

**CAMPBELL COUNTY, KY FISCAL COURT
MINUTES**

JUNE 1, 2022

A regular meeting of the Campbell County Fiscal Court was held on Wednesday, June 1, 2022, 7:00 p.m. at the Campbell County Courthouse, 8352 East Main Street, Alexandria, Kentucky.

In attendance were:

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

County Attorney Steve Franzen,
County Administrator Matt Elberfeld,
Fiscal Court Clerk Paula Spicer,
Assistant County Administrator Kim Serra,
Finance Director/Treasurer Marie Schenkel,
Police Chief Craig Sorrell

The meeting was called to order at 7:00 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. Commissioner Brian Painter was absent.

Judge Pendery requested a motion to approve the minutes from the Fiscal Court regular meeting of May 18, 2022. Commissioner Besecker pointed out that there was an error in the minutes which has been corrected, then made a motion to approve the May 18, 2022 minutes as corrected, seconded by Judge Pendery. All voted "Aye" and the motion passed.

Judge Pendery called on those who signed in to address the Fiscal Court

Erin Sizemore a candidate for Campbell County District Court Judge introduced herself. Ms. Sizemore has had a lengthy career in prosecution, including the Campbell County Commonwealth's Attorney Office for six years, and currently is a prosecutor for Hamilton County, Ohio. Ms. Sizemore and her family live in Ft. Thomas and she is expecting her third child at the end of June.

Chris Robinson acknowledged the county Road Department filling potholes on Harrisburg Hill today – he appreciates the work that they do. He attended the Northern Kentucky Water District board meeting on March 17 and it was announced that they would reopen their lobby to the

public. Since the Fiscal Court has representatives on the Water District Board, he wished to bring some matters to the Fiscal Court's attention and acknowledged that he is not a customer of the Water District. Currently the Water District has only drive thru customer service. He advised that the commercial water application permit to get a commercial tap on a development is about 8-10 pages. An applicant must use the drive thru to pay the permit fees; there are no electronic or other payment options. This is quite burdensome. He added that there is no opportunity to meet with a representative of the Water District. For weeks he has requested that a field tech come to a work site and they have refused. He suggested that the Water District should streamline the process for those trying to put in new service or develop properties. It would be easier to take his 10-page application in person and have a discussion with somebody who could actually help him. He just wanted to inform the Fiscal Court of this issue and would appreciate it if somebody could help get the doors open quicker. Judge Pendery offered to talk with Mr. Robinson sometime after the meeting on how best to address this issue.

Judge Pendery then called on Patrick Hughes who had signed in to speak. Mr. Hughes had no comment.

Steve Megerle requested to address the Fiscal Court. He is an attorney representing the opponents to the zone change. At the last meeting he raised the issue that the County Attorney did not correctly advise the Fiscal Court as to their options regarding the handling of the zone change. He further stated that at that meeting Judge Pendery said that he'd take it under advisement and get back to Mr. Megerle, but he has not heard back from the County Attorney or County Administrator. There are numerous options for the Fiscal Court when taking up a zone change. One is to conduct a trial-like hearing similar to what is required under *Louisville vs. McDonald* which the Planning Commission does not conduct – it conducts public hearings not hearings where there is opportunity for cross-examination by the opponents. None of the opponents had an opportunity to cross-examine the applicant, Maronda Homes, at either of the meetings which is a violation of the 14th Amendment. If the Fiscal Court does decide to approve the zone change, this subjects the Fiscal Court and Planning Commission to action under Section 42, 1983 for procedural due process violation. The second option is the Fiscal Court could take up the matter on the record which is deficient because it did not allow for sufficient due process under governing statutes KRS 100. Another option is the Fiscal Court could allow for an argument-style hearing. He has litigated this issue in Campbell Circuit Court regarding the Beverly Hills Supper Club case. In that case, counsel for the Planning Commission entered into a settlement agreement acknowledging that there is a procedural due process violation that is continuing. Mr. Megerle asked the Fiscal Court, before it entertains a second reading on the zone change to possibly send this matter back to the Planning and Zoning Commission to conduct what is legally required or to continue this matter to the next Fiscal Court meeting and allow counsel to conduct an argument-style hearing. The County Attorney did mention that the Planning Commission is supposed to conduct a trial-like hearing but they do not. Mr. Megerle is speaking not only as counsel for the opponents but also as a resident of Campbell County and the City of Newport. He suggested that before the Fiscal Court makes this important decision, it take a step back, think about it, review the record and review the advice of the County Attorney. He thanked Judge Pendery for the opportunity to address the Fiscal Court. Mr. Franzen stated that the place to argue about legal advice is in the court of law, it is not appropriate to argue about it at this meeting. The Fiscal Court made the decision at the last meeting that they would

base their decision on the current record compiled by the Planning and Zoning Commission. They have the right to undo that decision. If they want to continue to proceed that way then he recommends that they go forward with the meeting. As to whether the Planning Commission is conducting its meetings inappropriately, he has no knowledge of it. He thinks that they should trust that counsel who represents the Commission is proceeding appropriately.

Judge Pendery stated that at the last meeting they chose a methodology that is the same that they've used all along. Generally speaking there are good reasons for the way things are done and this is one of those incidents where there is a separate body that is better educated on the subject and has experience with zone changes. A vote was taken and they decided on a course that they believe is legal and appropriate and is the way that things have been done in the past. He does not see a reason to change the methodology. He asked if there were other comments. There being none, he requested that they proceed with old business.

Paula Spicer presented old business beginning with a second reading of Ordinance O-07-22. O-07-22 updates the official zoning map for unincorporated Campbell County to rezone approximately forty-seven acres located at 10743 South Licking Pike from Residential One A (R-1A) and Rural Residential Estate Phased (R-RE (P)) to Residential One C (R-1C) with a Residential Cluster Development (RCD) overlay. Judge Pendery made a motion to adopt O-07-22, seconded by Commissioner Lampe. Judge Pendery's understanding is that when a request such as this is in conformity with the comprehensive plan, the Fiscal Court is pretty much duty bound to approve it. The Planning Commission has recommended that it is in conformity with the comprehensive plan. People should be able to consult with our experts, look at our ordinances and figure out what they are able to do with their property within certain limits. Zoning is one thing; the comprehensive plan is what a body of citizens determined should be our future when it comes to development. If there is a 47-acre project that is planned to have 98 units, you don't look at the footprint that those 98 units will occupy, you divide the 98 units across the entire development. The advantage of a cluster development is supposed to be that instead of everybody having a big lot around their house, you compress the housing to a smaller area and then have available acreage on the site protected as green space forever. It is big enough to accommodate common spaces for parks, ponds and wood lots which you would not be able to do if you had bigger lots that took up more space. This cluster development overlay has been used in other subdivisions in Campbell County such as Arcadia. People love the fact that they don't have as much maintenance to perform on their own grounds but can look out over a vista that is a common area. The cluster development is perfectly rationale and, in some cases, preferred. That is the way that the regulations are set up right now. If they were to change it, it needs to be done before a process like this, not after the fact. That is why he made the motion that he did. Commissioner Lampe and Judge Pendery voted in favor of O-07-22, Commissioner Besecker voted in opposition, and the motion passed. Judge Pendery stated that the vote was 2-1. In order to overturn the Planning Commission, they have to have a majority of the entire board – 3 votes – and they don't have that. The judgement of the Planning and Zoning Commission is confirmed. Judge Pendery stated that he would be happy to talk with anybody who has concerns about this.

Ordinance O-06-22 was presented for a second reading. O-06-22 adopts the 2022 S-44 supplement to the Code of Ordinances of the County of Campbell, Kentucky. Commissioner

Lampe made a motion to adopt O-06-22, seconded by Commissioner Besecker. All voted “Aye” and the motion passed.

Ordinance O-08-22 was presented for a second reading. O-08-22 amends Chapter 73 “Traffic Schedules” of the Campbell County Code of Ordinances to add stop signs on Pleasant Ridge Road and Lees Road. Commissioner Lampe made a motion to adopt O-08-22, seconded by Commissioner Besecker. All voted “Aye” and the motion passed.

Ordinance O-09-22 was presented for a second reading. O-09-22 amends Chapter 73 “Traffic Schedules” of the Campbell County Code of Ordinances to modify the speed limit on Blossom Lane. Commissioner Lampe made a motion to adopt O-09-22, seconded by Commissioner Besecker. All voted “Aye” and the motion passed.

New business was presented beginning with Resolution R-47-22. R-47-22 authorizes the Judge/Executive to apply for funding from the Kentucky Division of Waste Management for the recycling or disposal of waste tires in Fiscal Year 2023. Commissioner Lampe made a motion to adopt R-47-22, seconded by Commissioner Besecker. All voted “Aye” and the motion passed.

Resolution R-48-22 was read by title. R-48-22 accepts the Kentucky Highway Department’s recommendations for the fiscal year 2023 Rural Secondary Road Program and recommends use of flex funds on a County road. Commissioner Lampe made a motion to adopt R-48-22, seconded by Commissioner Besecker. All voted “Aye” and the motion passed.

Resolution R-46-22 was read by title. R-46-22 amends Chapter 3 “Personnel Policies and Procedures”, Chapter 6 “County Services and Functions” and Appendix C “Authorized Position List” of the Administrative Code and acknowledges the annual review of the Campbell County Administrative Code. Commissioner Lampe made a motion to adopt R-46-22, seconded by Commissioner Besecker. All voted “Aye” and the motion passed.

A motion was requested to appoint Jennifer Heiert to the full-time Information Technology Specialist position in the Campbell County Information Technology Department effective June 2, 2022 with compensation set at pay grade 6, \$27.40 per hour. Motion was made by Judge Pendery, seconded by Commissioner Besecker. All voted “Aye” and the motion passed.

Resolution R-51-22 was read by title. R-51-22 updates the position description for Information Technology Technician and authorizes corresponding amendments to the “Authorized Position List” of the Campbell County Administrative Code. Motion was made by Judge Pendery, seconded by Commissioner Besecker. All voted “Aye” and the motion passed.

A motion was requested to authorize staff to advertise, interview and make a hiring recommendation for an Information Technology Technician to fill the vacancy created by the promotion of Jennifer Heiert. Motion was made by Judge Pendery, seconded by Commissioner Lampe. All voted “Aye” and the motion passed.

A motion was requested to reappoint Bob Heil to the Tri-ED Board of Directors for a three-year term effective March 22, 2022 through March 21, 2025. Motion was made by Judge Pendery, seconded by Commissioner Lampe. All voted “Aye” and the motion passed.

The County Administrator and County Attorney had no reports for the meeting.

Commissioner Besecker wished all graduates the best of luck as they go on their future endeavors. He urged them to work hard and stay safe.

Commissioner Besecker visited the park recently and reported that great work is being done on the bathhouse and shower facilities, and camping at the park is through the roof.

Commissioner Lampe had no report for the meeting.

Judge Pendery announced that the Fiscal Court will hold a special meeting on Thursday, June 30th at 10:00 AM in the Fiscal Court Chambers, County Administration Building, Newport. The purpose of the meeting will be to pay final claims, approve transfers, and any other year end items needed.

He then requested a motion to cancel the regularly scheduled Fiscal Court meeting on Wednesday, July 6, 2022 in Alexandria due to the special meeting the week prior and the 4th of July holiday. Motion was made by Commissioner Lampe, seconded by Judge Pendery. All voted “Aye” and the motion passed.

A second motion was made by Judge Pendery to move the regularly scheduled Fiscal Court meeting on Wednesday, July 20, 2022 in Newport from 5:30 PM to 3:00 PM. Motion was made by Commissioner Besecker, seconded by Judge Pendery. All voted “Aye” and the motion passed.

Judge Pendery made the following announcements:

1. Jolly Thursdays returns to AJ Jolly Park beginning on Thursday, June 9 at 10:00am. The weekly programs will be held at the Stapleton Pavilion through July 28, 2022.
2. Music Night at AJ Jolly Park features the Derek Alan Band on Friday, June 17 from 7:30-10:30pm. The show is free and will be held at the Stapleton Pavilion. Food and drinks will be available for purchase – no outside food or coolers, please.

Marie Schenkel presented the Finance Director/Treasurer’s report by requesting a motion to accept the following bids for Road Department materials for fiscal year 2023:

- Hot Mix Bituminous Concrete – Accept All Bids – Eaton Asphalt Paving Co. Inc., Riegler Blacktop Inc., Flynn Brothers Inc. and Mago Construction Co.
- Culvert Pipe – Accept All Bids – Citco Water and Consolidated Pipe Supply
- Stone – Accept Bid from Hilltop Companies, Hilltop Stone LLC
- Fuel (Gasoline and Diesel) – Use option to extend contract with Valor Oil for one year

Motion was made by Commissioner Lampe, seconded by Commissioner Besecker. All voted “Aye” and the motion passed.

A motion was requested to authorize staff to advertise for bids for the following:

- Resurface Hissem Road and Fairlane Road in FY23 summer/fall. The total length of both roads is 6.1 miles.
- Pier wall project to repair a slip on Eight Mile Road

Motion was made by Commissioner Besecker, seconded by Commissioner Lampe. All voted “Aye” and the motion passed.

Resolution R-49-22 was read by title. R-49-22 renews the contract with the Kentucky Association of Counties All Lines Fund (KALF) for property and liability insurance coverage effective July 1, 2022 through July 1, 2023. The total premium for this year will be \$494,652. All rates stayed pretty much the same except an increase in property exposure resulting in a 2.8% overall increase in premium. Commissioner Besecker made a motion to adopt R-49-22, seconded by Judge Pendery. All voted “Aye” and the motion passed.

Resolution R-50-22 was read by title. R-50-22 renews the contract with the Kentucky Association of Counties for workers’ compensation insurance coverage effective July 1, 2022 through June 30, 2023. The annual cost is \$311,803. The experience modification decreased from 1.21 to 1.08 but a few rates increased resulting in a slight increase in the overall premium. Commissioner Besecker made a motion to adopt R-50-22, seconded by Judge Pendery. All voted “Aye” and the motion passed.

A motion was requested to approve interfund transfers dated May 31, 2022. Motion was made by Commissioner Besecker, seconded by Commissioner Lampe. All voted “Aye” and the motion passed.

A motion was requested to approve budget transfers dated May 31, 2022. Ms. Schenkel stated that the transfers don’t increase the total size of the budget, but reallocate funds to different line items. Motion was made by Commissioner Besecker, seconded by Commissioner Lampe. All voted “Aye” and the motion passed.

Ms. Schenkel then requested a motion to approve the claims and claims paid per standing order dated May 25 and June 1, 2022 and employee benefit claims dated June 1, 2022. County Attorney Steve Franzen advised that he has reviewed the claims, claims paid per standing order and employee benefit claims and determined that they all appear appropriate. Judge Pendery made a motion to approve the claims, seconded by Commissioner Besecker. Commissioner Lampe agreed with payment of the claims however, recused himself from approving any claims related to employee benefits due to his employer’s relationship with those companies. All voted “Aye” and the motion passed.

There being no further business to come before the Fiscal Court, Commissioner Besecker made a motion to adjourn, seconded by Judge Pendery. All voted “Aye” and the meeting adjourned at 7:40 p.m.

Attachments:

Ordinance O-07-22 2nd Reading of Zoning Map Amendment

Ordinance O-06-22 2nd Reading to Adopt Code of Ordinances Supplement

Ordinance O-08-22 2nd Reading to Amend Traffic Schedules – Stop Signs
Ordinance O-09-22 2nd Reading to Amend Traffic Schedules – Speed Limit
Resolution R-47-22 Application for Waste Tire Grant
Resolution R-48-22 Accept Recommendation for Use of Rural Secondary Road Funds
Resolution R-46-22 Amend and Acknowledge Review of Administrative Code
Resolution R-51-22 Update Information Technology Technician Position Description
Resolution R-49-22 Renew Contract for Property & Liability Insurance Coverage
Resolution R-50-22 Renew Contract for Workers’ Compensation Insurance Coverage
Interfund Transfers dated May 31, 2022
Budget Transfers dated May 31, 2022
Claims and Claims Paid Per Standing Order dated May 25 and June 1, 2022 and Employee
Benefits Claims dated June 1, 2022

Approved:

STEVE PENDERY
Judge/Executive

Attest:

Paula K. Spicer, Fiscal Court Clerk