

NOTICE OF SPECIAL MEETING

PURSUANT TO KRS 61.800-61.850

of

SPENCER COUNTY FISCAL COURT

Monday, March 27, 2017

11:00am

Fiscal Court meeting room
28 East Main Street, Taylorsville KY

Meeting Agenda

- A. Call to Order by Chair
- B. Roll Call
- C. New Business:
 - 1. Edgewater Resort wastewater treatment plant issue
 - 2. Sheriff building
- D. Adjournment

[Executive Sessions: KRS61.810(1)(b)real estate, (c)litigation, (f)personnel and KRS 61.815]

SPENCER COUNTY FISCAL COURT
SPECIAL CALLED MEETING
MONDAY, MARCH 27, 2017, 11:00 AM
FISCAL COURT METING ROOM
28 EAST MAIN STREET
MINUTES

A. CALL TO ORDER

The meeting was called to order at 11:00 am by County Judge Executive, John Riley

B. ROLL CALL

Roll call by Spencer County Clerk, Lynn Hesselbrock- all present

C. NEW BUSINESS

1. Edgewater Resort wastewater treatment plant issue.

The Judge said that he had a couple of guests present. They were Mr. Jarrett Haley with KIPDA and Mr. Joe Grider with the HMB Engineering Firm. The Judge said that they had received a cost estimate from the City of Taylorsville to tie the system to the municipal sewer. The Judge had a photo to pass around to demonstrate the location of the current wastewater plants. The Judge pointed out that there were three pump stations: one by the Marina, one around the entrance of Edgewater and one over at the treatment plant. The Judge pointed out that the line came within 100 to 200 feet of the municipal sewer line near the Marathon Station. Esq. Judd asked if he could make copies of the photo the Judge had for the members of the Court and he proceeded to do so. The Judge indicated that on the map the Marina Pump Station 1, Pump Station2, and Pump Station 3 and the wastewater treatment plant as well as the Wastewater Treatment Plant force main where the Marathon Station was located. The Judge went on to say that the proposal that the City of Taylorsville gave some cost estimates on, \$330,000.00, was basically going where Pump Station 2 was, upgrading that Pump Station, and running a new 4- inch line out to the Marathon on Marina Road. He said what he talked to HMB about was giving the County an alternative. He went on and said what he spoke with Joe specifically about was what about upgrading Pump Station 1, eliminating altogether Pump Station 2 waste water treatment plant, and Pump Station 3. The Judge continued that in order to be able to do that he would have to engage their services, and that would fall to Fiscal Court. The Judge said he could try to get the State to participate in paying for that, but he couldn't promise that they would. He said that right now it fell on the County. He said that Mr. Grider was there to answer any questions, but what he would need was approval to have the design done, a preliminary design, and a cost estimate would be at the most, \$2,500.00. He said that he would need to have approval from the Court to engage HMB to do that up to a maximum of \$2,500.00.

- Motion made by Esq. Goodlett, and seconded by Esq. Moore to engage HMB Engineering Company to do a preliminary design and cost estimate for the waste water treatment plant.

The Judge said that discussion was open and he would be glad to have Joe come up and speak, but he thought that this was something the Court needed to do. The Judge said 'we need to have an alternative. Otherwise, the only other proposal that's on the table is, would be Taylorsville, and I believe that there may be a better way to do this.' Esq. Moore said that he would like to see the Court 'get an agreement from the Parks, State, the Marina and the cottage owners too, any expense the County incurs, we bill back to them, they reimburse the County for any expenses, because they're the beneficiaries of this.' The Judge replied 'yeah, I get that and that is an ongoing issue, of who's going to

take, and this is a huge issue, regardless of which way this is done, I can tell you Taylorsville has no interest in taking responsibility for any of the infrastructure unless they design it and put it in. So, on their plan, going back to pump station 2, if they did that, \$330,000.00 they would take responsibility for that line going from the Marathon down to the pump station 2, but they won't take responsibility for anything beyond that, the State Park, or Edgewater, or the Marina. So, that's going to have to be worked out between the County, the State as to who's going to take responsibility for that. So, we've got a more immediate problem, in that we need to move fairly quickly on, you know we can, as the County, right now it's somewhat of the County's responsibility to deal with that plant. It's in horrible repair, a little later I'm going to be asking for approval for payment of an invoice for some repairs we've already had done on it, and, if something happens to it today or tomorrow or next week, I'm going to have to engage somebody to go over there and repair it, because we can't just walk away from it because it is our responsibility, although there is no permit holder at this point. So all these are there are a lot of very complex issues; I don't know if you've had a chance, the County Attorney and I have looked at and been asked to review an agreed order with the Division of Water Enforcement, they're looking for somebody to be on the line for that, so I think it's through this agreed order, I'm not sure...' The County Attorney said he had talked to Daniel Cleveland, from the Division of Water, and right now, the permit for the sewer is in the name of Premier Resorts. He said that because they were no longer involved with Edgewater, it was his opinion that the Division of Water was going to move forward pretty quickly to take this matter to Circuit Court and have the Circuit Court Judge appoint a receiver, which happens in these types of situations. Where somebody takes off on a package plant. The County Judge asked 'can we be the receiver?' The County Attorney said he thought that the County could be, but the Circuit Judge more likely to choose somebody like MSD or somebody who has experience with running this type of operation. The County Attorney went on to say that ultimately when it goes into that type of receivership, with the help of that receiver, the Court determines who is responsible for what. The County Attorney went on to say that Mr. Cleveland had told him that in many of these cases that are usually filed in Franklin County Circuit Court, because they have jurisdiction over State, they usually look at a few things, but generally it flows to who is receiving the benefit of the plant. Mr. Jones went on that in this case, it would certainly be the Parks, it would certainly be the State down at the Marina and it would certainly be the cottage owners. He said that he was having a tough time figuring out what the County gets out of the package plant. He said they were not flushing a County toilet. He went on when the Court gets involved, they would not only start making some decisions pretty quickly to put together a certified operator, and somebody that would be doing temporary work, keeping it open, and then further down the line in the litigation will ultimately determine who is going to take care of it for now. He said if all the homeowners got together the plan could develop to bring them in as the group that pays for this plant. He said he thought that the homeowners were paying \$100.00 as a maintenance fee. He said that there would be a pretty significant amount of money that would run through the receiver who would then pay whoever takes care of the plant. The County Attorney said that he had spent all weekend with the leases and he even went back to the original lease between the Federal government and the State. The County Attorney said he had written a letter to the State to try and get an idea of how they thought this would develop if there was not a will of the County Fiscal Court to get too involved in the treatment plant. He said normally he would have received a rapid response from these people, but he had yet to hear back from them. He said it made more sense when he began to go over the leases, as he thought it appeared that the county didn't 'have much of a dog in this fight.' He said when Premier Resorts goes belly up, it goes back to the State. He said he understood that the County

wanted to help out and be a partner, but he said that he thought legally, we were not in it, and once the receiver was appointed, which he said would happen really quickly, the receiver would determine who was responsible for what. He went on that maybe that is where this issue should have been all along. Esq. Goodlett asked how long something like this would take and the County Attorney replied that they would be filing on Tuesday, March 28th. The County Attorney said that they wanted to hear from him today so they would know what direction to go as regards to what the Fiscal Court planned on doing. Esq. Moore asked who 'they' were and the County Attorney explained it was the Division of Water that would file to get a receiver for the treatment plant. The Division of Water would want to know what Fiscal Court planned on doing on this issue today. Esq. Goodlett said that they didn't know where they stood or how much money they might have to come up with if anything, our next move. The County Attorney said the issue had been one that had been hard to pin down, but once a receiver was appointed, things would begin to move forward. Esq. Goodlett said it could come back on the County or maybe it would not come back on the County. The County Attorney said if you looked at it, there was no way the County was going to benefit from the treatment plant. Esq. Judd said that there was no benefit the way he looked at it. Esq. Judd asked what the taxpayers in the far reaches of his district gained from the project. The County Attorney said that the County could be subject to all the litigation in the world and the State could sue the County, but he thought that the receiver, and the Court that takes on that receiver will dictate who gets what, and who pays for what, and what they are going to do from here forward. The County Attorney said he didn't think there was any way the County controlled any of this and maybe it was a better way for the County to understand where they stood in the issue. The Judge said 'then is it premature then, in regards to the motion we've got on the table, premature...' and the County Attorney replied 'a little bit, because I think...' and Esq. Goodlett said 'but at least we can talk about it with the motion..' Esq. Bayers said that 'by doing this we could basically be accepting responsibility for it to have our leg in it. Before this, we haven't done anything.' The County Attorney went on that he thought the receiver would be the one who paid HMB to look into it, and then they would recover their monies later through the money that flows through the receiver to pay the person caring for the package plant.' The Judge went on 'as the gentleman who has got some experience in these issues, ands...; Mr. Grider asked the County Attorney if Premier had actually abandoned the plant, so they have officially abandoned it?' The County Attorney said that they had dropped the keys off and left the property months ago.' Mr. Grider continued 'so does this receivership process go through a public service committee?' The County Attorney said he did not think so because the Division of Water is not a public service commission. He said he didn't think the judgement receiver statute does not involve the public service commission, it would be the Division of Water that would be taking care of this. Mr. Grider asked if it was Daniel Cleveland whom the County Attorney had spoken with, and the County Attorney replied that it was. Discussion continued with the consensus being to let the receiver make all the decisions regarding the treatment plant. The County Attorney suggested that an entity like MSD who had experience in these matters, would be appointed the receiver. The Judge asked if the process would start tomorrow and the County Attorney said it was his understanding that it would. Esq. Goodlett asked Mr. Haley from KIPDA if he had any opinion and Mr. Haley said at this point in time, he was just here to learn as much as possible. Esq. Bayers said it was his opinion that the County not get involved in the issue, and at present, they did not. He said that if the County decided to do an engineering study, they were kind of taking responsibility for something that we.... And the Judge interjected 'we do have somewhat of a hand in it in that it's leased to us.' The County Attorney said it was only his opinion and the County could possibly be under litigation from the State telling him that he misread the documents.

He said that until he sees that he thought that the County was just not close in liability. He said that the cottage owners and the State would be closer in line in regards to liability. He said it was up to the will of the Court. Discussion continued. The Judge said 'here's the situation too, in that with Premier basically abandoning the plant and responsibility for it, we already have had a couple of issues, several issues: the pump station, then the plant itself and from an enforcement standpoint, there's no certified operator on the hook up there maintaining the plant. Periodically, I think once a week, chlorine is mixed into that plant, maintenance issues. So, with regards to the motion that is on the table, then it looks like we need to, based on the recommendations of the County Attorney is to keep our powder dry on trying to come up with an alternative to Taylorsville's plan, let, essentially the State deal with that.' The County Attorney said that the Judge could say that we've got to pay a little portion, he said he didn't see where or how, but he couldn't speak for a way the Court may rule. He said he thought that a receiver made a lot of sense and let them make the decisions. The Judge said 'so there is no need at that point for us to enter into this agreed order or with the Division of Water?' and the County Attorney said that was correct. Discussion continued about the possible actions of the receiver. The Judge said 'well there's other monies available for that, for abandoned plants, there's a lot of things that's what I was trying to look at, I believe that maybe it would be a little better design if we could, whoever it is, the County, the State, or the cottage owners or a combination thereof, I think everybody agrees to take that plant offline, and go into the Taylorsville system with it. But Taylorsville's plan would only, it would deal with that pump station 2, but everything feeds into pump station 1, that \$330,000.00 there's no provision to do anything with pump station 1, it needs help, or to take pump station 3 and that plant out of existence, and removing it. So, it's considerably higher, so, I would think, so, with regards to the motion, then, I'm going to recommend that we vote that motion down or and let's see what the Division of Water and the receiver do. Esq. Goodlett said he would withdraw his motion, but he wanted to know if that still kept the County covered. Esq. Goodlett said that by withdrawing his motion he didn't think it affected the way they discussed the issue.

- Motion withdrawn by Esq. Goodlett and second withdrawn by Esq. Moore.

The Judge said the motion and second had been withdrawn. He continued 'that's going to bring me to the issue of the costs that have been incurred. We had a pump station go down on March 1st, and there was also some work done on the plant itself with the pump station there, it was about ready to burn out a pump. Then again on March 8th they had to come back out because there was a pump at the plant that was clogged and they had an issue there. So, I've got an invoice here from Sanders Sales and Service, I know we'll have to deal with that, in the amount of \$1,471.30. and I need to know what the pleasure of the Court is, should we forward this to the State, I don't think that we, it is all right to leave a guy like Joe Sanders who has really helped us out.' Esq. Bayers inquired if it could be put off until Monday. The Judge replied they could. The County Attorney said from his legal perspective, once the receivership was appointed going forward, all bills would be handled by them, but since this was done prior to the receivership being appointed, with this individual helping out with an emergency, he said maybe there will be some retroactive assistance, but this may be something the County might have to deal with. Discussion continued about the scenario of something happening in the near future, the Judge said he needed guidance from the Court on how to handle the situation. Again, it was noted that a receiver would be named fairly quickly. Esq. Moore said 'should we not put the State, the Marina and the resort on notice, if there's any expenses incurred, that the County is going to pass it along to you, because we have to take care of that pump station if it goes out.' 'I think they need to be put on notice, we're going to expect you pass these expenses.' The County Attorney said he could put them on notice

of the legal underpinnings of who will have to pay that, I can't speak to, but I agree that we would certainly want to give them a heads up and forward them to Frankfort as quickly as we could. He said they all would be in a better position once the receiver was put in place. The County Attorney continued that the receiver would get a certified operator that will take over and get paid through the State and the cottage owners and maybe a little of us, he didn't really think so. He said he thought it fell mostly to the State and the cottage owners. The Judge continued 'so if I get a call that the pump station is down do I say well, I'm sorry, the County, I just need instructions on what to do, really.' The County Attorney suggested giving out contact numbers of everybody at Parks, the State agencies, but I guess that your all's call.' The County Attorney said it would be reasonable for the County to try and address any emergency. He said that if the situation looked like it was going to require extensive repairs, he didn't think the County should get involved. Again, he said he thought it was on the cottage owners and the State. Esq. Goodlett asked who would be put on notice and the County Attorney replied the Finance and Administration and the State Parks, at a minimum. He also said the Division of Water might need to be notified. The County Attorney continued, the Environmental Cabinet, Energy and Environment. The Judge continued 'the potential, if we go back to the Fourth of July weekend, Division of Water says, we don't close the Lake, we post it. And the problem is ever getting that posting lifted. And, so we don't want that, it's going to kill Taylorsville Lake and tourism, business at the Marina, and other things. There's a lot at stake here, that's why I think it's important that we do something to step up and try to make sure and address it. But, you know, I'm still unclear, do you want me to respond and call Joe Sanders if I get a call from the Division of Water says, hey, you got a pump station overflowing, do I call Joe Sanders or do I say, I'm sorry you need to talk to the folks at the State..' Esq. Bayers said 'I would call Joe Sanders, I would get it handled and stay out of it.' The Judge said 'that's what I've done here, I don't want to obligate the Court to' Esq. Moore said "I think if it's an emergency situation a decision has to be made.' Esq. Goodlett agreed 'it does' Esq. Moore continued 'we're just going to have to take care of it and then figure out how we're going to get paid.' Discussion continued about the receivership being appointed soon, and then they would be able to make those decisions. The Judge continued 'while we're talking about Edgewater, I'll tell you that the cottage owners, this has been like a herd of cats, in trying to bring them all together, they did come together for a meeting on Saturday, and I was informed that they have close to 100% participation and they're going to be forming a LLC. The LLC will then make arrangements for the proper insurance that the County's going to need in order to open up and start operating again as well the maintenance and grass cutting. I don't, I'm sure they have no clue about what they may or may not be getting with regard to the sewer plant. The resort does need to get back open and operating, they will hire a manager, get phone lines, water and electric, we can transfer the meters that I turned for the in the County's name because they operate these lift stations and some other things. Have that moved over to the LLC, but I just want to let you all know that is in the works, hopefully they will have more as the week goes on. We will need to, by the way, develop, if this is the route we go, we will need to develop some sort of a lease between the County and this new LLC., and spell out what the details are on how they're going to operate. That may, I guess going to have to be approved by the State. We need to get cracking on a lease because they want to be up and operating and they need a lease to do that. The County Attorney said that by the time they get the paperwork back from the Secretary of State that they are a legal entity, they can then be on the water bill, electric bill and start operating, that's correct. The County Attorney said once they get back into the leases between the U.S government, the State, State Parks, the County and the new LLC, the magistrates have the say so on what they think is important in the leases or if they are not interested in being in this line

of title. Esq. Moore then said 'and we let the Parks have the lease' and the County Attorney said that was up to the Court. The Judge said 'again, I know the cottage owners have been working very hard to try and come together, can we, does the County want to lease with them or what, I mean their goal is to get up and operating quickly. They're not going to be able to operate without a lease...' Esq. Bayers said they would need to find out with the receivership was going to do before they could even talk about it. The County Attorney said he thought the receiver would work out the details pretty quickly. The Judge said 'so I'm going to hold the Sanders invoice until our next meeting and we're going to go ahead and shove this on into the receivership.' The County Attorney said that they would try and he suggested they have this item on the agenda for the next meeting.

2. The Sheriff's office building.

The Judge said that they had gotten test results back and 'everything tested extremely well, with the exception of the second- floor kitchen. The refrigerator evidently had a bunch of leftover food that had rotted and molded and that's been cleaned out, they used that particular room to cut the ceiling tiles, there was dust and some debris from the ceiling tile operation in there, that's been cleaned out now and the kitchen sink, I think they cleaned out under the kitchen sink, there wasn't any moisture or water problem under there and they treated the kitchen trap. So, I assume now, oh, we had them to go ahead and install the drywall and insulation and we're going to be ready for paint, carpet, so I'm going to need some approval from the Court with regards to need guidance or approval from the Court so we can go ahead and be ready and when can we expect them Randy to be ready to drywall. Mr. Bush said the drywall should be done the middle to the end of this week. The Judge said and then we need to get a painter in there. The Judge said that they had gotten two paint estimates. One of the estimates was \$550.00 and the other was \$2,500.00. The Judge said that Mr. Bush had one more estimate coming. Mr. Bush said he believed the reason that one bid was for \$550.00 was that the man was going to bring a crew in and get the job done rapidly. He said the other bid for \$2,500.00 was going to be a man and his wife, and he thinks it might take them a week. The Judge said it was up to the Court on how to proceed, he said that they could authorize up to a certain amount or whatever they wanted to do. The Judge said 'I'd like to be in a position to go ahead when the drywall is up, go ahead and get a painter in there. The next thing will be the carpet. He asked Mr. Bush if he had gotten a quote on carpet, and Mr. Bush said that he had someone who was supposed to call him as soon as he got there. The Judge said 'well, it can just drag on, we just bring it up at Monday's meeting if you want to do that.' Mr. Bush said he didn't know if he would be able to get a bid right away, because he needed to look at it. The Judge said 'okay, so we're going to do nothing today then on paint or unless it's important we won't do something.' Esq. Moore asked if there were two estimates on the painting, and the Judge replied in the affirmative

- Motion made by Esq. Moore to accept the bid for painting for \$550.00

The Judge then asked Mr. Bush if the bid for \$550.00 included the price of the paint. Mr. Bush said that they would have to get their own paint. Mr. Bush said that the estimate for \$550.00 was for just the bottom of the wall. He said the bid he was supposed to get later today was going to be a bid for up to the chair molding and then a bid for above the chair molding. The Judge said that he was afraid that if they approved the bid for \$550.00 that they would be back in Court trying to get approval for more to finish the project. The Judge said that he wanted to be as prudent as he could be, but said that if the Court approved 'up to \$2,000.00 for painting and what was the carpeting amount?' Mr. Bush said he didn't have a clue on that one. The Judge said it was up to the Court, he would be glad to wait he just thought the sooner the better. Mr. Bush continued to discuss the bids. Esq. Goodlett asked if the Court approved up to \$2,000.00 would it include the


paint and the Judge said 'yeah' but Mr. Bush said 'no.' Esq. Judd said they the square footage of the office space was known, so he wondered why they give a bid that included the cost of the paint. Discussion continued regarding the paint.

- Esq. Moore withdrew his motion on the Bid for \$500.00 for the paint.


The Judge said that there seemed to be some disagreement on the Court. One wanted to move forward and another one wants to not. Esq. Rogers wanted to know 'that \$2,500.00 is that including everything, drywall paint and all?' Mr. Bush explained it only included the painting, no materials. Esq. Rogers asked if they had any idea of what the paint would cost, and Mr. Bush replied he did not know at this point. Discussion continued with the consensus being that they get all the bids together. The Judge said, 'so we want more and more detailed bids, can you get these folks back in to rebid these?' and Mr. Bush said he would do his best. The Judge wanted to know about carpet. Mr. Bush said that there were several bids that they hopefully would come in today.

*** It should be noted that Esq. Bayers left the meeting at 11:41***

- Motion made by Esq. Goodlett, seconded by Esq. Rogers, with all members of the Court present voting 'aye' by voice vote, except Esq. Bayers, who had left, it is hereby ordered to adjourn this meeting at 11:52 am.



 Spencer County Judge Executive, John Riley



 Attest: Spencer County Clerk, Lynn Hesselbrock

4-3-17
 Date

4-3-17
 Date