

**CAMPBELL COUNTY FISCAL COURT
MINUTES**

November 19, 2008

A regular meeting of the Campbell County Fiscal Court was held on Wednesday, November 19, 2008, at 5:30 p.m. at the Fiscal Court offices, 24 West Fourth Street, Newport, Kentucky.

In attendance at the meeting were:

COUNTY JUDGE/EXECUTIVE:
STEVE PENDERY

COUNTY COMMISSIONERS:
KENNETH L. RECHTIN
DAVE OTTO
MARK T. HAYDEN

Robert Horine	County Administrator
Melissa Williams	Director of Administration
Jim Seibert	Director of Fiscal Affairs
Col. Keith Hill	Chief, Campbell County Police Department
Ken Knipper	Director of OEM
Justin Verst	County Attorney
Paula K. Spicer	Fiscal Court Clerk
Naguanda Deaton	Director of Human Resources
John Austin	Government Relations Manager & Senior Policy Analyst

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

Judge Pendery called for a moment of silence followed by the Pledge of Allegiance. Following roll call, a quorum was declared present.

Minutes from the Fiscal Court Meeting held on November 5, 2008, and the Mayor's Meeting held on October 28, 2008, were presented by Judge Pendery. Motion was made by Commissioner Rechtin, seconded by Commissioner Otto, to approve the minutes. All voted "AYE" and the motion passed unanimously.

Judge Pendery invited the guests to speak. Mr. Lloyd Rogers asked if the Fiscal Director could provide him with copies of the profit and loss for the park and separately for the golf course for the last three fiscal years. Jim Siebert advised that the park is not a separate entity. Mr. Rogers asked if Mr. Siebert would call him when the copies are ready.

Old Business was presented next. Melissa Williams read O-10-08 for second reading and passage consideration. It was read by title and summary given by title. This ordinance amends O-09-07 and updates the Official List of County Roads in Campbell County, Kentucky that will be controlled and maintained by the Campbell County Fiscal Court to add Kramer and Charlotte Drives to the Official List. Judge Pendery thanked the residents for their cooperation and communication during the improvement process. Mr. Herman "Buck" Siebert thanked the Fiscal Court on behalf of the residents of Kramer Drive, and advised that they were sealing seams on Charlotte Drive today. He asked, on behalf of the residents, if the County would now remove snow on these two streets. Mr. Siebert then asked if a resident on one of these streets wishes to sell their house, how can they prove that the road has been taken care of. He was advised that the streets will go on the County maintained roads list immediately. Commissioner Rehtin stated that the positive thing that came from this is that now they can move ahead on other private roads if other people want to. Judge Pendery stated that this was a pioneering effort, not only in Campbell County, but in Northern Kentucky. Commissioner Rehtin made a motion to adopt O-10-08, seconded by Commissioner Hayden. All voted "AYE" and the motion passed unanimously.

Ms. Williams then presented for a first reading, Ordinance O-12-08 which was read by title and summary given. This Ordinance enacts and adopts Supplement 2008 S-18 to the Code of Ordinances of the County of Campbell, Kentucky. The supplement codifies the ordinances adopted by the Fiscal Court from January 1, 2008 through June 30, 2008. This is a first reading only.

Resolution R-119-08 was read by title and summary given. This resolution authorizes the Judge/Executive to enter into an agreement with Duke Energy regarding street lighting along US 27 in southern Campbell County. Ms. Williams stated that she first brought this to the Fiscal Court in May regarding installation of street lights at the intersections along US 27 in the unincorporated area in the newly widened area. Staff has been working with Duke Energy since that time to finalize the Agreement. Commissioner Rehtin made a motion to adopt R-119-08, seconded by Commissioner Otto. All voted "AYE" and the motion passed unanimously.

Resolution R-116-08 was read by title and summary given. R-116-08 authorizes the Judge/Executive to execute a Contract with the Campbell County Firefighters Educational Association (CCFFEA) for funding during FY 2009. There is no change from the 2008 contract. Commissioner Otto made a motion to adopt R-116-08, seconded by Judge Pendery. All voted "AYE" and the motion passed unanimously.

Personnel items were presented by Ms. Williams. Resolution R-120-08 was read by title and summary given. This resolution amends the County Administrative Code, Authorized Position List and Organizational Chart reflecting a change in title for the Information Technology Manager to Information Technology Director. Judge Pendery made a motion to adopt R-120-08, seconded by Commissioner Otto. Judge Pendery, and Commissioners Otto and Hayden voted "AYE", Commissioner Rehtin voted "NAY", and the motion was passed.

Ms. Williams requested a motion to increase the compensation of Brett Ruschman, IT Director from Grade 16P (\$77,980.00) to Grade 17O (\$84,531.00) to more accurately compensate for

duties and responsibilities of said position. Judge Pendery made the motion, seconded by Commissioner Hayden. Judge Pendery, and Commissioners Otto and Hayden voted “AYE”, Commissioner Rehtin voted “NAY”, and the motion was passed.

The last personnel item was a request for a motion to appoint Timothy Hartig to the position of Road Foreman in the Campbell County Transportation Department, with compensation set at Grade 14K (\$55,827.00 annually) effective December 1, 2008. This position was open due to the pending retirement of Bruce Siry in December 2008. Judge Pendery made the motion, seconded by Commissioner Rehtin. All voted “AYE” and the motion passed unanimously.

Ms. Williams requested a motion to reappoint Steve Pendery to the Ohio-Kentucky-Indiana Council of Governments for a one year term effective January 8, 2009, through January 8, 2010, and reappoint Melissa Williams as his alternate. Judge Pendery made the motion, seconded by Commissioner Rehtin. All voted “AYE” and the motion passed unanimously.

The County Administrator’s Report was next on the agenda. Robert Horine presented Resolution R-117-08 was read by title and summary given. This resolution authorizes the payment of claims for the Campbell County Homebuyer Program payable from Community Development Block Grant. Mr. Horine explained that two more homes have been sold under the program: 621 Saratoga Street and 203 West Eighth Street, Newport. A total of 13 homes have been sold. Commissioner Rehtin made a motion to adopt R-117-08, seconded by Commissioner Otto. All voted “AYE” and the motion passed unanimously.

Resolution R-118-08 was read by title and summary given. This resolution authorizes the Judge/Executive to execute agreements with H. C. Nutting Company and CDS Associates, Inc. to design, bid, and administer construction of a pier wall on Covert Run Pike. The source of funds for the project is Emergency Road Aid from Kentucky Transportation Cabinet. Mr. Horine explained that the previously authorized geotechnical study resulted in a recommendation for the construction of a pier wall to stabilize the roadway. Commissioner Otto made a motion to adopt R-118-08, seconded by Commissioner Rehtin. All voted “AYE” and the motion passed unanimously.

Judge Pendery announced that the Campbell County Criminal Justice Advisory Committee (CJAC) will meet on Tuesday, November 25, 2008, at Noon at the Newport Peace Bell.

Jim Seibert, Fiscal Director, presented his report. Resolution R-115-08 was read by title and summary given. This resolution approves a contract for leasing a postage machine from Neopost, Inc. for a term of 63 months at a cost of \$214.50 per month. The new postage meter is needed to comply with the Post Office’s conversion to a digital format. Commissioner Rehtin made a motion to adopt R-115-08, seconded by Commissioner Otto. All voted “AYE” and the motion passed unanimously.

Mr. Seibert read O-11-08 for second reading and passage consideration. It was read by title and summary given by title. This ordinance amends Ordinance O-05-08 relating to the annual budget and tax rates for 2008 to set the 2008 property tax rate. Tim Nolan, private citizen, stated that he read notice of this ordinance in the Campbell County Recorder about 6 days ago, was it

advertised any where else. Robert Horine answered that the notice was advertised in the Kentucky Enquirer 7 days prior to this meeting. Judge Pendery explained that the County has to use the Enquirer at times because the timing of the Recorder doesn't always work out; they publish on Thursday and the Fiscal Court meets on Wednesday. He further stated that the rate set is 4%.

Judge Pendery read the statute governing recall petitions. He stated that the interpretation clearly has to be that the County can collect no tax until it either resets the rate or an election is held. The next possibility for an election is 2010, so they must do what they are doing tonight or they wouldn't be able to collect any property taxes. He stated that there was a legislative vote to abolish a tax in Campbell County which has brought them to this point. Uniquely in the State of Kentucky the tax was paid only by people in the north end of the county, and because of the way that the legislature handled it, the responsibility and cost of the courthouse commission were shifted to the Fiscal Court. In an effort to cover those costs the property tax rate was set in September. The added amount was actually less than what the Courthouse Commission was collecting. About 2/3 of the people in the County would have gotten a tax decrease, and 1/3 of the people would have gotten a slight increase of about \$6.00. Unfortunately even though taxpayers overall would have been paying less this year, the fact is that the revenue would have been new to the County which made it subject to recall by petition. The County has learned that the petition signatures were validated. The law requires that if it is to collect any property taxes a new rate must be set. The end result is that the Fiscal Court is saddled with an unfunded mandate that is going to cost \$450,000 in the coming year. There are collateral effects as well, 90% of the money collected on the so-called county tax bill goes to other jurisdictions, which have had to wait while this issue was resolved; only 10% goes to the Fiscal Court. He apologized to those jurisdictions who have had to do without their tax money for a time due to this controversy. The printing of the tax bills has been authorized and the Fiscal Court has done its best to take timely action.

Commissioner Hayden asked what would be the effect of not being able to collect property taxes until the 2010 election. Robert Horine stated that property taxes are the second largest source of revenue for the County – roughly \$5 million per year. The County's general fund budget is around \$27 million per year.

Tim Nolan asked if that was the opinion of the County Attorney, and if the County had sought an opinion from the Attorney General. He has heard that they can collect normal taxes without having to wait for a vote. Justin Verst, County Attorney, stated that the ordinance is clear in that the entire ordinance is suspended, it does not say a portion of the ordinance or base amount. The Attorney General's office was not contacted. Mr. Nolan stated that when the extra taxes were proposed, there were statements in the paper that if it wasn't passed there would be dire consequences such as police layoffs and roads not being taken care of. With the passage of this new ordinance, will there be such consequences. Judge Pendery stated that his point was not to say that they would lay off police or not handle road work, but rather to establish that there would be a consequence. The Fiscal Court will decide given a range of priorities, what will happen, and they haven't gotten into it yet. Each year the County plans for certain revenue, but it doesn't always materialize. The action of the legislature costs not only this money for the Courthouse Commission, but they also decided after the legislative session administratively to

release felons all over the state and Campbell County was about 75 people short in the jail to handle this. Other people make decisions over the course of the year and after the County has set its budget and collected taxes, that affect the County.

Tim Nolan stated that he was critical of the Fiscal Court for buying property in the south end of the County to add to the park for \$600,000, but has since learned that possibly they had to do it because of property being taken by the state. Was that decision optional or did they have money that was paid by the state and they had not much of a choice. Judge Pendery stated that there were a variety of things that entered into the decision to purchase the property. The state did pay the County for a parcel for the park and there were covenants with the land that it had to be reinvested in the park property. In the meantime, the spillway area outside the dam is on the property that was bought which should have been included in the original park. Mr. Nolan stated that he found out certain things after his criticism of the Fiscal Court and he wanted to apologize; upon further review the purchase was a wise and necessary decision.

Lloyd Rogers asked why the Fiscal Court should have to pay for the PVA office if it is a state office. Justin Verst stated that this is not the proper forum for discussion as it may be part of pending litigation or related matters.

Ken Rechten stated that the Fiscal Court is lacking some revenue and the challenge is to ask the people who did the damage to come together to restore the funding. He stated that Senator Stine and Representative Keene should meet with representatives of the Fiscal Court to see if there is a reasonable way to do that. The damage has been done by removing the Courthouse Commission or removing the funding mechanism and putting the burden solely on the Fiscal Court. Mr. Nolan stated that he has some ideas of how the Fiscal Court could save at least \$2 million next year.

Judge Pendery made a motion to adopt O-11-08, seconded by Commissioner Otto. All voted "AYE" and the motion passed unanimously.

Mr. Seibert then requested a motion to approve the claims as presented for November 19, 2008 and the November 19, 2008 Election Claims. County Attorney Justin Verst stated that he 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 Judge Pendery. All voted "AYE" and the meeting adjourned at 5:55 p.m.

Attachments:

- O-10-08 Updates official list of County Roads adding Kramer & Charlotte Drives
- R-119-08 Authorize Outdoor Lighting Service Agreement with Duke Energy
- R-116-08 Authorize contract with Campbell County Firefighters Educational Association
- R-120-08 Amend job title in IT Department
- R-117-08 Payment of Claims for Campbell County Homebuyer Program

R-118-08 Authorize agreements for Covert Run Pike pier wall
R-115-08 Authorize lease of postage meter from Neopost
O-11-08 Amend O-05-08 relating to annual budget and tax rate for 2008
Claims of November 19, 2008 and November 19, 2008 Election Claims

Approved:

STEVE PENDERY
Campbell County Judge/Executive

Attest:

PAULA K. SPICER
Fiscal Court Clerk