

**CAMPBELL COUNTY FISCAL COURT
MINUTES**

December 21, 2005

A regular meeting of the Campbell County Fiscal Court was held on Wednesday, December 21, 2005, at 5:30 p.m. at the Fiscal Court Conference Room, 24 W. 4th Street, Newport, Kentucky.

In attendance at the meeting were:

COUNTY JUDGE/EXECUTIVE
STEVE PENDERY

COUNTY COMMISSIONERS:
DAVID E. OTTO
KENNETH L. RECHTIN
MARK T. HAYDEN

Robert Horine	County Administrator
Justin Verst	County Attorney
Keith Hill	Chief, Campbell County Police Department
Greg Buckler	County Jailer
Jack Snodgrass	County Clerk
Sarah Collins	Director of Housing
Jim Seibert	Fiscal Affairs Director
Ken Knipper	Director, Office of Emergency Management
Melissa Williams	Director of Administration
Josh Wice	Administration Analyst

The meeting was called to order at 5:30 p.m. by Judge Pendery. A moment of silence was called for by Judge Pendery, followed by the Pledge of Allegiance. Following roll call, a quorum was declared present.

Judge Pendery presented the minutes from the Fiscal Court meeting of December 7, 2005. It was moved by Commissioner Otto and seconded by Commissioner Rechtin that the minutes of December 7, 2005 be approved. All voted "AYE" and the motion passed unanimously.

Judge Pendery next asked if there were any public officials or citizens in attendance at the meeting who desired to address the Court. County Clerk Jack Snodgrass reported to the Court that the handicapped voting machines have been received and are being held in storage until use in the next election. Commissioner Hayden inquired as to the reimbursement for the special election and asked if the Fiscal Court pays this expense from its General Fund and is reimbursed once all the costs are paid. Mr. Seibert stated that that is correct. Commissioner Hayden asked at what point the Fiscal Court seeks reimbursement from the Campbell County School District. Mr. Seibert stated that the Court could bill for this as soon as it knows what the amounts are, and

could go ahead and seek reimbursement since it already knows the amounts. Commissioner Hayden stated that he noticed the amount of \$15,705 is in this meeting's claims to be paid from the General Fund, and is concerned that this amount be reimbursed as soon as possible. Mr. Horine asked for the total amount from Mr. Snodgrass, who stated that amount was \$27,865.

Judge Pendery then introduced Tom Schomaker and Andy Yeager from Kentucky Highway Department, District Six, who were present to discuss the Fiscal Year 2006-2007 Rural Secondary Road Program. Mr. Schomaker noted that Mr. Yeager is the District Six Maintenance Engineer for Campbell County. Mr. Schomaker stated that the 2006-2007 estimated allotment for Campbell County is \$527,686, and the District is setting aside for 50.3 miles of road the amount of \$201,800, and the administrative county expenses of \$38,062, which will leave a balance to be programmed of \$322,024. This amount represents a 20% increase over what was allotted last year, which is good news for Campbell County. Mr. Schomaker stated that Mr. Yeager had reviewed the road system in Campbell County and has recommended the following roads for resurfacing: Flagg Springs Pike (Ky. 10 from Smith Road to the Pendleton County line, which is approximately 1.92 miles) at an estimated cost of \$86,445; Twelve Mile Road (Ky. 1566 from Ky. 1997 to Ky. 8, which is approximately 1.809 miles) at an estimated cost of \$72,360; Washington Trace/Painter Road (Ky. 2921 from Ky. 1566 to Ky. 8, which is approximately 2.223 miles) at an estimated cost of \$77,805; and Winters Lane (Ky. 2926 from Holt's Lane to Ky. 8, which is approximately 1.4 miles) at an estimated cost of \$56,040. This will leave a balance of \$29,374 unprogrammed. Also included in the recommendation for resurfacing will be Carthage/New Richmond Road (Ky 1996 from Ky. 9 to the new pavement, which is approximately 1.41 miles) at an estimated cost of \$49,385. This will put the program in the hole by about \$20,000, but it is hoped that additional funds will become available to allow for the inclusion of this recommendation. Mr. Schomaker asked the Court to review the program and provide the District a resolution of its concurrence with the program. He noted that if the Court has other suggestions for the program, they should advise the District of those suggestions. Judge Pendery stated that he believes the program as presented looks good and that the Court will review it. Commissioner Rechtin noted that the original recommendations provided to the Court prior to this meeting were in an amount lower than the recommendations that Mr. Schomaker was presenting and asked what facilitated the increase. Mr. Schomaker stated that when the original recommendation was presented the District had not received the actual allotment and had assumed the allotment would not change from the previous year. Commissioner Hayden asked Mr. Schomaker to give him an explanation of the amount being recommended to spend on maintenance and traffic, since he is new to the Court and would like to have a better understanding of this program. Mr. Schomaker explained that this amount is set aside to take care of grass cutting, snow removal, pothole patching, pipe replacement and other general maintenance item for the 50.3 miles of road. Judge Pendery thanked Mr. Schomaker for his presentation.

Mr. Schomaker then stated that, regarding the bond money that the legislature approved last year, the second year of that bond money was considered discretionary money and the county and all of the cities in the county are allowed to apply for that money, but it is not a guarantee as the first bond money was. He reminded the Court to make sure that if it has a project that it is interested in, get it in to the intergovernmental program staff as soon as possible, and for the Court to remind the cities to do the same. Commissioner Rechtin asked if this money was distributed by county. Mr. Schomaker replied that the first half of the bond program last year

was distributed by formula, which was the formula by how rural municipal aid is allocated. The second half of this money is not set up that way, and is completely discretionary. If, for instance, there is a small city that received \$10,000 by formula, that city may have a project that costs a half million project and be a worthy project, and receive another half million out of the second half of the bond money. Commissioner Rechtin asked how much the total pool was for this bond money and how much Campbell County took in last year. Mr. Schomaker stated that the pool was \$50 million for each of two years for the counties and \$25 million for each of the two years for the cities, and Campbell County took in approximately \$260,000.

Judge Pendery then requested items of Old Business be brought before the Court. Ms. Williams stated there was no Old Business to be presented.

Judge Pendery next requested items of New Business be brought before the Court. Ms. Williams presented for first reading Ordinance O-17-05, which she read by title and provided a summary to the Court for its consideration. She stated that this Ordinance updates the Official List of Roads that are maintained and controlled by the Fiscal Court and amends Ordinance O-09-05 to add Shadowlawn Drive, Hayfield Drive and Haystack Court into the County Maintained Road System, and amends the length of Parkside Drive. She noted that Peter Klear, Director of Planning & Zoning, recommends the approval of this Ordinance. She advised that no action was necessary on the Ordinance at this meeting, but would be acted on at second reading.

Ms. Williams then presented Resolution R-159-05, which she read by title and provided a summary to the Court for its consideration. She stated that this Resolution authorizes the Judge/Executive to execute a Quit Claim Deed and Grantee's Statement of Consideration or Market Value to a 9.5584-acre parcel, located in the Parkside Subdivision, in unincorporated Campbell County, that the members of Sun Valley Real Estate Co., LLC wish to donate to the Campbell County Fiscal Court. The property will be held by the Fiscal Court until the Campbell County Conservancy is ready to accept the property donation, due to an issue related to the Conservancy's non-profit status. An appraisal provided by Sun Valley states that the property is worth \$260,000. Commissioner Rechtin made a motion and Commissioner Hayden seconded, to approve Resolution R-159-05. County Attorney Verst stated that the Fiscal Court can justifiably sign off as a result of the appraisal. Commissioner Rechtin asked if the Conservancy wants the parcel or not. Ms. Williams responded that they do. There being no further discussion, all voted "AYE" and the motion passed unanimously.

Ms. Williams then requested a motion to increase the compensation of Lt. Col. Todd Straman, Lt. Barrett Champagne and Sgt. Ronald Ratliff, as they were promoted on June 16, 2005 and have now successfully completed the six-month anniversary in their current positions and are eligible for the annual 2.5% merit increase. Lt. Col. Todd Straman will advance from Grade 15K (\$58,159 annually) to Grade 15L (\$59,613 annually); Lt. Barrett Champagne will advance from Grade 15B (\$24.61/hr.) to Grade 15C (\$25.23/hr.); and Sgt. Ronald Ratliff will advance from Grade 13A (\$21.39/hr.) to Grade 13B (\$21.83/hr.); all effective December 16, 2005. She noted that Chief Keith Hill recommends approval of these increases. Judge Pendery made a motion and Commissioner Otto seconded, to approve the increase in compensation for the above-named officers. There being no further discussion, all voted "AYE" and the motion passed unanimously.

Ms. Williams then requested a motion to increase the compensation of Elizabeth Miller, Housing Specialist, as she was promoted on June 28, 2005 and has now successfully completed the six-month anniversary in her current position and is eligible for the annual 2.5% merit increase (Grade 11A - \$30,331 annually to Grade 11B - \$31,089 annually) effective December 28, 2005. She noted that Sarah Collins, Director of Housing, recommends approval of the increase and was present to answer any questions. Judge Pendery made a motion and Commissioner Rechten seconded, to approve the increase in compensation for Elizabeth Miller. There being no further discussion, all voted "AYE" and the motion passed unanimously.

Judge Pendery next requested reports from Staff. Mr. Horine, County Administrator, presented Resolution R-137-05, which he read by title and provided a summary to the Court for its consideration. He stated that this Resolution approves and authorizes the Judge/Executive to execute a Development Agreement with EGC Construction Corporation. The Agreement supports EGC in their decision to relocate their headquarters from the building that the Fiscal Court acquired from them on Monmouth Street to the building next door to the present Fiscal Court location on 4th Street. In making the relocation, EGC is interested in acquiring additional parking to support the investment in that property. The Fiscal Court will be granting to EGC a right of first refusal to purchase the rear portion of the 4th Street property, which will run for the next two years, during which time the Fiscal Court is clear to convey the property to another governmental unit through negotiation, or to advertise for the sale of the property. If the Fiscal Court gets offers that it would accept, then EGC will be granted a right of first refusal to purchase the rear portion of the lot. If the Court goes for a two year period and is unsuccessful in securing an acceptable offer, then EGC and the Court agrees to sell the property to EGC at the end of that two year period. Commissioner Rechten made a motion and Commissioner Otto seconded, to approve Resolution R-137-05. Commissioner Hayden stated that he has a concern with Paragraph 4 of the Agreement relating to the payment of rent. He believes the Agreement reads that if the Court has not moved out of the 4th Street building before December 31, 2007, then EGC has a right of first refusal to buy the parking lot and the building at that location, and if the Court continues to occupy the building after December 31, 2007, then the Court gets the first six months rent free and after that has to pay a reasonable amount of rent. It is not defined in the Agreement what "reasonable amount of rent" means or how any disputes about the rent are to be resolved. He believes the Fiscal Court has worked very well with the current leadership of EGC over the years and they have proven themselves to be honest and trustworthy, but EGC is a corporation and could be sold at any time and have a complete new leadership overnight. He is concerned that the Fiscal Court would be stuck with this agreement which has a vague sentence about the Fiscal Court paying a reasonable amount of rent. In addition to this concern, the Fiscal Court still has an obligation as the lessee to continue to maintain, repair and insure the building, and it would seem to him that the rent would have to be discounted since the Fiscal Court is agreeing to continue to be responsible for all necessary repairs, upkeep and insurance and most lessees are not responsible for these items on a building they do not own. He would like to see a more specific and further definition of "reasonable amount of rent" in the agreement. County Attorney Verst stated that it would be difficult to assess what the square footage rental rates might be 2-1/2 years from now and, in general, they could look at comparables of other office buildings in the area. Commissioner Hayden stated that he is not suggesting a specific amount be inserted in the Agreement, but rather a better formula for how to determine that rent if we get to that stage, and how to resolve the issue either through mediation or potentially arbitration instead of the open-ended statement, which could potentially drag the Fiscal Court into court to

fight over what a “reasonable amount of rent” means. Commissioner Rechlin stated that there is probably a formula out there for average office space rentals per square foot in Campbell County that could be used. Commissioner Otto noted that the formula might be available, but the upkeep and insurance should be taken into consideration. Mr. Horine asked if it helped to know that the Fiscal Court has had much the same situation with EGC for the last two years in that the Fiscal Court bought their building in 2003 and EGC has been paying the Fiscal Court of \$3,500 per month for a certain number of square feet at that location and they have been totally responsible for the repairs, maintenance and upkeep. He stated that this might become sort of a benchmark against which the Fiscal Court could apply, if it ever comes to this provision being exercised. Commissioner Hayden stated that it would be good if the Fiscal Court could use a benchmark like this for a period of two years, which will carry out for almost four years. Judge Pendery stated that he believes that rent would be pretty generous and the Fiscal Court may wind up paying less if it finds an index some place, noting that EGC has paid the Fiscal Court over \$100,000 for two years time. Mr. Horine confirmed that the Fiscal Court paid \$430,000 for the building and EGC has paid the Fiscal Court \$109,000 rent over the past two years. Commissioner Hayden stated he does not question the relationship that the Fiscal Court has had with EGC, but his concern is that EGC could change leadership any time. Judge Pendery stated that he would like to see this Resolution passed with the contingency that language will be inserted to better define the term “reasonable amount of rent.” There being no further discussion, all voted “AYE” and the motion passed unanimously to approve Resolution R-137-05, contingent upon language being inserted to better define “reasonable amount of rent.”

Judge Pendery then requested a report from the County Attorney’s office. Mr. Verst stated that he had nothing further to report, except to make a request that the Court enter into an Executive Session at the conclusion of the Fiscal Director’s report to discuss pending litigation.

Judge Pendery next requested reports from Commissioners. Commissioners Otto and Rechlin stated they had nothing further to report and wished everyone a Merry Christmas and safe and happy holidays. Commissioner Hayden stated he had nothing further to report.

Judge Pendery then announced that the annual Christmas Tree Lighting Program had to be cancelled due to inclement weather, and hopes that the tradition will continue next year. He also reported that the Criminal Justice Advisory Commission meeting of December 13 was well attended and more constructive suggestions were discussed at the meeting. He then reported that the check presentation by Senator Bunning for Rt. 9 funding did not take place due to Senator Bunning being in Washington.

Judge Pendery then requested a report from the Fiscal Director. Mr. Seibert presented Resolution R-157-05, which he read by title and provided a summary to the Court for its consideration. He stated that this Resolution approves the Campbell County Sheriff’s budget for calendar year 2006. Commissioner Rechlin made a motion and Commissioner Otto seconded, to approve Resolution R-157-05. Commissioner Hayden asked Mr. Seibert to explain the reason for the 5% increase in this budget. Mr. Seibert stated that generally the Sheriff’s Department will provide pay increases that are slightly above the average that County employees receive for the last three years of a term, because the first year of a new term they do not have any excess monies in their treasury and do not give raises in the first year of the term. For this reason, they tend to go 1 percentage point above the norm for the last three years of the term. Commissioner

Hayden asked is this would average approximately 4%, and Mr. Seibert confirmed that it would. There being no further discussion, all voted “AYE” and the motion passed unanimously.

Mr. Seibert presented Resolution R-158-05, which he read by title and provided a summary to the Court for its consideration. He stated that this Resolution approves the Campbell County Clerk’s budget for calendar year 2006, and that County Clerk Jack Snodgrass was present to answer any questions. Commissioner Rechtin made a motion and Judge Pendery seconded, to approve Resolution R-158-05. Commissioner Rechtin noted that there are decreases in the overall budget for the Clerk’s office. Mr. Snodgrass stated that the fees attributable to his office are decreasing very rapidly and they are down almost \$200,000 in these fees from last year, due to State decreases. Every time the legislature meets, they take away more ways of obtaining fees for the county clerks. Judge Pendery noted that the County Clerk’s office has not had an increase for 11 years. Mr. Snodgrass confirmed that the last fee increase was in 1994, and these are all set by statute. There being no further discussion, all voted “AYE” and the motion passed unanimously.

Mr. Seibert next requested approval of the Transfers being presented at this meeting. There being no further discussion, Judge Pendery made a motion and Commissioner Rechtin seconded, to approve the motion. All voted “AYE” and the motion passed unanimously.

Mr. Seibert then requested approval of the Claims being presented at this meeting. County Attorney Verst advised that he had reviewed the Claims and that they appeared to be appropriate. Commissioner Otto made a motion that the Claims be approved, and Commissioner Rechtin seconded the motion. There being no further discussion, all voted “AYE” and the motion passed unanimously.

Judge Pendery then stated that it was in order for the Court to enter into Executive Session. County Attorney Verst requested a motion to enter into Executive Session per KRS 61.810(1)(c) to discuss pending litigation. Commissioner Rechtin made a motion, seconded by Commissioner Otto, to enter into Executive Session. There being no further discussion, all voted “AYE” and the motion passed unanimously. The Court then entered into Executive Session.

At the conclusion of the Executive Session, Ms. Williams requested a motion to exit the Executive Session. Commissioner Rechtin made a motion, seconded by Commissioner Hayden, to exit the session. There being no further discussion, all voted “AYE” and the motion passed unanimously.

Judge Pendery then stated that no action would be taken as a result of the Executive Session.

There being no further business to come before the meeting, it was moved by Commissioner Rechtin, seconded by Judge Pendery, that the meeting be adjourned. All voted “AYE” and the meeting was adjourned at 6:40 p.m.

Attachments:

Ordinance O-17-05: Update of Official Road List

Resolution R-137-05: Development Agreement for Fiscal Court Property

Resolution R-157-05: Approval of 2006 County Sheriff’s Budget

Resolution R-158-05: Approval of 2006 County Clerk's Budget

Resolution R-159-05: Donation of Parcel to Fiscal Court

Transfers: December 21, 2005

Claims: December 21, 2005

December 21, 2005 (Supplemental)

December 21, 2005 (Election Claims)

Approved:

/s/ Steve Pendery

STEVE PENDERY

Campbell County Judge/Executive

Attest:

/s/ Sandra L. Mulligan

Sandra L. Mulligan

Fiscal Court Clerk