

**CAMPBELL COUNTY FISCAL COURT
MINUTES**

January 5, 2005

A regular meeting of the Campbell County Fiscal Court was held on Wednesday, January 5, 2005, at 7:00 p.m., at the Campbell County Courthouse, 8352 East Main Street, Alexandria, Kentucky.

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

In attendance at the meeting were:

COUNTY JUDGE/EXECUTIVE:
STEVE PENDERY

COUNTY COMMISSIONERS:
DAVID OTTO
KENNETH RECHTIN

Commissioner William Verst was absent.

Justin Verst	County Attorney
Robert Horine	County Administrator
Jim Seibert	Fiscal Affairs Director
Keith Hill	Chief, Campbell County Police Department
Greg Buckler	Campbell County Jailer
Pat Dressman	Human Services Director
Melissa Williams	Administration Director
Sandra Mulligan	Fiscal Court Clerk

Judge Pendery presented the minutes from the Fiscal Court meeting of December 15, 2004. It was moved by Commissioner Otto and seconded by Commissioner Rechtin that the minutes of December 15, 2004 be approved. All voted "AYE" and the motion passed unanimously.

Judge Pendery then asked if there were any citizens or public officials present who wished to address the Court. Mr. Tom Schomaker, the newly appointed Acting Chief District Engineer for Kentucky Transportation Cabinet District 6, addressed the Court. Mr. Schomaker stated he was present to present to the Court a Memorandum of Agreement between the Court and the Cabinet in the amount of \$143,000 to be used for resurfacing needs in the County. Judge Pendery congratulated Mr. Schomaker on his appointment, noting Mr. Schomaker's citizenship of Campbell County and stating that there is nothing more important in local government than transportation. Judge Pendery thanked Mr. Schomaker and the Cabinet for the award of the

funds and stated that Mr. Schomaker's job is pivotal and important to the Court's job and the welfare of the citizens of Campbell County.

Judge Pendery then requested items of Old Business be brought before the Court. Ms. Williams stated that the first order of Old Business was a second reading of Ordinance O-28-04, which she read by title and provided a summary to the Court for its consideration. She explained that this Ordinance adopts Supplement 2004 S-10 to the Code of Ordinances of Campbell County. The Supplement codifies Ordinances that were adopted from January 1, 2004 through June 30, 2004. There being no further discussion, Commissioner Rechtin made a motion and Commissioner Otto seconded, to approve Ordinance O-28-04. All voted "AYE" and the motion passed unanimously.

Judge Pendery next requested items of New Business be brought before the Court. Ms. Williams advised that the first order of New Business was consideration of a motion to acknowledge a Proclamation for the Northern Kentucky Homebuilders Association, honoring the Association on its 50th Anniversary. This is a joint Proclamation with Boone and Kenton Counties and will be presented at their Homebuilders Ball on January 8, 2005. 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.

Ms. Williams next presented Resolution R-01-05, 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 enter into an Agreement with the Campbell County Extension Center for 2005 for mowing and trimming services at the Environmental Center, located at A.J. Jolly Park, and at Lakeside Commons Park, located in Highland Heights, Ky. She noted that Dennis Reller, Recreation Manager, and D.J. Scully from the Extension Service, are recommending the renewal of this Agreement. There being no further discussion, Commissioner Otto made a motion and Commissioner Rechtin seconded to approve Resolution R-01-05. All voted "AYE" and the motion passed unanimously.

Ms. Williams next presented Resolution R-04-05, which she read by title and provided a summary to the Court for its consideration. She stated that this Resolution requests that the Kentucky Transportation Cabinet transfer ownership and the adjacent right-of-way of the Grandview Connector Road located between Kentucky 9 and Grandview Road to Campbell County. This section was transferred to the County in 1991, but the actual ownership or right-of-way was not deeded to the County. In negotiations with the Highway Department and the City of Alexandria earlier this year, the City of Alexandria agreed to annex that area, and take over ownership and maintenance to make improvements for the new school that will be constructed. There being no further discussion, Commissioner Rechtin made a motion and Commissioner Otto seconded to approve Resolution R-04-05. A roll call vote was taken as follows: Commissioner Otto – AYE; Commissioner Rechtin – AYE; Judge Pendery – AYE. Commissioner Verst was absent. The motion passed unanimously.

Ms. Williams then presented Resolution R-05-05, 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 an Agreement with the Kentucky Transportation Cabinet, which allows the County to accept discretionary funds to be used for resurfacing Tippenhauer Road and

Nine Mile Road. There being no further discussion, Commissioner Rechlin made a motion and Commissioner Otto seconded to approve Resolution R-05-05. A roll call vote was taken as follows: Commissioner Otto – AYE; Commissioner Rechlin – AYE; Judge Pendery – AYE. Commissioner Verst was absent. The motion passed unanimously.

Ms. Williams then called on Pat Dressman, Human Services Director, to give an update on the new Fitness/Wellness facility at the Senior Center in Highland Heights. Ms. Dressman stated that the new facility is completed and is awesome. She noted that the senior citizens in Campbell County are extremely happy that the Fiscal Court has allowed the development of the facility. Amy Roberto has been hired as Fitness Coordinator, and has been working diligently in getting packets out to the senior citizens in Campbell County to make them aware of the facility and its uses. Senior citizens who want to participate at the facility will need to have their doctor's permission and present their medical history on their first visit. Northern Kentucky University is partnering in this endeavor, by allowing students to do practicum as trainers at the facility. Ms. Dressman stated that prevention is a key to senior citizens' health, and their participation at the facility will help to keep their hospital bills down, keep them in better shape, and keep them generally in better health. She noted that an open house for the public would be held on January 19, 2005 from 9:00 a.m. to 3:00 p.m., with the ribbon-cutting ceremony at 11:00 a.m. Commissioner Otto requested Ms. Dressman detail some of the equipment that has been installed at the facility. Ms. Dressman reported that there are two new step-climbers, one treadmill, one arch, five pneumatic strength-building machines, and one stretch rack. There is also a massage room, which will employ three massage therapists. There will be room for at least 20 senior citizens to be working out at one time. The rear section of the room will have free exercises going on with tapes being used on a wide screen television. She also noted that the view from the new room is absolutely beautiful with the lake, gazebo and new landscaping being seen.

Judge Pendery thanked Ms. Dressman for the update and thanked everyone who contributed to the successful completion of this project.

Ms. Williams next requested a motion to authorize the Campbell County Police Merit Board to begin the testing process to fill the vacancies in the ranks of Assistant Chief, Lieutenant and Sergeant with the Campbell County Police Department. There being no further discussion, Commissioner Otto made a motion and Commissioner Rechlin seconded, to approve the motion. All voted "AYE" and the motion passed unanimously.

Judge Pendery next requested reports from Staff. County Administrator, Robert Horine, reported that there has been a matter reported in the newspapers recently affecting Campbell County, that being the County's occupational tax that has been in place since 1978. He noted that this is a matter that representatives of the County will be bringing to the attention of the members of the Kentucky General Assembly as they begin their 2005 session, and it is a matter that does need a legislative solution. In 1978, the voters of Campbell County approved an occupational license fee of up to 1% for all individual income and business net profits earned in the County. At that time, the only way such a tax could be imposed was with voter approval. There are only two counties in the State that enacted such a tax, being Campbell and Kenton. One of the reasons the tax was enacted was to pay for public transit. At the time, the Green Line Bus Company was going out of business and it was necessary to generate revenues to subsidize public transit, and the occupational tax was approved. This Court and the Courts previous have acted very

responsibly pursuant to this approval. They could have imposed the tax at 1% in 1978, but they imposed the tax over the years only to the level required to generate revenues needed for essential services. The tax started out in 1978 at 0.4% and the income that was taxed was capped at \$25,000. Over time, it has been necessary to increase that rate and today the tax stands at 0.9% and income is taxed only on the first \$37,905 of income earned in any one year, which still keeps the County below the authorization that the voters gave in 1978. In 1986, this particular law that allowed for this tax was changed by the General Assembly to allow counties to enact the fees without voter approval. The General Assembly was recognizing at the time that the counties had a need to generate revenues to pay for necessary services and they made the process easier to enact this type of tax. In doing so, they decided at that time to establish additional restrictions on those counties that would choose to go this route, and one of those restrictions was a requirement that city license fees that might already be in place be allowed to be taken as a credit against county license fees. The expectation at that time from everyone involved was that that law change in 1986 applied only to those taxes that were enacted in the future. On November 18, 2004, the Supreme Court of Kentucky rendered a ruling on a case involving Kenton County and an increase that they enacted to their occupational tax in year 2000. The Supreme Court ruled that that tax was subject to crediting by the city taxes. The Supreme Court then went further and concluded that any increases in the tax since 1986 are subject to crediting by city occupational license fees. That creates a particular problem for Campbell County, because there have been increases to the occupational license fee in Campbell County since 1986. The effect of having to credit the county tax by the city taxes back to 1986 would be to remove millions of dollars from the ongoing revenue stream that is needed to provide services to the citizens and taxpayers of Campbell County. This was an unintended consequence of the legislation that was passed in 1986 and it would result in a significant reduction of service delivery by Campbell County if that revenue stream were lost. In particular, it would be impossible to continue to subsidize public transit services in this area. That transit service is provided by the Transit Authority of Northern Kentucky, and would need to be eliminated. This matter can be addressed by action of the General Assembly and County representatives will continue to meet with the Assembly as they get into the 2005 session. This legislative solution is being sought so that the status quo that has existed in Campbell County since 1978 can continue and that the revenues needed to deliver services to the taxpayers and citizens can be maintained. This is a very serious issue facing not only Campbell County, but all of Northern Kentucky.

Judge Pendery thanked Mr. Horine for his report, noting it was a great synopsis of a very complicated-sounding issue, but the bottom line is that the taxpayers approved this in 1978 and the politicians, between that day and this, have not used the authority it was granted almost 27 years ago. To the uninitiated, this may sound like the legal people or government types are complaining, but the payroll tax is by far the largest source of revenue that Campbell County has. It brings in over \$7 million per year, while the general fund budget is around \$12-\$13 million. The crippling effect of this would be to remove approximately \$4 million from this revenue stream. All of the property taxes that everyone in Campbell County pays to the Fiscal Court is less than \$4 million. The loss of revenue each year going forward would be more than that on this payroll tax interpretation if it is not corrected. There would also be the question of refunds – if there is not a legislative solution to this issue, the Fiscal Court would be in a position where it may have to issue refunds to those who sought them. Judge Pendery stated he hopes that the legislature fixes this problem, because the cumulative liability after this many years truly would break the County financially, which is not an exaggeration, but apocalyptic.

County Attorney Justin Verst stated that both Mr. Horine and Judge Pendery gave very good summaries of the problems and the legal decision rendered by the Supreme Court. He encouraged all Campbell County citizens who may be concerned about the decrease in services, whether it be transit services or any other service that the County provides, to contact their State legislators and express their concerns to them and indicate that they want this matter addressed in this legislative session that is ongoing.

Commissioner Otto stated that he had recently read a letter to the editor in the newspaper that stated there was an illegal tax in Campbell County. When this decision came down by the Supreme Court, and the County found out the reasoning behind it, it seemed odd to him that as elected officials, the full 1% was not taken back in 1976. Had this happened, the County would now be awash in revenues, but the County chose not to do that to its citizens. The effect of this on the County is so dramatic, it is hard to fathom. He also encouraged citizens to contact their State legislators and make sure they help this County out with the legislation it needs. The County is in dire straits with this ruling.

Commissioner Rechten stated that he was concerned about the way this all came about. The initial needs of Kenton County to fund their jail was the initial cause of this issue. It all comes back to the burden that county elected officials have in maintaining incarceration systems for the State and funding those is quite a heavy burden for the counties. He also stated that to see the cooperation that Judge Pendery has elicited from Alexandria, from Newport and other cities in Campbell County who are in support and recognize the need for funding for county services, and he hopes that that same type of cooperation can spill across the river and find cooperation between the cities and the counties over there so that there is support from the city level for the fix that needs to be placed. Anything that we can do to encourage the cities to get on Board to help support the County's efforts to correct this is important.

Judge Pendery thanked Mr. Verst and the Commissioners for their comments, asking if anyone had additional comments.

County Attorney Verst stated he had nothing further to report.

Commissioner Otto stated there is not a lot of good news between the payroll tax and the burden that the State has been imposing on the counties for the incarceration of inmates. This is becoming a tragedy for Campbell County. The County is now subsidizing the jail to a tune of \$1.8 million. This is real dollars that could be given to Senior Citizen programs, real dollars that could be used to asphalt our roads, real dollars that could be used to properly man the Police Department with equipment and personnel, real dollars that could be used to assist our Health & Welfare department, and many other things that the County could be doing with those funds. The County's current administration building is run down to the point where it is ready to fall apart, and a new one is needed desperately in order to consolidate services to make services available to the citizens. If the County did not have to subsidize the jail with \$1.8 million every year, it could be going to fund these services, and provide more soccer fields, more baseball fields, and more recreation programs. It is just incredible what this County is spending on the jail, the housing of inmates, and the medical expenses. Last month alone, the County spent over \$58,000 to have CAT scans, x-rays, chemotherapy treatments, and operations on inmates. One

inmate, who is a convicted child molester, needed an operation, which cost the County \$22,000. There are citizens in Campbell County who have a need for services, but yet they cannot be provided them. If you go to jail, you seem to have the best health care system in Campbell County, and probably the whole country, because the service is being paid for by the taxpayers. Commissioner Otto stated he would truly encourage a petition drive to make sure that our legislators know that the citizens of not only Campbell County, but every county in this State, are getting the shaft as far as their tax dollars go. This County sends money to Frankfort and the County gets a pittance back. There is a State law that says that the State has to pick up every dollar over \$2,000 of medical expenses for a State inmate. The legislators have funded that law with \$450,000. The County is lucky if it gets \$.05 to \$.10 on the dollar back. The State is not performing their duties on a State law. They do not pay what they are supposed to. This County needs to get on its legislators, in particular, Sen. Katie Stine, encouraging them to get some relief for the taxpayers of Campbell County. Commissioner Otto noted that on the agenda for this meeting, there is an item to consider the renovation of a well-needed kitchen and laundry facility at the jail at a cost of \$800,000. He wondered how many everyday citizens of Campbell County wouldn't like to have just 1% of that amount to upgrade their kitchens. He feels it is time we get into some serious talks to get this issue resolved. There are services not being provided to the citizens of Campbell County, and it is the State's fault.

Judge Pendery stated that a citizen can get the impression that this is just a matter of who pays; the State versus the local government. If that were the case, a citizen could be forgiven for thinking that either wants to spend the money the way they see fit. That is not what is going on here. It is not just a matter of whether the State spends the money on the inmates, or whether the County does. The fact of the matter is that more money gets spent on the inmates than should be spent because the State doesn't feel the financial pain of the burden. They have pushed this burden on the County, and because the State doesn't feel the pain of the additional expense that is caused, they are not as interested in spending the money on the solutions. There is a disconnect between the incentives on the one hand, and the choices people make to make the whole thing less expensive. The County has all the disincentive, but none of the power to do anything about it. If the State felt the pain, they could do things like hire more judges and prosecutors and have more testing labs and parole and probation people, so that criminals are moved through the system faster. It is not just a matter of the expense of incarceration, it is the length of time it takes them to get to the point when they are sentenced and convicted. When the justice process takes too long, we all pay for it. It is the State that is going to need to spend the money as they have complete command of the Court system. The County cannot do anything about the process to move the inmates through the system. The bottom line is that it is not just a struggle over who is going to pay, it is the fact that the taxpayers are paying more than they should for the whole thing because of the inefficiencies of dealing with the system.

Commissioner Otto gave an example dealing with the subject of lab service for inmates. If a person is arrested and housed in the Campbell County Jail, and contraband is found, that contraband has to be sent to the State lab so it can be tested to make sure that it is indeed contraband. The State labs are so backed up that people are literally sitting in jail for sometimes up to 6 months before they even get sentenced. This again is at taxpayer expense. The County has to pay for these inmates' housing up until the day they are sentenced and then the State will reimburse the County. He wonders how anyone would feel if they spent that much time in jail,

and then were acquitted. The State is shirking its duties in not providing the proper instruments that the County needs to do business.

Commissioner Rehtin stated he believes there is some glimmer of hope to be found. He congratulated Dennis Keene on his election and inauguration to the State House. He stated that Representative Keene was recently on the Pat Crowley show and said that he is currently working with LRC to improve the jail situation. Commissioner Rehtin talked with Representative Keene about this issue. Commissioner Rehtin stated that the County needs a couple of fixes, probably a funding fix first, but then a comprehensive look at the whole system. Similar to the Kentucky Education Reform Act, we need a Kentucky Corrections Reform Act that will look into funding, the legislative changes that need to be made, and potentially look at constitutional changes that need to be made. He suggested that a blue ribbon panel do a quick funding solution for this current year and look for a comprehensive solution for next year that encompasses all of this and will take into consideration things such as if we should be incarcerating people who have additions to alcohol and drugs, or should we be working on a rehab solution. The Governor announced that he is hoping to build ten new facilities throughout the State for rehab, and that is commendable. We need to make sure that people in our jails have opportunities for that treatment as well. This is a complex situation that will probably take a blue ribbon panel a good six months of surveying to work out the necessary solutions. Commissioner Rehtin also stated that Campbell County has one of the best jailers in the State of Kentucky in Greg Buckler, and with the resources that Mr. Buckler has and the limited capacity that the County can give him, he does a very commendable job with the overcrowding and all the other constraints that he has.

Judge Pendery announced that the Campbell County Solid Waste group will be sponsoring a Christmas tree mulching program again this year from January 1 through January 15, 2005. Citizens can take their trees to one of the eight sites throughout the County. Reno Deaton, Solid Waste Manager, is coordinating the program with the cities. Sites are in Alexandria, Dayton, Ft. Thomas, Highland Heights, Silver Grove, Newport and Southgate.

Judge Pendery then gave a brief update on the recent Joint Fiscal Courts meeting among Boone, Kenton and Campbell Counties. He noted that the issues and problems that affect this Fiscal Court are common across Northern Kentucky, so that occasionally the three Fiscal Courts in Northern Kentucky will get together and discuss subject of mutual interest and will sometimes invite the Legislative Caucus from Northern Kentucky. The recent meeting included that Legislative Caucus, and the lead issue was the payroll tax matter, which was discussed at the meeting. Also discussed were jail issues in the three counties. He believes there was a good reception from the Legislative Caucus at this meeting, and they will be in Frankfort in the coming weeks hopefully attempting to relieve some of the pressures facing the County.

Judge Pendery then asked for a report from the Fiscal Director. Mr. Seibert requested that the first item on the Fiscal Director's agenda be tabled. The item was to accept a bid for replacing the restroom facility at A.J. Jolly Park, Private One. He stated that because of the illness of one of the key personnel involved, the Fiscal Department needed additional time to look the bids over and make a recommendation.

Mr. Seibert then requested a motion to solicit bids for the kitchen and laundry renovation/addition at the secure detention facility. There being no further discussion, Commissioner Otto made a motion and Commissioner Rehtin seconded, to approve the motion. All voted "AYE" and the motion passed unanimously.

Mr. Seibert next acknowledged for the minutes that Bonds were in place for various elected officials and staff for 2005, as required by Kentucky Revised Statutes.

Mr. Seibert then presented Resolution R-02-05, which he read by title and provided a summary to the Court for its consideration. He stated that this Resolution sets the 2005 fee structure for A.J. Jolly Golf Course, as recommended by Terry Jolly, Golf Pro. He noted that a review of fees around Northern Kentucky golf courses was done, and a slight increase is being recommended in the fees for A.J. Jolly Golf Course. Commissioner Rehtin noted that the increased fees are still less than other courses in the area. Judge Pendery stated that these fees are a great deal, given the fact that A.J. Jolly's course is a mature course. There being no further discussion, Commissioner Rehtin made a motion and Commissioner Otto seconded, to approve Resolution R-02-05. All voted "AYE," and the motion passed unanimously.

Mr. Seibert next presented Resolution R-03-05, which he read by title and provided a summary to the Court for its consideration. He stated that this Resolution acknowledges and authorizes the Judge/Executive to execute updated Interlocal Agreements with the Cities of Alexandria, Cold Spring, Highland Heights, Melbourne, Southgate, and Woodlawn for the unified collection of Business License Fees and Occupational Taxes. Our tax department has been working on these agreements for some time, much of the negotiation being brought about by language that needed to be changed, and also adding assistance to the cities in the collection of these taxes. He noted that Linda Eads, Manager of the Occupational Tax Unit, is recommending the Court adopt this Resolution. There being no further discussion, Commissioner Rehtin made a motion and Commissioner Otto seconded, to approve Resolution R-03-05. All voted "AYE," and the motion passed unanimously.

Judge Pendery commended Ms. Eads and the other members of the tax department for their work on these agreements. He stated that this is a multi-year project that involves the process of centralizing the collection of payroll and license fees. When the County gets to the end of this process and have drawn in all of the cities in the County, so that there is a completely unified system, it will be a much simpler process for business owners to account and pay for these taxes.

Mr. Seibert then requested approval of the Claims being presented at this meeting. Mr. Verst stated that he had reviewed the claims and that they appeared to be appropriate. There being no further discussion, Commissioner Otto made a motion that the claims be approved and paid. Commissioner Rehtin seconded the motion. All voted "AYE" and the motion passed unanimously.

There being no further business to come before the meeting, it was moved by Commissioner Rehtin, seconded by Commissioner Otto, that the meeting be adjourned. All voted "AYE" and the meeting was adjourned at 7:52 p.m.

Attachments:

Proclamation: Recognition of Home Builders Association of Northern Kentucky
Ordinance O-28-04: Adoption of Supplement 2004 S-10 to Code of Ordinances
Resolution R-01-05: Agreement for Mowing and Trimming Services at the Environmental Center and Lakeside Commons Park
Resolution R-02-05: Approval of 2005 Rates for A.J. Jolly Golf Course
Resolution R-03-05: Authorization of Interlocal Agreements with Cities for Collection of Business License Fees and Occupational Taxes
Resolution R-04-05: Request for Kentucky Transportation Cabinet to Transfer Ownership of Roads and Adjacent Right-of-Way
Resolution R-05-05: Agreement to Accept Discretionary Funds for Resurfacing of Roads
Claims: January 5, 2005
January 5, 2005 (Supplemental – Emergency Shelter Grant)
January 5, 2005 (Supplemental)

Approved:

/s/ Steve Pendery

STEVE PENDERY

Campbell County Judge/Executive

Attest:

/s/ Sandra L. Mulligan

Sandra L. Mulligan

Fiscal Court Clerk