

**CAMPBELL COUNTY FISCAL COURT
MINUTES**

February 16, 2011

A special meeting (time of regular meeting changed) of the Campbell County Fiscal Court was held on Wednesday, February 16, 2011, 7:00 p.m. at the Campbell County Fiscal Court Chambers at 1098 Monmouth Street, Newport, Kentucky.

Preceding the opening of the Fiscal Court meeting, a public hearing was held at 6:45 p.m. for the purpose of receiving public comments on the application for a Recreational Trails Grant. Present at the hearing were:

Steve Pendery, Campbell County Judge Executive
Pete Garrett, County Commissioner
Brian Painter, County Commissioner
Kenneth Rechtin, County Commissioner
Steve Franzen, County Attorney
Robert Horine, County Administrator
Paula Spicer, Fiscal Court Clerk
Jim Seibert, Director of Fiscal Affairs
Colonel Keith Hill, Campbell County Police Department
Peter Klear, Director of Planning and Zoning
David Plummer, Solid Waste Coordinator

David Plummer opened the public hearing on the application to the Kentucky Department of Local Government Recreational Trails Program Grant. Mr. Plummer gave an overview of the development of the County's recreational trails and the 2002 Recreation Master Plan. He explained how the project, estimated to cost \$64,000 will be funded. Mr. Plummer addressed questions from the audience regarding fees for use of the trails, maintenance and environmental assessment of the project area. There being no further questions, the public hearing was closed at 6:58 p.m.

In attendance at the regular meeting were:

COUNTY JUDGE/EXECUTIVE:
STEVE PENDERY

COUNTY COMMISSIONERS:
PETE GARRETT
BRIAN PAINTER
KENNETH RECHTIN

Robert Horine	County Administrator
Steve Franzen	County Attorney
Jim Seibert	Fiscal Director
Paula Spicer	Fiscal Court Clerk

Keith Hill
Peter Klear
David Plummer

Police Chief
Director of Planning and Zoning
Solid Waste Coordinator

The meeting was called to order at 7:00 p.m. by Judge Pendery. Cable Access was present to film the meeting.

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 special meetings of January 25, 2011, January 31, 2011 and February 7, 2011, and the regular meeting of February 2, 2011 were presented. Motion was made by Commissioner Rehtin, seconded by Commissioner Painter to approve the minutes. All voted "AYE" and the motion passed.

Judge Pendery invited comments from the audience on any subject except smoking, which would be addressed later.

Erik Hermes, resident of Campbell County, stated that Kenton County Judge/Executive Arlinghaus has requested that an audit be performed on the Sanitation District No. 1 (SD1) prior to any rate increases. He asked if Judge Pendery would do the same. Judge Pendery stated that he would not request an audit and explained why he did not feel that it was necessary.

A member of the audience stated that today the Environmental Protection Agency (EPA) administrator refused to respond to inquiries about her testimony to the Senate that autism is a result of contaminated water. He stated that he believes that SD1 is feigning on this saying that they have to request an increase to satisfy EPA demands. Judge Pendery stated that SD1, along with 700 other communities in the country, is under a federal court order to comply with certain directives.

A member of the audience stated that there is a federal court order that "Obama Care" is unconstitutional but the President is ignoring it; so why can't we ignore federal court orders. Judge Pendery stated that there are costs associated with ignoring federal court orders. He stated that there are efforts underway on the state level and on the federal level to regulate mandates. Judge Pendery stated that there are jurisdictions in the United States that have incurred multi-million dollar fines and costs as a result of conflicts with the EPA.

Lloyd Rogers asked if elected officials were among the group that agreed to the consent decree. Judge Pendery confirmed that elected officials were consulted as part of the process. He stated that SD1 differs from other sanitation districts in the country by using less expensive water shed approach and green solutions to comply with the consent decree. Judge Pendery explained that all SD1 budget processes are overseen by the Judges/Executive, including budget requests made to comply with the federal consent decree.

JR Roth distributed copies of an MIT study regarding a different way of processing either paving or building methods in construction using life-cycle cost assessments. He requested that the Fiscal Court read the report and consider long-term goals when making improvements.

Kevin Gordon, resident of Wilder, stated that since he started attending the Fiscal Court meetings in December, he has discovered that Campbell County has some very interesting businesses and eating establishments. He named some of the businesses that he visited while seeking signatures for a petition.

Robert Horine presented old business beginning with a second reading of Ordinance O-03-11 by title and summary given. O-03-11 updates the official list of roads in Campbell County, Kentucky, that will be controlled and maintained by the Campbell County Fiscal Court, and amending Ordinance O-10-08, to add the following roads to said official list: Darlington Creek Drive, Walnut Creek Drive and Sycamore Creek Drive. Mr. Horine explained that these new roads were inspected and found to meet County standards. Commissioner Rechten made a motion to adopt O-03-11, seconded by Commissioner Garrett. All voted "AYE" and the motion passed.

Ordinance O-02-11 was read by title and summary given. O-02-11 relates to the repeal of Ordinance O-12-10 commonly known as the smoke-free ordinance. This was the second reading of the ordinance. Judge Penderly stated that this is the sixth consecutive standing-room-only meeting as a result of the smoking issue. He began to call the names of those that signed up to speak at the meeting. The following persons addressed the Fiscal Court: Dr. Kevin Miller, Dr. Robert Tracy, Mayor Jerry Peluso, Ken Moellman Sr., Kevin Gordon, Charlie Coleman, Ann Cormican, Erik Hermes, Gary Jeff Walker, Tom Murphy, James Bozman, Sheila Beatty, Eric Cranley, Ken Moellman Jr., Don Hilker, Dr. Dan Courtade, Jim Pfister, Larry Robinson, Bob Fleet, Tim Nolan, Pat Lucas, Linda Murphy, Keith Roberts, Kevin Sell, Jeff Kidwell, Sue Brooker, Courtney Jung, Joe Powers, Dennis Nafus, Kathy Nafus, Sarah White, Michael Wood, Jenny Beene-Skuban, John Rohrig, Jason Cox, JR Roth, Jennifer Mason, Sola Roberts, Erin Hall, Sara Kercksmar, Rita Hauke, Bailey Petty, Mayor Bill Rachford, Katy Cosse and Mike Manzi. Petitions containing additional signatures of individuals and businesses opposed to the smoking ban were presented. Opponents want the ban repealed stating that it will have a negative impact on businesses, it infringes on the rights of property owners and an individual's right to choose, and is akin to socialism. Proponents of the smoking ban urged the Fiscal Court to keep it in place stating that it may help attract businesses to the area, the fact that many diseases are associated with smoking and second hand smoke, and the Fiscal Court's responsibility to protect the public health.

Judge Penderly stated that the smoking issue first came before the Fiscal Court about 3 years ago. During that time the science on smoking has changed and has become widely accepted. There have been several reports issued by the Surgeon General regarding smoking related deaths and second hand smoke. Judge Penderly showed maps of the United States indicating states that have some sort of smoking regulations. Many of these regulations are the result of a public referendum. He presented statistics on lung related disease and death rates in Kentucky. Judge Penderly stated that if the comprehensive smoking ban is repealed he would favor a compromise allowing restaurants and bars that serve only individuals over the age of 21 to have smoking. That is the same ordinance that was passed by Kenton County.

Commissioner Garrett stated that he does not smoke and never has. He stated that this is only a Campbell County smoking ban, not the three-county ban that was originally proposed. He believes that some businesses will close as a result of the ban. Commissioner Garrett stated that

as a gun shop owner, he has been subject to local bans four times in the last 30 years, until the Commonwealth of Kentucky took over the regulation of gun shops in the early 1980's. After weighing all of the arguments and hearing the evidence, he will vote to repeal the smoking ban.

Commissioner Painter thanked everybody that came to speak at the meeting. He touched on three points: (1) liberty is valued above health and safety, (2) the feedback he received while campaigning is that government spends too much, is too intrusive and is generally out of control, and abortion should be banned, at that time a smoking ban was not an issue, and (3) the free market trend is toward more smoke free businesses and fewer people smoking. Commissioner Painter stated that he will vote to repeal the ban while continuing to look for ways to reduce smoking.

Commissioner Rehtin stated that a distinction needs to be made between public buildings and private buildings open for public business for purposes of this ordinance. He stated that government does have some responsibility to protect the public from unseen dangers and warn them of seen dangers. He suggested that the four counties in the health district enact legislation requiring any private space open for public use that permits smoking, to post a sign outside stating whether smoking is allowed in the establishment. Regarding the issue of worker safety, Commissioner Rehtin stated that during his terms as a city and county commissioner he has never been asked to enact a law to protect worker safety; there are agencies that are responsible for that. He stated that the best way to reduce smoking is to increase the cost of the product and the best way to do that is to increase the tax on the product. Commissioner Rehtin stated that he will vote to repeal the ban.

Judge Penderly requested a motion on the ordinance as read. Commissioner Garrett made a motion to adopt O-02-11, seconded by Commissioner Painter. Commissioners Rehtin, Garrett and Painter voted "AYE", Judge Penderly voted "NAY" and the ordinance passed.

Judge Penderly recessed the meeting at 9:48 p.m. The meeting reconvened at 10:00 p.m.

Resolution R-16-11 was read by title and summary given. R-16-11 accepts the Kentucky Highway Department's recommendations for the FY 2011-12 Rural Secondary Road Program, and approving submission for Flex Funds. Mr. Horine recalled that representatives from the Highway Department District Six attended the January 19, 2011 meeting to present their recommendations. The projects were reviewed by the County Road Supervisor who recommended that the projects submitted by District Six be accepted. This resolution also approves projects for use of \$126,242 in "flex funds" for resurfacing of County roads. Commissioner Rehtin made a motion to adopt R-16-11, seconded by Commissioner Garrett. All voted "AYE" and the motion passed.

Resolution R-12-11 was read by title and summary given. R-12-11 authorizes the Judge/Executive to apply for grant funding from the Recreational Trails Program for the construction of a multipurpose trail within A J Jolly Park. Commissioner Rehtin made a motion to adopt R-12-11, seconded by Judge Penderly. Commissioner Painter expressed some ideas that he had about the layout of the proposed trails and stated that he'd like to take a look at the Recreation Master Plan. Judge Penderly stated that input from the Fiscal Court is welcome and

that changes can be made as long as they follow the grant guidelines. All voted "AYE" and the motion passed.

Resolution R-13-11 was read by title and summary given. R-13-11 sets the 2011 Park opening and closing dates and camping dates for the Campbell County Park System. Mr. Horine explained that this year's dates are in line with the opening and closing dates for last year. Commissioner Rehtin made a motion to adopt R-13-11, seconded by Commissioner Garrett. All voted "AYE" and the motion passed.

Resolution R-14-11 was read by title and summary given. R-14-11 sets the 2011 fees for A J Jolly Park. Robert Horine advised that the fees are the same as last year's fees. Commissioner Garrett made a motion to adopt R-14-11, seconded by Commissioner Painter. All voted "AYE" and the motion passed.

Resolution R-15-11 was read by title and summary given. R-15-11 expresses support for HR 10, the Regulations From the Executive in Need of Scrutiny (REINS) Act introduced in the 112th Congress by Representative Geoff Davis. Mr. Horine explained that this bill introduced by Congressman Davis would require that Congress take an up-or-down vote on every new rule with an economic effect of at least \$100 million before it could be enforced on the American people and businesses. Commissioner Painter made a motion to adopt R-15-11, seconded by Commissioner Garrett. Commissioner Rehtin stated that he has read the Act and is not sure what the purpose of the Act is other than politics. He read aloud portions of the Act, stating that he does not agree with it; it is redundant and duplicative. Lloyd Rogers stated that several communities in Northern Kentucky have supported this Act. Commissioner Painter advised that he requested that this resolution be put on the agenda. He stated that that this Act may be complex like many federal regulations, however it is an attempt to restore some accountability. He used the current situation with SD1 as an example of why this is needed. Judge Penderly stated that he would hate to see the Fiscal Court feel obligated to take a stand on issues presented to them involving federal or state governments. However, this issue has become relevant because of efforts to get the EPA to pay attention to affordability as in the case of SD1. Commissioners Garrett and Painter and Judge Penderly voted "AYE", Commissioner Rehtin voted "NAY", and the motion passed.

Robert Horine requested that the Fiscal Court table the agenda item to authorize staff to advertise, interview and hire for the position of IT Director. Motion to table was made by Commissioner Painter, seconded by Judge Penderly. All voted "AYE" and the motion passed.

A motion was requested to appoint David Lusher as Acting Director of the IT Department on an emergency interim basis with compensation adjusted from Grade 11G (\$36,871.00 annually) to Grade 15A (\$48,458.00 annually), effective February 10, 2011. Motion was made by Judge Penderly, seconded by Commissioner Rehtin. All voted "AYE" and the motion passed.

A motion was requested to authorize staff to advertise, interview and hire for seasonal staff positions at the Campbell County Parks for six Maintenance Workers and five Camping and Concession Workers to work the 2011 park season. This is the same number of workers that were employed in the past. Motion was made by Judge Penderly, seconded by Commissioner Rehtin. All voted "AYE" and the motion passed.

A motion was requested to appoint Adam Caswell to serve as an alternate for Ken Rehtin on the Ohio-Kentucky-Indiana Regional Council of Governments effective February 16, 2011 through December 31, 2011. Motion was made by Judge Pendery, seconded by Commissioner Rehtin. All voted "AYE" and the motion passed.

A motion was requested to reappoint Robert Cooper and Roger Peterman to the Northern Kentucky Port Authority Board of Directors with a term effective March 1, 2011 through February 28, 2015. Motion was made by Judge Pendery, seconded by Commissioner Rehtin. Commissioner Rehtin requested a list of the Port Authority's assets and a copy of the superfund agreement regarding maintenance and access to a particular site. All voted "AYE" and the motion passed.

Commissioner Garrett stated that he will attend the Friday morning meeting for a while. Both Commissioners Rehtin and Painter stated that they would not attend.

Jim Seibert requested a motion to purchase two 72" Exmark mowers for the Recreation Department from the Kentucky State Contract at the cost of \$13,426.00 each for a total of \$26,852.00. Robert Horine explained that when this was first presented, the state contract price obtained was the 2010 price which was no longer valid. Since then they've received the 2011 price and also were told that the purchase order must be made to the manufacturer, but the delivery will be through Cottingham Hardware in Alexandria. Judge Pendery stated that this purchase will be made using the State contract price rather than going through the sealed bid process. Motion was made by Commissioner Rehtin, seconded by Commissioner Painter. All voted "AYE" and the motion passed.

A motion was requested to approve the budget transfers as presented for February 16, 2011. Motion was made by Commissioner Rehtin, seconded by Judge Pendery. All voted "AYE" and the motion passed.

Mr. Seibert then requested a motion to approve the claims and supplemental claims as presented for February 16, 2011. County Attorney Steve Franzen stated that he has reviewed the claims and all appear appropriate. Motion was made by Judge Pendery, seconded by Commissioner Rehtin. All voted "AYE" and the motion passed.

There being no further business to come before the Fiscal Court, Commissioner Rehtin made a motion to adjourn, seconded by Commissioner Garrett. All voted "AYE" and the meeting adjourned at 10:35 p.m.

Attachments:

- Ordinance O-03-11 Update List of County Maintained Roads
- Ordinance O-02-11 Repeal Ordinance O-12-10
- Resolution R-16-11 Projects Recommended for Rural Secondary Road Funds
- Resolution R-12-11 Application for Recreational Trail Program Grant
- Resolution R-13-11 2011 Campbell County Parks Opening and Closing Dates
- Resolution R-14-11 2011 Fees for A J Jolly Park
- Resolution R-15-11 Support HR 10 the REINS Act
- Transfers of February 16, 2011

Claims of February 16, 2011

Approved:

STEVE PENDERY
Judge/Executive

Attest:

Paula K. Spicer
Fiscal Court Clerk