

TERM OF COMMISSION: September Session of the July Adjourned Term

PLACE OF MEETING: Roger B. Wilson Boone County Government Center  
Commission Chambers

PRESENT WERE: Presiding Commissioner Keith Schnarre  
District I Commissioner Karen M. Miller  
District II Commissioner Skip Elkin  
Planning and Zoning Director Stan Shawver  
County Counselor John Patton  
Deputy County Clerk Shawna Victor

The meeting was called to order at 7:00 p.m.

**Subject: Sheriff's Department**

Captain Beverly Braun and Deputy Scott Ewing were present on behalf of these items.

**A. Authorize Presiding Commissioner to sign Grant Award Contracts**

Captain Braun stated the Commission authorized the department to apply for these grants on May 26 and May 31, 2005. The department has been notified the grant applications were approved. The Sobriety Checkpoint grant, in the amount of \$7,704.85, and Hazardous Moving Violation grant, in the amount of \$17,356.80, both are grants the department has received in the past.

Through the efforts of Deputy Scott Ewing, the department has been successful in receiving the Full Time Traffic Unit grant. This grant will add two traffic officers to the department.

Commissioner Miller moved to authorize the Presiding Commissioner to sign the Missouri Department of Transportation Highway Safety Division Sobriety Checkpoint grant award contract (\$7,704.85).

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 379-2005**

Commissioner Elkin moved to authorize the Presiding Commissioner to sign the Missouri Department of Transportation Highway Safety Division Hazardous Moving Violation grant award contract (\$17,356.80).

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 380-2005**

Commissioner Miller moved to authorize the Presiding Commissioner to sign the Missouri Department of Transportation Highway Safety Division Full Time Traffic Unit grant award contract (\$165,699.26).

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 381-2005**

**B. First Reading of Budget Amendment**

Captain Braun stated the budget amendment is for the Traffic Unit grant effective October 1, 2005.

It will also need to be noted that as part of the grant award, Deputy Ewing has to be moved to the supervisor position of the Traffic Unit and he will receive a promotion to sergeant. Funding for this promotion will come from unused salary funds.

Commissioner Schnarre stated this is a first reading and requested the Deputy County Clerk to schedule this item for a second reading at the next available meeting after the required 10 day waiting period with an appropriate order for approval.

Commissioner Elkin thanked Deputy Ewing for his work on the traffic grant. This will make a huge difference in the County.

**Subject: Planning and Zoning**

Commissioner Schnarre noted that during Planning and Zoning sessions, the Commission will receive a report from staff and then the Commission will have the opportunity to ask staff any questions. The Commission will then move to a presentation from the applicant or agent of the applicant on behalf of their request. After that, the Commission will convene a public hearing where any testimony in favor of or in opposition to will be welcome. Following the public hearing, the Commission will discuss the issue and then vote on the issue.

Stan Shawver, Director of the Planning and Building Inspection Department, stated that the Boone County Zoning Regulations and the Subdivision Regulations are entered into

the record. (note - the file copy is retained in the Planning and Building Inspection Department)

**A. Request by Clifton and Linda Nahler to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 32 acres, more or less, located at 12801 S. Highway DD, Ashland**

Mr. Shawver stated this property is located 1 mile northwest of Ashland at the southwest corner of Biggs Road and State Highway DD. This property is zoned A-1 (Agriculture). Land to the north, east, and south is zoned A-1 and these are all original 1973 zonings. Land to the west was rezoned from A-1 to A-2 in 2002. The property is currently vacant but it has been used for agricultural purposes. This site is located within the Southern Boone R-1 School District. Electric service is provided by Boone Electric Cooperative. Water service is provided by Consolidated Public Water District No. 1. The original zoning for this tract is A-1. There have been no previous requests to rezone this property. The master plan designates this area as being suitable for agricultural and residential land uses. Staff notified 15 property owners concerning this request. The Master Plan calls for the use of a "Sufficiency of Resources Test" when considering the rezoning of land. The purpose of the test is to determine whether there are sufficient resources available to support the proposed zoning, or whether services could be made available in an efficient manner. The resources necessary to serve the proposed development can be broken down into 3 general categories, utilities, transportation and public safety services.

Utilities: This site is served by Boone Electric Cooperative and Consolidated Public Water District No. 1. There may not be adequate water available at this time to serve a residential development. A central waste-water system is not available for this site. The developer is proposing the use of individual on-site waste-water systems.

Transportation: Access to the site is from Biggs Road, a gravel, county maintained road and possibly from Highway DD.

Public Safety: The property is in the Southern Boone County Fire Protection District. A district fire station is located inside the city of Ashland, approximately 2 miles from this site.

This property is adjacent to A-2 zoning. As mentioned, the tract to the west was rezoned from A-1 to A-2 in 2002. Staff recommends that this request be approved.

The Planning and Zoning Commission conducted a public hearing on this request on September 15, 2005. There were nine commission members present. After public hearing, a motion was made to approve the request. This motion received six "yes" votes and three "no" votes.

Clifton Nahler, 4301 Pearman Road, Ashland, was present on behalf of this request.

Mr. Nahler stated the reason for this request to be able to occasionally sell lots.

Commissioner Schnarre stated according to other documents it appears that the lots will be five acres and is restricted to five acre tracts without having a public road.

Commissioner Miller stated she is concerned with the proliferation of the private drives. She knows that in 2002, there was a request similar to this with a private drive. This creates problems in the future. She requested Mr. Nahler consider making this an access road, a public roadway.

Mr. Nahler stated there would probably be no difference because the total length the road could be is 600 feet.

Commissioner Miller stated the difference is that a public roadway is built to County standards, is wide enough for emergency vehicles and has the maintenance people expect to have. Sometimes it is not the first people who buy the lots because they understand they bought it on a private easement and they have to maintain the easement. It is the people who buy lots years later who call to complain they are paying taxes but not receiving road maintenance. She is requesting Mr. Nahler consider making it a public road in the future.

Mr. Nahler stated he assumed that since the land developed next to this and the manner it was done in, the road is equal to or superior to what is being requested.

Commissioner Miller stated if that is the case then she would request this become a public road so it can be built to County standards and be maintained by the County.

Mr. Nahler stated the residents on the other road told him they like the private drive because solicitors cannot bother them.

Commissioner Schnarre opened the floor for a public hearing on this request.

There was no one wishing to speak on this request.

Commissioner Schnarre closed the public hearing.

Commissioner Elkin asked Mr. Shawver if he knew the reason for the three “no” votes at the Planning and Zoning Commission meeting. Mr. Shawver stated the reason given is the same concerns brought up by Commissioner Miller, the private road issue.

Mr. Nahler stated there could only be a maximum of two houses on the private drive. Other houses can have drives on Highway DD or Biggs Drive.

Commissioner Miller stated she understands but knows there are problems with houses on

private drives.

Commissioner Miller moved to approve the request by Clifton and Linda Nahler to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 32 acres, more or less, located at 12801 S. Highway DD, Ashland

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 382-2005**

**B. Petition submitted by Michael A. Weil and Kimberly Woods to vacate and re-plat Weil Subdivision (located on Highway NN south of Stidham Road)**

Mr. Shawver stated a petition was received to vacate and re-plat Weil Subdivision.

Section 1.8.1.3 of the subdivision regulations require the County Commission to hold a public hearing in order to consider any petition to vacate and/or re-plat, taking into consideration character of the neighborhood; traffic conditions; circulation; the proper location and improvement of streets and roads within and adjacent to the subdivision; property values in the subdivision; public utilities; facilities and services and the re-plat will not generally adversely affect the health, welfare, or safety of persons owning or possessing real estate within the subdivision to be vacated or surrounding real estate.

Seven property owners are notified of this request.

Mr. Shawver stated it is to his understanding that the purpose of this request is to vacate the two lots and re-plat into three lots.

Steve Proctor, with Trabue, Hansen and Hinshaw, was present on behalf of the applicant.

Steve Proctor stated this will add one more lot.

Commissioner Schnarre asked what size are the current lots. Mr. Proctor stated one is five and the other is seven or eight.

Mr. Shawver stated there is a total of 13 acres on this tract.

There was discussion of the original lot lines and the proposed new lot lines. Nothing formal has been submitted for the re-plat.

Commissioner Schnarre opened the floor for a public hearing on this request.

There was no one wishing to speak on this request.

Commissioner Schnarre closed the public hearing.

Commissioner Elkin moved to approve the petition submitted by Michael A. Weil and Kimberly Woods to vacate and re-plat Weil Subdivision (located on Highway NN south of Stidham Road). Said vacation is not to take place until the re-plat is approved.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 383-2005**

**C. Petition submitted by owners of Lots 1 through 4 of Maple Lawn Subdivision to vacate the road easement for Ely Avenue (located adjacent to Highway 40)**

Mr. Shawver stated the petition received was signed by all property owners in Maple Lawn Subdivision, located in the Midway area. The petition is to vacate the road easement, which is Ely Drive. The petition does not call for a re-plat. The reason is the County maintains the road in front of Lots 1, 2, and 3 but the remainder is essentially a driveway for Lot 4. When Maple Lawn Subdivision was platted in 1977, the road easement was extended all the way to the south property line. This is a requirement of the Subdivision Regulations. When land is adjacent to property that can be developed, it is required that road stubs be taken to the property line. It is not always required to have the road built and there is a provision to allow temporary cul-de-sacs be built. But when an adjoining property owners build they are required to make the road extension.

49 property owners were notified of this request.

Mike and Janey Hurt, 2201 N. Ely Ave, were present on behalf of this application.

Mike Hurt stated when they bought their property 22 years ago, they put their own driveway in for the remainder of the road. It has been a private drive for 20 years. They have maintained it for the whole time. Now there is a development directly to the south on 39 acres. He cannot remember how many homes will be built. The developer wants to have a road through that to have another entrance/exit to the subdivision. They do not believe this is necessary.

Water is the only utility that is already on the property.

Half of this is the Hurt's private driveway.

Commissioner Schnarre asked if this is on county easement. Commissioner Miller stated

this is on public easement but the county has the right of way.

Commissioner Elkin stated the county maintains up to the cul-de-sac. Mr. Hurt stated it is maintained with gravel.

Commissioner Miller asked if the Commission can do this not on an adjourned term. John Patton stated there is a State Statute that has been used before that permits the vacation of roads in subdivision if all surrounding landowners consent.

Commissioner Schnarre opened the floor for a public hearing on this request.

Ron Robinson, 2200 N Ely Avenue, was present in favor of this petition. He stated there would be a drastic change to this subdivision if this road is built to the new development. He believes this is the main concern of him and his neighbors.

He has lived here for almost 30 years. There is no traffic except the four landowners.

With the size this subdivision will be, this will probably be the main road. It would drastically change the current neighborhood. This would probably be the main access because the other roads go through other exiting neighborhoods and this road would be a lot quicker.

Mark Smith, 2311 N. Ely Avenue, was present in favor of this petition. He stated this is nice private drive, cul-de-sac, and he would like it to remain that way. It is quite. They maintain most of the road themselves. Overall, it is a pleasant neighborhood. For it to be anything other than a cul-de-sac in the future would deteriorate the quality and bring the value down.

Debbie Read, 2310 N. Ely Avenue, was present in favor of this petition. She stated she is currently building a home at this address. She has a 10 year old son and believes her son will be safer with the way the subdivision is now, without a lot of traffic. All the neighbors are nice and everyone watches out for each other. She would like to keep it that way.

Jim Patchett, surveyor, 1206 A Business Loop 70 W, stated he is not opposed or in favor of this petition. He is working on the subdivision to the south. In laying out a subdivision, when a developers comes across land with a platted easement for a street they are almost obligated to stub one of the new development's streets to meet up with it.

There are two entrances for the new development on Rollingwood Boulevard. Currently, they have contracted with a traffic engineer to do a traffic study. This study should be done by October 7. He believes the study will reveal a lot more information about what needs to be done regarding traffic. They have contacted MoDOT about possibly widening Highway 40 at Rollingwood for turn lanes.

At the present time, there are over 100 lots. This requires two entrances. Even though there are two entrances on Rollingwood, which is a through street. Without a traffic study, they do not know if that would be considered one or two entrances.

Mr. Patchett requested until the traffic study is done, this item be tabled.

Commissioner Schnarre closed the public hearing.

Jeany Hurt stated she has spoken with many people about Rollingwood Boulevard. Rollingwood does go through Trails West Subdivision so there are two public roads. She and her husband have maintained this road for over 20 years. They have put a lot of time and money into the upper part of this road and they would hate to see it go to waste.

Commissioner Schnarre asked if this subdivision is built out. Mr. Shawver stated the Commission approved the vacation of Lot 3 and re-platted into two lots. Otherwise, yes, the subdivision is built out.

Commissioner Elkin asked if the County has received any concept reviews for this new development. Mr. Shawver stated staff had a concept review with the developer seven to eight months ago. The most recent proposal he has seen was at a sewer district meeting and that proposal was different than the one he saw earlier.

Commissioner Elkin stated the County does not know if there will be over 100 homes or homes on 10 acre lots. Mr. Shawver stated the initial staff review was of 100 lots, then 110, then 130. He does not believe there is enough concrete information for staff to say one way or the other.

Commissioner Elkin stated the Subdivision Regulations say there need to be two distinct entrances/exits on a subdivision with over 100 homes but the County does not know what this subdivision will be.

In his opinion, he does not believe the Commission can make an informed decision until there is information to review. Commissioner Elkin stated he is not comfortable making any decision until the traffic review is completed.

Mr. Shawver stated that number of houses would call for this road to be upgraded to current County standards.

Commissioner Elkin stated if this development does have over 100 then Ely Avenue will have to be upgraded to County standards.

Commissioner Schnarre asked what the subdivision to the east is. Mr. Shawver stated it is Rollingwood Plat 1.

Commissioner Schnarre asked if this had a stub street also. Mr. Shawver stated there is a stub. There is public right of way but it is not a publicly maintained road. Those roads would have to be upgraded.

Commissioner Schnarre asked if the whole road is not publicly maintained. Mr. Shawver stated none of the streets in Rollingwood Plat 1 are County maintained.

Commissioner Schnarre stated Hawthorne Drive is not County maintained but is hard surface and stubs to the tract of land that is being developed. Mr. Shawver stated he is not sure if Rollingwood Boulevard is County maintained all the way through Trails West. He knows that Rollingwood Plat 2 is privately maintained roads.

Commissioner Miller stated she thought the Commission closed the section for maintenance. There were two ends that were maintained and the middle was not. She is sure the maintenance was connected.

Commissioner Schnarre stated he understands the neighbors concerns but knows the street stubs are put in for a reason, to help with future traffic flows.

Commissioner Miller stated this was not a surprise. When the houses were bought, they knew this was a stub.

She cannot remember ever vacating public right of way that had potential use in her term of office that connected to open land that could potentially be developed. The Commission is not in the habit of giving away the public right of way that was planned years ago to help traffic move. In her opinion, she would want to at least see what is going to happen with the development before she considers it but she is not leaning that way.

Commissioner Schnarre asked if the developers are platting this do both streets have to be stubbed. Mr. Shawver stated that is correct, when there is a stub, the County requires the developer to match up.

Commissioner Schnarre stated the two entrances at Rollingwood is questionable. Mr. Shawver stated the because of the size of the development, the traffic study may view that as one entrance.

Commissioner Schnarre stated then another entrance would be required.

Commissioner Elkin asked if the traffic study would identify the issue. Mr. Shawver stated it should.

Commissioner Schnarre asked if this would be a planned development. Mr. Shawver stated no, it would be done with platting.

Commissioner Miller asked what the zoning of this tract is. Commissioner Elkin stated the zoning is R-S (Single Family Residential).

Commissioner Schnarre stated if the developer stub to Hawthorne Drive then the County would get in trouble going through a privately maintained street. Mr. Shawver stated that is correct. The regulations require the access be through a publicly maintained road. Hawthorne and Ely are both publicly dedicated but not County maintained. Either way, the developer is going to have to do offsite improvements to improve those to County maintained.

Commissioner Schnarre asked if the developer would be required to improve both. Mr. Shawver stated that is probable.

Commissioner Elkin stated he is not going to accept a road that was built below County standards.

Commissioner Elkin stated until the Commission sees what is going to be done on the land then a decision should not be made.

Commissioner Schnarre stated no matter what will happen the roads that are built and connected to stubs will have to be built to County standards if it is over 100 homes.

Commissioner Elkin asked how many acres this development is. Mr. Shawver stated it is approximately 37 acres.

Commissioner Elkin asked what would happen if the developer brought in a proposal for four 10 acre tract after they find out there has to be a lot of offsite improvements. Mr. Shawver stated this is a possibility because there is a lot of expense with developing this piece of property.

Commissioner Schnarre asked if there was other undeveloped land around this property that may be developed in the future. Commissioner Elkin stated everything is already built around this tract.

Commissioner Schnarre asked if there are other stub streets like this. Mr. Shawver stated not around this tract but there are numerous throughout the County.

Commissioner Schnarre stated this is dangerous to approve because there are others, like Raccoon Ridge that want the same thing done.

Commissioner Miller stated she does not believe that it will matter what goes on the other end of the stubs, she does not believe the County should give away public right of way. This is why there are Subdivision Regulations and why it is required.

Commissioner Elkin stated if this does turn out to be only four 10 acre tracts then it will be a different story. He would like to wait until they know what will go on this tract.

Commissioner Miller stated she does not mind waiting.

Commissioner Schnarre stated he does not believe it should be given away because those 10 acre tracts could come back for rezoning in the future and the same situation would be before the Commission again.

Commissioner Elkin moved to table the petition submitted by owners of Lots 1 through 4 of Maple Lawn Subdivision to vacate the road easement for Ely Avenue (located adjacent to Highway 40).

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 2-1 as follows: Commissioner Schnarre – Nay, Commissioner Miller – Aye, Commissioner Elkin – Aye. **Order 384-2005**

**D. Petition submitted by Jerry Swartz to vacate and re-plat Lot 2 of Inscore Subdivision (located on Robinson Road south of Highway 124)**

Mr. Shawver stated the Commission has handled some petitions in the past without the petitioner being present but he is not comfortable moving forward with the request with no one present.

Commissioner Elkin asked if a policy can be made to require the petitioner or a representative be present.

Mr. Patton stated the Commission can make any policy they want.

Mr. Shawver stated the petitioners are told to be present.

There was no action taken on this petition at this time.

**E. Received and accept Myers Plat**

Mr. Shawver stated this is a minor plat.

Commissioner Miller moved to receive and accept Myers Plat.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 385-2005**

**Subject: Purchasing Department – Second Reading and Award of Bid 10-23FEB05 (High Density Shelving Filing System)**

Commissioner Miller moved to award bid 10-23FEB05 for High Density Shelving Filing System to Conner Business Systems.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 386-2005**

**Subject: Juvenile Justice Center – Second Reading and Approval of Request to Transfer Position from Grant Budget to JJC Budget**

Commissioner Elkin moved to approve the request from the Juvenile Justice Center to transfer the music instructor (position number 670) from budget 1243 – Judicial Grants to 1242 – Juvenile Justice Center.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 387-2005**

**Subject: Appointments to Boards/Commissions**

**A. Park Board**

**B. Planning and Zoning**

Commissioner Elkin moved to approve the following re-appointments:

- Mary Lottes (Cedar Township) to the Boone County Park Board for a term to expire on September 30, 2009
- Mike Morgan (Bourbon Township) to the Boone County Planning and Zoning Commission for a term to expire on September 16, 2009

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 388-2005**

**Public Comment**

There was no public comment.

The meeting adjourned at 7:45 p.m.

Attest:

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Wendy S. Noren  
Clerk of the County Commission

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Keith Schnarre  
Presiding Commissioner

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Karen M. Miller  
District I Commissioner

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Skip Elkin  
District II Commissioner