

MINUTES
BRECKINRIDGE COUNTY FISCAL COURT
Regular Meeting
Monday, September 28, 2009
6:00 P.M.

RE: Call to Order

After leading in the Pledge of Allegiance and a word of prayer, Judge Powers called to order the regular meeting of the Breckinridge County Fiscal Court at 6:00 P.M. at the Courthouse Annex.

Present: Ray Powers, County Judge/Executive
James Henning, Magistrate, District 1
Danny Gedling, Magistrate, District 2
Charlie Hay, Magistrate, District 3
Ronnie Robinson, Magistrate, District 4
Sam Moore, Magistrate, District 5
Joe O'Donoghue, Magistrate, District 6
Bradley Butler, County Attorney
Todd Pate, Sheriff

Staff: Kathina Bell, Fiscal Court Clerk
Sherrie Ashley, County Treasurer
Odessa Hobbs, Finance Officer
Michelle Valora, Finance Officer
Ernie Nix, Road Foreman

RE: Minutes – September 14, 2009

Esquire Robinson moved, seconded by Esquire Henning, to approve the September 14th Minutes as submitted by Fiscal Court Clerk, Kathina Bell. Judge Powers called for a vote on the motion, ALL PRESENT VOTING AYE (7-0).

RE: Welcome Guests

Ms. Catherine Barnes addressed the Court in regards to the insurance premium tax and feels the county was barely getting by now and wants to see Breckinridge County move forward. She stated that she had not once heard how the county would compensate for the money lost when taken out of the budget the first time. Catherine asked the Court if we had the money from the insurance premium tax would we needed to borrow \$495,000 until FEMA reimbursed the county. Judge Powers stated no. Catherine stated that she thinks the insurance premium tax is the fairest tax of all and a lot of residents pay the insurance premium tax but not everyone owns property and pays property taxes. Catherine inquired about what the three different ways the county could raise revenue were. Judge Powers stated through property tax, insurance premium tax, and occupational tax. Judge Powers thanked Ms. Barnes for her concerns and comments.

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Mr. James Ball addressed the Court about tree limbs at the boat ramp located in Cloverport and wanted to know when the county would clean them up. Judge Powers stated that the tree limbs belonged to the State Hwy Dept. and that we had offered to clean up the limbs but they stated they would take care of them.

Mr. Ball stated that he feels the fire dues ordinance should not take place until the entire county receives water. He asked his local fire department if they could put out a fire at his home and the fire department informed him that it could not be done. Judge Powers explained that he understands but to get pressure to all those valves was almost impossible as large as the county was without adding more water towers and at the same time these flushing hydrants will fill tankers. Judge Powers stated that anyone can opt out on the fire dues and that this was not a tax it was just an easier way to collect the dues.

Mr. Ball added that that he disagreed with the insurance premium tax being the best because people will get insurance and cancel when they choose to do so. Judge Powers stated that he agreed with Mr. Ball but that he does not know that any are fair and this was our only possibility. Judge Powers explained that an occupational tax with the jobs and hourly rates in the county would be detrimental and that approximately 53% of the residents work outside the county and probably pay an occupational tax. Mr. Ball stated that he just didn't feel this was fair. Judge Powers thanked Mr. Ball for his concerns and comments.

Mr. Bill Taul addressed the Court regarding updates on Hickory Ridge road. Judge Powers stated that he had spoken to some of the other residents and he feels it would be best for everyone to meet with him and County Attorney, Bradley Butler. Judge Powers stated that we were going to do our best to get the issue resolved and that it would just take time. Judge Powers thanked Mr. Taul for his concerns and comments.

Ms. Carolyn Franklin with the U.S. Census Bureau addressed the Court and gave a brief presentation about the upcoming 2010 census. She stated that \$425 billion dollars was divided annually according to the population count. She stated that it was imperative that everyone participate and it's easy and secure. The 2010 census starts April 1st. Ms. Franklin explained that hospitals, roads, and various other projects are built according to funding provided by the U.S. Census bureau and that no social security numbers or income would be asked only the number in your household. Judge Powers added how important the census was and also encouraged participation. Judge Powers thanked Ms. Franklin for his concerns and comments.

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Mr. Nathan Smith addressed the court about the fire dues ordinance. Mr. Smith stated that he was on the Hardinsburg, Irvington and Webster Volunteer Fire Departments. He stated that he has been with the fire service since 2001. He appreciated everyone looking at the ordinance and stated that the fire service had changed over the last ten years. NFPA (National Fire Protection Agency) has issued regulations that must be followed and that last year alone 118 fire fighters were buried and things must change in order to move forward safely. Nathan stated that to dress one fire fighter the cost was \$2400 per set and the cost of one air pack was \$5000. This did not include any other equipment. This year alone Webster Volunteer Fire Dept collected only \$8900 in dues from the county. Nathan explained that what the fire departments are asking for was a better solution that enables fire fighters to protect themselves and protect the people that did not increase the cost. He stated that there were only two ways to get more money; increase the amount for people who are paying or make it easier for everyone to pay. Judge Powers thanked Nathan for his concerns and comments.

Ms. Joan Laslie addressed the Court regarding claims for penalties. She stated that recently the Fiscal Court approved a claim for penalties to the internal revenue service for the 941 deposits that had not been paid. She stated that when preparing the budget for the upcoming year why the county didn't notice a large surplus of money. Judge Powers stated that 941 are standing orders and can be paid without authorization and that there was not a surplus due to penalties and interest. Judge Powers explained that the funds are deposited into a revolving fund with a zero balance and that we do not review that particular account and it was being handled by the treasurer at that time. Ms. Laslie inquired that since these occurrences were there any procedures that have taken place to review the account with the treasurer. Judge Powers stated yes and some of these issues will be addressed when the audit was released.

Ms. Joan Laslie inquired about expenses incurred from the ice storm. She stated that a few months ago we were told in Fiscal Court that all expenditures would be reimbursed and that with the chip money we would break even. Last Fiscal Court meeting when the insurance premium tax was discussed one reason that we should not resend that tax was due to the ice storm. Judge Powers stated that the reason this was brought up was that the county would not be able to financially handle another situation similar to the ice storm. Judge Powers explained that roughly \$700,000 would be lost if the insurance premium tax was cut and that we have an \$850,000 asphalt budget and that grant money was the reason the budget was higher and the funds must be figured into the budget in order for us to expend them. Ms. Laslie inquired about FEMA reimbursements. Judge Powers explained that we had applied for all reimbursements and that we had received a letter the other day stating that \$505,000 was in the process and that we had received \$57,000 for asphalt patching. Judge Powers stated that we came out ahead this year but this will not

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be guaranteed next year. Judge Powers thanked Ms. Laslie for her concerns and comments.

Mr. Earl Newby addressed the Court regarding the insurance premium tax and stated that it would affect the county by \$700,000. However, it was budgeted for \$550,000. Judge Powers explained that when preparing a budget DLG (Department for Local Government) recommends estimating your expenses high and your revenues low. Mr. Newby stated that the budget had a carryover of \$800,000 from the general fund and \$400,000 carry over from the road fund which was estimated at \$1.2 million. He stated that if we do away with the \$550,000 budget for the insurance premium tax this would still leave the county with a surplus of \$700,000. Judge Powers explained that a carry over was what must be used to make the upcoming years budget balance. Mr. Newby stated to the Court that using the 2006 census figures from Breckinridge County a 0.6% occupational tax would generate \$500,000. Judge Powers stated that DLG representative, Robert Brown projected \$752,000. Judge Powers stated that with the occupational tax you would only tax a small amount of people. Mr. Newby voiced concerns regarding the insurance premium tax not being a fair tax. Judge Powers thanked Mr. Newby for his concerns and comments.

Judge Powers once again thanked the guests for their concerns and comments.

RE: Transfers

Esquire Moore moved, seconded by Esquire Henning, to approve the September 14th Transfers as submitted by County Treasurer, Sherrie Ashley. Judge Powers called for a vote on the motion, ALL PRESENT VOTING AYE (7-0). Exhibit "A-092809"

RE: Claims

Esquire Robinson moved, seconded by Esquire Henning, to approve the September 28th Claims as submitted by Finance Officer, Odessa Hobbs. Esquire Gedling inquired about a claim to Paul Combs in the amount of \$150.00. Judge Powers stated that this was for his monthly retainer fee, personnel policy, and rates of pay. Esquire Robinson inquired about a claim on page 1 of 1 in the Jail Fund to Commercial Lighting in the amount of \$2154.47. Finance Officer, Odessa Hobbs stated that this was for light bulbs. Esquire Gedling inquired about a claim on page 2 of 2 in the General Fund to Windows & Doors in the amount of \$37.74. Judge Powers stated that this was for keys to the annex building. Subsequent to discussion, Judge Powers called for a vote on the motion, ALL PRESENT VOTING AYE (7-0). Exhibit "B-092809"

OLD BUSINESS

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RE: County Road Garage

Judge Powers stated that the fiscal court members were given a new set of county road garage plans to review at the last fiscal court meeting. Judge Powers explained that the bid package included concrete work, heating, plumbing and electrical work and that the county would do the grade work and inside finish work themselves. Judge Powers added that the estimated engineer cost was \$242,000.00. Esquire Hay inquired about when the county road garage plans would be in writing. Judge Powers stated that the plans are here and that you were given a copy at the last meeting. Esquire Robinson inquired if Judge Powers wanted the county road garage built in phases. Judge Powers stated no that he wanted a finished building and that the county would do the grade work and inside finish work. Esquire Hay inquired if the project had already been bid out. Judge Powers stated no that he could not do that without Fiscal Court approval. Judge Powers stated yes sir as always. Subsequent to discussion, Esquire Henning moved, seconded by Esquire Moore, to approve the county road garage plans and move forward with the bid process. Judge Powers called for a vote on the motion, ALL PRESENT VOTING AYE (7-0).

RE: Insurance Premium Tax

Judge Powers explained that at the last Fiscal Court meeting a motion was made to have County Attorney, Bradley Butler prepare the documents to remove the remaining 5% of the local government insurance premium tax and those documents were delivered to you at the beginning of the meeting. Judge Powers entertained a motion to do 1st reading if magistrates do so choose. Esquire Hay moved, seconded by Esquire Gedling, to do 1st reading to remove the remaining 5% local government insurance premium tax. Judge Powers called for a vote on the motion, JUDGE POWERS, ESQUIRES MOORE, ROBINSON, HENNING VOTING NAY AND ESQUIRES O'DONOGHUE, HAY AND GEDLING VOTING AYE (4-3). Motion fails

Esquire Robinson addressed the Court about numerous rumors regarding the insurance premium tax and stated "I want the public to know that when I vote on the insurance premium tax it is for the benefit of the whole county not just the 4th district."

RE: Fire Dues Ordinance

Judge Powers explained that this was a discussion phase of the fire dues ordinance for the Magistrates to ask and address any questions they may have. Judge Powers stated that there were a few misprints in the ordinance and made the Court aware of each one. Judge Powers added that the ordinance states there shall be no membership charge to any property owner of an unimproved lot of three acres or less. PVA, Dana Bland stated that

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the county had a lot of instances where the property owner would receive a tax bill and the mobile homeowner would receive a tax bill for the same parcel of land. Esquire Hay inquired about how many pieces of property were located in the county. Dana stated that the county had about 19,000 different parcels of ground in the county. Esquire Hay inquired if the fire dues would be divided within each district or would you use the residents address. Dana stated that her office was currently working on fire codes for each individual fire department so that they would receive their fire dues accordingly.

Judge Powers explained that the fire dues would not take affect until 2010. Esquire Hay inquired if Cloverport had there own taxing district. Judge Powers stated no that the only fire department with their own taxing district was Hardinsburg. Judge Powers added that this issue needed to be addressed otherwise some residents would be paying twice. Esquire Hay made a motion to table the fire due ordinance discussion until January. County Attorney, Bradley Butler stated that this was a working document and that changes could be made. Esquire Hay stated one change that needed to be made was to send an opt-out form along with the tax bill. Motion died for lack of second.

Esquire Henning inquired if the subscriber fee included businesses. Judge Powers stated yes. Esquire Henning inquired about how many fire departments were in favor of the fire due ordinance. Fire Fighter Association President, Nathan Smith stated that from his understanding all fire departments were in favor. Esquire Henning inquired about the fire departments responding to a resident's home whom did not pay their fire dues and asked how the resident would be charged a fine per state law. Nathan stated that would be determined by each individual fire chief.

Esquire Gedling inquired about how the sheriff's department would handle this. Sheriff, Todd Pate explained that there would be some work involved but that it was not something that could not be done. However, the sheriff's department at this time was not set up to take partial payment. Esquire Gedling inquired about what would happen when your taxes become delinquent with the fire dues included on the tax bill. County Attorney, Bradley Butler explained that once a tax bill becomes delinquent it becomes a superior lean on your property including your mortgage if you have one. You can opt-out even if your property tax bill becomes delinquent.

Esquire Henning inquired about a situation that would include two pieces of property; one being a farm and the other a parcel of ground with five lots and asked what the fire dues charge would be. Judge Powers explained that the property owner would opt-out on four parcels and the fire dues from one parcel should cover all other properties. Esquire Hay stated that if the \$500 was not included in the ordinance then they could not charge the fee. Judge Powers stated yes that the statute supersedes the ordinance. County

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Attorney, Bradley Butler stated that was correct and explained that local government can not supersede a statute.

PVA, Dana Bland inquired if a property owner was within the same fire district or had several properties in different fire districts could the fire departments decide as a consensus if you paid one fire due then you would not be charged the \$500 fee for a fire within that certified fire department district. County Attorney, Bradley Butler explained that the statute reads if you are a member or a subscriber then you are exempt from being charged the \$500 fee. However, if you own property in three different certified fire districts you would pay three fire dues one to each district respectively. Judge Powers explained that you must opt-out on all other properties in that district and pay only one fire due.

Esquire Gedling inquired about the Homestead Act. PVA, Dana Bland stated that if you have a tax bill or account where you are not paying property taxes because the value was less than the Homestead Act a tax bill would still be generated to include the fire dues. Subsequent to discussion, Esquire Moore moved, seconded by Esquire Henning, to table the fire dues ordinance discussion until the next Fiscal Court Meeting. Judge Powers called for a vote on the motion, ALL PRESENT VOTING AYE (7-0).

NEW BUSINESS

RE: Waterline License Agreement, Ruppert Askins Lane

Subsequent to discussion, Judge Powers entertained a motion, to grant the Waterline License Agreement for the Ruppert Askins Lane and to authorize Judge/Executive, Ray Powers to sign and execute the agreement once completed by County Attorney, Bradley Butler. Esquire Moore moved, seconded by Esquire Henning. Judge Powers called for a vote on the motion, ALL PRESENT VERBALLY VOTING AYE (7-0).

RE: New Budget Line Item: Other Capital Projects, Buildings and Construction

Subsequent to discussion, Esquire Henning moved, seconded by Esquire Robinson, to approve the new budget line item: 01-8099-7420, Other Capital Projects-Buildings and Construction. Judge Powers called for a vote on the motion, ALL PRESENT VERBALLY VOTING AYE (7-0).

RE: 1st Reading Ordinance No. 2009-0928, Budget Amendment

Esquire Robinson moved, seconded by Esquire Henning, to approve 1st Reading of Ordinance No. 2009-0928, an ordinance of the Breckinridge County Fiscal Court relating to the annual budget and amendment thereof: to increase receipts of the General Fund,

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account code 01-4510, State Grants by \$7,000.00 to include unbudgeted receipts and to increase expenditures of the General Fund, account code 01-8099-7420, Buildings and Construction by \$7,000.00 to include the unbudgeted expenditure within the adopted 2009-2010 FY Budget. The amounts adjusting the receipt and expenditure accounts are for governmental purposes. Judge Powers called for a vote on the motion, ALL PRESENT VOTING AYE (7-0).

RE: Personnel: Road Department 5yr Incremented Pay Increase

Subsequent to explanation and discussion, Esquire Gedling moved, seconded by Esquire Robinson, to approve a 5 year incremented pay increase for Road Department Employees: Jon Cottrell, J.B. Thurman, and Sid Woodard to an hourly rate of \$13.69. Judge Powers called for a vote on the motion, ALL PRESENT VOTING AYE (7-0).

RE: Bids, McDaniels VFD

Judge Powers opened and stated the amount of each of the three bids for the McDaniels VFD 1998 Ford Crown Victoria VIN # 2FAFP71W9WX139917. Mike Pile submitted a bid in the amount of \$363.00, Steve Poole submitted a bid in the amount of \$851.50, and Sidney Probus submitted a bid in the amount of \$502.99. Subsequent to discussion, Esquire O'Donoghue moved, seconded by Esquire Moore, to accept the bid submitted by Steve Poole in the amount of \$851.50. Judge Powers called for a vote on the motion, ALL PRESENT VOTING AYE (7-0).

Judge Powers opened and stated the amount of the bid for the McDaniels VFD 1979 Model LN 700 fire truck VIN # N71CVFG5779. Willis Moore submitted a bid in the amount of \$409.00. Subsequent to discussion, Esquire O'Donoghue moved, seconded by Esquire Gedling, to reject the bid submitted by Willis Moore in the amount of \$409.00. Judge Powers called for a vote on the motion, ALL PRESENT VOTING AYE (7-0).

RE: Cloverport VFD, surplus

Esquire Gedling moved, seconded by Esquire Hay, to declare the Cloverport VFD 1977 Chevrolet CK31003 Pumper Truck VIN # 2FAFP71W9WX139917 as surplus. Judge Powers called for a vote on the motion, ALL PRESENT VOTING AYE (7-0).

RE: Treasurer's Report

Esquire Hay moved, seconded by Esquire Robinson, to approve the September 28th Treasurer's Report as submitted and explained by County Treasurer, Sherrie Ashley. Judge Powers called for a vote on the motion, ALL PRESENT VOTING AYE (7-0). Exhibit "C-092809"

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RE: Road Foreman's Report

Road Foreman, Ernie Nix explained that the Road Department staff had been bush hogging, rocking, grading, chipping and blacktopping. Foreman Nix stated that the long arm on one bush hogs was down. Judge Powers stated that during fall break the road department staff was going to start working on the Finley Dowell Road Bridge and added that they were widening the bridge and that the road would be closed throughout fall break and possibly a few days into the following week. Esquire Gedling inquired about how many miles of blacktop had been laid. Foreman Nix stated three or four miles. Esquire Gedling inquired if each district would get blacktop. Judge Powers stated that the asphalt could be laid in cooler weather and that hopefully they would lay asphalt at a later time. However, at this time they were going to chip and seal while weather permitted. Subsequent to discussion, Esquire Hay moved, seconded by Esquire Robinson, to approve the Road Foreman's Report as explained by Road Foreman, Ernie Nix. Judge Powers called for a vote on the motion, ALL PRESENT VOTING AYE (7-0).

RE: Notice of Decision: State Local Debt Officer

Judge Powers explained that the state local debt officer approved the issuance of Breckinridge County, Kentucky Buildings Commission Mortgage Revenue Bonds, Series 2008 (County Memorial Hospital Project); in the principal amount of \$8,000,000, consisting of \$6,100,000 of Series A Bonds and \$1,900,000 of Series B Bonds. The net proceeds of the Bonds will be used by the County to provide funds to finance the cost of the new construction.

RE: Resolution No. 2009-0928, Rural Secondary Program Bituminous Resurfacing

Subsequent to explanation by Judge Powers, Esquire Moore moved, seconded by Esquire Robinson, to approve Resolution No. 2009-0928, a resolution adopting and approving the execution of a Rural Secondary Program Agreement between the Breckinridge County Fiscal Court and the Commonwealth of Kentucky, Transportation Cabinet, Department of Rural and Municipal Aid, and accepting all roads and streets referred to therein as being a part of the County Road System, and to authorize Judge/Executive, Ray Powers to sign and execute any and all documents on behalf of the court. Judge Powers called for a vote on the motion, ALL PRESENT VOTING AYE (7-0). Exhibit "D-092809"

RE: MOA, Bituminous Resurfacing

Subsequent to explanation by Judge Powers, Esquire Henning moved, seconded by Esquire Hay, to approve the MOA agreement between the Commonwealth of Kentucky Transportation Cabinet, Department of Rural and Municipal Aid and the Breckinridge County Fiscal Court, to provide Rural Secondary funding for bituminous resurfacing on various county roads in an amount not to exceed \$257,016, and to authorize

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Judge/Executive, Ray Powers to sign and execute any and all documents on behalf of the court. Judge Powers called for a vote on the motion, ALL PRESENT VOTING AYE (7-0). Exhibit "E-092809"

RE: Resolution of Support for I-69

Subsequent to explanation by Judge Powers, Esquire Henning moved, seconded by Esquire O'Donoghue, to approve the Resolution of Support for Interstate 69, a resolution that supports maximum I-69 funds for Kentucky in the reauthorization of the National Surface Transportation Act. Judge Powers called for a vote on the motion, ALL PRESENT VERBALLY VOTING AYE (7-0). Exhibit "F-092809"

RE: Announcement

Judge Powers informed the Court that approximately \$47,000 had been refunded to the county. Judge Powers explained that we had requested for a refund of penalties and interest from the IRS and that the penalties had been taken care of but they will not abate the interest. Judge Powers added that we had received \$13,984.74 in reimbursements so far from several insurance companies and that through the process of looking for documentation for issues relating to 941 deposits the checks were found in a drawer filed and never cashed.

RE: Animal Shelter Assistant

Judge Powers informed the Court that Animal Shelter Assistant, Misty Ford had put in her resignation affective October 9, 2009. He further added that he would advertise for the position in this week's paper.

RE: Saint Clair Lane

Esquire Robinson inquired about a resident on Saint Clair Lane who wanted to move the entrance along with the exit over 50 (fifty) feet away from the home that they owned. Esquire Robinson stated that from his understanding according to the statutes the property owner could do this with Fiscal Court approval. Judge Powers stated that it was his understanding that it was with the approval of a county engineer and himself.

County Attorney, Bradley Butler stated that it would depend on how it was done. Attorney Butler stated that the property owners had two approaches. Attorney Butler explained that they could engineer the road themselves and then ask for the Court's approval to amend the road into the county road maintenance system or the residents could ask the Fiscal Court to change the road for him and then Judge Powers and Road Foreman, Ernie Nix must agree that the road meets all required specifications with Fiscal Court approval. Judge Powers stated that until the Fiscal Court approved the road the property owner could not do away with the old road.

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Esquire Robinson inquired if the resident could make a separate entrance and exit. Judge Powers stated yes but that the old road is still a county road until the amendment was made into the county road maintenance system and at that point it was still a public road. Subsequent to discussion, Attorney Butler suggested that the residents make an appointment at his office in order to discuss this issue in detail.

RE: Adjournment

Esquire Hay moved, seconded by Esquire Gedling, to adjourn this meeting at 8:35 p.m. with no further business to come before it. Judge Powers called for a vote on the motion, ALL PRESENT VERBALLY VOTING AYE (7-0).

Clerk Certification

I, Kathina Bell, 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 Breckinridge County Fiscal Court at the meeting of September 28, 2009.

Kathina Bell, Fiscal Court Clerk

Date: October 8, 2009