

**CAMPBELL COUNTY FISCAL COURT
MINUTES**

November 17, 2010

A regular meeting of the Campbell County Fiscal Court was held on Wednesday, November 17, 2010, at 5:30 p.m. at the Fiscal Court Chambers, 1098 Monmouth Street, Newport, Kentucky. In attendance were:

COUNTY JUDGE/EXECUTIVE
STEVE PENDERY

COUNTY COMMISSIONERS
DAVID OTTO
KENNETH RECHTIN
MARK HAYDEN

Robert Horine	County Administrator
Melissa Williams	Director of Administration
James Daley	County Attorney
Paula Spicer	Fiscal Court Clerk
Colonel Keith Hill	Chief, Campbell County Police Department
Peter Klear	Planning and Zoning Director
David Plummer	Solid Waste Coordinator
Naguanda Deaton	Human Resources Director

The meeting was called to order at 5:30 p.m. by Judge Pendery.

Judge Pendery asked for a moment of silence, followed by the Pledge of Allegiance. Following roll call, a quorum was declared present. Cable Access was present to film the meeting.

Minutes from the Fiscal Court meeting held on October 20, 2010 were presented by Judge Pendery. Motion was made by Commissioner Rechtin, seconded by Commissioner Hayden to approve the minutes. All voted "AYE" and the motion passed.

Judge Pendery called on Rhonda Whitaker, Duke Energy, to make her presentation. On behalf of Duke Energy and the Duke Energy Foundation, Ms. Whitaker presented a check to the Fiscal Court in the amount of \$19,700 for an iPad Pilot Program. The intent of this program is to eliminate paper waste generated by the local meeting process by replacing paper copies with electronic meeting packets. Ms. Whitaker explained that the grant will cover the purchase of the iPads, necessary software and training. A similar project was conducted in Kenton County Schools and with a municipality in Ohio.

There being no old business, Melissa Williams presented new business beginning with Ordinance O-11-10 which was read by title and summary given. O-11-10 amends the text of the official Zoning Ordinance for unincorporated Campbell County, Article X General Regulations, adding a new Section 10.28 ACD – Agricultural Cluster Development Overlay Zone. This amendment was reviewed and approved by the Campbell County and Municipal Planning and

Zoning Commission and is presented for a first reading only. The purpose of the ACD Overlay Zone is to preserve land used for agriculture through a method of land planning and design that allows for the clustering of a limited amount of detached, single-family residential units along with the creation of a conservation easement to retain a significant portion of the land for agricultural production and use. Judge Pendery explained that under Kentucky law, ordinances must be introduced with a first reading and after a period of time which allows for public comment, a second reading will be scheduled with the vote taking place at the second reading. The purpose of two readings is to give people notice so that they can comment.

Ordinance O-12-10 was read by title and summary given. O-12-10 prohibits smoking in public buildings, establishments in public buildings and places of employment. This is a first reading of the ordinance. Judge Pendery announced that the complete text of the ordinance is on the County's website and copies are available in the meeting room. He stated that over 50 people have signed up to speak about this ordinance. Judge Pendery stated that he will call the names in the order that they appear on the sign-in sheet, and stated that it would be best if people did not repeat what has already been said. By way of background, Judge Pendery explained that about three years ago the Fiscal Court started hearing from people about smoking regulations as more of these kinds of regulations were being promulgated around the country particularly after the U.S. Surgeon General entered a finding that second hand smoke was dangerous. He stated that about 80% of the U.S. population is covered by some type of smoking regulation; over half of the states have state regulations governing smoking in the workplace, restaurants and bars. The Fiscal Court is reluctant to take up this issue; however it needs to be addressed.

The following persons spoke in opposition to the proposed smoking ordinance:

John Decker, resides near Claryville

Lloyd Rogers, resident of and Councilman for Alexandria

Jim Cline, owner of Clines On the River in Campbell County

Lynda Farley, Edmonton, Kentucky,

Sheila Beatty, a bar owner in rural Campbell County

Frank Mazzei, owner of Pompilio's restaurant, Newport

Larry Robinson, resident of Cold Spring

J R Roth, resident of Campbell County

Erik Hermes, resident of Campbell County

John and Kathy Caulfield, owners of Knotty Pine on the Bayou restaurant and bar, unincorporated Campbell County

Julie Harmon, owner of two bars in Campbell County

Pat Carroll, President of Buckeye Liquor Permit Holders Association

Gary Anthonissey, owner of two bars/grills in Newport and Wilder

Clay Deaton, owner of Sis's Restaurant, Newport

Tom Moreland, owner of a bar in Grant's Lick

Tom Murphy, resident of Cold Spring

Lois Miller, owner of Miller's Fill In, Bellevue

Denise Volz, owner of an establishment in Elsmere, Kentucky

Jennifer Sandhas, owner of Billie's Skyline Tavern, Highland Heights

Bill Rachford, resident of and Councilman for Alexandria

Cara Peluso, resident of Taylor Mill and co-owner of Mansion Hill Tavern, Newport

Ken Moellman, resident of Pendleton County

William Baxter, Anderson Township, Ohio, family-owned pinball/jukebox vending business

Dan Hull, resident of Alexandria
Don Hilker, resident of Southgate, owner of Southern Bowling Lanes, Alexandria
Kevin Gordon, resident of Wilder
Terry Connley, resident of Campbell County
Floyd Combs, resident of Newport
Linda Kinsella, owner of West Side Café, Newport

Some of the reasons given for opposing the smoking ordinance were that it would hurt small businesses such as bars, restaurants and bowling alleys, and it is an intrusion on individual rights and rights of business owners. Some business owners stated that the number of customers from Ohio has increased since Ohio's smoking ban was enacted. They want to cater to their customers' wishes and since the majority of customers smoke, they allow smoking. They believe that a smoking ban will cause them to lose customers. They also expressed concern about the cost and effectiveness of enforcement. Lloyd Rogers and Bill Rachford, Councilmen for the City of Alexandria, advised that Alexandria passed a resolution opposing the adoption of any smoking ban. Mr. Rogers presented a copy of the resolution to the Fiscal Court.

The following persons spoke in favor of adopting the proposed smoking ordinance:

Maggie Blankenship, resident of Boone County
Betsy Janes, American Lung Association
Jennifer Mason, resident of California
Kathy Nafus, resident of Edgewood, Kentucky
Stephanie Vogel, resident of Boone County
Michele Noe, resident of Newport
Clint Ibole, resident of Highland Heights
Erin Paul, resident of Kentucky
Michelle Eversole
Bob Clements, President, Northern Kentucky Chapter of American Heart Association
Rita Hauke, resident of Independence, Kentucky
Sarah Kerckmar
Amy Able
Eric Evans, American Cancer Society
Cara Stewart, resident of Covington, Kentucky, employed in Campbell County
Jenny Beene-Skuban resident of Southgate
Linda Vogelpohl
Peter Cabrel resident of Ft. Thomas
Jeremy Engel MD, resident of Cincinnati, Ohio, with a medical practice in Bellevue, Kentucky

Persons speaking in support of the smoking ordinance cited the detrimental health effects of smoking and of breathing second-hand smoke. They also pointed out that steps need to be taken to protect the health of employees in establishments that allow smoking. Seatbelt laws and food safety laws were cited as examples where government has taken action to protect the public health.

Other persons who spoke regarding the proposed smoking ordinance were: John Berns, a resident of Ft. Wright who has worked in sales and service of the heating, ventilating, air conditioning business for 30 years, reported that the American Society of Heating, Refrigeration and Air Conditioning Engineers which sets the standards for indoor air quality found that a

ventilation system does not eliminate the health dangers posed by second-hand smoke. Barbara Weber, a member of the Alexandria City Council, stated that the City considered this issue a few years ago and adopted legislation providing for the posting of notices on businesses. Bill Inlow, a resident of Highland Heights, identified three factions involved in this issue and suggested that some type of compromise be worked-out. Chris Flowers pointed out that some Ohio bars/restaurants' business is thriving after the smoking ban was enacted in Ohio.

Tim Nolan stated that it was ironic that the Fiscal Court is so concerned about second hand smoke affecting people, yet holds a meeting in a room crammed with people, and the room capacity is not posted anywhere. With the amount of people here, he thought that they would cancel the meeting or move the people. Mr. Nolan then asked if notice of this meeting was put in the newspaper. He asked that the record reflect that this is an illegal meeting and wasn't properly noticed. Mr. Nolan asked about cities opting-out of the non-smoking ordinance if they choose to. Jim Daley stated that if there is an ordinance that applies county-wide and has a fine, it has to cover the entire county. Commissioner Otto and Mr. Nolan then exchanged comments about a personal issue.

Judge Pendery expressed his appreciation for the large attendance at this meeting and for the input that was given on the proposed smoking regulations. This was a first reading, therefore no action was taken.

Ms. Williams proceeded with new business with Resolution R-126-10 which was read by title and summary given. R-126-10 authorizes the County Judge/Executive to execute an agreement with Duke Energy for a street light at Backus Drive and US 27. Ms. Williams explained that Backus Drive is a County-maintained road which abuts US 27 and is a very dark area. The cost of the street light is \$1,580.02 for installation, and \$8.75 per month to operate. Commissioner Rechtin made a motion to adopt R-126-10, seconded by Commissioner Hayden. All voted "AYE" and the motion passed.

Resolution R-127-10 was read by title and summary given. R-127-10 authorizes the Judge/Executive to execute a service agreement with Integrated Protection Services (IPS) for testing and inspection of the fire alarm and fire sprinkler system located at 1098 Monmouth Street, Newport, Kentucky. This agreement is for a one-year period at an annual cost of \$920.00. Commissioner Rechtin made a motion to adopt R-127-10, seconded by Judge Pendery. All voted "AYE" and the motion passed.

A motion was requested to appoint Taunya Saner to the position of Part Time Animal Technician at the Campbell County Animal Shelter with compensation set at Grade 6E (\$10.41/hr) effective November 17, 2010. Ms. Williams advised that the person hired previously to fill this position did not work out. Motion was made by Judge Pendery, seconded by Commissioner Rechtin. All voted "AYE" and the motion passed.

Robert Horine presented Resolution R-128-10 by title and summary given. R-128-10 relates to a recovery zone for purposes of Sections 1400U-1, 1400U-2 and 1400U-3 of the Internal Revenue Code of 1986, as amended. Mr. Horine explained that in June 2009 the US Treasury issued to counties across the nation, an allocation capacity to be able to issue economic development bonds or facility bonds to spur the economy. This program did not get much use nationally and it expires on December 31, 2010. Sanitation District 1 intends to issue bonds in December, and

the use of this allocation will reduce the interest rate on the bonds, resulting in a significant savings to rate payers. Mr. Horine stated that this resolution authorizes the transfer of Campbell County's economic development bond allocation to the Sanitation District; Boone County has already transferred its allocation to the Sanitation District. Commissioner Rechlin made a motion to adopt R-128-10, seconded by Judge Pendery. All voted "AYE" and the motion passed.

Judge Pendery announced that the quarterly Campbell County Mayors' meeting was held on Tuesday, November 16, 2010.

In the absence of Jim Seibert, Fiscal Director, Ms. Williams presented the Fiscal report.

A motion was requested to award a bid for janitorial services for the 1098 Monmouth Street facility to NSG Inc. for \$34,560 annually. NSG was the best bidder and their bid reflects a \$6,540 savings from last year's contract. Six companies submitted bids, and NSG was the lowest and best bid received. Motion was made by Judge Pendery, seconded by Commissioner Rechlin. Commissioner Otto noted that NSG is from Cincinnati, Ohio. The Fiscal Court usually takes the best bid and they are doing so even though there was one bid from a Campbell County company. All voted "AYE" and the motion passed.

Ms. Williams then requested a motion to approve the claims and election claims as presented for November 17, 2010. County Attorney Jim Daley stated that he has reviewed the claims and all appear appropriate. Motion was made by Commissioner Otto, seconded by Commissioner Hayden. All voted "AYE" and the motion passed.

There being no further business to come before the Fiscal Court, Commissioner Otto made a motion to adjourn, seconded by Commissioner Hayden. All voted "AYE" and the meeting adjourned at 8:42 p.m.

Attachments:

Ordinance O-11-10 Amend the Text of the Official Zoning Ordinance
Ordinance O-12-10 Smoking Regulations
Resolution R-126-10 Agreement with Duke Energy for Installation of Street Lights
Resolution R-127-10 Service Agreement for Fire Alarm System Inspection and Testing
Resolution R-128-10 Recovery Zone Economic Development Bonds
Claims and Election Claims of November 17, 2010

Approved:

STEVE PENDERY
Campbell County Judge/Executive

Attest:

Paula K. Spicer
Fiscal Court Clerk