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Stoddard County Commissioners Meet, Judge Mayer Voted to Break Tie in Water District Board

OCTOBER 18TH 2022 BY DEE LOFLIN

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Stoddard County Commissioners met in a regularly scheduled meeting on Monday, October 17, 2022.

Pete Mace and Terry Bates from New Lisbon Township asked about the \$12,000 from the Soybean Growers Association for the road district. There are several bridges needing repairs; however County Road 271 needs a bridge replaced. The New Lisbon Township is willing to put in around \$25,000 and just wanted to let the Commissioners know they are very interested in these monies to add to their budget to replace that bridge.

Water District #5 Update:

Stoddard County Commissioners met on Monday, October 17, 2022 at 9 a.m. in the Commissioner Chambers.

Stoddard County Circuit Judge Rob Mayer was on hand to explain his letter submitted to County Clerk Cecil Weeks on Friday, October 11, 2022.

"It was brought to my attention that the Commissioners split on the appointment of Debra Robey and Dave Cooper," stated Judge Mayer. "Commissioner Carol Jarrell nominated Robey and Cooper to the Public Water District No. 5 Board at the October 11th commissioner meeting."

Commissioner Danny Talkington seconded the motion, but voted no to their appointments.

Mayer submitted a document to the Stoddard County Clerk Cecil Weeks. In this document Mayer broke the tie and voted yes to appoint both Robey and Cooper to the Water District.

"Under Missouri Law I do not have the authority to appoint the board member, but pursuant to Missouri law I do have the authority and under the law it says shall vote in a tie breaker when we only have two commissioners.

He also told the Presiding Commissioner that he was not here to debate, but due to his interpretation of the law he took action as it says "shall" vote which means I am required to do so.

Talkington did not agree that this statute was applicable to appointments and was waiting to hear back from the county attorney Travis Elliot.

Judge Rob Mayer stated that the Commissioners have the authority to appoint based on 105.030 Vacancies how filled: 105.030. Vacancies, how filled. - 1. Whenever any vacancy, caused in any manner or by any means whatsoever, occurs or exists in any state or county office originally filled by election of the people, other than in the offices of lieutenant governor, state senator or representative, sheriff, or recorder of deeds in the City of St. Louis, the vacancy shall be filled by appointment by the governor except that when a vacancy occurs in the office of county assessor after a general election at which a person other than the incumbent has been elected, the person so elected shall be appointed to fill the remainder of the unexpired term; and the person appointed after duly qualifying and entering upon the discharge of his duties under the appointment shall continue in office until the first Monday in January next following the first ensuing general election, at which general election a person shall be elected to fill the unexpired portion of the term, or for the ensuing regular term, as the case may be, and the person so elected shall enter upon the discharge of the duties of the office the first Monday in January next following his election, except that when the term to be filled begins on any day other than the first Monday in January, the appointee of the governor shall be entitled to hold the office until such other date.

2. (1) Notwithstanding subsection 1 of this section or any other provision of law to the contrary, when any vacancy, caused in any manner or by any means whatsoever, occurs or exists in any county office, the county commission of all non-charter counties shall, no later than fourteen days after the occurrence of the vacancy, fill the vacancy by appointment, and the person so appointed by the county commission, after duly qualifying

and entering upon the discharge of his or her duties under the appointment, shall continue in office until the governor fills the vacancy by appointment under subsection 1 of this section or until the vacancy is filled by operation of another provision of law.

(2) In any county with only two county commissioners, if the commissioners cannot agree upon an appointee, the two remaining county commissioners and the presiding judge of the circuit court shall vote to make the appointment required under subdivision (1) of this subsection.

3. The provisions of this section shall not apply to:

(1) Vacancies in county offices in any county which has adopted a charter for its own government under Section 18, Article VI of the Constitution; or

(2) Vacancies in the office of any associate circuit judge, circuit judge, circuit clerk, prosecuting attorney, or circuit attorney.

4. Any vacancy in the office of recorder of deeds in the City of St. Louis shall be filled by appointment by the mayor of that city.

Commissioner Jarrell made a motion to accept the letter from Judge Rob Mayer to appoint the two board member. Talkington stated they don't have the authority to accept or reject the letter in the meeting. Jarrell wanted it put in the minutes that he voted and the two were now so duly appointed to the Board.

"He being our Circuit Judge knows a little more than we know," stated Jarrell. "Let Water district #5 move forward."

Talkington seconded the motion to accept the letter and appointment of the two individuals to the board. Call for the vote, Jarrell YES, Talkington NO.

Peter Coutavas of the Industrial Development Association was in attendance and asked why they couldn't just put in the minutes without a motion. Talkington stated that in 2019 he made the decision to only put motions made and voted on in the minutes. There are no discussions in the minutes only what the commissioners actually voted on.

Below is the Letter dated October 13, 2022 from Judge Mayer to Cecil Weeks, County Clerk.

I, Robert N. Mayer, the Presiding Judge of the Circuit Court of Stoddard County, Mo have learned through County Commissioner minutes from the meeting held October 11, 2022, and by an emailed letter from Debra Robey, a resident of Water District #5, that

actions were taken by the Stoddard County Commission on October 11, 2022. I hereby state and affirm the following:

1. That Water District #5 of Stoddard County currently has only (1) director in office and four (4) vacancies.
2. That pursuant to 247.090 R.S.Mo., a majority of the board members (3) is required for a quorum. As a result, the Board of Directors for Water District #5 is unable to pay bills or perform its basic services without three (3) board members.
3. That Water District #5 of Stoddard County services over 400 Stoddard County residents. Without a functioning board, these residents face losing their residential water supply in the very near future.
4. ***Upon my review of Missouri Statutes and case law precedent on the matter, I find that the Stoddard County Commission has the authority under 105.030.2(1) to make appointments to the Board of Directors of Water District #5 of Stoddard County.***
5. That on October 11, 2022, pursuant to the County Commission's broad appointment powers to fill vacancies in county offices under 105.030.2(1) R.S.Mo., Associate Commissioner Carol Jarrell nominated David Cooper and Debra Robey to fill two of the four vacancies on the Board of Directors for Water District #5 of Stoddard County.
6. The motion was seconded by Presiding Commissioner Danny Talkington.
7. Commissioner Jarrell voted yes and Commissioner Talkington voted no.
8. That pursuant to 105.030.2 (2)

"In any county with only two county commissioners, if the commissioners cannot agree upon an appointee, the two remaining county commissioners and the presiding judge of the circuit court shall vote to make the appointment required under subdivision (1) of this subsection"

9. That currently there are only two county commissioners in Stoddard County as a result of this Court's order in 22SD-CC00099, wherein Associate Commissioner Steve Jordan is restrained from acting in his capacity as commissioner.

Now on this 14th day of October, 2022, I, Robert N. Mayer, Presiding Circuit Judge of Stoddard County, pursuant to 105.030.2(2) R.S.Mo. and as a tie breaking vote, vote yes for the appointment of David Cooper and Debra Robey to the Board of Directors for Water District #5 of Stoddard County.

Commissioner Jarrell made a motion to accept the Minutes from Tuesday, October 11, 2022. Commissioner Talkington seconded the motion. Both voted yes.

Those minutes included:

Approval of minutes for October 3, 2022 (passed)

Appointment of board members to PWSD, Dave Cooper and Debbie Roby (split vote)

Approval of adds and abates for September 2022 (passed)

No minutes available for the Insurance Bid Opening meeting held on Wednesday, October 12, 2022 at 1:30 p.m. There is a full article on the ShowMe Times about the Bid Opening.

LAST UPDATED ON OCTOBER 18TH 2022 BY DEE LOFLIN

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