CAMPBELL COUNTY FISCAL COURT
MINUTES

AUGUST 17, 2016

A regular meeting of the Campbell County Fiscal Court was held on Wednesday, August 17, 2016 at 5:30p.m. at the Campbell County Administration Building, Fiscal Court Chambers, 1098 Monmouth Street, Newport, Kentucky.

In attendance at the meeting were:

COUNTY JUDGE/EXECUTIVE
STEVE PENDERY

COUNTY COMMISSIONERS
CHARLIE COLEMAN
TOM LAMPE
BRIAN PAINTER

Steve Franzen	County Attorney
Matt Elberfeld	County Administrator
Kim Serra	Assistant County Administrator
Marie Schenkel	Finance Director
Paula Spicer	Fiscal Court Clerk
Cindy Minter	Director of Planning and Zoning
Frank Spataro	Human Resources Director
Seth Cutter	Economic Development Manager
Lieutenant Jeremy Newberry	Campbell County Police Department

The meeting was called to order at 5:30 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 regular meeting of August 3, 2016 were presented. Commissioner Painter made a motion to adopt the minutes, seconded by Judge Pendery. All voted "AYE" and the motion passed.

Judge Pendery invited comments from the public.

Erik Hermes, Campbell County resident, stated that he had sent email questions earlier this month, but did not receive a response. He stated that there is a vote scheduled at this meeting for an amendment to the R-RE Residential Rural Estate zone text. He asked Commissioner Painter if his home is zoned R-RE, if he could stand to benefit from the amendment, if it may be a conflict of interest and if he would recuse himself from voting on the amendment.

Commissioner Painter stated that it is not a conflict of interest and that he will vote on the ordinance.

Mr. Hermes stated that the current tax rate is 16.3 (he was corrected as the current rate is 16.2) and the proposed rate is 16.7. He asked Commissioner Lampe if that is a tax rate increase. Commissioner Lampe stated that the Fiscal Court proposes to take the compensating rate. He stated that it will be presented later in the meeting how they arrived at it and how it will affect the citizens.

Mr. Hermes then asked Commissioner Coleman the same question, is it a tax rate increase. Commissioner Coleman stated that it is. He then stated that he is glad that it will be explained later, because it's never been explained to him; he had nothing to do with it. His opinion was not asked for.

Mr. Hermes stated that about a week and one-half ago an undisclosed area of Campbell County was sprayed with insecticide for the Zika virus. He asked Judge Pendery if he was informed of it. Judge Pendery stated that he was informed on Friday night before the spraying, as was the Mayor of Alexandria and the Mayor of another community where the spraying occurred. He explained that the State of Kentucky did the spraying and normally doesn't notify anybody except the Health Department of the spraying. The Health Department took it upon themselves to notify the lead elected officials in the neighborhoods to be sprayed. The product sprayed is called Duet and has been used successfully and safely all over the United States for decades. Judge Pendery said that he took no action because he was satisfied that the proper people had been notified. Commissioner Coleman stated that Mayor Rachford, who was out of town, was notified by email and didn't know about it until Monday. He stated that he has a problem with the Government when, under cover of darkness, they spray neighborhoods. He pointed out that the Campbell County Office of Emergency Management was not notified and asked why. Judge Pendery relayed how and why the spraying was done as it was explained to him. Commissioner Coleman stated that people were upset about the spraying because they were not notified. Judge Pendery responded to questions from the audience regarding actions by the Health Department, the State of Kentucky, lack of notification, privacy/HIPPA violations and the Duet spray. He stated that the proper agency to talk to would be the Health Department and/or the State of Kentucky, and he offered to set up a meeting. He stated that there has been no damage locally, no damage in other parts of the US and everybody is not always notified.

Steve Stapleton, member of the Jolly Park DCD, thanked Commissioners Coleman and Painter, Cindy Minter, Don Girton and others that attended the Festival on the Lake last weekend. He stated that there was a good turnout and he appreciates everybody's support.

Judge Pendery stated that representatives of two Special Purpose Governmental Entities (SPGE) are in attendance to comply with State law requiring SPGE's to present their tax rate.

Dennis Walter, Vice Chairperson of the Campbell County Conservation District, explained the purpose of the Conservation District and services provided to the County residents. He informed the Fiscal Court that the Conservation District will not have a tax increase this year and will not cut services or the quality of services provided as a result. Commissioner Coleman thanked Mr. Walter on behalf of the taxpayers.

Kathy Lauer, Chairperson of the Campbell County Extension District, stated that the Board decided to reduce its tax rate by 5%. The rate for real property is .028, .0547 for personal property and .0200 for motor vehicles. Commissioner Coleman thanked Ms. Lauer. Judge Pendery commended the Extension District for their decision. He stated that the Extension District has had a build-up of resources for the past several years with a construction project in mind. There are adequate reserves to pay for that project. He has been on the Board for 18 years and there are a lot of fine community-minded people on the Board. He stated that with this reduction, it will be possible to say that the tax rates in Campbell County will remain the same.

Paula Spicer presented old business with a second reading of Ordinance O-08-16 by title and summary. O-08-16 amends Chapter 52 of the Code of Ordinances entitled "Hazardous Materials Use and Control Measures" to clarify who is subject to the provisions, mandate reporting hazardous materials inventories and provide for penalties for failure to file reports. Commissioner Lampe made a motion to adopt O-08-16, seconded by Judge Pendery. In response to Commissioner Coleman's question, Steve Franzen stated that these regulations apply to anybody responsible for disseminating hazardous materials as defined by State statute. Mr. Elberfeld stated that these amendments align Campbell County's ordinance with Boone and Kenton Counties and the State law. The amendments mostly consist of definition changes and clarifications. Previously hazardous materials reports were required to be filed with the County, but no penalties or deadlines were provided for filing those reports. All voted "AYE" and the motion passed.

Ordinance O-10-16 was read by title and summary given. O-10-16 amends the text of the Official Zoning Ordinance for Campbell County relating to Home Based Businesses, Agricultural Zones and Residential Rural Estate Zones. Cindy Minter repeated some information that was presented at the last meeting about this zoning amendment. She stated that 8-10 years ago when she was a member of the Campbell County and Municipal Planning and Zoning Commission (CCMPZC)she realized that the regulations governing home occupations, as well as other sections of the zoning ordinance were not working well for the community. Earlier this year she made a list of sections that needed revision including regulations governing home based business. In April, the CCMPZC requested staff to start evaluating text revisions for these regulations. She explained how the proposed amendments were publicized before and after the CCMPZC meeting and how she responded to requests for additional information. Ms. Minter stated that updates to the zoning ordinance are based on the needs of the community; they are not driven by complaints. She then read some excerpts of the vision, goals and objectives of the Comprehensive Plan which were adopted by the Fiscal Court in September, 2015. The current requirements governing home occupations were adopted in 1982. Ms. Minter then explained the proposed amendments, compared it to the current text and gave examples of home based businesses and how they would violate the current regulations. She then explained the proposed changes to the A-1 Zone and the R-RE Zone. Justin Verst, Chairperson of the CCMPZC, reiterated Ms. Minter's remarks that it is a good time for this update. Some zoning regulations are a hindrance to businesses and property rights. The home-based business regulations come up a lot and he thinks that the proposal is a good fix. Paul Carroll, Steve Stapleton and Kevin Gordon addressed the Fiscal Court and asked questions about the proposed amendments. Ms. Minter answered questions. Judge Pendery asked if the Fiscal Court was ready to take action on this ordinance. Commissioner Painter made a motion to adopt O-10-16, seconded by Commissioner Lampe. Commissioner Coleman stated that the Fiscal Court is not taking this

action for the right reason – it is being done for a couple of individuals. He questioned Ms. Minter about complaints received by her department. He suggested that they use common sense and apply the current ordinance. He then questioned her about a report that she had prepared regarding a complaint filed against a specific property owner. The property owner had filed an affidavit stating that he had been at his current location for over 10 years. Ms. Minter explained that she could not conclude or find a public record to verify the affidavit and explained why she does not want to get in the habit of taking affidavits from individuals. Commissioner Coleman held up an inspection report done by the Alexandria Fire Department in 2007 on a business at 9306 Alexandria Pike proving that the subject business has not been at its current location for 10 years and is not grandfathered in. Judge Pendery suggested a way that the person who is the subject of this discussion could be in compliance. Mr. Stapleton defended the work of the CCMPZC and the fact that the subject of the complaint is being maligned in public meetings. Judge Pendery stated that the consequence of being out of compliance is that the person is given an opportunity to comply and he suggested a way that it could be done. Commissioner Lampe thanked Messrs. Verst and Stapleton and other CCMPZC members for their service and Ms. Minter for her work – they did a thorough investigation of the changes that needed to be made. He stated that the amendments are more business friendly and residential friendly and a big step forward. Mr. Verst stated that he resents the implication that the CCMPZC is serving some sort of political service. The CCMPZC is an independent board, they serve the County residents and recommend that this amendment be approved because it is a timely update. Commissioner Painter thanked the CCMPZC for taking testimony and the time to look at this issue. He stated that the existing ordinance was stifling. He suggested that small businesses, after a trial and determination that their product is sellable or their idea is good, may fill some of the empty storefronts located in the County. Commissioner Painter talked about his experience as a small businessman. He stated that the CCMPZC has done a great job in making this an easy to understand ordinance. He pointed out that the Bevin administration is updating the State's business codes to make a better business environment. Commissioners Lampe and Painter and Judge Pendery voted "AYE", Commissioner Coleman voted "NAY" and the motion passed.

New business was presented with a first reading of Ordinance O-11-16 by title and summary. O-11-16 amends Chapter 90 of the Campbell County Code of Ordinances to allow the Campbell County Animal Shelter to participate in a Community Cat Diversion Program and other miscellaneous revisions. The changes were recommended by Target Zero and the Joanie Bernard Foundation to secure significant grant funding for shelter programs. Judge Pendery advised that the Foundation is providing $500,000 to the northern Kentucky region, including $100,000 to Campbell County to reduce the population of feral cats. No vote was taken on the first reading of this Ordinance.

A motion was requested to advance Police Officer Andrew Champagne from Grade 4 ($21.63 per hour or $44,990 annually) to Grade 5 ($23.14 per hour or $48,139 annually) effective July 1 2016 in accordance with the current Fraternal Order of Police working agreement. Motion was made by Judge Pendery, seconded by Commissioner Lampe. All voted "AYE" and the motion passed.

A motion was requested to appoint Rick Newman as a seasonal Parks and Recreation Maintenance Worker at an hourly rate of $10.67 effective August 18, 2016. Motion was made by Judge Pendery, seconded by Commissioner Lampe. Judge Pendery stated that Mr. Newman

replaces an employee who resigned. Commissioner Coleman stated that this is a chance to save money by not replacing the employee especially since the grass is not growing and school has started so there are no programs in the parks. Judge Pendery stated that if the person is not hired, the work still needs to be done and the Fiscal Court may have to pay overtime for that. Kim Serra listed recreation programs that are continuing and those that are upcoming. She then listed work to be done such as mowing, trimming weeds, cutting down trees; there is still a lot of work to do for the next two and one-half months. Commissioners Lampe and Painter and Judge Pendery voted "AYE", Commissioner Coleman voted "NAY" and the motion passed.

A motion was requested to accept the resignation of Valerie Smith, Administrative Assistant/Intake Specialist in the Housing Department effective October 1, 2016. Motion was made by Judge Pendery, seconded by Commissioner Lampe. All voted "AYE" and the motion passed.

A motion was requested to authorize staff to advertise, accept applications and interview for an Administrative Assistant/Intake Specialist in the Housing Department. Motion was made by Judge Pendery, seconded by Commissioner Lampe. Judge Pendery pointed out that the Housing Department is federally funded; this hiring does not affect the County's budget. All voted "AYE" and the motion passed.

Matt Elberfeld presented Resolution R-85-16 by title and summary. R-85-16 authorizes an agreement with the Campbell County School Board to grant up to $10,500 in materials and in-kind services only. Mr. Elberfeld explained that Campbell County High School has accepted bids for a construction project which includes a road cut and culvert on US 27 to provide additional access. The State Board of Education has told the School that they cannot use their funds to pay for the road work. Since the Fiscal Court owns the right-of-way, it must pay for right-of-way work. The entire project cost is about $6 million. The School Board did not plan on asking the County for funds, but the state will not allow them to proceed. The Fiscal Court does not agree with that interpretation and is working through the process. In order not to hold up the project, he recommends an agreement to provide an in-kind contribution of the same dollar amount. It gives the School Board a commitment that if the State prevails, the Fiscal Court will provide funding for the culvert. Judge Pendery stated that the State's current interpretation is that the School Board is not allowed to spend money on the right-of-way because tax money raised for the schools must be spent exclusively for the schools. The Fiscal Court's position is that the School is going to have exclusive use of the curb cut as an entry/exit point to their property. He stated that if the Fiscal Court, as owner of the right of way, doesn't offer to pay for this improvement the school will not be able to proceed with the project. In his opinion the Fiscal Court needs to authorize an expenditure of up to $10,500 of in-kind services. He stated that everybody will continue to argue that this is unjust, but it is time sensitive. Commissioner Coleman pointed out that it could cost the taxpayers, who have already paid – if you look at the tax bill, the schools get the most money. The taxpayers will be asked to be on the hook for another $10,500. He would certainly like to help the School. However, staff is dealing with a citizen in the south end of the County on improvements to a County road. He would hate to see the Fiscal Court give $10,500 to the School and not do justice to this taxpayer on his road. He would like to have some type of assurance that the County is going to take care of that person's needs as well. Commissioner Coleman described the gravel County road in question that is now used as a homeowner's driveway. Commissioner Lampe questioned how the two

cases are related when a $6 million project is involved. Commissioner Coleman stated that he does not want the property owner to be told No, and the School told Yes. Mr. Elberfeld apologized for the short notice on this issue, but the School Board is meeting next week to award the bids for the project. He and the County Attorney have talked at length about this with the School's attorney; Boone County is going through a similar issue with the State Department of Education. He pointed out that the State asked the Fiscal Court to provide this funding, the School Board did not. He stated that there is a chance that the Fiscal Court may be able to recuperate the $10,500. Judge Pendery stated that the individual's driveway should never have been accepted as a County maintained road if it is on private property. Judge Pendery stated that he has met with the Campbell County School Superintendent yesterday, the Commissioner of the Department of Education in Frankfort and the Cabinet head for that Department over the last couple of weeks. Unless the Fiscal Court as the owner of the right-of-way steps in with the funds, the School will not be able to proceed with its project. The Department of Education's attorney determined that the right-of-way work is the responsibility of the Fiscal Court. Judge Pendery responded to questions and comments that the taxpayers are getting charged twice for the work. Commissioner Painter questioned whether the right-of-way work could be submitted to the Kentucky Transportation Cabinet as an emergency project. Judge Pendery made a motion that the Fiscal Court authorize an expenditure that provides a value of $10,500 whether it is in-kind service, material or cash with the County Attorney to work out the details with the School Board. Commissioner Coleman asked if the motion could be amended to just in-kind, not cash. Judge Pendery stated that he wants to make it broad because after tonight the Fiscal Court is out of the discussion due to the time frame in which this needs to be handled, and the County Attorney has to negotiate something and he wants to give him full power to negotiate what's necessary to get this done. The School Board wants to award the bids next week and they are hoping for word from the Fiscal Court by the early part of next week that will enable them to go forward. Commissioner Coleman asked why they've waited until now to tell the Fiscal Court about this. Judge Pendery explained that the School Board submitted all paperwork to the State for approval, but it was not approved. They were told they couldn't spend money on the right-of-way, it must be repaired by the right-of-way owner – the Fiscal Court. Judge Pendery advised that the legal interpretation must be changed or the Fiscal Court won't be reimbursed. He has talked to everybody in Frankfort that he knows about it. The Fiscal Court and other jurisdictions have told the State the same thing – this is not something inappropriate for the school to pay for because it is for the exclusive use of the school. Mr. Franzen stated that it is inappropriate to drop this on the Fiscal Court when it hasn't been part of the process. Commissioner Painter seconded Judge Pendery's motion. Commissioner Coleman asked if the Fiscal Court (a taxing district) can legally give money to the School (another taxing district). Mr. Franzen stated that as long as it is for a public purpose, and the right of way is a public purpose. Commissioner Coleman suggested that other school districts may ask for the same thing. Judge Pendery stated that this is a unique situation, that is why they are arguing with the State. Commissioner Coleman stated that this is not an easy decision; he hates to say No to the schools. Commissioners Lampe and Painter and Judge Pendery voted "AYE", Commissioner Coleman abstained from voting and the motion passed.

Commissioner Coleman stated that he submitted a resolution to the Fiscal Court about Chase Law School and the Judge would not put it on the agenda. This is a very important issue. If the County loses Chase Law School it loses jobs and revenue. The Fiscal Court needs to let Kenton County know that it wants to keep Chase Law School. Commissioner Coleman made a motion

to adopt the resolution. Judge Pendery stated that the rest of the Fiscal Court hasn't seen the resolution – it was distributed to the audience. He stated that the Fiscal Court has talked about this numerous times in meetings and they all expressed interest in Chase staying in Campbell County. Northern Kentucky University (NKU) is the biggest employer and taxpayer in Campbell County. He explained that he has socialized and seen the people involved in meetings and has let them know his opinion on it. There is no need for a resolution; that is why it was not on the agenda. Commissioner Coleman asked the other Commissioners to read the resolution before making a decision. In response to a question, Judge Pendery stated what he has before – that the project is not going to happen. The only way it would happen is if the State of Kentucky funded it and they do not have the money. He further stated that NKU did not ask for this, it is something that the Kenton County Fiscal Court did as an economic development effort in the City of Covington. Commissioner Lampe stated that he has been in constant contact with key personnel at NKU and at the County level and has been informed of the status of what was going on. He does not think that the resolution is useful. He was told by an NKU official yesterday that an announcement would be forthcoming. Judge Pendery asked if there was a second to Commissioner Coleman's resolution. There being none, he declared that the motion died for lack of a second.

Commissioner Coleman asked how it is working with the Bob White Club. Mr. Elberfeld stated that he has not talked to the Jailer about that issue, but he will follow up.

Commissioner Coleman questioned a payment on the claims for an oil change for $90.88 – it seems high for an oil change. Commissioner Lampe found the payment listed in the claims and read it aloud. Mr. Elberfeld stated that he would look into it and follow up with Commissioner Coleman.

Commissioner Painter stated that he is happy with what is going to occur at this meeting. He is very satisfied with loosening up the zoning regulations – it could be a very good thing to incubate small businesses in the County. He further stated that the Fiscal Court's tax burden on its citizens is going down a little. He has advocated for reducing or keeping the tax burden as low as possible on the citizens. He thinks that next year may be better with the anticipated assessments.

Judge Pendery announced that the 49th Annual Campbell County Senior Citizens' Picnic will be held on Thursday, September 22, 2016 from 11:00am to 4:00pm at Pendery Park. This year's theme is "America the Beautiful".

Seth Cutter announced that CTI relocated 250 jobs from Blue Ash, Ohio to RiverCenter II in Covington, Kentucky with the help of State incentives. This is an almost $36.5 million investment. CTI expects to add 500 jobs over the next 12 years meaning employment opportunities for the entire region. Mr. Cutter further announced that Corporex, the master developer for the Ovation project, closed on the old Riverside Ford property, a 2 ¾ acre site at Fourth and Columbia, Newport, for $2 million. This adds to Corporex's 13 acres already acquired to help get started on its huge multimillion mixed-use project.

Judge Pendery announced that the Ark Encounter attraction is very successful. So much so that there is a hotel room shortage in the area. The occupancy rate across northern Kentucky is about

70% which is about 10-15% better than the rest of Greater Cincinnati area. This is good timing for openings of the Hampton Inn in October and the Aloft Hotel on December 15, 2016.

Marie Schenkel requested a motion to authorize staff to advertise for bids to resurface the following roads:

Name	From	To	Length	Mileage
Craft Road (CR 1205)	Shaw Hess	Dead End	8,525	1.61
Autumn Lane (CR 1307)	US 27	Dead End	1,150	0.21
Harvest Trail (CR 1308)	US 27	Dead End	820	0.15

Motion was made by Commissioner Painter, seconded by Judge Pendery. All voted "AYE" and the motion passed.

Resolution R-84-16 was read by title and summary given. R-84-16 establishes the 2016 Ad Valorem Tax rates for Campbell County. Ms. Schenkel read the proposed tax rates: 16.70 cents per $100 of assessed value for real property, 26.67 cents for tangible personal property, 13.10 cents for motor vehicles and 13.10 cents for watercraft. The current rate of real property is 16.2 cents. While the overall assessed valuation increased about 2%, the assessed valuation in certain areas decreased, causing the State-calculated compensating rate to be 16.7, which is higher than the current rate. The amount of revenue generated from that rate should be the same as received last year. Judge Pendery stated that while 16.7 is higher than 16.2, it will not bring in more money to the County or cost taxpayers more. He explained that both the assessed valuation and the tax rate must be considered. Judge Pendery explained that in theory if the assessed property valuation goes down, the rate required to bring in the same amount of revenue the year before based on the properties that were taxed the year before is called the compensating rate which must go up to compensate for the assessments going down. His recommendation was given to the Fiscal Court members in their meeting packets. New properties can make a difference in the calculations. He pointed out that property taxes as a share of the County's revenue have been declining since 1979 when reform was enacted. Property taxes comprise about 20% of the County's budget. He then explained the "County tax bill" showing 7-8 different agencies drawing taxes from the tax bill – the County's share is about 13% of the total tax bill. Judge Pendery showed a comparison of Campbell County's taxes with Boone and Kenton Counties and how Campbell County's spending per resident compares with other counties and cities. Judge Pendery recommends that the Fiscal Court use the compensating rate which theoretically brings in the same amount of money as last year. He stated that the reduction in the Extension District rate exactly compensates for the increase in the rate from 16.2 to 16.7 – the combined tax rate will be below the compensating rate. He is mindful of the deficit faced by the Fiscal Court; they have made some headway and he is confident that they'll continue to make progress, but they need to take the compensating rate. In response to a question, Marie Schenkel stated that the real property value used to calculate the compensating rate is $5,549,303,543 which includes new growth. She added that when determining the compensating rate, the State also uses tangible personal property which went down 9.3%. Judge Pendery recommended the tax rates as set out in R-84-16. Commissioner Painter seconded the motion. Commissioner Coleman asked if Judge Pendery decided the tax rate alone. Judge Pendery stated that he is a member of the Extension District Board and he urged them to adopt a reduced rate to make it easier for the Fiscal Court to

do the responsible thing and take the compensating rate. A member of the audience asked that the Fiscal Court keep in mind people on fixed incomes when setting the tax rates. Judge Pendery called for a vote on R-84-16. Commissioners Lampe and Painter and Judge Pendery voted "AYE", Commissioner Coleman voted "NAY" and the motion passed.

Ms. Schenkel requested a motion to approve the claims and supplemental claims as presented for August 17, 2016. County Attorney Steve Franzen stated that he has reviewed the claims and determined that they all appear appropriate. Motion was made by Commissioner Painter, seconded by Commissioner Lampe. 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 8:10 p.m.

Attachments:

Ordinance O-08-16	Amend Hazardous Materials Use and Control Measures
Ordinance O-10-16	Amend Zoning Ordinance Text
Ordinance O-11-16	Amend Animal Regulations
Resolution R-84-16	Adopt 2016 Tax Rates
Claims and Supplemental Claims	August 17, 2016

Approved:

STEVE PENDERY
Judge/Executive

Attest:

Paula K. Spicer, Fiscal Court Clerk