

**CAMPBELL COUNTY FISCAL COURT
MINUTES**

SEPTEMBER 2, 2020

A special meeting of the Campbell County Fiscal Court was held on Wednesday, September 2, 2020 at 5:30p.m. at the Campbell County Administration Building, Fiscal Court Chambers, 1098 Monmouth Street, Newport, Kentucky.

In attendance at the regular meeting were:

COUNTY JUDGE/EXECUTIVE
STEVE PENDERY
COUNTY COMMISSIONERS
GEOFF BESECKER
TOM LAMPE
BRIAN PAINTER

Assistant County Attorney Tom Edge,
County Administrator Matt Elberfeld,
Fiscal Court Clerk Paula Spicer,
Police Chief Craig Sorrell,
Assistant County Administrator Kim Serra,
Planning and Zoning Director Cindy Minter

The meeting was called to order at 5:30 p.m. by Judge Pendery. Cable access was present to film the meeting. The meeting was also broadcast live on the Fiscal Court Facebook Page.

Judge Pendery asked for a moment of silence followed by the Pledge of Allegiance.

Following roll call, a quorum was declared present.

Minutes from the Fiscal Court regular meeting of August 19, 2020 were presented. Commissioner Painter made a motion to approve the minutes, seconded by Commissioner Besecker. All voted "AYE" and the motion passed.

Judge Pendery administered the Oath of Office to Police Officers Amber Conrad and Philip Harney who will be serving as School Resource Officers at Grants Lick Elementary School and Riley Elementary School respectively.

Judge Pendery then read a Citation and presented it to Police Sergeant Nick Heiert in recognition of his Facebook Live internet show. Sergeant Heiert created the show during the COVID-19 pandemic and shutdown in an effort to entertain and lighten the mood of Campbell County residents. Sergeant Heiert was humbled by the recognition, thanked the Fiscal Court and stated that since he is back on first shift he would start up the show again as time allows – it has been fun for him.

Upon looking at the sign-up sheet, Judge Pendery determined that all who had signed in to address the Fiscal Court wished to talk about the Parkside zoning map amendment.

Paula Spicer read Ordinance O-10-20 by title. O-10-20 updates the official zoning map for unincorporated Campbell County to include a Residential Cluster Development Overlay (RCD) Zone to be overlaid on the existing Residential-1C (R-1C) Zone for a portion of the Parkside III development in Campbell County, Kentucky.

Tom Edge reminded the Fiscal Court of its role in this matter. The Fiscal Court is here to prevent substantial errors in the determination of processes. They are limited in scope to reviewing the actual ordinance based on the record of the Planning Commission hearing. Comments are allowed at this meeting, but the Fiscal Court is limited on what it can consider.

Judge Pendery proceeded to call on those who had signed in to speak.

Tim Theissen, Attorney for Sun Valley Real Estate the developer, introduced Joe Kramer of Cardinal Engineering, Jason Finch of Fischer Homes and Tom Munninghoff of Sun Valley. He stated that the legal standard is whether the application is in conformance with the Comprehensive Plan that was adopted by the County. The Planning Commission found that it was in conformance with the Plan after a 5+ hour meeting. The Planning Commission recommended a series of conditions and the developer has agreed to comply with all conditions. They are present to answer any questions.

Joe Kramer and Tom Munninghoff had signed in but neither had any comments.

Brian Tiemeier thanked the court for allowing him to speak and for the time and attention that they have given this matter. He reminded the Court of several facts about Sun Valley: (1) they have not met the minimum open space requirements for an RCD per the County's Subdivision Regulations, (2) they have not publicly provided the organizational and financial viability of the HOA as required by the Subdivision Regulations, (3) they have not proven that soil erosion concerns have been addressed, (4) they based their request for an RCD zoning change on the fact that paired patio homes were not offered during the original zoning, and (5) Sun Valley and Fischer Homes proposed the RCD overlay over the entire newly opened future section of the Reserves of Parkside and planned the paired patio homes in two distinctive areas. He stated that in the proposed RCD zone change, there is nothing to prevent Fischer Homes from placing a paired-patio home on a single-family lot. He added that Sun Valley has not met the minimum requirements of the County's regulations and the Court is responsible for upholding those regulations. The Planning & Zoning Commission staff recommended that the zoning change not be approved. Mr. Tiemeier stated that Sun Valley's lawyer claims that the proposed RCD zoning change is in the best interest of Campbell County, however Sun Valley is requesting it in its own best interest with complete disregard to the current residents of Parkside. The residents are relying on the elected officials to be their voice.

Dave Fillhardt acknowledged that Mr. Munninghoff and Mr. McDonald prior to 1997 had a dream to build a wonderful community like Mayberry where the citizens walked up and down the streets and talked while doing yard work. He recalled that Mr. McDonald would visit on Sundays and walk the neighborhood and talk to people. People bought into it and when he

moved there he felt at home. He described how the residents meet their neighbors and help them when needed. If an HOA is there for the condominiums or whatever they are and people don't have to mow their lawns or clear snow, how are they supposed to meet their neighbors. He stated that this is a community that cares about each other. Now they will put people in who don't want to mow their own grass and who obviously don't want to be part of the community or talk to their neighbors. He and other residents bought into the dream with their money, hearts and hard work and now its all going to change and they will have to sell their homes and move.

Don Wells recalled the well-attended meeting last winter for the zoning map amendment which resulted in the application being withdrawn in the face of the staff's recommendation that it not be approved. There were about half as many people at the recent Planning Commission meeting and now there are a few left because money wears everybody down. Everything is about greed/money, not about people. He referred to the report of Planning and Zoning staff and the comprehensive plan that counsel would say ties the Court's hands because the proposal is consistent with the comprehensive plan. The comprehensive plan was surreptitiously changed with this kind of thing in mind. He is sure that when the comprehensive plan was changed in 2015 nobody thought about the implications. If you looked at the proposal which staff twice recommended disapproval of, you will see that they are going to put four-families on a lot that heretofore was a one-family. It is all about money. He suggested that if the Fiscal Court is not arbitrary and capricious, it can deny this and let the developer challenge it in court. He pointed out that Ms. Minter recommended that this not be approved and he does not know why the Planning Commission approved it in the face of her recommendation. Mr. Wells requested that the Fiscal Court deny the proposed amendment.

Mr. Elberfeld then read into the record email comments from Cecil and Jane Begley, 11008 Hayfield Drive and Greg Maggard, 1244 Parkside Drive in opposition to the proposed zone change. He stated that an email was also received from Dave Fillhardt and asked Mr. Fillhardt if he would like to have it read into the record. Mr. Fillhardt stated that it was not necessary.

Judge Pendery asked if Messrs. Theissen, Kramer or Munninghoff wish to address some of the things that had been said.

Mr. Theissen stated that all of the things that the Fiscal Court heard were discussed and dealt with at the Planning Commission meeting. The allegations that the open space requirements have not been met are simply not true. The Planning Commission found that this development complies with the regulations regarding open space requirements. The comments about soil erosion and flooding – don't really affect the zoning decision they are compliance issues. Mr. Wells noted the fact that there were changes in the Comprehensive Plan which went through the proper process. That is the essential decision on a zone change – does this proposal comply with the terms of the comprehensive plan. In this case it clearly does. There was a comment about a second entrance. That was talked about back in the winter and a second entrance has been added.

Joe Kramer clarified that the proposal is for two-family not four-family units. At the last meeting the difference between duplexes and paired patio homes was explained. The allegation that Fischer could potentially expand this over the rest of the single-family space is not true. One of the conditions in the zoning map prohibits paired patio homes outside the shaded areas on the

plan. There are two shaded areas on the plan and those are the only areas where these can be built. The main differences in this plan and the previous one is the addition of the access point and that the reconfigured access allowed two additional units. That is the total change of the plan from last fall. Regarding clearing and open space, nothing about the plan changes except for the access point. Mr. Kramer stated that if it is not approved, they would continue building single-family homes with one access point, the clearing and road stay the same. The paired patio product has roughly the same footprint as a lot of the single-family homes, so there is no need to revise the plan or do more or less clearing.

Cindy Minter recapped that this is very similar, but not the exact same case as presented last November. The case was brought back to the Planning Commission with a revised plan which included a second access point on Woeste Road. The Planning Commission had a very extensive meeting. She is comfortable that the Planning Commission thoroughly vetted all features. Although she initially recommended denying the application, they went through it in detail and made the right decision based on the facts. They also added conditions that the developer agreed to. The Planning Commission was cognizant of the concerns of the citizens as well as the facts in the comprehensive plan and the related documentation. She then read the conditions as contained in Ordinance O-10-20. Ms. Minter stated that she feels comfortable with the Planning Commission's decision with the addition of the conditions.

Judge Pendery stated that it sounds like Ms. Minter went to the meeting with grave reservations and they were addressed through the added conditions which is what got approved. In fact, the plan was modified to address Ms. Minter's concerns. Mr. Edge reminded the Court that they are looking at the ordinance based on the findings of the Planning Commission. The Fiscal Court's decision is regulated to the findings of fact, conclusions of law and the record presented before the Planning Commission hearing. Judge Pendery stated that once Ms. Minter's reservations were expressed, the developer voluntarily reworked the plan and came back with an alternative. Ms. Minter again had some reservations, but the Planning Commission negotiated conditions for the plan to address some of her concerns so that she is comfortable with it. He stated that it sounds like the Planning Commission took this very seriously, negotiated short comings and then voted unanimously in support of it. Judge Pendery then made a motion to approve the judgment of the Planning Commission and adopt O-10-20, seconded by Commissioner Lampe. All voted "Aye" and the motion passed.

Judge Pendery asked Ms. Spicer to proceed with new business.

Resolution R-61-20 was read by title. R-61-20 approves submission to the Kentucky Transportation Cabinet, Rural Secondary Road Program for use of flex funds on County Roads 1325 (Blangey Road), 1235 (Visalia Road) and 1316 (Dodsworth Road). Commissioner Painter made a motion to adopt R-61-20, seconded by Commissioner Lampe. All voted "Aye" and the motion passed.

Resolution R-62-20 was read by title. R-62-20 authorizes the removal or relocation of abandoned graves at the First Poorhouse Cemetery, US 27, Alexandria, Campbell County, Kentucky. Judge Pendery made a motion to adopt R-62-20, seconded by Commissioner Painter. Mr. Edge called on Jeannine Kreinbrink of K&V Cultural Resources Management LLC who has assisted with this request. In order to ensure substantial compliance with the statutory provisions

regarding this action, he asked Ms. Kreinbrink how she determined that the site was abandoned and not used for the past ten years, about the advertisement seeking information and direct descendants of persons buried there. Ms. Kreinbrink advised that she spoke to 89-year old June Neltner (who grew up on the property) who told her that it was abandoned as long as she can remember and was never visited. She explained the involvement of the Campbell County Historical Society and assistance provided by them. Ms. Kreinbrink went on to explain that the property was sold to the County in 1831 and the Poorhouse was established on the site. The County then sold the property to a private owner in 1857 and it has essentially been abandoned since then. Commissioner Painter pointed out that the resolution allows K&V to disinter and then put any remains into another Campbell County cemetery. Ms. Kreinbrink stated that any remains will likely be reinterred at Evergreen Cemetery by Linnemann Funeral Home. Mr. Edge added that this is governed by a unique statute in that it is a County issue even though the site is located in the City of Alexandria. All voted “Aye” and the motion passed.

Resolution R-63-20 was read by title. R-63-20 authorizes the Judge/Executive to execute a contract with the Kentucky Transportation Cabinet, Office of Highway Safety for FY21 Highway Safety Grant funds in the amount of \$27,420 for the contract year October 1, 2020 through September 30, 2021. Commissioner Lampe made a motion to adopt R-63-20, seconded by Commissioner Painter. All voted “Aye” and the motion passed.

A motion was requested to appoint Gerald Pombles to a vacant seasonal Parks and Recreation Maintenance Worker position effective September 3, 2020 with compensation set at \$11.10 per hour. Motion was made by Judge Pendery, seconded by Commissioner Lampe. All voted “Aye” and the motion passed.

A motion was requested to adopt employee pay rates for FY 2021 in accordance with the list attached to the Executive Order effective July 5, 2020 for employees represented by AFSCME. This order is a correction to the action taken at the June 17, 2020 Fiscal Court meeting. Motion was made by Judge Pendery, seconded by Commissioner Lampe. All voted “Aye” and the motion passed.

A motion was requested to enter into contracts with Mark Dill, Amber Conrad, Amanda Donelan and Philip Harney to serve as School Resource Officers for the 2020-2021 school year in accordance with their respective contracts. Motion was made by Judge Pendery, seconded by Commissioner Lampe. All voted “Aye” and the motion passed.

A motion was requested to reappoint Joe Cottingham to the Northern Kentucky Area Development District (NKADD) as a citizen representative of Campbell County for a three-year term effective September 19, 2002 through September 18, 2023. Motion was made by Judge Pendery, seconded by Commissioner Lampe. All voted “Aye” and the motion passed.

For the final item of new business, Judge Pendery made a motion to appoint Paul Johnson to the vacant property owner’s seat on the Campbell County Fire District 1 Board of Trustees for a four-year term effective October 1, 2020 through September 30, 2024. The motion was seconded by Commissioner Lampe. All voted “Aye” and the motion passed.

Neither the County Administrator nor the Assistant County Attorney had a report for the meeting.

Commissioner Besecker reported that he spent some time last week on a conference call with Kentucky Wired and other elected officials from around the state. They are trying to find money to get the last mile done to get broadband to people. It is a slow process. There is new technology that they reported on that will hopefully move the project along more quickly.

Commissioner Besecker advised that he talked to Randy Carpenter, regional director for the US Census, this past week. He announced that if anybody in eastern Campbell County has not yet completed the census, tomorrow they can go to the Silver Grove firehouse between 12 and 4pm where workers will assist them in completing the form. By the end of September, census workers will be going door-to-door throughout the region. He asked that people welcome them and complete the census questionnaire if they haven't done so. Presently, eastern Campbell has a 50% completion rate which is pretty low. There are many benefits to the region associated with the census count.

Commissioner Lampe thanked the residents that attended tonight's meeting and for their input. The tough part of the commissioners' job is having a room full of people expressing their desires and the commissioners voting the opposite of what they were hoping for. He also thanked the Planning Commission for its valuable work on behalf of the citizens of Campbell County; they put in a lot of work and time in their efforts, as well as the Planning and Zoning Department, Cindy Minter and her staff. Also, the County Attorney's office who has been a resource throughout the process. He acknowledged that it didn't go the way that some of the attendees wanted, but it is part of the job as a commissioner and he hopes that the end result is good for the County.

Commissioner Painter reported that he spent some time with Parks and Recreation staff on Sunday and they are such good folks dealing with adversity from COVID-19. The Park continues to improve and there is great staff. A new shelter was built this year adding to the Park's many amenities. Unfortunately, the three music festivals could not be held this year due to the pandemic but they try to improve the facility every year, like using grant funds to improve the walkways. He echoed Commissioner Lampe's appreciation of all of the people who attended tonight's meeting, those at home who were part of the process and staff.

Commissioner Painter stated that he sits on the Cooperative Extension Board and this week the Board authorized the rebuilding of the bridges and wooden walkways at the Environmental Center. This facility is a great asset to the County.

Judge Pendery announced that Campbell County has hosted a picnic for its senior citizens for the last 52 years. Due to uncertainties surrounding COVID-19 it is not possible this year. However, the County would like to recognize its senior citizens by hosting a drive-thru picnic lunch for Campbell County residents age 60 and older on September 23, 2020 at the Campbell County Senior Center. The lunch is free of charge however participants must register no later than September 9. More information on registration can be found on the County's website or by calling the Senior Center.

Matt Elberfeld presented the Finance Director/Treasurer's Report by requesting a motion to authorize staff to advertise for bids to resurface and patch the following County roads in the spring of FY21 using flex funds: Blangey Road, Visalia Road and Dodsworth Road. These are the same roads that the Fiscal Court approved earlier in the meeting to apply for flex funds. Bidding the project is the first step. Motion was made by Commissioner Painter, seconded by Commissioner Besecker. All voted "Aye" and the motion passed.

A motion was requested to approve the interfund transfers dated August 31, 2020. Motion was made by Commissioner Painter, seconded by Judge Pendery. All voted "Aye" And the motion passed.

A motion was requested to approve budget transfers dated August 31, 2020. Mr. Elberfeld explained that the transfers do not increase the overall budget they only reallocate certain funds. Motion was made by Commissioner Painter, seconded by Judge Pendery. All voted "Aye" and the motion passed.

Mr. Elberfeld then requested a motion to approve the claims and claims per standing order dated August 26, 28, September 1 and 2, 2020. Assistant County Attorney Tom Edge advised that the County Attorney has reviewed the claims and determined that they all appear appropriate. Commissioner Painter made a motion to approve the claims, seconded by Judge Pendery. Commissioner Lampe agreed with the claims' approval, however he recused himself from approving any claims related to employee benefits due to his employer's relationship. All voted "Aye" and the motion passed.

There being no further business to come before the Fiscal Court, Commissioner Painter made a motion to adjourn, seconded by Commissioner Lampe. All voted "AYE" and the meeting adjourned at 6:49 p.m.

Attachments:

Ordinance O-10-20 Zoning Map Amendment RCD Overlay
Resolution R-61-20 Request to KY Transportation Cabinet for Use of Flex Funds
Resolution R-62-20 Authorize Removal/Relocation of Abandoned Graves
Resolution R-63-20 Contract for Highway Safety Grant Funds
Interfund Transfers dated August 31, 2020
Budget Transfers dated August 31, 2020
Claims and Claims Paid Per Standing Order dated August 26, 28, September 1 and 2, 2020

Approved:

STEVE PENDERY
Judge/Executive

Attest:

Paula K. Spicer, Fiscal Court Clerk