

Marshall County Fiscal Court
Special Meeting
Friday, June 14, 2013

The Marshall County Fiscal Court held a special called meeting on Friday, June 14, 2013 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.

Judge Miller opened the meeting and informed that it was called at the request of Com. Drew.

Com. Drew read a prepared statement:

"I would first like to say that I have been trying to handle this issue with great care and discretion due to the sensitive nature of those involved including one or more former county employees whose records of employment are and should have remained confidential as well as the involvement of a member of this Fiscal Court.

While I have been trying to convene a special called meeting on this issue since May the 30th, it was forced to wait until Tuesday of this week, when we had our regularly scheduled meeting. That was due to the fact that Bob (Gold) was very uncomfortable having a special called meeting that the Judge did not attend. Although I felt like it has been and continues to be a conflict with the Judge/Executive participating due to the nature of this issue.

After the Court finally reached an agreement to move forward and attain outside counsel to look into the matter on Tuesday, it was brought to my attention by way of an email from the Tribune Courier's Managing Editor Venita Fritz that the County Judge shared very confidential and misleading information with both she and (The) Lake News owner Loyd Ford.

As a result, confidential employee information was released as well as intimate and once again misleading details from conversations that had only been held while this Court was in executive session. None of the information found in the article published in The Lake News, nor the questions posed by the Tribune have ever been made public pending an official investigation into the matter.

On a related note, it should be clearly stated for the record, my concern from the beginning has not been related to the intentional acts of any employee or former employee.

This Court does not decide who is eligible to draw benefits of any kind. My concern has been, and remains to be, why we as a Fiscal Court were informed that a county employee was retiring when a county document, signed by the County Judge/Executive,

Marshall County Fiscal Court
Special Meeting
June 14, 2013
Page two

clearly indicates that he was laid-off/terminated.

I question the ethics and the legality of such and feel I have an obligation as a county Commissioner and I have a right as a taxpayer to question this action. It's not up to me to answer those questions, only to ask them.

As a result of the Judge's actions this week, I asked that he call a special called meeting of the court today, which is proper protocol. If his decision is to refuse to do so, as Commissioners we do have the right to ask for a meeting upon his refusal. He did not refuse, he did call this meeting.

Today, I am asking that Judge/Executive Mike Miller recuse himself from this issue any further, make no contact or attempt to influence in any way members of the media or anyone appointed to investigate or conduct an audit into this matter.

After being made aware of this incident initially, it came to my attention that this Fiscal Court, absent of any involvement from the County Judge or the Treasurer, has no knowledge of who is or has in the past drawn benefits of any kind. There is no system of oversight to ensure that this Court's actions and decisions are properly reflected and documented on county records.

Our County Attorney's Office stated to us on Tuesday that they felt that there was a conflict in being able to go further and conduct this audit into this matter.

To ensure we are fully compliant with all legal responsibilities and to ensure we have not overlooked any possible issues that could have occurred in the past and including this current matter, I would move that we hire outside counsel to conduct a full audit in this matter. It was recommended yesterday that we look into Mr. Kevin Bishop in Mayfield – through our County Attorney's Office that recommendation was made – I did make contact with him this morning, he is unable to take the case due to an availability issue. He said he was too busy to take the case. So, as a secondary recommendation, in the past when we looked to seek special council, we did look into the Hopkinsville City Attorney. He had, at one point agreed to take on the Refuse matter. I would move that we submit an inquiry as to whether or not he would be willing to take this case, based on very limited information, which is what we've been going on and then further, if he is unavailable, or unable to take the case, I would ask that Daily Wilson of the Wilson Law Firm in Eddyville take the case.

At a minimum, I intend to file with the state Attorney General's Office a complaint of ethics and request for a legal opinion as to the Judge's actions this week in releasing

confidential and misleading information to the media. I believe that this is a possible legal issue before the court that we've been reviewing discretely and it was my intention to ensure that all of these issues were handled - all of the facts were compiled before we made any sort of a public statement. Unfortunately, our attempt to have any sort of local audit or investigation into this issue was compromised as of Tuesday."

Judge Miller thanked Com. Drew for her statement. He then said that last week, he was in the state of Mississippi attending the Tennessee-Tombigbee Waterway Development Authority Board meeting. That meeting had been scheduled for months and he did not call the meeting because he was going to be out of state.

Com. Drew said it was the week prior but she didn't think we needed to get into all that. She said she has email records that clearly reflect everything that she's stated and she has made the motion that the Court obtain counsel and asked that the motion be addressed.

Com. Anderson seconded the motion.

Judge Miller said it would be prudent for the Court to agree on what counsel – that earlier, Mr. Edwards had mentioned talking to someone out of our area. Judge Miller said he was not sure if Mr. Edwards has talked to someone – Mr. Edwards replied that he has not. Judge Miller said that Mr. Bishop was fine, he did not know him. Com. Drew said she didn't either. Mr. Edwards said he would prefer to have someone outside the area. However, due to the type of allegations, when it involves an elected official, he is required to notify the Attorney General and he has done so this morning. He has copies for everyone of the letter he sent.

Judge Miller said he thinks we need to, as a Court, decide the scope of the investigation. Com. Drew said she thought that needed to be done in closed session after counsel is retained. She added that she didn't think any more of this needs to be public. Judge Miller said he would like to get someone outside the area – someone that none of the Court members know.

Judge Miller said that this issue is pretty well public knowledge – it's being talked about in restaurants and everywhere else – and he did not talk to Mr. (Loyd) Ford after the executive session on Tuesday – he talked to him earlier. Judge Miller continued by saying, "If I said something I shouldn't have said, I apologize to the Court and to the community at large. In my 39 years, I don't think I've ever been charged with an ethical violation, but if I have and done something wrong, then so be it – I apologize to the Court and to the community."

Marshall County Fiscal Court
Special Meeting
June 14, 2013
Page four

Com. Gold suggested to set the scope of what the Court's going to do prior to getting an attorney.

Com. Drew said the way she handled talking with Mr. Bishop was by asking him if he was available to look into an unemployment issue that dealt with not only current but former employees as well as an elected official.

Judge Miller called for the vote on the motion to obtain counsel. All voted aye. Motion carried.

Jeff Edwards asked if it would be agreeable if he put together a list of four or five attorneys, make contact with them to see if they would be interested in conducting the investigation. The Court members concurred.

Judge Miller informed that all of the Purchase Area Judge/Executives have sent letters to the Department of Agriculture requesting that the department contract with spray planes to spray for mosquitoes.

Jeff Edwards asked for clarification on the allegations – that it is his understanding that the application for unemployment benefits and the documentation relating to that as well as the dissemination of information received in a closed session.

Com. Drew replied that the discrepancy of what the Court was informed of and what appeared on the county personnel record of the employee that separated.

Venita Fritz, Editor of the Tribune Courier asked Com. Drew to repeat that and specify what the complaint is regarding.

Com. Drew replied that the Fiscal Court's knowledge and action on this particular issue differed than what the county personnel record that is signed by the County Judge/Executive reflects. That record was used to obtain or to confirm unemployment benefits.

Ms. Fritz said that earlier, Com. Drew said the employee retired, and in fact he.... Com. Drew said the papers reflect that he was laid off/terminated. Judge Miller said that he did sign the papers. Com. Drew said the Court was informed that he (the employee) did retire. Ms. Fritz asked when that happened. Com. Drew replied that the retirement luncheon was held for him on February 4th, and benefits began on February 3rd. Judge

Marshall County Fiscal Court
Special Meeting
June 14, 2013
Page five

Miller said whatever terminology you want to use – either a retirement luncheon or an appreciation luncheon – we did have a lunch for him. Ms. Fritz asked for copies of the statement which was presented. Mr. Edwards said it will be made available after he shares it with potential counsel.

Lloyd Ford, Editor & Owner of The Lake News, asked if there was more than one closed session regarding this issue. Judge Miller replied that there have been several.

Com. Drew asked to clarify something – this issue was dealt with in a closed session because it pertained, to some degree, personnel records.

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