

Marshall County Fiscal Court
August 5, 2014

The Marshall County Fiscal Court met in regular session on Tuesday, August 5, 2014 in the Joe Williams Fiscal Courtroom, Marshall County Courthouse, Benton, Kentucky. All duly elected Commissioners: Bob Gold, Terry Anderson, and Misti Drew; Assistant County Attorney Jason Darnall and County Attorney Jeff Edwards were present. Mike Miller, County Judge/Executive presided.

I. GUESTS:

A. Lisa Carter updated the Court on litigation for two unpaid property tax bills from 2006 & 2007. After becoming delinquent, the property was bought by the Marshall County Board of Education. School Boards are tax exempt and the delinquent tax bills were purchased by a third party - Hazel Enterprises. The Marshall County Circuit Judge ruled that the county should refund the money to the third party purchaser. The Court of Appeals ruled that the county owed less than the amount the county offered to refund if required. Ms. Carter added that this matter is settled and she will continue to work with the county officials to make sure these taxes and liens are released.

B. Trudi Patterson requested that the speed limit on Little Bear Highway, through The Point Development be lowered. She presented a petition, signed by area residents as well as pictures of the area. Assistant County Attorney Jason Darnall informed that a property description needs to be obtained in order to draft an Ordinance.

C. Parks Director Larry Whitt informed that grant funds are available to resurface the walking trails, but it requires a 50/50 match. The total cost for resurfacing is approximately \$121,000 but matching money is not in the parks budget for this fiscal year. Com. Drew suggested the possibility of getting matching funds through either private or corporate sponsorship. Mr. Whitt also informed that money has been budgeted for a new truck at the park and asked for authorization to advertise for bids. A motion was made by Com. Anderson and seconded by Com. Gold to authorize the advertisement as requested. All voted aye. Motion carried.

II. CORRESPONDENCE:

A. Larry Quillen, Center Administrator with UK Health Care, sent a letter of appreciation for allowing the staff to have office space in the Courthouse. Unfortunately, due to funding cuts in the Kentucky Homeplace Program, several offices were closed statewide and Marshall County's was closed.

B. Wayne Onkst, State Librarian & Commissioner for the Kentucky Department for Libraries & Archives, informed that the application was approved for a FY 2015 local records grant, in the amount of \$41,710. These funds will be used in the County Clerk's Office for equipment.

C. Bobby Gifford, Superintendent of North Marshall Water District, requested an additional extension of right-of-way on Raceway Lane by 225 feet. This will complete another entrance into the county park provided that the Park Board is successful in completing the property acquisition. North Marshall will grant any additional easement as needed. A motion was made by Com. Drew and seconded by Com. Gold to extend the right-of-way. All voted aye. Motion carried.

D. Kyle O'Dell, Chairman of the Marshall County Conservation District, informed that the landowners of Certified Agricultural District #079-02 have asked the Conservation District to recertify the district which is located south west of Benton, adjacent to the Hwy. 641 By-Pass. Kentucky Revised Statutes require that the District notify the local and regional planning & zoning boards as well as the Fiscal Court.

III. OLD BUSINESS:

A. A motion was made by Com. Gold and seconded by Com. Drew to approve the minutes of the July 15, 2014 meeting. All voted aye. Motion carried.

B. Following the second reading of Ordinance #2014-07 (posting nuisance properties), a motion was made by Com. Drew and seconded by Com. Gold to approve the second reading. Com. Drew asked about the time frame for posting the property and added that her intent wasn't for the Sheriff to make multiple trips. Sheriff Byars will post the property when he makes the site visit. Com. Anderson asked why the Refuse Board couldn't be eliminated altogether and added that he didn't see the importance of it. He added that it only delays the process. Assistant County Attorney Jason Darnall replied that the court could set it up however they would like, as long as there is some mechanism in place. Sheriff Byars said that since the discussion has come up, he thought the county needed to explore county-wide zoning again. Com. Drew suggested limited zoning to endorse state statutes. Mr. Darnall replied that it wouldn't really be zoning, only creating a board. Sheriff Byars said his issue with the nuisance complaints is that he gets to them when he can, there are other things more pressing that need his attention. Judge Miller called for a vote on the motion. Com. Drew & Com. Gold voted aye. Com. Anderson voted no. Motion carried.

C. Andy Lepisto recommended that both bids for the re-creation and design of the county website be rejected and the majority of the work be handled in-house and obtain contract help as needed from a third party. After review of both bids, neither met the specs. A motion was made by Com. Drew and seconded by Com. Gold to reject all bids and proceed as recommended. All voted aye. Motion carried.

D. A public hearing was held July 15th regarding proposed county maintenance

of Quail Hills Road, Sparrow Lane and Pheasant Lane. The Road Viewers recommended that the roads not be accepted because they don't meet the specifications to be accepted into the county road maintenance system. Com. Anderson said, "We need to consider taking these roads for several reasons. One – our country is \$18 Trillion in debt and we contribute to that debt because we spend federal funds in our community. We can do these roads cheaper – we mow less, clean less and it would cost us less initially to pay our half because this is an existing road." He addressed Judge Miller by saying, "You stated at the last meeting that your number one concern was safety & I agree, but if that be so, they we're worried about this road – not accepted because of a 30' right-of-way instead of a 40' right-of-way – then we have many, many roads – I have a book with many dozens of roads ditch to ditch, that are 20 to 15 and some have a 9' driving surface or one lane. So if safety...." Judge Miller replied, "Many of them were taken in prior to the Ordinance that we put in place – my point being".... Com. Anderson said, "I understand that, but if safety is the number one reason".... Judge Miller replied, "I am not saying that is the number one issue but that is an issue".... To which Com. Anderson replied, "That's what you said, I reviewed it last night – let's not argue that point. The point is if we are going to say these roads shouldn't be considered because of that, then what are we doing with the other roads? You are saying Russell (York) says he can't maintain these roads because they have a 30' right-of-way – we have some ditch to ditch – those things just don't add up – and the policy – violating the policy, we can clearly see a safety issue is not a factor here because if it was, we would have to be addressing all these other roads that we are maintaining that are worse." Judge Miller started saying, "If we"..... Com. Anderson said, "Let's forget behind us, going forward – I think we should consider every road in the county from this day forward". Judge Miller responded, "Do you realize what it's going to take to bring every road that you have voted against – and everybody else has voted against".... Com. Anderson said, "I'm not saying for those roads, I'm saying".... Judge Miller said, "You cannot make an exception – I don't think – the road you mentioned last time, we'll talk about that one too"... Com. Anderson said, "I don't see how much grass we mow makes a difference in the safety." Judge Miller said, "The county's required right-of-way has been amended from 60' to 50' to 40' right-of-way so we could have proper shoulders, proper ditching and maintain the driving surface. He added, "If we can work with the residents of Quail Hills Subdivision to get them into compliance, I am totally for accepting the roads." Com. Anderson asked, "What the compliance was going to be". Judge Miller replied, "The roads have to meet the county's standards that are set out in our policy." Com. Anderson replied, "These are existing roads – they pay half and we pay half. We don't consider the condition of the roads – we haven't in the past." Judge Miller said, "The County Attorney would need to answer that." Com. Anderson responded, "We don't count potholes in a road when we take them – the property owners pay half and the county pays half, I am saying to consider these roads – all of them because it's less cost to the county if we take roads

with 30' right-of-ways and smaller driving surfaces – 16' to 18' – short distances – dead end at the lake – so safety isn't an issue and it saves money every day." Judge Miller replied, "This court has time and again rejected roads because they did not meet the standards – different reasons." Com. Anderson said, "Walton Lane was not a county road" to which Judge Miller responded to Com. Anderson, "Gary Atkins (former Road Department Superintendent) told me that Hargrove (former Commissioner), paved the road at your request". Com. Anderson replied, "Let's say they did – ¾ mile, one lane blacktop road with no houses on it. Why did they do that?" Judge Miller replied, "I ask the Commissioners to pick the roads they want blacktopped – always have – always will." Com. Anderson asked, "Why are we maintaining roads now that have no homes on them? I'm through arguing, I make a motion to accept these people's roads because it's the right thing to do and there's no reason to have a 40' right-of-way and the safety issue does not come into play in this situation and it's safer and cheaper for the county." Judge Miller called for a second three times. Motion died for lack of a second. Com. Drew asked about the possibility of mitigating the additional footage needed for the right-of-way with the exception of a couple of homes that are too close, and then have a varying right-of-way on that section of the road. Judge Miller said he would be willing to sit down with the landowners and work out something that would work for everybody. Com. Gold said that it appeared to him that a good portion of these roads could support a 40' right-of-way. Jeff Edwards suggested that the portion that isn't wide enough could be considered private drives. Discussion was held about the 40' right-of-way requirement. Mr. Edwards informed that one of the reasons for the 40' was that from time to time, the county and state traded roads for maintenance and the state requires 40'. Com. Anderson asked if the Court could accept these roads. Mr. Edwards replied that the county specifications can be amended. Com. Anderson said, "We don't have to change the rule, just accept them." Mr. Edwards replied, "If you are going to do that, it needs to be for a rational reason." Com. Anderson responded, "That's what I'm trying to articulate here – the safety issue – they're dead end roads and they're not likely to change – built up with homes and the other reason is it would save taxpayer's money." Judge Miller said, "If you make an exception for one, where does it end?" Com. Gold listed a couple of roads that did not meet the specs and he added that he gave the taxing district formation information to the residents for their consideration. He added that he looked at Quail Hills and Pheasant Lane and there are roots pushing up the blacktop on parts of the road. Com. Anderson replied - if the property owners pay half and the county pays half for an existing road and the only reason to not accept them is because of the 40' right-of-way, it's ridiculous – it's cheaper for the county to maintain less right-of-way. Com. Gold responded that if an engineer looked at the road, the pavement would probably have to be taken up and the road rebuilt. Judge Miller suggested to move on in the meeting.

E. Jason Darnall sent a letter to Mediacom concerning some language in the franchise agreement. He has not heard anything since his letter of July 29th. This issue was tabled until Mediacom responds.

F. A motion was made by Com. Drew and seconded by Com. Gold to approve payment of the bill to Knoth Surveying for the survey recently completed on the proposed gun range at the landfill site. (The cost is approximately \$1,100.) All voted aye. Motion carried.

G. The owner of the nuisance property on Frontage Lane sent a letter, which Judge Miller read for the Court. A motion was made by Com. Drew and seconded by Com. Gold to give the owner two weeks to remove any personal property from the structure. All voted aye. Motion carried. County Attorney Jeff Edwards will inform the property owner.

H. The nuisance property across from the entrance of the county park has been fenced in at the owner's expense.

I. The nuisance properties on Hall Street and Maggie Street in Old Gilbertsville have been cleared.

IV. NEW BUSINESS:

A. A bid opening was held for the construction of a road between Oak Level Road and Symsonia Road, near the Hospital. Notice for bids was published in the July 8th and 15th editions of the Tribune Courier. One bid was received from Gerald Chambers & Son's in the amount of \$616,642.50 (alternate – delete crushed stone base & replace with 8" of bank gravel – deduct \$45,000 from the bid amount). A motion was made by Com. Anderson and seconded by Com. Gold to accept the bid. All voted aye. Motion carried. Judge Miller added that the county is set to receive an additional \$250,000 from the state in next year's budget for a bridge on the road.

B. County Attorney Jeff Edwards prepared a Resolution for the Court's consideration in opposition to the state transportation cabinet's plans to close the portion of the Purchase Parkway from the intersection of the parkway and I-24. A motion was made by Com. Drew and seconded by Com. Anderson to approve the Resolution. All voted aye. Motion carried.

C. Marshall County Ambulance Service Director Bryan Cutsinger was not available for today's meeting, but sent a request for permission to replace a blown engine in one of the ambulances. He presented two options: 1 – call salvage yards

and find a used Ford 6.0L diesel engine; 2 – purchase a new engine from Jasper Engines. The estimate for a new engine, completely installed is \$18,224.00. Sheriff Byars informed of a company in Canada that replaces engines in emergency vehicles. He added that on the Crown Victoria's, the cost is around \$15,000. He offered to get the contact information and get the information to Mr. Cutsinger. Following discussion about the need for urgency, a motion was made by Com. Drew and seconded by Com. Gold to authorize Mr. Cutsinger to spend up to \$18,224 to replace the engine. There is money in the Ambulance Service Budget for equipment to cover the cost. All voted aye. Motion carried.

D. Requests have been received from the Fairdealing-Olive Fire Protection District Board and the Aurora Fire Protection District Board to pave portions of their parking lots to give addition parking for voting. Road Department Supervisor Russell York will prepare an estimate to present to the Court.

E. Judge Miller informed that one of the Road Department Truck Drivers has a heart stint and the insurance is refusing to pay for a stress test, which is a requirement of someone with a stint in order to be cleared during a CDL physical. The cost for the stress test is \$510.00. A motion was made by Com. Anderson and seconded by Com. Gold to pay for the stress test. Com. Gold asked for the explanation from the insurance company for not paying for the procedure. Treasurer Emily Martin will email the explanation. All voted aye. Motion carried.

F. Three terms have expired on the Jonathan Creek Water District Board. Judge Miller asked Com. Gold to contact them to see if they are interested in being reappointed.

G. Don Copeland and Bobbie Barnett's terms on the Refuse Board expired 6/30/2014.

- A motion was made by Com. Gold and seconded by Judge Miller to reappoint both members. Com. Gold and Judge Miller voted aye. Com. Anderson and Com. Drew voted no. Tie vote.
- Com. Anderson suggested that each reappointment be handled by a separate motion. A motion was made by Com. Anderson and seconded by Com. Gold to reappoint Don Copeland. All voted aye. Motion carried.
- A motion was made by Com. Gold and seconded by Judge Miller to reappoint Bobbie Barnett. Com. Gold and Judge Miller voted aye. Com. Anderson and Com. Drew voted no. Tie vote. Com. Drew added that her vote wasn't personal but based on past decisions.

H. Judge Miller read the Animal Shelter report for July which is as follows:

Animals in the pen as of 6/30/2014 – 79; brought in by Animal Wardens – 19; brought in by citizens – 82; total animals taken in – 101 (dogs – 35; cats – 18; puppies – 24; & kittens – 24); adopted – 70; animals in foster care – 0; reclaimed – 5; euthanized – 27; & animals in the pen (and foster care) as of 7/31/2014 – 78; adoption fees - \$1,915.00.

H. An intrafund transfer was requested to move \$250,000 from the Occupational Tax Administrator Fund to the General Fund. A motion was made by Com. Anderson and seconded by Com. Gold to approve the transfer as requested. All voted aye. Motion carried.

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

J. Com. Drew informed that the residents of Chapel Lane still have not agreed on the right-of-way issue, but they have requested a speed limit sign. Russell York recommended a 25 m.p.h. zone. Anita Stevenson, with the County Attorney's Office, presented a standard Ordinance for a speed limit change. County Attorney Jeff Edwards said that they could have the first reading today. Following the first reading of Ordinance #2014-08, a motion was made by Com. Drew and seconded by Com. Gold to approve the first reading. All voted aye. Motion carried.

K. Sheriff Byars informed that Chief Deputy David Maddox will be retiring at the end of this month and a reception will be held on August 28th at 1:30 in the Circuit Courtroom at the Judicial Building.

L. Judge Miller distributed information to the Court regarding the upcoming visit by the Kentucky Changers, scheduled for June 20 thru 25th, 2015.

M. 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