

TERM OF COMMISSION: November Session of the November Adjourned Term

PLACE OF MEETING: Boone County Government Center Commission Chambers

PRESENT WERE: Presiding Commissioner Don Stamper
District I Commissioner Karen M. Miller
District II Commissioner Linda Vogt
Deputy County Clerk Michelle Malaby

The regular meeting of the County Commission was called to order at 7:00 p.m.

Stan Shawver, Director of the Department of Planning and Building Inspection, reported **Missouri River City LTD Partnership requests approval of a review plan for a Planned Commercial Development to be known as Missouri River City South Park located at 400 N. Roby Farm Road, Rocheport.** The property is located approximately 1.5 miles southeast of Rocheport at the intersection of Highway BB and Roby Farm Road with Interstate 70. The property is currently zoned C-G, General Commercial, as is all surrounding property. The property was platted as Muntzel Subdivision in 1979 and replatted in 1983. The applicant requests the tract be classified as a Planned Commercial Development to facilitate further subdivision of the land. Current regulations require consent of a majority of owners of the subdivision prior to approval of a replat. A planned development is exempt from this requirement. The 1973 comprehensive plan designates the area as suitable for commercial land use. Staff notified twelve property owners concerning the request. At the Planning and Zoning Commission meeting on November 16, 1995 no one spoke in opposition to the request. Some concern was expressed about the water system as indicated in the minutes. The Planning and Zoning Commission voted to recommend approval of the request with two conditions:

1. All driveways and parking areas shall have, at minimum, a chip and seal surface.
2. No new construction will be permitted unless the development complies with standards for sewer collection, water service and fire hydrants.

Mr. Shawver stated subsequent to the hearing he received a letter from Jean Graebner, Randall Kilgore and Marge McDermott expressing concern about the wastewater disposal system. They request approval by the County Commission be contingent upon an analysis of the existing lagoon sewage system, its capacity to handle the present population it serves, and that the system is ecologically sound for the surrounding area. Mr. Shawver stated Muntzel Subdivision, or Missouri River City, is served by a wastewater lagoon designed in 1979 by a registered engineer. As far as he knows, it is licensed and permitted by the Department of Natural Resources (DNR).

In response to a question from Commissioner Vogt, Mr. Shawver replied DNR discharge permits are renewed every two years. Reports must be submitted on a periodic basis. It falls to the DNR to monitor the system and ensure it meets requirements.

In response to a question from Commissioner Miller, Mr. Shawver replied Mr. Geiger, who owns the mobile home park, indicated he plans to expand at some point. He indicated the lagoon has capacity for expansion and he plans to use it. He did not indicate he has plans to disconnect anyone. It is questionable whether he would have a legal right to do so. However, he does not have to add anyone to the system. At this point Missouri River City is not proposing additions. Several shop operators have expressed interest in purchasing their buildings. Thus the request for the planned development designation.

Representatives of the applicant were present.

Commissioner Stamper opened the public hearing. There was no response.

Commissioner Miller moved that the County Commission of the County of Boone approve, and authorize the Presiding Commissioner to sign, a review plan submitted by Missouri River City LTD Partnership for a Planned Commercial Development, to be known as Missouri River City South Park, located at 400 N. Roby Farm Road, Rocheport, with the following conditions:

1. All driveways and parking areas shall have, at minimum, a chip and seal surface.

2. No new construction will be permitted unless the development complies with standards for sewer collection, water service and fire hydrants.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 606-95.**

SUBJECT: Haun Subdivision, Plat 2. Located in S18-T49N-R12W. Zoned A-R. C. Estil and Laura Haun, owners. Bill R. Crockett, surveyor.

Mr. Shawver reported the two lot subdivision is located at the southwest corner of the intersection of Oakland Church Road and Wagon Trail Road.

Commissioner Vogt moved that the County Commission of the County of Boone receive, accept and authorize the Presiding Commissioner to sign Haun Subdivision Plat 2, located in S18-T49N-R12W. Estil and Laura Haun are the owners. Bill R. Crockett is the surveyor.

Commissioner Miller seconded the motion. Motion passed unanimously. **Order 607-95.**

SUBJECT: Discussion of "Working Draft of Proposed Scenic Road Regulations."

Mr. Shawver reported the County Commission appointed a subcommittee, including representatives of the Planning and Zoning Commission, Road and Bridge Advisory Committee and scenic road advocates, to develop a scenic road policy. In May, 1995, the Scenic Road Committee presented a working draft. The Road and Bridge Advisory Committee, Planning and Zoning Commission and staff reviewed the draft. Everyone believes the idea of scenic roads is an admirable goal. However, the draft contained a number of shortcomings. The Planning and Zoning Commission voted unanimously to recommend further review and to forward a list of concerns to the County Commission. Mr. Shawver read the list, which is available for review.

In response to a question from Commissioner Stamper, Mr. Shawver suggested his staff, who are accustomed to drafting regulations, review the policy and boil it down to fine points. They will engage legal counsel to review some aspects. The County Commission can then refer the policy to the Planning and Zoning Commission and Road and Bridge Advisory Committee for review.

The commission agreed.

SUBJECT: Public Hearing on Proposed Revision of Section 1.8 of Subdivision Regulations

Mr. Shawver summarized the history of the item.

Commissioner Stamper opened a public hearing on the proposed revision prepared by Mr. Patton.

Tim Koski, 1612 Garden Drive, stated Trails West Subdivision residents are not entirely happy the regulations are being revised to remove the fifty percent rule. They are pleased with the proposed language in section 1.8.1.3. Their only concern is that an objective criteria is not included. Residents still have a firm posture against the proposed Brennan's Ridge development.

David Rogers, attorney with offices at 813 E. Walnut, stated section 1.8.1.2 is an unlawful delegation of the County Commission's authority.

At the request of Commissioner Stamper, Mr. Patton commented he and Mr. Rogers disagree on this point. The county has a right to choose what it regulates. He looked at the case cited by Mr. Rogers about a month ago for the proposition that the section constitutes an unlawful delegation of authority. He does not agree with Mr. Rogers' interpretation. The theory is the county is not going to regulate vacation of plats in subdivisions which have provisions for plat vacation which are binding on all the property owners. If the County Commission does not agree with that theory, it should not adopt section 1.8.1.2.

Mr. Rogers stated section 1.8.1.3 includes several matters that are not measurable in an administrative process. For example, it lists the character of the neighborhood. It goes on to say the change does not "affect the health, welfare and safety of persons owning or possessing real

estate within the subdivision to be vacated.” It does not say adversely affect, just affect. This goes beyond the administrative authority of the commission. This particular subdivision regulation seems to have been drafted to address Brennan's Ridge. At least section 1.8.2 says “adversely.” On the fifth line from the bottom, he does not know what a “replatted subdivide” is. He assumes that is a typographical error. The revision is poorly conceived and poorly drafted. The County Commission should not adopt it. It will embroil the county in more legislation.

Pamela Thomas, 8302 S. Trails Drive, stated she has a vested interest in whether Brennan's Ridge is approved. She wants the County Commission to be able to judge whether a proposal adversely affects a neighborhood.

Commissioner Stamper closed the public hearing.

Mr. Patton commented the document circulated by the Planning and Building Inspection Department was retyped and was not transcribed exactly as he drafted it.

Commissioner Stamper stated section 1.8.1.2 says a plat *may* be vacated, not *must* be vacated. It does not appear to take the matter completely out of the hands of the County Commission.

Commissioner Miller stated she thought protective covenants were binding to the point where the County Commission could not interfere.

Mr. Patton stated his intent was not to make the County Commission part of the process when there are protective covenants in place. It would be an unlawful delegation of authority if the County Commission included itself in that process and let itself be guided by covenants.

Mr. Rogers stated he would like to address the comment made by Commissioner Miller. Covenants cannot overrule the commission's legislative ability. They can make things better, but they cannot make things worse. For example, if there is a covenant which says all lots must be one acre in size, that is absolutely binding. However if a covenant says the land can only be used for a shopping center, a trailer park or a manufacturing zone--trying to overrule the zoning--the county is entitled to impose its legislative process. Most people do not read subdivision covenants before purchasing property. A person could draw up the most conventional subdivision possible, reserve the right to resubdivide, and the commission would have no say in the matter if things were completely different.

Mr. Patton stated he agrees most people will not read covenants and may not understand them. The replatting process is always controlled under this proposal. It is the vacation process which can be addressed with subdivision restrictions. With regard to the process in 1.8.1.2 for a developer initiated vacation process, he is not advocating that. There was sentiment expressed that if a developer addressed the vacation process in the subdivision covenants, the county should not be involved. Whether that is desirable is a policy decision for the commission to make.

Commissioner Vogt stated she likes having a flexible standard which protects property rights.

The Commission agreed to delay adoption of the revision until Thursday at 2:15 p.m. in order to provide an opportunity for Mr. Patton to present a corrected copy of the revision.

In response to a question from Mr. Rogers, Commissioner Stamper confirmed the commission does not plan to accept additional public comment on the matter.

In light of the arrival of Jean Graebner, Randall Kilgore and Marge McDermott, Commissioner Stamper summarized discussion of the scenic road policy which occurred earlier.

Ms. McDermott, 165 N. Roby Farm Road, stated they would like an opportunity to discuss the policy with those reviewing it.

In response to a question from Ms. McDermott, the commission reviewed action taken on the Missouri River City request.

In response to a question from Ms. Graebner, 1800 S. Roby Farm Road, Commissioner Miller and Commissioner Stamper explained how commercial lagoons are regulated.

SUBJECT: County Clerk Budget Revision: Office Supplies, Equipment Repair

Commissioner Miller moved that the County Commission of the County of Boone authorize the following budget revision:

Organization	Account	Account Title	Transfer From	Transfer To
1123	86800	Emergency Fund	\$557	
1131	23000	Office Supplies		\$500
1131	60200	Equipment Repairs and Maintenance		\$57

Explanation: To cover cost of new, unbudgeted hanging file folders for accounts payable files. Have purchased twice as many commission order books than in previous years. \$57 is cost to repair cassette tape transcriber.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 607A-95.**

SUBJECT: Vote to Authorize Closed Meeting, Section 610.021 (2) (9) RSMo.

Commissioner Miller moved that the County Commission of the County of Boone authorize a closed meeting at 8:30 a.m. on December 5, 1995 as authorized by 610.021 (2) to discuss leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor; and as authorized by 610.021 (9) RSMo. to discuss preparation, including any discussions or work product, on behalf of the public governmental body or its representatives for negotiations with employee groups.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 607B-95.**

SUBJECT: Revise County Constitution Commission Budget

Commissioner Stamper moved that the County Commission of the County of Boone revise the County Constitution Commission budget as follows:

Consulting Fees	\$10,000
Clerical support	\$13,000
Postage, Materials and Supplies	\$ 5,500
Printing	\$ 4,500
Public Notices	\$ 1,000

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 607C-95.**

SUBJECT: Agreement with Asbestos Removal Services (Flood Buyout Project)

Commissioner Miller stated asbestos must be removed from one structure to be demolished as part of the flood buyout project. The bid was awarded to the low bidder, Aabott Asbestos. Aabott Asbestos refuses to perform the work without the provision of staging. They feel the building is unsafe. Commissioner Miller moved that the County Commission of the County of Boone approve the attached agreement with Asbestos Removal Services, Inc. for asbestos abatement at the property located at 21200 S. River Road, Hartsburg, in the amount of \$2,540. Legal counsel is directed to terminate the agreement with Aabott Asbestos.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 607D-95.**

SUBJECT: Reports from Commissioners

Commissioner Stamper reported on the November 14, 1995 meeting of Farm Bureau. They are holding their annual meeting and Christmas party in this building on December 11.

Commissioner Stamper reported the County Commission received a letter of notification from Boone County R-IV Schools of the resignation of three Board of Education members. The commission will accept letters of application for the positions until 5:00 p.m. on December 8.

Commissioner Stamper reported he was approached by someone who said they represent the local labor council. They demanded action on an ordinance. He advised the individual that if local labor is interested in pursuing an ordinance, it should come to the commission as a request from the local labor council.

Commissioner Stamper reported Boone County is in the only region in Missouri which does not have a regional planning commission. The Missouri Department of Economic Development inquired if the County Commission is interested in reestablishing a regional planning council in central Missouri. He advised them the county is interested in discussing it.

Commissioner Stamper reported at length on his weekly meeting with Public Works Department management staff.

Commissioner Miller reported on her weekly meeting with the Director of the Facilities Maintenance Department. The Sheriff requests use of three or four pews, currently located at the north facility, for use in the video arraignment room.

Commissioner Vogt questioned why they need to use antique pews. She will determine whether any pews are available.

Commissioner Vogt reported the Recorder of Deeds office offered to decorate the Government Center and coordinate a Christmas party for employees in the building. They would like to know if funding is available.

The commission agreed Commissioner Vogt should locate a source of funding.

Commissioner Vogt reported she met with Mr. Shawver yesterday to discuss printing the eighty percent complete draft of the comprehensive plan. They decided 50 copies should be printed. This is not currently included in the 1996 budget.

Mr. Shawver stated about 200 copies of the final draft will be needed.

Commissioner Vogt stated Booker Associates suggested an executive summary be prepared. Doing so will require authorizing additional services. She will determine the cost.

The meeting adjourned at 8:35 p.m.

Attest:

Don Stamper
Presiding Commissioner

Wendy S. Noren
Clerk of the County Commission

Karen M. Miller
District I Commissioner

Linda Vogt
District II Commissioner