Anderson and seconded by Com. Gold to go into executive session to discuss personnel. All voted aye. Motion carried.

I. Judge Miller called Court back into regular session and informed that a personnel matter was discussed. There seems to be a disagreement between some employees and their supervisors. The Court will be meeting with the parties and an efficiency study will be conducted to see who's right and who's wrong. He added that hopefully this can be resolved in the very near future.

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

K. County Road Superintendent Russell York addressed the Court regarding the following:

- Asked about the CDL Physicals scheduled for September. Last year the employees either went to Dr. Louis Forte or their physicians and he asked if they went to their doctor again this year, if the cost of the physicals would be covered by the Court. The Court members concurred that it would.
- Reported that it appears on the loader, by using the sheeps foot roller in addition to the old loader as trade-ins, the difference will be approximately \$45,000.00. Discussion was held about advertising for bids in September and purchasing in October after the tax bills start coming in to ease the money situation.
- Reported that the repeaters were down on the radio system yesterday. They have been temporarily fixed. He asked about getting new radios – a few at a time in order to switch to narrowband. Part of the radios in use are already adaptable to narrowband. There were no objections from the Court.
- Six or seven Road Department employees are no longer working. They've either quit, retired or passed away and only two have been hired to replaced them. He said he really needs to hire at least two people because he has to close other jobs down and pull people off one job to go to another. Judge Miller said he would be talking with him about personnel issues.

- Will be ordering the salt from North American as per the reverse auction.
- Judge Miller asked if the items have been picked up that the Court won through sealed bid from the city of Hardin. They were waiting on a duplicate title which they got Friday. Mr. York will be meeting with the Mayor today.

L. Josh Tubbs wanted to make the Court aware that his office is looking at updating the county's website for economic development.

M. Sheriff Kevin Byars asked for clarification regarding the steps he needs to take when a property owner has started clearing after notification of being in non-compliance with Ordinance #2006-02 (Nuisance Ordinance) and then has stopped for several months. At this point, does he take it back before the Court or does he start the process again. County Attorney Jeff Edwards asked if it was brought before the Refuse District. The Sheriff said he was told that if they didn't respond that he had to bring it back before the Court. Judge Miller suggested that a courtesy call might be a good reminder, but he didn't believe he would have to repeat the entire process.

N. A motion was made by Com. Anderson and seconded by Com. Gold to go into recess. All voted aye. Motion carried.

O. Judge Miller declared Court back into regular session. He informed that the Court interviewed three potential employees for the Animal Shelter. He added that all three were impressive individuals, but one seemed to rise to the top. A motion was made by Com. Drew and seconded by Com. Anderson to hire Mrs. Alexia Lamb, L.V.T. for that position. All voted aye. Motion carried.

P. A motion was made by Com. Anderson and seconded by Com. Drew to recess for lunch. All voted aye. Motion carried.

North Marshall Water District – Hearing to Show Cause Why Commissioners Should
Not Be Removed

Judge Miller called Court back into regular session at 1:30 p.m. in the Old Circuit Courtroom, Marshall County Courthouse.

Judge Miller explained the purpose for the hearing and read the following letter which was sent to each of the North Marshall Water Commissioners:

“Please be advised that pursuant to KRS 74.020 and KRS 65.007, the Marshall County Fiscal Court will be conducting a hearing on August 2, 2011, at 1:30 p.m. to allow you to show cause why you should not be removed from the North Marshall Water

District Board of Directors as the result of complaints filed with the Marshall County Fiscal Court.

The basis for this proceeding includes, but is not limited to, failing to follow the requirements for public procurement, poor business practices and poor record keeping as contained in the presentation by Bobby Gifford on May 30, 2011. A copy of the presentation will be available upon your request.

You may employ counsel to represent you in the aforementioned hearing. If you have any questions, please direct them to the above referenced address in writing.”

Judge Miller asked that the record reflect that Com. Anderson recused himself from taking part in this hearing.

The following North Marshall Water District Commissioners addressed the Court:

1. Bob Turner, whose term expired June 30, 2011 spoke about issues including the contracts on the telemetry system which he said from his understanding did not have to be bid because it was a professional service such as engineering. The telemetry system shows the amount of water in the tanks and can be accessed from the office. Mr. Turner also addressed purchasing the meters, which he also said he didn't think had to be bid citing saving manpower & time for reading the meters. Mr. Turner also said he was given information that in 2005, the Sheriff purchased vehicles and each one was over the \$20,000 procurement limit and if it was alright for the Sheriff to do so without going out to bid, he did not see a problem with getting the best meters or the telemetry system without a bid. Mr. Turner was told that the vehicles were purchased from a dealer through the state contract price. Mr. Turner said he has enjoyed his eight years of service on the board.
2. B.W. Darnall, whose term expires June 30, 2013 said he has served on the board for over 20 years and he has always been there to help the customers of the district and will continue to do so as long as he is on the board. Mr. Darnall added that if he has made any mistakes, they have been from his head and not his heart.
3. Billy Driskill, whose term expires June 30, 2013 said that most of the things that have happened at the district, happened prior to him joining the board in September 2009.
4. Gordon Hargrove, whose term expires June 30, 2014 said he has enjoyed serving the people of the district and prior to that, serving as County Magistrate. Mr. Hargrove said he believes that Interim Superintendent Bobby Gifford is doing a good job, and he also said that he believes the district would be alright.

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

Respectfully submitted by:

Melonie Chambers
Fiscal Court Clerk