

# ADAIR COUNTY COMMISSION MINUTES

## WEDNESDAY, JANUARY 11, 2017

Continued from page 462

IN REF. ORDER NO 8 Case Number 17AR-CV00013, Missouri Local Government Employees Retirement System versus the City of Kirksville and Adair County (exhibits filed with order)

IN THE 2ND JUDICIAL CIRCUIT COURT, ADAIR COUNTY, MISSOURI	
Judge or Division: <b>RUSSELL ELLIS STEELE</b>	Case Number: <b>17AR-CV00013</b>
Plaintiff/Plaintiffs: MISSOURI LOCAL GOVERNMENT EMPLOYEES RETIREMENT SYSTEM	Plaintiff's/Petitioner's Attorney/Address: ROBERT RYAN HARBING 235 EAST IRISH STREET JEFFERSON CITY, MO 65101
Defendant/Respondent: THE CITY OF KIRKSVILLE, A MISSOURI THIRD CLASS CITY	Court Address: 106 W WASHINGTON PO BOX 699 KIRKSVILLE, MO 63501
Nature of Suit: CC Declaratory Judgment	

1-11-17  
Commission  
Served @ 3:44 pm  
by Cheryl Robert  
Haddock

RECEIVED  
JAN 11 2017

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The State of Missouri by: **ADAIR COUNTY, A MISSOURI COUNTY**  
 ADAIR COUNTY CLERK

You are summoned to appear before this court and to file your pleading in the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address **all** within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

Date: 1/11/17 Filed: Cheryl Robert Haddock

Further Information: \_\_\_\_\_

Sheriff or Server's Return  
 Note to serving officers: Summons should be returned to the court within thirty days after the date of issue. I certify that I have served the above summons by: (check one)  
 delivering a copy of the summons and a copy of the petition to the Defendant/Respondent;  
 having a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with a person of the Defendant/Respondent's family over the age of 15 years;  
 (for service on a corporation) delivering a copy of the summons and a copy of the petition to \_\_\_\_\_ (name) (title).  
 other \_\_\_\_\_ (name) (title).  
 Served at \_\_\_\_\_ (County/City of St. Louis, MO), on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).  
 Signed: \_\_\_\_\_ (Printed Name of Sheriff or Server) Signature of Sheriff or Server  
 (Seal) \_\_\_\_\_ (Date)  
 My commission expires: \_\_\_\_\_ Date Return: \_\_\_\_\_ Date

**Summons Fee**  
 Summons \$ \_\_\_\_\_  
 Non Est \$ \_\_\_\_\_  
 Sheriff's Deputy Salary \$ \_\_\_\_\_  
 Supplemental Surcharge \$ 10.00  
 Mileage \$ \_\_\_\_\_ (within 100 miles @ \$ \_\_\_\_\_ per mile)  
 Total \$ \_\_\_\_\_  
 A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all states of affairs, see Supreme Court Rule 14.

OSCA (7-09) (MOC) For Court Use Only. Document # 013-000008 1 of 1 Civil Procedure Form No. 1, Rules 10.01 - 14.02, 34.01, and 34.02, 206.01 - 206.10, and 506.10 & 506.11

17AR-CV00013

IN THE CIRCUIT COURT OF ADAIR COUNTY  
STATE OF MISSOURI

MISSOURI LOCAL GOVERNMENT  
EMPLOYEES RETIREMENT SYSTEM,  
701 West Main Street  
Jefferson City, MO 65101,

Plaintiff, Case No. \_\_\_\_\_

vs.

THE CITY OF KIRKSVILLE,  
a Missouri Third Class City  
201 South Franklin Street  
Kirksville, Missouri 63501,  
and  
ADAIR COUNTY,  
a Missouri County  
106 West Washington Street  
Kirksville, MO 63501,

Defendants.

**PETITION IN INTERPLEADER AND FOR DECLARATORY JUDGMENT**

COMES NOW, Plaintiff Missouri Local Government Employees' Retirement System ("MOLAGERS"), pursuant to Rule 52.07 of the Missouri Rules of Civil Procedure and §§ 507.060 and 527.010, RSMo, and for its Petition in Interpleader and for Declaratory Judgment, hereby states as follows:

**THE PARTIES**

- The Missouri Local Government Employees' Retirement System ("Plaintiff MOLAGERS") is a governmental pension system and body corporate pursuant to Sections 70.600-755 RSMo.
- Section 70.605.1, RSMo, provides that Plaintiff MOLAGERS was created and

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exists to provide for the retirement or pensioning of the officers and employees and the widows and children of deceased officers and employees of any political subdivision of this state.

- Plaintiff MOLAGERS is a governmental defined benefit retirement plan as defined in 26 USC 401(a) and 414(d). Plaintiff MOLAGERS is also a trust pursuant to these sections.
- Additionally, Plaintiff MOLAGERS and the MOLAGERS Trust is subject to the exclusive benefit rule found in 26 USC 401(a) (2) which is applicable to the MOLAGERS trust. This provision prohibits the use of any part of the corpus or income of the trust for any purpose other than the satisfaction of all liabilities with respect to employees and their beneficiaries.
- Defendant City of Kirksville is a Third Class City located in Adair County, Missouri.
- Defendant Adair County is a third class Missouri County.

**JURISDICTION AND VENUE**

- Jurisdiction is proper in this Court pursuant to Mo. Const. art. V, § 4; §§ 478.070; 507.060 and 527.010, RSMo, and Rule 52.07.
- Venue is proper in this Court pursuant to § 508.010, RSMo, as at least one of the Defendants resides in Adair County, Missouri.

**BACKGROUND**

- The Kirksville Special Road District #41 ("the District") was established in 1920 for the purposes of building and maintaining roads within the District, so long as such roads were not under the jurisdiction of the State Highway System. See Exhibit 1, June 17, 1993 Judgment in Johnson v. Adair County, Case No. CV193-84CC. A true and accurate copy of Exhibit 1 is attached hereto and incorporated by reference herein.

JD-201706-1

- On April 6, 1993, a majority of voters within the District voted in favor of dissolution of the District. See Exhibit 1 at pages 2-3.
- After dissolution of the District, the Circuit Court of Adair County rendered findings of fact, conclusions of law and a Judgment ("the Judgment") on June 17, 1993 in the case of Johnson v. Adair County, Case No. CV193-84CC. The Judgment determined that the assets, evidence of assets and all other records of the District were to be turned over to the Adair County Clerk with such assets to be used solely for the direct benefits of taxpayers and residents within the territorial boundaries of the District. See Exhibit 1.
- Subsequent to April 6, 1993, the Adair County Road and Bridge Department took over any and all duties of the District and became responsible for providing road and bridge services to the locations encompassed within the former District.

**MOLAGERS MEMBERSHIP OF THE DISTRICT AND DEFENDANTS**

- The District joined Plaintiff MOLAGERS effective May 1, 1977. See Exhibit 2, District Joining Resolution to Plaintiff MOLAGERS effective May 1, 1977. A true and accurate copy of Exhibit 2 is attached hereto and incorporated by reference herein.
- Defendant Adair County has been a member of Plaintiff MOLAGERS since March 1, 1977. See Exhibit 3, Defendant Adair County Joining Resolution, effective March 1, 1977. A true and accurate copy of Exhibit 3 is attached hereto and incorporated by reference herein.
- Defendant City of Kirksville has been a member of Plaintiff MOLAGERS since January 1, 1977. See Exhibit 4, Defendant City of Kirksville Joining Ordinance, effective January 1, 1977. A true and accurate copy of Exhibit 4 is attached hereto and incorporated by reference herein.

JD-201706-1

Continued on page 464

ATTEST: Cheryl Robert Haddock  
County Clerk

Mark Thompson  
Presiding Commissioner