

MINUTES
BOONE COUNTY FISCAL COURT
Boone County Administration Building
Fiscal Courtroom (1st Floor)
Burlington, Kentucky
February 17, 2009
5:30 P.M.

ITEM I.

CALL TO ORDER

Judge Gary W. Moore called to order the meeting of the Boone County Fiscal Court.

Present: Gary W. Moore, County Judge/Executive
Charles E. Kenner, Commissioner, District 2
Terri Moore, Commissioner, District 3
Robert Neace, County Attorney

Staff: Lisa Buerkley, County Treasurer
Robin Curry, Assistant County Administrator
Maj. Ben Huff, County Sheriff
Jeffrey S. Earlywine, County Administrator/Deputy Judge/Executive
Greg Sketch, County Engineer
Tim Williams, Assistant County Administrator
Jeff Smith, Assistant County Attorney
Blair Schroeder, Fiscal Court Clerk

Prior to the approval of the Minutes Judge/Executive Moore made note to those in attendance that Commissioner Flaig would not be attending tonight's meeting.

ITEM II.

APPROVAL OF MINUTES

Commissioner Moore moved, seconded by Commissioner Kenner, to approve the Minutes from the meeting of February 3, 2009. Judge Moore called for a vote on the motion, MOTION PASSES (3-0).

ITEM III.

DELEGATIONS

There were no delegations that wished to address the Court.

ITEM IV.

PERSONNEL MATTERS

There were no personnel matters before the Court at tonight's meeting.

ITEM V.

ORDINANCES

There were no ordinances before the Court at tonight's meeting.

ITEM VII.

JUDGE'S REPORT

The Judge had no items to report before the Court at tonight's meeting.

ITEM VII.

ADMINISTRATIVE MATTERS

Burlington Sidewalk Project Phase III

Commissioner Kenner moved, seconded by Commissioner Moore, to approve Resolution 09-16, A Resolution of the Boone County Fiscal Court authorizing Judge/Executive Gary W. Moore, to submit a Federal-Aid Transportation Enhancement Program Application for the Historic Burlington Sidewalk Project Phase III. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (3-0). (Exhibit VII A).

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Solicitation of Bids for New Voting Machines

County Administrator Jeff Earlywine recommended to the Court that they authorize the County to solicit bids for new eScan voting machines. Mr. Earlywine further noted to the Court that the State Board of Elections has provided HAVA (Help America Vote Act) funds to help counties transition to the new technology. Boone County would receive approximately \$4,500 per precinct to purchase new voting equipment which will cover a majority of the costs of the machines. Earlywine further remarked that the county would pay about \$15,000 in shipping and other costs, while the bulk of the \$270,000 cost would come from the HAVA grant. It was also noted that the new machines would be less costly to prepare for each election, the machines would have unlimited capacity to handle growing precincts, and that they would also take up half the storage space of the old machines.

Commissioner Moore moved, seconded by Commissioner Kenner, to approve Resolution 09-17, A Resolution of the Boone County Fiscal Court authorizing and directing the County Staff to proceed with the solicitation of bids for new voting machines. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (3-0). (Exhibit VII B).

Discussion Regarding the Lease of Maplewood

Judge Moore noted that this issue would not be voted on at tonight's meeting due to the importance of the decision. He would like to allow for more time to review the bids as well as allow for all members of the Court to be present prior to taking any official action.

At this time Human Services Director Kurt Kavanaugh gave a presentation to the Court outlining the background of the Maplewood facility, the 2009 bid proposals, and the evaluation criteria that the staff considered when preparing their recommendation.

Mr. Kavanaugh noted that the County received three bids from three very strong organizations - Children's Home of NKY ("CHNKY"), Brighton Center, Inc., and the Northern Kentucky Community Action Commission, Inc. ("CAC").

Kavanaugh continued to state that all organizations have submitted excellent proposals which in a variety of ways benefit Boone County families but, CAC's proposal offers the best value and best benefit to County taxpayers. In addition Kavanaugh stated that a Head Start program located in Boone County supports the Fiscal Court's long standing commitment to quality early child care, a major goal of the County's Success by 6 initiative. Also noted was that the CAC proposal was clearly the most economically advantageous to County taxpayers as a five year lease will generate revenue in excess of \$220,000; as well as offer the potential access to an indoor gym that would benefit both the community and the County Parks Department.

At this time Judge Moore noted that there were several in the audience who he knew wished to address the Court regarding this issue. He stated that each side would be allotted an initial 15 minutes to make their remarks.

Judge Moore then opened the floor with Florence Tandy from CAC.

Ms. Tandy made some brief remarks before the Court thanking them for their time and consideration of their proposal. She further noted that CAC was excited about the prospect of being able to lease the Maplewood facility and further excited about the opportunity that this facility would provide to their organization. Ms. Tandy cited the benefit of the Head Start program and how it positively impacts those who use the service. Ms. Tandy noted that a significant majority of the counties in Kentucky have a Head Start program; However, Boone County -the fourth largest county in the state - did not. She further

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stated that for the last twenty (20) years Boone County kids have had to be bused to Elsmere. Ms. Tandy concluded by stating that she would be available to answer any questions that the Court might have.

At this time Cathy Ruetman, representing Boone County Schools, came forward to thank the Court for their consideration of their proposal. She noted that while they were disappointed with not receiving the recommendation of the staff they certainly did see the value that having a Head Start program in the County. Ms. Ruetman further noted that, provided the Court's approval of the staff's recommendation, Boone County Schools would hope to be able to collaborate with CAC in future endeavors.

John Mocker, Trustee for the CHNKY, made some brief remarks thanking the Court for their time and consideration and urged county officials to reconsider the staff recommendation.

Jim Parsons, legal representation for CHNKY, made several remarks regarding the history of CHNKY at the Maplewood facility. Mr. Parsons also indicated that their proposal would ultimately have more value because they stipulated in their bid that they would be willing to match any offer plus an additional \$500. Parsons also inquired about the potential loss of jobs to the County noting that CHNKY estimated that it would lose 25 employees if the County did not renew their lease. He further concluded that Maplewood isn't the only suitable facility in Boone County for the Head Start program.

After Mr. Parson remarks Judge Moore sought the legal opinion of County Attorney Robert Neace regarding the financial terms proposed in the competing bids.

Mr. Neace noted that while CHNKY did state that as an organization they would match any bid plus \$500 this did not merit a level bidding playing field as is the desired purpose of the Request for Proposals process (RFP). Mr. Neace ultimately concluded that such a stipulation could result in a never ending proposal process. The County Attorney concluded his remarks by stating that the County in no way is legally obligated to accept the highest bid.

Diane Pipes, the CEO of CHNKY, make several remarks to the Court regarding the purpose of their organization and the impact that they have on the lives of kids. Ms. Pipes also noted the impact that their organization had on the community in terms of jobs and services. While echoing many of Mr. Parsons previous comments Ms. Pipes also noted that their organization did not have another alternative in place of the Maplewood facility and that many of the children would be displaced or relocated miles away if they were not awarded the bid.

Dave Brown, County resident and former board member at Maplewood, addressed the Court citing Maplewood's initial purpose and noted his concern for those kids who would be negatively impacted by the County not accepting CHNKY proposal.

At this time Judge Moore opened the floor to the Commissioner's for questions and comment.

Commissioner Moore asked Ms. Pipes why they only submitted a proposal seeking a three (3) year lease?

Ms. Pipes stated that they did not propose a five-year lease due to the uncertainty of state funding, but that they would consider an option for years four (4) and five (5).

Judge Moore concluded the discussion by reiterating the magnitude of this decision noting that it impacts multiple organizations as well as a lot of Boone County families. He further commented that all these organizations want is to help at-risk children in Boone County. Moore concluded stating that any Court action this recommendation would be held until the next Court meeting on March 3, 2009.

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ITEM VIII.

OLD BUSINESS

Bid Award for the lease of the Big Bone Marina and Boat Launch

County Administrator Jeff Earlywine made several remarks regarding the County's history with the property known as the Big Bone Marina and Boat Launch. Earlywine also provided detail regarding the RFP process for the property. Mr. Earlywine noted that the County received two proposals, from RJ Marine LLC and Jon and Janis Soper doing business as Yellow Hammer Enterprises, LLC. The County Administrator noted that a complete copy of all proposals has been made available for their review and was before them tonight.

Mr. Earlywine outlined differences in the two proposals, noting that RJ Marine's proposal was for a 99-year lease agreement; whereas, Yellow Hammer's proposal was for a five (5) year term with a five (5) year extension, subject to agreement by both parties.

Mr. Earlywine concluded by noting that this was not a traditional bidding scenario where each bid could be reviewed against a specific bidding specifications; but rather this bid award involved matters of policy and long-term direction for the marina and boat launch.

At this time Judge Moore ask if there was anyone present who wished to comment on this matter.

Jon and Janis Soper addressed the Court citing that their proposal was simple, functional, and allowed for growth. Janis Soper noted that they saw real potential for the property and would greatly appreciate the County accepting their proposal.

At this time Judge Moore recognized several citizens who wished to speak regarding the current condition of the property.

Russell Spiegel, Randy Reno, Dwight Moore, and Mike Fletcher all spoke negatively about the current occupancy of RJ Marine. Each individual cited poor experiences and referenced less than favorable boating conditions that were in their view a direct result of RJ Marine's occupancy. The resident's also were concerned about the County entering into a 99 year lease agreement stating that they would look to boating elsewhere if the County moved forward with RJ Marine.

Eric Cranley, representing the Boone County Libertarian Party, asked the Court if they considered selling the property.

Judge Moore noted that given the county's provisions with the Army Corp of Engineer's they are not able to sale the property.

Jeanie Delmer, County resident, noted to the Court that she has known the Soper's for more than 20 years and can vouch for their integrity, professionalism, and quality of their work.

At this time Dave Flischel, Controller for RJ Marine, addressed the Court noting that the 99 year lease would be optional. He further noted that the last year has not been indicative of their future work citing the less than ideal circumstances in which the County awarded them the one year emergency lease agreement.

Judge Moore noted that the Court did not have to act tonight regarding the resolution but that he did want to know the pleasure of the Court.

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At this time Commissioner Kenner noted that he was ready to act on the information in which he heard. Commissioner Kenner cited that it would be bad policy to accept a lease for 99 years and that along with the comments from the audience he would make a recommendation to support the Soper proposal.

Commissioner Moore echoed Commissioner Kenner's comments.

Commissioner Kenner moved, seconded by Commissioner Moore, to approve Resolution 09-18, A Resolution of The Boone County Fiscal Court accepting the RFP submission from Yellow Hammer Enterprises and authorizing county staff to negotiate a lease agreement with Yellow Hammer Enterprises for the use of the county owned Big Bone Marina. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (3-0). (Exhibit VIII A).

Additional Items of Note

County Administrator Jeff Earlywine noted to the Court the second scheduled reading regarding the County's agreement with TBNK would be before the Court at its next meeting on March 3rd and if the Commissioners had any questions to feel free to contact him.

Judge Moore noted that he has had some citizens ask him about the County's stance on Senate Bill 72 which is an act relating to tax credits in restoration zones. Judge Moore noted that at this time the County was still in the process of reviewing the legislation.

Judge Moore also took this opportunity to announce that Andrews Electronics, a consumer electronics company headquartered in Oregon, would be opening up an office in Boone County and with it be bringing 25 new jobs to the area. Judge Moore noted that there would be information posted on the County's website regarding an upcoming job fair that Andrews would be hosting.

ITEM IX.

NEW BUSINESS

At this time there were no items brought before the Court

ITEM X.

FISCAL MATTERS

Commissioner Moore moved, seconded by Commissioner Kenner, to approve an invoice report dated 2-17-09 and a pre-paid report dated 2-6-09. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (3-0). (Exhibit XA)

ITEM XI.

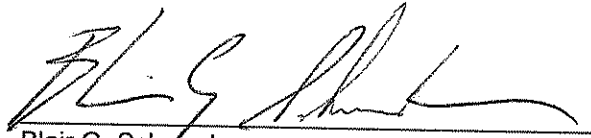
ADJOURNMENT

Commissioner Kenner moved, seconded by Commissioner Moore, to adjourn the meeting, ALL PRESENT VOTING AYE (3-0).

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CLERK CERTIFICATION

I, Blair Schroeder, having been appointed to the office of Fiscal Court Clerk, do hereby certify that this is a true and accurate record of the actions taken by the Boone County Fiscal Court at the meeting of February 17, 2009.



Blair G. Schroeder
Fiscal Court Clerk

Date: 3-4-09