

Marshall County Fiscal Court
September 17, 2013

The Marshall County Fiscal Court met in regular session on Tuesday, September 17, 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 Darnall & County Attorney Jeff Edwards were present. Mike Miller, County Judge/Executive presided.

I. GUESTS:

A. Judge Miller informed that Melissa Combs McFerrin, Director of Marshall County Emergency Management was named Kentucky Emergency Management Director of the Year. Mrs. McFerrin was instrumental in the formation of the Western Kentucky Incident Management Team, advocates for the counties in Region 1, and recently was nominated by her peers as Chair of KEMA's Legislative Committee. Judge Miller expressed appreciation on the Court's behalf for a job well done.

B. Dennis Null, Jr., Attorney for the Marshall County Refuse Board read a letter & distributed copies to the Court. He asked that the letter be made a public record. Com. Drew said her original question was whether or not there was a criminal element but if the board members violated their financial obligations to the community. She added that she believed the Refuse Board members should also question why they paid a private businessman \$2,000 a month that we are now paying \$2,000 a year for the same service. She said there was no contract, and a handshake does not stand up today. Mr. Null replied that was not exactly accurate – that verbal contracts can be binding. He said the issue Com. Drew was speaking of was completely addressed by the Attorney General's Office and there was no finding of any misconduct or dereliction of any duties. He added that there are allegations beyond what Com. Drew addressed that are crazy – silly that have been made to members of the general public. He said he was present during the August 12th meeting and asked Com. Drew directly about the multiple allegations she alluded to and never got an answer. Those allegations weren't submitted to the Attorney General's Office, but after the fact people started to hear wild allegations. Com. Drew said she couldn't answer to the wild allegations, but said her concerns were why the former Road Supervisor was paid an additional \$30,000 a year as a consultant (to the Refuse Department) and the taxpayers were already paying him to be the Road Department Supervisor – she said the current Road Supervisor wasn't getting paid \$30,000 a year to attend a meeting once a month and added that those things are totally inappropriate. She said the Refuse Board should have put a stop to that. Com. Drew said that the former County Treasurer was being paid \$17,000 to handle the finances for the Refuse Department – it isn't being paid to the current Treasurer. Com. Anderson said that he started working on this issue years ago and went to the Refuse Board and talked to them several times individually, no public involved, tried not to embarrass anyone and he thought it was the appropriate way to handle it. He said he was looking at people who have been lifelong friends of his and he would rather the public not know – that it be handled quietly, but he couldn't

accomplish that – no one would listen to him so he contacted the County Attorney and asked that he accompany him to a board meeting and he did. He said the County Attorney told them that what they were doing was a crime and it had to stop. Mr. Null said that again what was being referred to – that Lisa Evans with the Division of Waste Management advised them in the way they should be handling that issue and again.... Com. Anderson said that was not his point – that was a mute situation – he was trying to do this quietly and didn't want to make a public spectacle out of anyone and if they look back and find out that he was not the one who contacted the TV station and the media. Instead he called the County Attorney who accompanied him to a Refuse Board meeting. His intent was not to embarrass anyone, only to stop – that it was a poor practice. Mr. Null said they have a difference of opinion on some of the factual history of it but he (and the board) are hoping this will end this issue. Com. Anderson added that anyone who wants to go to the Treasurer's Office and see what we pay now for these services – they are exactly the same plus we're not subsidizing them any longer. Com. Drew said they removed the members of the North Marshall Water District Board and she can't say she won't ever bring up the Refuse Board issue because the same people are in place that made those decisions. Mr. Null replied that if there is a new issue, they it can be followed up on. Com. Anderson said that he thinks the Refuse Board and the new Superintendent are doing an excellent job.

C. Eric Long, Attorney for Teresa Hutton, Susan Hoehn & Marlene Grimms addressed the Court regarding a right-of-way dispute on Hickory Hill Lane in Grandview Subdivision. Recently the owners of Grandview Subdivision decided to construct a fence along the border of their property that adjoins property owned by Jeff O'Bryan. They constructed the fence with the understanding that the county road ended at Hickory Hill Lane. Since that time, a complaint has been filed that the county road does not end there and that a portion of the fence needs to be removed. The owners of Grandview Subdivision have always considered this to be a private drive and that's what they want it to be. He asked where Hickory Hill Lane ends based on the Fiscal Court records. They have no intent to be in dispute with the county and obstruct the right-of-way. He asked where the fence could be located. Com. Anderson and Road Superintendent Russell York looked at the area with Mr. O'Bryan and spoke to the County Attorney about the right-of-way issue. Also on the records, the road was taken into the county road maintenance system in 1997 – a length of 1,662' - from the intersection of Reed Road to the end of the blacktop - with a 40' right-of-way. Mr. Long requested a copy of the records. Com. Anderson added that according to the measurements and records, the right-of-way is on Jeff O'Bryan's property several feet. Greg Carter, representing Mr. O'Bryan, said that the concern to Mr. O'Bryan is that he owns a 28 acre tract that he's been completely denied access to. The fence is 76' past the property line. It denies him access to a public road, he's been denied access for several weeks and he would like to know when the fence was going to be removed.

The parties involved agreed to meet at the property in question and determine the right-of-way. The owners of Grand View Subdivision will remove the section that is on the right-of-way.

II. CORRESPONDENCE:

A. Reverend Tim Polley, First Christian Church (Disciples of Christ), Benton, sent a letter of appreciation on behalf of First Christian and the Marshall County Emergency Responders Alliance for the support of the Jeff Billingsly Event. Mr. Billingsly had the opportunity to visit with several emergency service agencies as well as several citizens of the county.

B. Kentucky First Lady Jane Beshear informed that the Commonwealth will celebrate the 100th anniversary of the Governor's Mansion in Frankfort. This historic landmark has been home to twenty-five governors and their families, and has served as an impressive setting for welcoming dignitaries from across the globe, as well as the citizens of the Commonwealth. In honor of this occasion, Governor & Mrs. Beshear, along with former governors and their families, will host the Mansion Centennial Celebration during the week of January 20, 2014 and they are asking for each county's assistance in a special Mansion Centennial Legacy project that will benefit Mansion guests for years to come. The current chairs that are used for large, seated events at the Mansion are in ill-repair, unsafe for guests, and in desperate need of replacement. As a long-lasting gift to the Commonwealth, the Kentucky Executive Mansion Foundation, Inc. has contracted with Berea College to produce 120 new durable, functional and beautiful chairs for use at the Mansion. The chairs will be handcrafted of locally sourced, sustainable maple wood and are being designed, built, and upholstered by Berea students. The cost for sponsoring a chair in the county's name is \$1,000 and will have the county's name placed on a plaque on the back of a chair. Judge Miller asked if the Court members wanted to table action on this request until another time. The Commissioners concurred.

C. Deborah Conway, Supervisor of the Local Assistance Section, Division of Waste Management, Department for Environmental Protection, informed that on August 27th, Lisa Evans met with Jeremy Perrin and Troy English to discuss the implementation of the Marshall County Solid Waste Plan, which was approved by the Division on December 20, 2012. Marshall County is in compliance with its 2013-2017 Solid Waste Management Plan.

III. OLD BUSINESS:

A. A motion was made by Com. Anderson and seconded by Com. Gold to

approve the minutes of the September 3, 2013 meeting. All voted aye. Motion carried.

B. Crooked Oak Loop is approximately 14 ½ to 15 foot at its widest point. Discussion was held about the road meeting the criteria for being accepted into the county road maintenance system by having two businesses or residences on it for at least 15 years for it to be considered as an existing road. Com. Anderson will contact Jim Siress, who submitted the petition concerning the additional information needed on the petition.

C. Josh Tubbs has checked on Way Avenue. Part of the road is gravel and the remainder was platted but undeveloped. The Ordinance requires that at least two businesses or residences be located on the road for at least 15 years for it to be considered as an existing road. Discussion was held about whether or not the road would meet that portion of the requirements. Following discussion, Judge Miller asked the County Attorney to research the records and report back to the Court during the first meeting in October.

D. Following the second reading of Ordinance #2013-07 (Tax Rates), a motion was made by Com. Drew and seconded by Com. Gold to approve the second reading and adopt Ordinance #2013-07. All voted aye. Motion carried.

E. Following the second reading of Ordinance #2013-08 (Tourist Commission), a motion was made by Com. Gold and seconded by Com. Drew to approve the second reading and adopt Ordinance #2013-08. All voted aye. Motion carried.

F. There is a section that is a section (approximately 100' to 150') at the end of Sledd Creek Road that for whatever reason was never paved. Com. Drew informed that she has asked for past records to determine if there was a request to leave that section unpaved. A motion was made by Com. Drew and seconded by Com. Anderson that if that section of road meets the requirements and if it is included in the county road maintenance system, to pave the additional 100' to 150' section using Rural Secondary monies. All voted aye. Motion carried.

G. The City Attorneys for the City of Benton, City of Hardin, and the City of Calvert City were present concerning the proposed county-wide animal ordinance. Marty Johnson, representing Benton, informed that the only point of concern was that in the concentrated areas of the county, for example the county park, and the city limits of Benton, that a leash or restraint portion needs to be added and to give the other entities the option to opt out if they so chose. Jason Darnall, City Attorney for Hardin informed that Hardin has a leash law in place now. Greg Northcutt, City Attorney for Calvert City informed that Calvert has dog Ordinances but no leash law. Com. Drew suggested a

uniform fee structure for violations and some sort of agreement where the fees would go. Benton currently has a Code Enforcement Board and when handled through that entity, the money would not go into the state's general fund and he suggested that the county look at such a board to handle the fees and fines. Com. Anderson said he has been contacted by people wanting a ban on Pit Bulls. Com. Drew said she is opposed to a Pit Bull ban. Judge Miller asked that the attorneys meet and have an Ordinance for the second meeting in October.

H. County Treasurer Emily Martin presented a business associate agreement between the Court and Peel & Holland for the county's health care benefit plans. Due to Healthcare Reform, there were some minor changes that were required from the original agreement. A motion was made by Com. Drew and seconded by Com. Anderson approve the new agreement as presented. All voted aye. Motion carried.

IV. NEW BUSINESS:

A. Judge Miller read a Resolution adopting and approving the execution of a Rural Secondary Program Agreement, in the amount of \$311,149 between the Fiscal Court and the Commonwealth of Kentucky, Transportation Cabinet, Department of Municipal Aid. The roads for the Rural Secondary Program for 2014 are: New Harmony Road (CR-1426), from KY 347 1.743 mi., 1.740 mi. bituminous resurface; Sledd Creek Road (CR-1077), from US 641 E. to the end of county maintenance, 1.990 mi. bituminous surface; Hale Springs Road, from KY 58 S., to KY 58, 1.330 mi. bituminous resurface; Shemwell Cemetery Lane (CR-1293) , from Van Pitt Road, N. to end of county maintenance – 0.390 mi. bituminous resurface; & Chelmsford Estate Dr. (CR-1734) from Phillips Rd., S. to end of county maintenance – 0.100 – bituminous resurface. A motion was made by Com. Anderson and seconded by Com. Gold to approve the Resolution and authorize Judge Miller to sign the agreement on behalf of the Court. All voted aye. Motion carried.

B. Judge Miller informed that he and Com. Anderson have been working on a project for some time, and Rep. Will Coursey has secured \$700,000 for a new entrance to Marshall County Hospital off of Hwy. 408/Oak Level Road. The plans have been delivered to the District One Highway Office for assistance in developing a bid packet. Judge Miller asked for the Court's permission to work with the Highway Office to get the bid packet ready. A motion was made by Com. Gold and seconded by Com. Drew to grant permission. All voted aye. Motion carried.

C. A bid opening was held for the purchase of a new ambulance. Advertisement for bids was published in the September 10th edition of the Tribune Courier. Two bids were received and are as follows:

1. Southeastern Specialty Vehicles of West Jefferson, North Carolina on a 2014 Ford F-450 with two-wheel drive and 165" wheel base, 2148 Warrior/Type 1- Osage Ambulance - \$124,285.00.
2. Emergency Services Supply, St. Louis, Missouri on a 2014 Ford F-450 with Osage Warrior Conversion – price includes a Stryker Pro XT 6086 Cot - \$128,375.00.

Ambulance Service Director Bryan Cutsinger left the meeting to review the bids.

D. Judge Miller informed that two of the members' terms on the North Marshall Water District have expired. Jerry Miller & Bill Driskill's terms both expired June 30, 2013.

- Judge Miller recommended that Mr. Miller be reappointed. A motion was made by Com. Anderson and seconded by Com. Drew to reappoint Mr. Miller (term to expire 6/30/2017). All voted aye. Motion carried.
- Judge Miller recommended that Mr. Driskill be reappointed. A motion was made by Com. Drew and seconded by Com. Gold to reappoint Mr. Driskill. All voted aye. Motion carried.

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

F. Judge Miller informed that County Treasurer Emily Martin has completed training and has been re-certified. Included in this year's budget was a training incentive for completion. The budgeted amount was based off of the elected officials training incentive program rate for three years (\$2,900). Mrs. Martin informed that she didn't feel like the total amount was fair because the first year she was able to attain certification was 2012 and recommended that the incentive should be based off of two years. The amount for two years is \$1,925.98. Judge Miller recommended that Mrs. Martin be paid the \$1,925.98 incentive. A motion was made by Com. Drew and seconded by Com. Gold to approve the incentive payment as recommended. All voted aye. Motion carried.

G. Mrs. Martin presented the Intrafund Transfers which are as follows:

<u>From</u>	<u>To</u>	<u>Amount</u>
Occupational Tax Admin.	General Fund	\$500,000.00
Occupational Tax Admin.	Payroll Fund (loan only)*	\$150,000.00
Occupational Tax Admin.	Jail Fund*	<u>\$100,000.00</u>
	Total Approved	\$650,000.00

*Only if necessary

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

G. The Payroll Fund - Accounts Receivable Report as of August 31, 2013 was submitted and is as follows:

From	Amount
Marshall Co. Sheriff's Department	\$466,158.33
Marshall Co. Attorney's Office	\$ 0.00
Marshall Co. Clerk's Office	\$ 0.00
Total Approved	\$446,158.33

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

H. Tony Henson, Property Valuation Administrator informed that the tax bills will go out October 1st.

I. Judge Miller addressed the issue of an unmarked grave (circa 1880) being unearthed at the Children's Arts Center. Jason Darnall informed that the city of Benton is bringing in either an archeologist or anthropologist with equipment to scan the ground to see if there are any more graves. Some people believe the child's remains were the only one that was left. Because there are federal grant funds and federal regulations, Marty Johnson has been working on that portion of it. Mr. Darnall said he spoke with a family member on Sunday who has spoken to all of the family members and as long as things are handled in a respectful way, they didn't want to stand in the way of the project. Judge Miller said that he saw a television interview with one of the family members who thought all of the graves had been moved several years ago. He added that a monument could be put at the site and an area cordoned off or the grave(s) moved. Mr. Darnall replied that either would be acceptable with the family.

J. Judge Miller informed that the Judge/Executive Succession Plan currently in effect is no longer valid. The three people named in the Plan are no longer connected with the Court. He added that he has named Deputy Judge/Executive Melonie Chambers as Alternate 1, Commissioner Bob Gold as Alternate 2, and Health Board Member Larry Jones as Alternate 3. The Plan would be enacted in order to declare a state of emergency when needed in case the County Judge is unavailable.

K. Bryan Cutsinger recommended that the low bid from Southeastern Specialty Vehicles, in the amount of \$124,285.00 be accepted. A motion was made by Com. Anderson and seconded by Com. Gold to accept the bid as recommended. All voted

aye. Motion carried.

L. Judge Miller read the Animal Shelter report for August which is as follows: Animals in the pen as of 7/31/2013 – 65; brought in by Animal Wardens – 23; brought in by citizens – 70; total animals taken in – 93 (dogs – 21; cats – 10; puppies – 23; & kittens – 39); adopted – 72; animals in foster care – 10; reclaimed – 6; euthanized – 19; & animals in the pen (& in foster care) as of 7/31/2013 – 51; adoption fees - \$1,635.00.

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

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

O. Judge Miller called Court back into regular session and informed that discussion was held concerning the Animal Shelter Staff and Animal Control Officers. Discussion was held about updating the radios used by the Animal Control Officers. Sheriff Byars and Judge Miller will meet regarding the radios.

P. Com. Anderson informed that he and Russell York were working with a homeowner – a piece of county equipment accidentally pulled up a water meter. The repair bill is approximately \$100. Following discussion, Com. Anderson will get the bill and submit it to the Treasurer's Office for payment.

Q. Com. Drew informed that one of the employees at the Animal Shelter had submitted her resignation. Com. Drew added that there are three members on the Shelter Committee – Jeff Edwards, Wendy Baxter, and Com. Drew. She asked if there should be another member added representing the community. Following discussion, Judge Miller suggested that he, Jeff Edwards, Wendy Baxter and Com. Drew meet.

R. 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